

950 CMR 50.00: VOTING EQUIPMENT

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50.01: General Provisions

950 CMR 50.01 applies to 950 CMR 50.00 through 54.00.

- (1) Definitions. Terms shall have the meanings provided in M.G.L. c. 50, § 1. In addition:  
Electronic voting system means any system for casting or counting ballots which uses electrical or electronic tabulating equipment, or which uses special marking inks or punch card devices in the marking of ballots.  
Secretary means the state secretary.  
Voting machine means any mechanical or automatic device for casting and counting votes which is not part of an electronic voting system.
- (2) Application. 950 CMR 50.01 through 50.06 apply to all primaries, preliminary elections, and elections, referred to collectively as "elections", except to the extent provided otherwise. 950 CMR 52.00 applies where paper ballots are used; 950 CMR 53.00 where voting machines are used; and 950 CMR 54.00 where electronic voting systems are used.
- (3) Effective Date. 950 CMR 50.01 through 50.06 are effective as soon as publication occurs in the Massachusetts Register, under M.G.L. c. 30A, § 6.
- (4) Amendment. These chapters may be amended at any time in the manner provided by law. Any interested person may petition the Secretary requesting the adoption, amendment, or repeal of any regulation, under M.G.L. c. 30A, § 4. This petition shall be considered by the Secretary within 30 days after filing.
- (5) Authority. These chapters are promulgated under authority of M.G.L. c. 54, § 37.

50.02: Standards

The Secretary shall determine the approved types of voting equipment based on compliance with the minimum requirements for this equipment imposed by law and the ability of this equipment to further the efficient administration of elections. Specifically:

- (1) Equipment actually used to vote shall be simple and convenient to use:
  - (a) A reasonable and average person should be able to operate the equipment after a brief demonstration or explanation.
  - (b) Voting an average ballot on the equipment shall not take an undue length of time.
  - (c) Safeguards such as indicator devices or markings must be employed so as to allow the voter to examine the choices he has made and ensure that the correct choices have been indicated. The voter shall have the ability to change a vote either by resetting the device or by obtaining as many as two new ballots until the time when the final vote has been registered either by pulling a lever or other device or by casting the ballot.
  - (d) If ordinary lighting is inadequate, special lighting must be supplied.
  - (e) Voting machines shall be equipped to permit the insertion of four-inch wide ballot labels for display of ballot questions.
- (2) Equipment shall be designed so as to maximize accuracy and prevent fraud:
  - (a) There shall be a sufficient number of locks and seals to prevent tampering with the counters

or other mechanisms.

50.02: continued

- (b) Voting machines that do not contain electronic components shall have the following counters:
  1. public counter - the counter or other device that registers each time the machine is operated during the election and shows the number of persons who have voted on that machine in that election.
  2. protective counter - the counter or other device which registers the total number of times the machine has been operated in its lifetime.
  3. vote counters - the counters which numerically register the votes cast for candidates and on questions to voters.
  4. vote indicators - the pointers or other devices by which are indicated the votes for candidates or on questions to voters.

Voting machines that contain electronic components need not be equipped with a protective counter, and, instead of candidate and question counters, may be equipped with internal components which register votes electronically.

(c) Ballot boxes shall contain mechanical devices for receiving, registering, and canceling every ballot deposited in them, but no ballot box shall record any distinguishing number or mark on a ballot, other than the identity of the ward or precinct. Ballot boxes that contain electronic components may be equipped with internal components which register votes electronically.

(d) If a marking device used in a punch-card electronic system contains a mask and template, the mask and template must contain at least 235 positions.

(e) Devices shall be present in voting machines that can prevent the machines from being used to register votes before and after the election, or provide a means for detection of such use.

(f) Special regard must be given to the prevention and detection of double voting.

(g) Special regard must be given to the prevention and detection of voting for candidates of more than one political party at a primary election. All voting machines used in primary elections shall be equipped so that election officers can adjust the machines to prevent voters from voting for candidates of any party in which they are not enrolled. Similar safeguards must be provided for electronic voting devices.

(3) The minimum standard for secrecy in voting shall be that afforded by the use of paper ballots.

(4) Equipment must be adequate to the demands of an average election.

(a) Equipment capacity must be such as to accommodate a reasonable number of candidates and offices on a ballot. Voting machines not in use as of April 3, 1979 must contain spaces for at least 50 candidate names in a single row or column, unless: (i) machines are purchased solely for the purpose of replacing less than a majority of the machines in a city or town which already uses only the same type of machines containing fewer spaces, or (ii) the construction of the machine permits the names of candidates and questions to be arranged in the same format as on the official paper ballot.

(b) A recount of votes cast for each candidate and on each question shall be possible.

(c) Space must be provided where the voter may indicate a write-in or sticker vote if desired.

(d) Punch cards used in an electronic voting system must meet Electronic Industries Association standard RS-292 and U.S.A. standard X3.21-1967.

(5) Absentee ballots used with punch-card systems shall be punch-card ballots. Absentee ballots used with optical scanner systems shall be optical scanner ballots.

(6) Equipment must be accompanied by availability of service by the manufacturer or other persons.

(7) Equipment must be judged sturdy and reliable and able to withstand regular use at elections for at least a decade.

(8) The Secretary may take into account any other factors which he considers relevant pursuant to statutory and regulatory mandates.

50.02: continued

(9) Nothing in 950 CMR 50.00 shall be interpreted as removing from the city or town the obligation to test individual pieces of approved types of voting equipment to ensure compliance with these standards.

50.03: Submission and Approval Schedule

The Secretary shall decide whether to approve all types of voting equipment according to the following schedule:

- (1) Equipment must be approved by the Secretary before it may be used.
- (2) The Secretary shall make and file his report in his office, together with a written or printed description and drawings and photographs clearly identifying the equipment, within 30 days after the time of submission.
- (3) No electronic voting system and no direct electronic voting machine may be approved after January 1, 1992 that does not meet the voting system standards adopted by the Federal Election Commission on February 5, 1990, as they may be amended from time to time, and that has not been tested by an independent test authority to confirm compliance.
- (4) Only voting equipment approved by the Secretary at least 180 days before a state primary or state election shall be used at such primary or election, unless it is to be used in a field test (950 CMR 50.04(3)) before final approval of the equipment.
- (5) Any additional printing cost incurred by the Secretary as a result of final approval or field testing of new voting equipment, after receipt by the State Purchasing Agent of the proposed state ballot printing contract, shall be the responsibility of the vendor.

50.04: Submission and Approval Procedure

Submission of voting equipment to the Secretary consists of:

- (1) Submission of detailed specifications, including proof of compliance with 950 CMR 50.03(3).
- (2) Office demonstration of the equipment.
- (3) Field test in at least two elections in one or more communities according to the discretion of the Secretary.

These requirements may be modified at the Secretary's discretion. In all of this procedure the Secretary shall determine whether the equipment meets the standards for voting equipment as specified in 950 CMR 50.02. The Secretary subject to appropriation may employ not more than three individuals who are experts in one or more of the fields of data processing, mechanical engineering and public administration to help him make this determination.

50.05: Monitoring Performance

The Secretary shall monitor the performance of all approved voting equipment, and may for this purpose have representatives observe its use at elections in various cities and towns. If at any time the Secretary decides after a public hearing that any equipment does not conform with the requirements of law and 950 CMR 50.00, he may revoke his approval of that equipment. He shall file a written report to that effect, and shall notify all interested city and town clerks. Revocation shall prevent the continued use of previously approved equipment in cities and towns where it is then in use.

50.06: Printing Punch Card or Optical Scanner Ballot Questions on Separate Sheets

Where punch cards on which are printed the candidates' names and other ballot information, or optical scanner ballots, are used, the Secretary's Director of Elections for state elections and the city or town clerk for city or town elections may determine in that officer's discretion that some or all ballot questions shall be printed on separate sheets of paper rather than on punch cards or optical scanner ballots. Voters shall continue to vote on these questions by punching or marking the appropriate positions on the punch card or optical scanner ballot.

REGULATORY AUTHORITY

950 CMR 50.00: M.G.L. c. 54, § 37.