

950 CMR 52.00: VOTING AND COUNTING PROCEDURES FOR PAPER BALLOTS

Section

52.01: General Duties of Election Officers

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52.01: General Duties of Election Officers

(1) Election Officers Assigned to Each Polling Place. Each precinct must have assigned to it a warden, clerk, and at least two inspectors (four in cities), unless in a town where five or fewer precincts vote in the same building the selectmen decide otherwise under M.G.L. c. 54, § 24. In addition, precincts may have a deputy clerk, deputy warden, additional inspectors as are needed to run the election, and as many tellers as are necessary to count the votes after the election.

(2) Election Officers Must Represent Political Parties. Within each precinct, the election officers must equally represent the two leading political parties. Two of the officers in each precinct may be unenrolled.

The warden and deputy warden must be from the same party and different from that of the clerk and deputy clerk. No more than half the inspectors may be from the same party.

Party representation requirements apply only if the chairman of the city or town committee of each political party or the chairman of the state committee of such party files with the registrars lists of enrolled members of the party who desire appointment as election officers under M.G.L. c. 54, §§ 11B, 12 and 13.

(3) Warden: General Duties and Authority. The warden shall be the chief election officer at the polling place. The warden shall supervise the other precinct election officers before the polls open, during the election, and during the vote count. The warden is responsible for maintaining order and handling violations of election law by election officers or others. The warden may use police assistance when necessary.

If the warden leaves, his deputy shall be in charge, but if there is no deputy, he may designate a qualified election officer to be in charge.

(4) Clerk: General Duties. The election clerk shall keep a record of all facts relating to the proceedings of the election required by law to be recorded. The clerk shall note any unusual happenings during the conduct of the election. The clerk is responsible for maintaining the Election Record, filling out forms and adding vote totals for each candidate on the total tally sheet. The clerk shall read and record the ballot box register before and after the election.

(5) Inspectors: General Duties. Inspectors shall be assigned to duties by the warden. Two election officers of different political parties shall be assigned to the check-in area at the entrance to the voting area. Two other election officers of different political parties shall be stationed at the voting area exit. Party representation requirements may not apply under 950 CMR 52.01(2).

(6) Tellers: General Duties. Tellers shall work after the polls close. They shall be assigned to count votes and shall be instructed in that duty.

52.02: Before the Polls Open

(1) Election Officers Report To Polling Place. All election officers must report to work at the polling place at a time to be determined by the city or town clerk, so as to be able to complete all preliminary work and to allow the polls to open on time. They must be sworn in before beginning to work. They shall open the polling place on time.

(2) Replacement Of Election Officers. If an election officer assigned to a polling place fails to appear or leaves, the city or town clerk shall be notified. Replacements shall be sent, or the corresponding deputy election officer shall be designated as the replacement.

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- (3) Arrange The Polling Place. The voting booths, ballot boxes and fiberboard boxes with ballots must be in full view at all times. A guard rail shall be established to prevent unauthorized people from interfering with or observing people who are voting.
- (4) Signs To Be Posted. The following items shall be posted in a conspicuous place inside the polls but outside the guard rail:
 - (a) Three specimen ballots (for each party in primaries).
 - (b) Three "Instructions to Voters" cards.
 - (c) Three "Penalties Upon Voter" cards.
- (5) Ballots Correct. Election officers shall check the ballots against a specimen ballot to see that the correct ballots have been delivered to the polling place. If the ballots are incorrect, the warden shall call the city or town clerk.
- (6) Count And Record The Number Of Ballots. Election officers shall count all packages of paper ballots. They shall record the actual number of ballots received in the polling place.
- (7) Set Up Check-In And Check-Out Tables. An election officer shall lay out the voting list and ballots on the check-in table at the entrance. At the biennial state election, copies of the official information for voters pamphlet, at least one for every hundred registered voters in the precinct, shall be available to voters at the check-in area. An election officer shall set up the voting list on the check-out table near the ballot box.
- (8) Ballot Box. The ballot box shall be placed away from the door, inside the rail, next to the check-out table so it is available to the voters as they leave the polling place.
- (9) Ballot Clerks. The warden shall appoint two election officers of different political parties to be stationed at the entrance to the voting area. Two other election officers of different parties shall be stationed at the exit from the voting area.
- (10) Ballot Box Empty. The warden shall publicly open the ballot box and examine it. It shall be shown to be empty and the register set at zero to the satisfaction of all election officers and other persons present. The warden shall close and lock the ballot box.
- (11) Election Record. The clerk shall record in the election record:
 - (a) the examination and condition of the ballot box,
 - (b) the register number on the ballot box before any ballots are cast, and
 - (c) the actual count of the ballots received.
- (12) Ballot Box Key. The warden shall lock the box and give the ballot box key to the police officer. The officer shall keep the key until the polls close.
- (13) Ballot Box Locked. The ballot box must remain locked or sealed throughout the day, unless the box becomes too full to operate.
- (14) Open on Time. The warden shall open the polls on time if necessary materials are available, even if some things usually done beforehand must be done after the polls open.

52.03: During the Voting Hours

- (1) Declare Polls Open. The warden shall declare that the polls are open.
- (2) Who May Vote. Anyone whose name appears on the voting list shall be eligible to vote. The election officer shall check the supplementary voting list.
- (3) Voter States Name and Address. The voter must announce his address and name to the election officer in charge of the check-in voting list.
- (4) Look for the Name on the Voting List. The election officer shall find the name on the list and shall repeat it loudly and clearly. If it is a primary, the election officer shall announce the party as well.

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(5) Name Dropped or Listed Incorrectly.

(a) Procedure. If the name, address, or party enrollment of a person claiming the right to vote does not appear on the voting list or is listed incorrectly, the presiding officer must communicate with the office of the registrars of voters to ascertain whether the person is entitled to vote. If the presiding officer or the registrars determine that the person is entitled to vote, the presiding officer shall complete the proper certificate, attach it to the voting list, and allow the voter to vote. If the presiding officer or the registrars are unable to make this determination, the presiding officer shall direct the person to the registrars' office. If the registrars then determine that the person is entitled to vote, the person may vote there immediately by absentee ballot, or may return with the certificate to vote at the polling place. The registrars or their agents shall orally inform each such person at their office of the opportunity to vote there. If a voter at a primary proves under 950 CMR 52.03 that his or her party enrollment is listed incorrectly, the voter shall be allowed to vote in the correct party's primary. Whenever a person is allowed to vote under 950 CMR 52.03(5) and M.G.L. c. 51, § 59, the registrars shall add the current name, address and previously established party enrollment of that person to the register of voters, without requiring further action by the person.

If the name, address, or party enrollment of a person claiming the right to vote appears on the voting list as an inactive voter, the presiding officer shall allow such inactive voter to vote upon written affirmation by the inactive voter of his current and continuous residence in the municipality, (or, at a state primary or state election, residence in the municipality within the previous six months,) signed under the penalties of perjury. Such written affirmation shall be attached to and be considered part of the voting list, returned and preserved therewith, and such inactive voter shall be restored to the active voting list at his current residence, without requiring further action by the person.

(b) Standard. The registrars must determine persons to be entitled to vote under 950 CMR 52.03 and M.G.L. c. 51, § 59 whenever such persons have registered to vote in that city or town in the past and affirm in writing, signed under the penalties of perjury, that they have continuously resided in the city or town (or, at a state primary or election, resided in the community within the past six months), unless the registrars affirmatively establish, by evidence other than failure to respond to the street listing under M.G.L. c. 51, § 4, or failure to respond to a notice under M.G.L. c. 51, § 37, that the person has not in fact continuously resided in that city or town, (or, at a state primary or election, resided in the city or town within the past six months). The written affirmation shall be on a form which must be available at the polling place stating: "I am currently a legal resident of (city or town), and have continuously been a legal resident here since (last date of ascertained registration). Signed under the penalties of perjury." For the purpose of ascertaining past registration, the registrars must check all available records for at least the previous three years.

If the inactive voter has moved within the city or town, the voter will write the address at which he or she last registered to vote, as well as his or her current address. The inactive voter will vote at the polling place which corresponds to his or her address as it appears on the inactive voting list. After the election, if the voter has moved within the city or town, the voter shall be restored to the active voting list at his or her current address, without requiring further action by the person.

All inactive voters shall be asked to show suitable identification showing their name and current address. Inactive voters who fail to show suitable identification must be allowed to vote. However, an election officer shall, and any other person may, challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 52.03(23). For the purpose of 950 CMR 52.03(5)(b) suitable identification shall be defined in 950 CMR 52.03(5B).

(c) Communications. To carry out the communications required by 950 CMR 52.03 and M.G.L. c. 51, § 59, a properly functioning telephone or other equivalent communications, and a sufficient supply of blank certificate forms, must be immediately available to the presiding officer at every polling place. At the registrars' office, at least one properly functioning telephone line for every 10,000 registered voters or fraction thereof in the city or town (including lines entering a main city or town switchboard and connecting to the required number of lines in the registrars' office), or other equivalent communications, and sufficient personnel available to staff them continuously, must be available for incoming calls throughout the time when polls are open.

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(5A) Escrow ballots. A person claiming the right to vote in a precinct, but who is not allowed to vote for any reason, must be allowed to mark an escrow ballot. Such persons include, but are not limited to, persons who are determined not to be entitled to vote under the certificate procedure of M.G.L. c. 51, § 59 and 950 CMR 52.03(5), voters whose names are already checked on the voting list as having voted, and voters who claim their recorded party enrollment is incorrect, thereby preventing their voting in a party primary. An election officer shall orally inform every such person of his right to mark an escrow ballot, of the procedure for doing so, and of the fact that the escrow ballot will not be counted unless the outcome is sufficiently close and the person is later determined to be entitled to vote; in the case of such persons determined at the polling place not to be entitled to vote under the certificate procedure, the election officer shall also inform such persons of their option to go to the registrars' office and to vote there under the certificate procedure if determined to be entitled to vote, otherwise to mark an escrow ballot there. In all cases, escrow ballots shall be marked according to the following procedure. An election officer shall write the word "escrow" on the back of a ballot, and the person shall add his or her name and address. The election officer shall administer to the person the challenged voter's oath in 950 CMR 52.03(23)(c). The person shall mark the ballot as usual, but it shall not be cast in the ballot box. An election officer shall instead place it in an envelope marked "escrow ballots," and shall note the event in the clerk's election record.

(5B) Identification. If so authorized by the city or town clerk or registrars of voters, an election officer may request any voter to present written identification. Such requests shall not discriminate in any way, but shall be entirely random, consistent, or based on reasonable suspicion. For the purpose of 950 CMR 52.03(5B), of M.G.L. c. 54, § 76B, and of 950 CMR 52.03(5)(b), suitable written identification includes a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address. If voters fail to present suitable written identification when so requested, they must still be allowed to vote, but an election officer or any other person may challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 52.03(23).

(6) Mark the Voting List. The election officer shall check the voter's name by marking it on the voting list. In a primary, the voter shall vote the ballot of the party in which he is enrolled. The officer shall ask unenrolled voters which party's ballot they choose. The officer shall mark a D (Democratic) or an R (Republican) next to the names of unenrolled voters when they choose a party ballot. At a presidential primary, election officers shall explain to voters who inquire that they may change their enrollment after voting by filling out a card available at the polls, which must be transmitted to the city or town clerk.

(7) An Election Officer Shall Hand the Voter a Ballot.

(8) Instruction and Assistance to Voters.

(a) Instruct Voters. An election official may answer questions and instruct the voter on the proper method of marking and folding the ballot outside the voting booth using specimen ballots.

(b) Instruction is Different from Assistance. Instruction shall consist of informing the voter of the proper methods of marking a ballot; assistance shall consist of actually voting for the voter. Except as the law permits, a voter must mark his or her ballot in secret.

(c) Assistance to Voter. If a voter asks for assistance in casting his ballot due to blindness, physical disability or inability to read or to read English, he may be assisted by a person of his own choice or if he desires instead by two election officers of different parties.

(d) Do Not Influence Voter. Election officers shall not in any manner request or seek to persuade or influence any voter to vote for or against any person or political party or ballot question.

(9) Vote Designated by Cross. A vote should be designated by a cross ("X") in the appropriate space or circle, although any other mark evidencing the voter's intention is permissible.

(10) Write-Ins. A voter may cast a write-in or sticker vote for a candidate whose name does not appear on the ballot for that office. The voter is not required to mark an "X" beside the name.

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(11) Spoiled Ballots. If the voter spoils a ballot, the voter may return it and ask for another ballot. Voters shall be allowed up to a total of three ballots.

(12) Spoiled Ballot Envelope. The voter shall return each spoiled ballot to the ballot officer who shall mark it "spoiled" and place it in the spoiled ballot envelope. A spoiled ballot shall not be placed in the ballot box.

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- (13) Voter Folds Ballot. The voter shall fold the ballot so that only the face of the ballot bearing the official endorsement signature can be seen.
- (14) Voter Goes to Check-Out Table. Election officers in charge of maintaining the check-out voting list shall ask for the voter's name and address.
- (15) Look for Name on List. The election officer shall find the name on the list and shall repeat it loudly and clearly. If it is a primary, the election officer shall announce the party as well.
- (16) Mark Name on Voting List. The election officer shall check the voter's name by marking it on the voting list. In a primary, the officer shall mark a D or an R next to the name of unenrolled voters, corresponding to the party ballot chosen by the voter.
- (17) Placing Ballots in Ballot Box. The election officers shall ensure that the voter places the ballot face up into the opening of the ballot box. The ballot box clerk shall wind the ballot into the ballot box.
- (18) No One May Take a Ballot from the Voting Place.
- (19) One Person per Voting Booth. Only one person shall be allowed in a voting booth except in cases of assistance provided to a physically disabled or blind person or a person who cannot read or who cannot read English.
- (20) Time Allowed. Voters shall be allowed five minutes to vote if others are in line and ten minutes if there are no voters waiting. If a line of voters forms, this rule should be enforced equally. If there is no line, election officers may be more lenient.
- (21) Number of Voters Allowed. If all the voting booths are filled, no more than four waiting voters shall be permitted inside the guard rail.
- (22) Candidates' and their Workers' Rights and Restrictions.
- (a) Observers. To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place, outside the guard rail, unless they are disorderly or obstruct the access of voters. They may keep notes including marked voting lists. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. The warden may exclude from the polling place any person who is disorderly or who obstructs the access of voters.
- (b) Voting booths clear of campaign literature. Election officers shall check the voting booths regularly to see that no one has left any literature. The polling place must be kept clear of any campaign material.
- (c) Campaign material. No campaign material intended to influence the vote of a voter in the ongoing election, including campaign literature, buttons, signs, and ballot stickers, may be posted, exhibited, circulated, or distributed in the polling place, in the building where it is located, on the building walls, on the premise where the building stands, or within 150 feet of an entrance door to a building. As used in 950 CMR 52.03(22)(c) and M.G.L. c. 54, § 65, the "premises" where or on which the building stands means only the grounds in the immediate vicinity of the building, and does not include the entirety of a large parcel of real property. No person shall collect or solicit signatures on nomination papers or petitions of any kind within 150 feet of an entrance door to the building. The police officer shall enforce this rule as directed by the warden. Access to the polling place must be open and unobstructed and the voters may not be hindered.
- (d) Activities at Polling Place. Within 150 feet of a polling place as defined in 950 CMR 52.03(22)(c), no person shall solicit votes for or against, or otherwise promote or oppose, any person or political party or position on a ballot question, to be voted on at the current election.

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(23) Challenges.

(a) Challenges of the Right to Vote. Any election officer or other person may challenge a person's right to vote for any legal cause. The challenger may challenge an absentee ballot as well for reasons allowed by law. The challenger must state, based upon information particular to that voter, the reason for challenging the right of a person to vote, for example: this person is not old enough to vote; this person is not a citizen; this person should have been removed from the voting list; this person has already voted; this person is not the person he claims to be.

When asked by an election officer, the challenger shall be required to briefly set forth factual information specific and personal to the challenged voter as to the reasons that voter is not qualified to vote in the election at that precinct. If the election officer determines that the challenger has not provided sufficient factual information specific and personal to that voter demonstrating that the voter is not qualified to vote at that precinct, then the election officer shall reject the challenge on the grounds that the challenge was not based upon a legal cause.

(b) Observers Who May Act as Challengers. An observer-challenger shall remain at a fixed location in the polling place designated by the election officer near enough to the check-in table but behind the guard rail so as to hear and see a voter checking in to cast a ballot. If the polling place is not large enough to accommodate all observer-challengers, to the extent possible, priority shall be given to individuals representing candidates and questions appearing on that election's ballot and to those who provided written notice to the local election official prior to the election. An observer-challenger may observe and keep notes but shall not converse with others or talk on a mobile phone. All challenges shall be directed to the election officer and observer-challengers shall not speak directly to the voter. A challenger must be prepared to exercise his or her challenge at the time the voter's name is announced at the check-in table in a manner so as not to cause delay and interference in the voting process.

(c) Illegal Challenges. A challenger should be aware that any person unlawfully using the challenge procedure for improper purposes, including but not limited to, the intimidation of a voter or to ascertain how he or she voted, may be fined up to \$100 and or be subject to other available legal penalties and/or remedies.

(d) Challenge Procedure. If a voter is challenged, the warden shall ask the challenger to briefly set forth factual information specific and personal to the challenged voter as to the reasons that voter is not qualified to vote in the election in that precinct. If the election officer determines that the challenge is valid the warden shall administer the following oath to the challenged person:

“You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct, and that you have not voted in this primary (or election).”

The warden shall require the challenged person to write his name and present residence on the outside of the ballot. (If it is an absentee ballot, the warden shall insert this information.) The warden shall add the name and address of the challenger and the stated reason for the challenge, and the voter may cast the ballot in the ballot box. No statement shall be made or information given by any person as to how the person voted. The clerk of the precinct shall record in the clerk's election record the name and residence of every person who is challenged and has voted. The election officers in charge of the voting list shall mark the letters "CV" next to the challenged voter's name on the voting list.

If the election officer determines that the challenger has not provided factual information specific and personal to that voter demonstrating that the voter is not qualified to vote at that precinct, the election officer shall reject the challenge on the grounds that the challenge was not based upon a legal cause. The election officer shall note in the clerk's election record the name of the challenged voter, the name of the challenger, the factual basis for the challenge and the reason why the challenge was rejected.

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(24) Only the Following Personnel Are Permitted Within Guard Rail:

- (a) Election officials
- (b) Voters in the process of voting
- (c) Police officers with the permission of the warden
- (d) Representatives of the Clerk's Office
- (e) Children may accompany a voter within the guardrail, unless the warden decides that it would disrupt good order.

(25) Information by Election Officers Prohibited. Before the public declaration of the vote, no election officer shall make any statement regarding the number of ballots cast, the number of votes given to any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls. But, if requested, the officer shall make a statement of the figures on the ballot box register. That statement shall not be considered an official declaration as to the state of the polls or of the number of ballots cast.

(26) Opening of the Ballot Box. The ballot box shall not be opened nor any ballot removed until the polls are closed; but in order to make room for more ballots, the warden may, in the presence of all the election officers, open the box and press down on the ballots in it. If the ballot box is too full to operate, the warden may, in the presence of a police officer, remove the ballots from the ballot box in convenient packages and place them in the fiberboard or other container which shall then be securely locked and kept in public view. No ballots may be counted until the polls close. If the ballot box becomes impossible to use, the warden shall establish a substitute box, which shall be kept in public view under the same security as the original ballot box; the clerk shall record a statement of the event and of the reason in the election record, and shall also include this statement in the envelope with the ballots cast.

(27) Processing Absentee Ballots.

- (a) Deliver Absentee Ballots. The absentee ballots shall be delivered during the day, not later than one hour after the polls close.
- (b) Warden Shall Process Absentees. The warden may process absentee ballots whenever there is free time, from the time the polls open in the morning and throughout the day.

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(c) Absentee Ballots to be Processed. The city or town clerk and not the election officers shall determine whether to reject an absentee ballot as defective. If the ballot is transmitted to the polls, election officers shall process it through unless the person's name has been marked on the voting list as having voted in person, or the name is not on the voting list. Election officers shall verify that the name of the person who signed the absentee ballot envelope is on the voting list. Election officers must inform the city or town clerk if the name does not appear on the voting list.

(d) Mark the Voting List. The letters AV or SAV shall have already been written in front of the absent voter's name. A mark shall be made beside the name of the voter to indicate that the vote has been cast. An election officer shall announce the name and address, and party in a primary, of each absentee voter.

(e) Open Ballot Envelope. Election officers shall open the ballot envelope carefully so as not to deface, mark or tear the ballot or the ballot envelope. Election officers shall place the ballot envelopes in the proper container.

(f) One Ballot Per Envelope. The ballot envelope must not contain more than one ballot. If more than one ballot is in the envelope, neither ballot shall be counted and those ballots shall be placed in the ballot envelope which shall be marked "Rejected as Defective" and placed in the proper container.

(g) Challenging of Absentee Ballots. In the polling place, if an absentee ballot is challenged when cast, the name and address of the absent voter shall be written on the ballot by the warden. The challenger's name and address shall be recorded and the event shall be noted in the clerk's Election Record, and the letters CV shall be placed on the voting list next to the name of the challenged voter. After this, the ballot shall be deposited in the ballot box.

(h) Remove Ballot and Place in Ballot Box. The warden shall remove each ballot from its envelope without unfolding or examining it. The warden shall present the ballot to the ballot box officer who shall wind it into the ballot box face-up with the name of the community, ward and precinct showing. The envelope shall be kept separate.

(i) Absentee Ballot Envelopes Shall Be Returned to the Election Authority.

(28) Absentee Voters Who Seek to Vote in Person. If any person who has been sent an absentee ballot tries to vote in person at the election, election officers should see the letters AV or SAV opposite his name on the voting list. This person must present a certificate obtained from the city or town clerk authorizing him to vote in person. The city or town clerk shall by telephone authorize the presiding officer to issue such certificate if the clerk determines that a voter at the polling place is entitled to it, and the presiding officer shall then sign and issue the certificate. The presiding officer shall securely attach the certificate to the voting list and shall duly note that the voter in fact voted in person. If no certificate is authorized, election officers must refuse to let him vote and they shall refer him to the city or town clerk.

(29) "Specially Qualified Voters" and New Citizens Who Register Late. "Specially qualified voters" and legal residents of the commonwealth who become citizens and register to vote after the regular registration deadline under M.G.L. c. 51, §§ 50-51 shall present their certificate of supplementary registration to the warden at the polling place, and these certificates shall be attached to the voting list. If the specially qualified voters or new citizens are applying for absentee ballots, the certificate shall be attached to the voting list before it goes to the polling place, and the procedure on election day shall be the same as for a regular absentee voter.

(30) Announce the Polls Closed. An election officer shall announce that the polls are closed at the designated time. Each person in line when the polls close must be allowed to vote. If possible, all waiting voters shall be inside the polling place. The police officer shall be directed either to stand at the end of the line and move along toward the inspector until the last person eligible has voted, or to hand out certificates stating that the person was in line when the polls closed.

52.04: After the Polls Close

- (1) Votes Counted Continuously. The counting of votes takes place in the polling place. The counting shall continue without interruption until all the votes are counted and the results are announced.
- (2) Public May Observe Counting. The general public must be allowed inside the polling place after the polls close. The public must observe from outside the guard rail. Only election officers may handle ballots. All ballots cast must be kept in full view of the public while the counting is going on and until they are sealed in the box provided.
- (3) The Clerk Shall Record the Final Ballot Box Register Number in the Election Record.
- (4) Take Count of Voters on Both Voting Lists. The election officers in charge of each of the two voting lists shall count audibly and distinctly the number of names checked and shall announce the total number. The clerk shall record the numbers in the election record.
- (5) Seal Checked Voting Lists in Envelope. After tallying the voting lists, an election officer shall place the tallied voting lists in the envelope provided for that purpose. The election officer shall seal the envelope. The warden and clerk shall sign the certificate. This envelope shall be kept separate.
- (5A) Escrow ballot envelope. Two election officers shall count the number of escrow ballots contained in the escrow ballot envelope, and write this number on the outside of the envelope. They shall not count the votes on any escrow ballots. They shall then seal the escrow ballot envelope.
- (6) Open Ballot Box and Remove Ballots. The warden shall unlock the ballot box with a key received from the police officer. The warden shall remove all cast ballots in the presence of other election officers.
- (7) Election Officers Shall Separate the Ballots into Convenient Blocks. In a primary, election officers shall first divide the ballots by party, and then shall separate each party's ballots into convenient blocks, as designated by the city or town clerk. They shall not open the ballots while separating them.
- (8) Count by Teams. Two tellers of different parties shall make a team; both shall view each ballot. One person shall read the vote, and the other shall record the tally. Only the teller actually marking the tally sheet shall have any marking device which must be a red pencil or red pen.
- (9) Blocks of Ballots. Each team shall receive a block of ballots, the corresponding block tally sheet, and a long manila envelope. The block tally sheet and the envelope shall have a block number, and D or R on the front if it is a primary.
- (10) One Teller Reads Ballots Aloud. Tellers shall count each ballot in its entirety before proceeding to the next ballot. They shall begin with the office at the top of the ballot, reading aloud the names of the candidates selected by the voter. They shall continue reading each office aloud in turn. They shall count all offices on one ballot, and then proceed to the next. They shall keep the ballots in the order counted.
- (11) Acceptable Method of Recording Votes. Tellers shall use red pencil or red pen. A teller shall read ballot #1 and a marker shall record all votes for selected candidates or blanks in column #1. A teller shall read ballot #2 and a marker record the vote in first vacant consecutive space on the tally sheet for that candidate. Counting shall continue one ballot at a time working to the right using consecutive boxes as selected candidates are called until the entire stack of ballots is completely tallied.

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(12) Alternate Method of Recording Votes. Tellers shall use red pencil or red pen. A teller shall record votes in the space corresponding to the order in which the ballot appears in the block. A teller shall read ballot #1 and a marker shall record all votes for selected candidates or blanks in column #1. Teller shall read ballot #2 and a marker shall record all votes for selected candidates or blanks in column #2. Counting shall continue one ballot at a time working to the right using the box corresponding to the order of the ballot within the block.

(13) Tally Blank Votes. If a voter does not cast a vote for a candidate, that vote for that office is tallied as a blank. If there is more than one position to be filled, there must be a vote tallied for a candidate or for a blank so that the total tally for that office shall equal the number of positions to be filled. If a vote for an office is spoiled or defective, it also shall be tallied as a blank. Each vote shall be recorded either in a candidate space or in a space for blanks on the tally sheet.

(14) Total the Tally Marks for Each Office. The tellers shall record the total number of tally marks in each line for each candidate for each office. They shall total all candidates' votes and blank votes in each office. For example, if one person is to be elected, the sum of the votes for the candidates plus the blanks should equal 50 when counting a block of 50 ballots. If two persons are to be elected to an office then all the votes plus the blanks should equal 100 in blocks of 50 ballots. The last block counted may be incomplete and so may contain fewer votes.

(15) Tellers Sign Blocks. After completing and agreeing to the totals, both tellers shall sign their block tally sheet and block envelope. They shall place the ballots and the tally sheet in the manila ballot envelope and shall return it to the clerk.

(16) Count All Valid Ballots. All ballots shall be counted accurately as marked. A ballot may not be rejected for any technical error if it is possible to determine the voter's choice. All votes should be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves.

(17) Invalidating Marks. Election officers shall not count a ballot containing any mark clearly designed to let election officers know that a certain person voted in a certain way. If a voter writes his name or marks his ballot with the letters of his name, these are distinguishing marks which identify a voter. In that case, the tellers shall count a blank vote for every office and question on such a ballot.

(18) Over-Voted Offices. No votes shall be counted for an office if a voter marks more candidates than are to be elected. An over-vote shall be tallied as a blank vote, but the remaining valid votes for other offices on the ballot shall be counted.

(19) Write Ins. A write-in or sticker vote shall be counted whenever the intent of the voter can reasonably be determined, whether or not the voter has omitted the address or has made a mistake in the name or address of the candidate. The voter is not required to mark an "X" beside the name. At a presidential primary, a vote both for "no preference" and for a write-in or sticker candidate for president shall be counted as a vote for that write-in or sticker candidate.

(20) Completing the Tallies. The clerk and warden shall have the results of each block of ballots entered on the total tally sheet.

(21) Add Total Tally Sheet. The clerk and warden shall have the columns on the total tally sheet added to ascertain each candidate's total vote.

(22) Warden and Clerk Sign Total Tally Sheet. After the total tally sheet is correct, the warden and clerk shall write the date, ward and precinct and city or town on the tally sheet.

(23) Clerk Shall Complete Election Record.

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(24) Announce Final Returns. Officials shall wait until tally sheets balance before announcing any vote totals. The warden or the clerk shall announce the final returns.

(24A) Reporting Results to Central Reporting Service. The clerk may report by telephone the results of final precinct tallies for any presidential preference primary, state primary or general election to a central media reporting service in consideration for a contribution, in an amount approved by the state secretary, to the respective state-wide municipal clerks association to be used for continuing education programs for municipal clerks.

(25) Count Spoiled Ballots. The number of ballots spoiled by voters and returned during the day shall be noted in the clerk's Election Record.

(26) Count Unused Ballots. Election officers shall count all unused ballots. The clerk shall note in the Election Record the number and party of unused ballots.

(27) Spoiled and Unused Ballots. Election officers shall place the spoiled and unused ballots in the container provided under seal.

(28) Gather All Counted Ballots. Election officers shall put all cast ballots in their block envelopes. They shall place all block envelopes in the containers provided for the cast ballots.

(29) Seal Container. The warden shall seal the container with the seal provided and shall attach the proper tag for cast ballots only. In addition, an election officer may affix a private seal.

(30) Sign Cast Ballot Container. The warden and clerk shall sign the container and shall enter the election and the date. They also shall fill out and sign a certificate stating that all ballots cast are contained therein.

(31) Total Tally Sheets. The warden and clerk shall place the total tally sheet in an envelope, seal it and sign the outside of the envelope. This envelope shall be kept separate.

(32) Return All Election Materials. The election officers shall have all election materials returned to the city or town clerk, as follows:

- (a) the counted ballots and the spoiled and unused ballots sealed in the proper containers;
- (b) the marked voting lists and the total tally sheet and the escrow ballots, in separate envelopes;
- (c) all other election supplies.

The election officers shall not throw anything away.

REGULATORY AUTHORITY

950 CMR 52.00: M.G.L. c. 54, § 37.