

BALLOT BOXES WITH ORIGINAL  
VOTING MACHINES STILL IN USE.

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# NEW HAMPSHIRE ELECTION PROCEDURE MANUAL: 2018-2019

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DEPARTMENT OF STATE

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## Memo/Updates Tracking Table

Use this table to track memos and updates issued by the Secretary of State and the Attorney General. The HAVA staff will maintain a current “Updates Tracking Table” in Election*Net* “Help,” “Instructions.” To verify that you have received all the memos and updates issued since the publication of the manual, check the table in Election*Net*.

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### Ballot Boxes on Cover

1892 was the first year the state printed ballots for all 272 polling places existing at that time. In addition, the state purchased and delivered to each city and town ballot boxes as shown on the cover. These included a counting machine on top that activated a bell as each ballot entered the ballot box, keeping a total of how many were cast. Many towns still use these original ballot boxes in some if not all of their local and state elections. Others still have them either in storage or on display. Many are lost. The Towns of Eaton and Windsor, however, have the distinction of having used their ballot boxes, with their original counting equipment in working order, since they were originally issued. This has been confirmed by Windsor Town Moderator Patrick Hynes and Eaton Town Moderator Thaire Bryant.

# NEW HAMPSHIRE DEPARTMENT OF STATE



To the Election Officials of New Hampshire:

July 20, 2018

Our state has fair, impartial, and well-run elections where qualified individuals cast ballots that are accurately counted because of you, our Moderators, Clerks, Supervisors of the Checklist, Inspectors of Election, and other election officials. Thank you for your hard work and attention to detail. Your work addressing cyber security, using best practices to protect your local electronic systems and *ElectionNet* log-in credentials, properly handling e-mails and attachments which might pose risks, and supporting our work to keep all our systems secure is important and appreciated. Your efforts to protect the right to vote and the integrity of our elections are essential and are a major contribution to the strength of our democracy.

Research from Professor Norris at the Kennedy School of Government at Harvard University concluded that New Hampshire's election officials rank first in our nation in your impartiality, transparency, distributing information to the public, and your performance<sup>1</sup>. This academic assessment of your work confirms my experience with you, that the voters of New Hampshire are very well served by their local election officials. Our elections work well because of your effort and ethics.

Thank you to all of the Clerks, Moderators, and Supervisors of the Checklist who have provided suggestions for improving and expanding this manual. I greatly appreciate the valuable input provided by the Executive Committee of the New Hampshire City and Town Clerk's Association and by all of the clerks who provided feedback at your regional meetings and throughout the years. This year, members of my staff and I met with individual moderators as well as groups of moderators at five regional round table discussions. The recommendations we received from those moderators guided several important revisions in this edition. Supervisors of the Checklist, at individual meetings with my staff and during the training provided at the HAVA offices, have provided important insight into the challenges of their work and this edition benefits from their recommendations.

It is my hope that this Manual, used in conjunction with the NH Votes online training at <http://NHVotes.sos.nh.gov> and the Secretary of State's website at <http://sos.nh.gov/> will provide a helpful guide to which you may refer as questions arise in the election process. As always, we stand ready to help you in any way we can.

Thanks for the hard work you do by sharing your time so that our elections remain second to none as the best conducted in the United States and New Hampshire's unique political traditions continue.

Sincerely,

William M. Gardner  
Secretary of State

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<sup>1</sup> See "Perceptions of Electoral Integrity: The 2016 American Presidential Election" <http://www.electoralintegrityproject.com>.

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## **PREFACE AND ACKNOWLEDGEMENTS**

Fall 2018 updates reflecting a court decision, additions, and errata are highlighted in yellow.

This document is the Election Procedure Manual prepared by the Secretary of State with the advice and approval of the Attorney General pursuant to RSA 652:22. It should be used in conjunction with the Secretary of State's website at <http://sos.nh.gov/> and NH Votes election law training, which is available at <http://NHVotes.sos.nh.gov>.

This 2018 revision of the Election Procedure Manual reflects changes to the election laws made in 2017 and 2018. The Manual is organized in four parts: Part 1, Elections from Start to Finish; Part 2, Responsibilities of Election Officials by Office; Part 3, Expanded Guidance: Accessibility, Challenges, Electioneering, & Wrongful Voting; Part 4, Forms and Appendices.

In response to your feedback, this edition starts with a "What is New" section, highlighting of concerns that have arisen, the manual provides further guidance on existing law. For forms and appendices, updated forms will have a 2017 or 2018 date in the footer. We have expanded the section on the duties of Inspectors of Elections (Ballot Clerks) and after publication of this manual will be updating the other training tools provided to assist you with training ballot clerks.

Finally, copies of forms, charts, polling place layouts, suggested procedures and sample notices are provided. There is an extensive index at the back of the Manual to assist readers in quickly locating answers to questions. The work done in the past by the volunteers from the New Hampshire City and Town Clerks' Association continues to serve as the foundation upon which this manual has been developed.

While this document reflects a concentrated effort by the Secretary of State's Office and the Attorney General's Office to summarize and organize the election laws, it is not binding legal authority. The Election Procedure Manual is intended to be a resource and a learning tool; it is not a substitute for the relevant statutes or for legal advice. Court decisions and changes to the statutes made between printings of the Manual may change the election laws. Whenever uncertainty exists as to what action to take, we will make our best effort to assist you and you should consult your local legal counsel.

The Attorney General's Office enforces the election laws and serves the Secretary of State as legal counsel. In the event that the acts of a local government election official become the subject of a lawsuit, however, the legal counsel for that community will be defending the official and his or her community in court. If disagreement exists as to proper procedure, consult with your jurisdiction's local legal counsel before acting.

The Secretary of State and the Attorney General endeavor to provide effective assistance to local election officials. We thank you for your tireless efforts in conducting elections in your community. The validity and credibility of New Hampshire elections rely on your willingness to learn and properly execute the election laws. Voting is the most fundamental right in a democracy because it is through voting that citizens protect all other rights by carefully selecting the public servants who guide and direct our self-governance. You are the first and primary protectors of that most fundamental right, the right to cast a meaningful vote.

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## WHAT IS NEW

### **CYBER SECURITY**

Protecting our electronic systems from malicious attempts to gain access is an important responsibility for all election officials, particularly those who have log-in credentials for *ElectioNet*. As has been presented in past training and communications, simple safeguards play an important role in keeping our systems safe. The HAVA Help Desk staff and your town or city IT Manager/staff are available to help. When you are unsure or suspicious, always seek assistance before responding to an e-mail or request. Adversaries are constantly using new tactics to try to gain access to secure computer systems and to steal your log-in credentials or money. There are no unreasonable questions; better to be safe than to be sorry.

### **DEFEND AGAINST PHISHING**

A “phishing” e-mail claims to come from a recognized source and asks you to verify your account, re-enter information, or to make a payment. Phishing e-mails often have the look and feel of e-mails from a legitimate source. Malicious e-mails may contain a governmental or bank logo. Malicious e-mails and web sites may have addresses that at first glance are identical to the legitimate address of someone you regularly correspond with. Careful examination may reveal a one or two letter difference, that will divert your information to the criminals.

The objective of the scam is to trick you into providing the details the attackers need to access your account with *ElectioNet*, your e-mail system, or other local systems you use for election administration and other purposes. Beware, do not respond to generic

greetings or requests for information that the sender should already have.

Many sophisticated phishing attempts will use information about you obtained from public records or scammed from others. These malicious e-mails may be called “spear phishing.” They will falsely build your confidence that the message is legitimate, by including things you think only a legitimate sender would know.

Beware of any e-mail seeking information or encouraging you to open an attachment or click on a link, where the e-mail contains typos, poor use of English, or “alarming” threats or ultimatums. Not all malicious e-mails will have these flaws, but their presence is a red flag warning.

If you feel the need to respond at all, using contact information from a source other than the e-mail, contact the legitimate sender to determine if the request is legitimate. Verifying using a phone call is often safer than an e-mail, but be certain to look up the phone number from your own records or an independent source.

### **SPOOFING**

Malicious e-mails will sometimes fake the sending address, making it appear to be a legitimate e-mail from a recognized source. These attackers use an e-mail that is very similar to that of a legitimate sender, often to request payments or data from you or your office. If you are uncertain, verify the legitimacy of the request with the sender using contact information obtained from a source other than the e-mail.

### **PHARMING**

Attackers, in effect, hijack a legitimate website’s domain name and redirect you

to a fraudulent site. Check that the web address (URL) of any site asking for secure data is authentic – look for the secure certificate. Call the legitimate source to verify that the request is legitimate.

If you receive an Election*Net* or election related e-mail or end up on a website that is suspicious, call the HAVA Help Desk before responding.

### **WHALING**

Whaling is a realistic looking e-mail, claiming to come from a legitimate looking source, such as “Dropbox” or other file storage site, which requests you to click through their “secure” account/site to download or view a shared document. Guard against whaling by refusing to click on any unfamiliar link and refusing to use file transfer systems that your IT manager did not set up or authenticate.

Criminals will use other malicious e-mails to gain access to your e-mail and then monitor it for a message from someone you do business with that indicates you will be sending money or log-in credentials. They will then send a message that appears to come from that same source, but which redirects your reply or links you to a web site they use to steal your money, log-in credentials, or other valuable information. Documented cases exist in New Hampshire where criminals learned through e-mails that someone would be using an electronic transfer from their bank of significant funds. The criminals sent an official looking e-mail with a bank routing number for the transfer. The person had their bank send the funds to the account provided. It was an account opened by the criminals, which they promptly emptied, effectively stealing the money.

### **PHYSICAL SECURITY IN YOUR OFFICE**

Position your computer monitor so that it cannot be viewed by the public or others who do not have access to Election*Net* or other secure tools that you use. Keep any paper record of your log-in credentials and account numbers in secure storage. Ensure that Voter Registration Forms and other election records that contain non-public information are kept secure and are put away when you will be away from your desk. Have appropriate locks on file cabinets, desks, and the door to your office. Maintain careful and documented control of keys.

### **ELECTION*NET* DATA REQUESTS**

Take time to get it right. Stop and review whether the person making the request has a legal right to the information being requested. If you have questions, call the HAVA Help Desk.

See Cyber Security Terms at page 194.

### **SENATE BILL 3 (2017) VOTER REGISTRATION**

Senate Bill 3 (“SB 3”), effective September 8, 2017, modified the voter registration process. The statutory changes contained in SB 3 are currently the subject of a lawsuit in the Hillsborough County Superior Court. In that matter, the Court issued a preliminary order that allows the State to implement the statutory changes contained in SB 3 and has allowed the use of new voter registration forms which comply with the law. Pursuant to the Court’s order, there are currently no civil or criminal penalties for failing to return any domicile documents in connection with same-day voter registration.

Please be sure to utilize the new 2017 version of the Voter Registration and Verifiable Action of Domicile forms. Both forms have two versions. Domicile Affidavit forms are no longer being used. Use version A for individuals registering

to vote more than 30 days before an election. Use version B for individuals registering to vote starting 30 days before an election and on election day.

The Secretary of State and the Attorney General have jointly issued guidance to applicants on “Registering to Vote in New Hampshire.” This document provides an effective explanation of voter registration and the revised process for an applicant to prove his or her qualifications. The complete guidance document is included at the end of this “What is New” section. The SB 3 changes to law and procedure are included throughout the Election Procedure Manual.

### **ABSENCE OF MODERATOR**

The law has separate provisions for addressing the absence of a moderator. For an election, the law is not changed, if the moderator is absent from an election or unable to perform his or her duties, a moderator pro tempore shall be appointed by the moderator. RSA 658:19. HB 87 (2017) amended the statute for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the selectmen of a town where there is no board of supervisors. RSA 40:3

### **SUPERVISORS OF THE CHECKLIST VACANCIES**

House Bill 453 (2017) amended RSA 669:64 to require that vacancies in the board of supervisors of the checklist be filled within 45 days.

### **ANNOUNCING CAST AND REJECTED ABSENTEE BALLOTS**

The Attorney General has determined that the requirement to announce the voter’s name applies equally to all

absentee voters. During the processing of absentee ballots, the moderator must announce the name of the absentee voter or “Confidential Voter Number 1” for a confidential voter. Announce the name where you will count the absentee ballot, if not successfully challenged. When you reject an absentee ballot, also announce the name.

For a rejected absentee ballot, the announcement should be:

“Voter’s Name (“Confidential Voter Number 1” for a confidential voter)

This Absentee Ballot will not be counted as it has been rejected by the moderator.”

Do not announce the reason the ballot is rejected. Do not provide the reason why the ballot was rejected to the public, candidates, or their representatives. Do not mark on the checklist that the voter’s absentee ballot was rejected. You may explain the reason for rejection to the voter.

RSA 659:53 requires the moderator to mark the affidavit envelope and the clerk’s list of absentee voters with the reason for rejecting the vote. Both are non-public documents.

After an election, voters may see if their absentee ballots were counted and, if not, why they were rejected on the “Voter Information Look-up.” The “Voter Information Look-up” is available on the Secretary of State’s website at: <http://sos.nh.gov/>.

There is no opportunity at the polls for a member of the public to challenge the moderator’s decision to reject an absentee ballot or the supervisor’s decision that a person is not a registered voter.

The ballot processing must occur in public sight, but within the rail at the polling place such that the public standing outside the rail cannot read voter

information. Many confidential voters use absentee ballots. Do not disclose a confidential voter's name or address. No one other than the moderator, clerk, or election officials assisting in processing absentee ballots has a right to see the application or affidavit.

No specific statute requires the public announcement of the rejected absentee voter's name. However, the Attorney General has determined that in fairness to absentee voters, moderators must publicly announce the rejected absentee voters' names. If a rejected absentee voter is present in his/her community on Election Day and available to come to the polls to vote, the public announcement of the name allows an opportunity for a member of the public to notify the voter and for the voter to vote in person. When a voter's absentee ballot is rejected, he/she may come to his/her polling place and vote in person.

## **COMPARING ABSENTEE BALLOT SIGNATURES**

New Hampshire law, RSA 659:50, requires the moderator at the polling place on Election Day to process absentee ballots. The moderator shall examine the signature on the affidavit and the signature on the application for the ballot. If

- The name of the voter is on the checklist;
- the affidavit appears to be properly executed; and
- the signatures appear to be the signatures of a duly qualified voter who has not voted at the election;

then the moderator shall publicly announce the name of the absentee voter. However, do not announce any voter who has been included in the address confidentiality program under RSA 7:43 or who has been granted a protection order under RSA 173-B:4 or RSA 173-B:5. The moderator shall identify such voters as "confidential voter number 1" and "confidential voter 2" and so forth. RSA 659:50, as amended by SB 248, laws of 2017, Chapter 216.

### **SIGNATURE Requirement EXCEPTION FOR VOTERS WITH DISABILITIES**

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by the voter. A voter may receive assistance from any person. "Any person who assists a voter with a disability in executing" the application for an absentee ballot or the affidavit on the absentee ballot envelope "shall make a statement acknowledging the assistance on the application form [and on the affidavit. RSA 657:4; RSA 657:7, II(b); RSA 657:17.

The current versions of the application and affidavit contain this statement that a person assisting a voter must complete: "I attest that I assisted the applicant in executing this form because he/she has a disability. Signature \_\_\_\_/date \_\_\_\_." Anything that lets the moderator know the voter received assistance is sufficient. The law does not require the same person to assist with both documents. A different person may put the statement on the application than the person who puts the statement on the affidavit. While the statement usually should be on both documents, if it appears on only one document, then treat the voter as a voter who received assistance.

Count the absentee ballot if the other requirements set forth above are satisfied.

The United States District Court for the District of New Hampshire has ruled that RSA 659:50, III, which required a comparison of the signature on the absentee ballot application with the signature on the absentee ballot affidavit to determine if the same person signed both, is unconstitutional. Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III. See: Notice Regarding the Processing of Absentee Ballots on Election Day. ElectionNet > Help>Instructions or <http://sos.nh.gov> (Election Officials > Moderators).

## CHECKLISTS

A review of the marked checklists from the 2016 general election brought to light several concerns regarding checklists. The checklist to be used at the election must be unmarked when the polls open. The practice of pre-marking absentee voters is improper and is a suspected source of inaccurate checklist markings regarding absentee voters.

Ballot clerks should be instructed to make only those marks on the checklist which are required by law.

- Checkmark beside the name immediately upon finding the name on the checklist as the check in starts – Ballot Clerk Procedure – pages 244 and 246.
- Address Change, marked in red ink. – RSA 659:13, I (Supervisors may establish a local policy asking

voters, after the person votes, to complete a new Voter Registration Form B to obtain a good record of the new address);

- When an out-of-state driver's license or non-driver's ID is used as photo ID, enter the two letter abbreviation for the state that issued the ID (VT, MA, ME, NY). RSA 659:13, I(b).
- If the voter did not have photo ID and is presenting a completed challenged voter affidavit ("CVA"), with a photograph or religious exemption affidavit, put a check mark in the CVA box on the checklist. RSA 659:13, I (c)(1). At a primary, for a voter who is registered as undeclared and who affiliates with a party and takes that party's ballot, write in the first three letters of the party above the "UND."
- After handing the voter a ballot, using a ruler or straight edge, draw a single thin line through the last name of the voter. RSA 659:13, I(b).
- For an absentee voter, when the ballot is presented by the moderator, mark "A.V." in red ink beside the voter's name, place a checkmark beside the voter's name, and draw a single thin line through the voter's last name using a ruler or straight edge. RSA 659:52.

Other changes to a voter's record, such as a name change (marriage, divorce, court order) must be processed with the supervisors of the checklist using the Voter Registration Form B, marking the upper right corner to indicate the form is completed for a name change or address update. RSA 654:7.

Best practice for documenting a name change reported at the polling place on election day is:

- Voter checks in at the ballot clerk table and reports a name change. No action is taken at this moment by the ballot clerk and the voter is directed to the supervisors of the checklist;
- Voter is asked to complete a new Voter Registration Form B, marking in the upper right hand corner the form is completed due to a name change.
- Supervisors require the voter to provide proof of identity, to verify the validity of the new name. Any form of proof of identity used by a new voter to register is acceptable. As the person has already proven age, citizenship, and domicile to become registered, the voter is not required to provide proof.
- Supervisors send the voter back to the ballot clerk table to check in and either:
  - Accompany the voter to explain the name change to the ballot clerk; or
  - Provide the voter with the same document provided to new voters to notify the ballot clerk the person has been registered, but specially mark that document to show the voter's former and current name.
- The ballot clerk should find the voter's former name on the checklist and place a checkmark beside that name. The ballot clerk next needs to verify the voter's identity in the same manner as for other voters. A photo ID with the new name is appropriate proof, but any proof accepted for other

voters is acceptable. The ballot clerk will then draw a single thin line through the voter's entire name on the checklist and write in the voter's new name immediately above the printed name. The new name will not be in its proper alphabetical position on the checklist, but needs to be entered immediately above the former name to avoid confusion in the count of voters, marked as voting, to determine how many people voted.

- The new name should **not** be written in where the names of new voters are written.
- When election day registrations are counted, name changes for a previously registered voter should not be counted as a new election day registration. The voter with a name change should be counted with other previously registered voters when tallying how many previously registered voters cast a ballot in the election.

Non-public information, such as a voter's date-of-birth or other data that may be missing from the voter's record, may not be written onto the election day checklist. The election day checklist becomes a public document following the election. The supervisors and clerk may adopt local procedures for collecting missing information.

### **REAL ID DRIVER'S LICENSE NOT PROOF OF US CITIZENSHIP**

A New Hampshire REAL ID compliant driver's license or non-driver identification is **not** proof of United States Citizenship.

The State of New Hampshire has started issuing REAL ID compliant driver's

licenses. To obtain a REAL ID compliant license, a person must prove that he or she is a United States citizen or a person who is lawfully present in the United States in circumstances that allow the person to have a social security card. A Permanent Resident Alien (Green Card holder) or non-citizen who has an unexpired Refugee or Asylee document issued by the federal government may obtain a REAL ID compliant New Hampshire Driver's license, but he or she is not a United States citizen.

## **NOTICES FOR VOTER REGISTRATION SESSIONS**

It is important that any voter registration notice that is posted must clearly inform applicants that qualified applicants who do not possess or who do not bring proof of qualifications at the time of registration may use an affidavit for proof and will be allowed to vote.

Individuals registering to vote in New Hampshire must provide proof of identity, age, citizenship, and domicile. More than 30 days before an election, applicants who do not have proof of age, identity, or citizenship with them may use a Qualified Voter Affidavit to prove age, identity, or citizenship. If the applicant does not have proof of domicile, he or she must retrieve proof and return to register or may register without proof starting 30 days before the election.

Starting 30 days before an election and for election day registrants, applicants who do not have proof of identify, age, citizenship or domicile with them may use the affidavit on the back side of the Voter Registration Form B to prove qualifications.

Applicants willing to sign the appropriate affidavit shall not be denied registration

because they do not have documentary proof with them when registering to vote.

Notices of sessions to be held by the supervisors of the checklist or other voter registration opportunities must be worded to inform applicants that if they do not possess or bring proof with them, an affidavit may be used.

Recommended wording for notices of opportunities to register to vote:

*Applicants for registration who possess proof of identity, age, citizenship, and domicile should bring that proof when they come to register. Qualified applicants who do not possess proof or who do not bring proof with them may register if they sign an affidavit attesting to their qualifications for identity, age, and citizenship. More than 30 days before an election, applicants without proof of domicile will be asked to retrieve proof and return to register. Within 30 days of an election and on election day, applicants without proof of domicile with them may register to vote if they sign an affidavit attesting to their domicile and either agreeing to bring or send in proof or attesting that they are not aware of possessing proof of domicile.*

## **RETENTION OF VOTER REGISTRATION FORMS**

*New Law* – RSA 654:13-a. All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted.

## **ELECTIONEERING – WEARING CAMPAIGN MATERIAL**

The United States Supreme Court has recently addressed the authority of states to prohibit wearing electioneering material in the polling place. See expanded guidance on electioneering at page 185.

## **ELECTRONIC POLL BOOKS TRIALS**

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

## **VOTER VERIFICATION**

New Law – RSA 654:12, V(c), (e)-(f); RSA 659:13, IV(b). The Secretary of State shall send a letter to applicants who register without providing documentary evidence of domicile or identity and to voters who voted without evidence of identity. The Secretary of State shall conduct an inquiry regarding any letters which are undeliverable or where there is no response from the voter. The Secretary of State may contact local officials for assistance with verifying information and/or to request copies of Voter Registration Forms and/or Affidavits to fulfill these responsibilities.

## **RESILIENCE**

Continuity of Operations Planning (COOP) and systematic off system backups of critical information are evolving nationwide as best practices for elections. Have a backup plan in case your ballot-counting device fails. Plan for a power outage. Print a backup copy of your checklist well in advance of the election.

## **Photo ID Names Must Substantially Conform**

RSA 659:13, II(a) provides in pertinent part: “A valid photo identification shall show the name of the individual to whom the identification was issued, and the name shall substantially conform to the name in the individual's voter registration record; it also shall show a photograph of the individual to whom the identification was issued.” (emphasis added)

Therefore, if the photo appears to match the voter, the name as printed on the photo identification need only “substantially conform” or substantially match the name on the checklist.

New Hampshire does not print any special characters as part of a name on a driver's license. A person with an apostrophe in his or her name on the checklist may present a driver's license with no apostrophe in his or her name. Do not reject a photo ID on the grounds that there is no apostrophe.

ElectionNet, the statewide voter registration system, accommodates up to 40 letters and special characters in a voter's name. Some photo ID systems, including the New Hampshire driver's license, have a shorter limit on the number of letters that will print on the ID/license. If the photograph matches the voter and all the letters of a long name shown on the photo ID match the corresponding letters of the name on the checklist, do not reject the ID on the grounds that the final letters of the name on the checklist are not shown on the ID.

Voters whose photo ID has a name that substantially conforms to the voter's name on the checklist should not be requested to re-register.

## **REGISTERING TO VOTE IN NEW HAMPSHIRE AS MODIFIED BY SB3**

To be eligible to register and vote in New Hampshire a person must be:

- 18 years of age or older on election day;
- A United States Citizen; and
- Domiciled<sup>1</sup> in the town or ward where the person seeks to vote.

To register, you will need to provide documents that prove your identity, age, and citizenship.

A driver's license or non-driver ID from any state satisfies proof of identity and age.

A birth certificate, U.S. Passport/Passcard, or naturalization document satisfies proof of citizenship. Note: A New Hampshire REAL ID compliant driver's license is NOT proof of U.S. Citizenship.

If you do not have these, you can prove your identity, age, and/or citizenship, by signing a Qualified Voter Affidavit, under oath, in front of an election official.

You will also need to provide documentation to prove that you are domiciled in the place where you intend to vote. There are many types of documents that will satisfy this requirement:

A New Hampshire driver's license or non-driver ID showing your current address.

A document from the school that you attend, showing that you live in campus housing. A document issued by the school that has your name and the address where you live satisfies the requirement. Many colleges and universities provide students with satisfactory documents already.

A note signed by a school official, including a Resident Assistant or other person with supervisory responsibility for your dorm satisfies the requirement under RSA 654:1, I-a.

A rental agreement, lease, or similar document that shows your name and the address of your domicile. The document must show that you are domiciled at the address on Election Day.

A document showing that you own the place you are domiciled at, such as a deed, property tax bill, or other similar document that has your name and address.

A New Hampshire resident motor vehicle registration, driver's license, or non-driver photo ID.

<sup>1</sup> "The fundamental idea of domicile is home." *Felker v. Henderson*, 78 N.H. 509, 511 (1917).

A voter photo ID issued by the NH Division of Motor Vehicles at no cost to you. To obtain a photo ID card, that can only be used for voting purposes, ask your town or city clerk or the Secretary of State's office for a voucher and present it to the Division of Motor Vehicles (DMV). Information on the documents you will need to present to the DMV is available here: <https://www.nh.gov/safety/divisions/dmv/forms/documents/identification-residency-uscitizen-non-compliant.pdf>

A document showing that you enrolled a dependent minor child in a public school that serves the town or ward of your domicile.

Any state or federal tax form, other government form, or government issued identification that shows your name and your domicile address.

Any form from the US Post Office showing your name and the physical address where you are domiciled (not a P.O. box). The confirmation you received by e-mail or US mail when you reported your new address to the Post Office satisfies the requirement.

A public utility bill, such as an electric, telephone, water, gas, or other utility bill, with your name and address on it.

A note from a homeless shelter or other service provider located in the town or ward where you will vote that confirms they will receive US mail sent to you at that address.

A note from the person who owns, leases, rents, or manages/supervises the property where you are domiciled, confirming that you live there, which could include a family member or roommate. Any document containing the information is sufficient provided that it includes the statement that "providing false information is a violation of New Hampshire law under penalty of voting fraud." The "Confirmation of Domicile" form available at this link is satisfactory proof of domicile. <http://sos.nh.gov/confirmationofdomicile.aspx>.

You may also use any other document that shows some action you have taken to carry out your intent to make the place you claim your voting domicile.

If you have any questions about what will be sufficient proof of domicile, you may call or visit your town or city clerk's office. <https://app.sos.nh.gov/Public/ClerkDetails.aspx>

If you are registering to vote more than 30 days before the next election, you must provide this proof before you can register. Or, if you cannot, follow the procedure below for registering within 30 days of an election or on Election Day.

If you register within 30 days of an election or at your polling place on Election Day and you do not bring one of these documents proving domicile, you will need to sign an affidavit before you can vote. You will need to check off one of the following two options on the affidavit:

(1) You have a document that will prove your domicile but did not bring it with you, and you agree to deliver or mail the document to the town or city clerk within 10 days following the election (or 30 days in some areas – ask election officials). OR

(2) You are not aware of any documents that will prove your domicile, and understand that town officials will take steps to confirm that you are domiciled where you claim.

**Although by law you could be subject to criminal or civil penalties for failing to deliver the documents that prove your domicile, the Superior Court has temporarily ordered that the State cannot enforce these penalties.**

#### **WHAT DOES “AWARE OF NO DOCUMENTARY EVIDENCE” MEAN?**

When registering, if you are “aware of no documentary evidence of actions carrying out” your intent to establish your voting domicile, you will register without proof of domicile. You are required to initial a section on the form with a statement that you are not aware of possessing proof. “Aware” means, “having knowledge of.”<sup>2</sup> Therefore, initialing this section of the voter form simply means that at that moment in time you do not know if you possess one of the documents described above.

If you later discover that you do have one of these documents or if you receive one in the usual course of daily life, you have no legal obligation to provide it. Election officials who have an obligation to verify that you live at the domicile address you provided would appreciate your voluntarily providing the document or a copy.

If you register without any proof of domicile, local or state officials may send mail to your domicile or take other actions to verify your domicile. If you do not respond to mail or mail is undeliverable at the address you provide, public officials may take additional steps. Officials may visit the address you provide to verify you were domiciled there on Election Day. If you do not bring proof of your qualifications, but do sign the Voter Registration Form and the additional affidavits on the back of the form:

You will be registered;

You may vote on Election Day; and

Election officials will count the ballot you cast on Election Day.

#### **WHAT IS “DOMICILE FOR VOTING PURPOSES”?**

“The fundamental idea of domicile is home.” *Felker v. Henderson*, 78 N.H. 509, 511 (1917).

“An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.” RSA 654:1, I.

“A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.” RSA 654:1, I-a.

2. “Aware.” Merriam-Webster.com. Merriam-Webster, n.d. Web. 13 Sept. 2017.

"Domicile for purposes of voting is a question of fact and intention coupled with a verifiable act or acts carrying out that intent. A voter can have only one domicile for voting purposes." RSA 654:2, I.

A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire." RSA 654:2, II(a). The complete election laws are available on-line at <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIII.htm>.

### **Is "Domicile" the same as "Resident"?**

The New Hampshire Supreme Court has held that under current New Hampshire law "domicile" and "resident" have different meanings.

[A] "resident" is a person who is domiciled or has a place of abode or both in this state . . . , and who has, through all of his actions, demonstrated a current intent to designate that place of abode as his principle place of physical presence for the indefinite future to the exclusion of all others . . ."

[R]equirements in law [that apply to residents] do not apply to citizens who are not "residents" of New Hampshire although they have their "domicile" here. The basic difference between a "resident" and a person who merely has a New Hampshire "domicile," is that a "resident" has manifested an intent to remain in New Hampshire for the indefinite future, while a person who merely has a New Hampshire "domicile" has not manifested that same intent.

*Annemarie Guare & a v. State of New Hampshire*, 167 N.H. 658, 662 (N.H. 2015).

### **WHAT ARE TEMPORARY PURPOSES?**

A person who is present in New Hampshire for "temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire." RSA 654:2, II(a).

A person who is present and residing in New Hampshire for 30 or fewer days "is presumed to be present for temporary purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent." RSA 654:2, II(b).

Under New Hampshire law, "temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism, visiting family or friends, performing short-term work, or volunteering or working to influence voters in an upcoming election." RSA 654:2, II(c).

# **PART 1 – ELECTIONS FROM START TO FINISH**

## **I. VOTER REGISTRATION**

### **OVERVIEW**

The purpose of voter registration in New Hampshire is to allow qualified citizens the right to vote. Any person registering to vote shall be:

- (a) For those registering prior to an election, one must be at least 18 years of age by the date of the next election; for those registering on election day, one must be at least 18 years of age on that date;
- (b) A United States citizen;
- (c) Domiciled in the town or city ward in which the applicant is registering to vote; and
- (d) not otherwise disqualified to vote.

A voter registration application form is required by statute and used throughout the state. Form A is used more than 30 days before an election. Form B is used starting 30 days before an election and on election day. Form B has a second side that contains affidavits an applicant can use to prove his or her qualifications, if they do not have documentary evidence with them when registering. RSA 654:7. (Page 220)

The checklist contains the name of every qualified voter who has registered in a given town/ward. The checklist is prepared and maintained by the supervisors of the checklist or board of registrars in each town and city in the state. The board of supervisors or registrars is responsible for all additions or changes to the checklist.

### **SUPERVISORS OF THE CHECKLIST**

Applicants for voter registration, can apply with the supervisors of the checklist when they hold a public session. The board in each town or city is composed of a minimum of three members who are legal voters in the town or city, each serving a 6-year term unless otherwise set by a city charter. Supervisors and registrars (title used in some cities) are elected at city and town elections every other year unless otherwise set by a city charter. RSA 41:46-a.

### **TOWN AND CITY CLERKS TO ACCEPT APPLICATIONS**

In addition to registering with the supervisors of the checklist, town and city clerks are required to accept the applications of those people who wish to become registered voters. However, only the supervisors can make the final decision to add a name to the checklist. All applications received by the clerk should be forwarded to the supervisors for consideration at the supervisors' next meeting. RSA 654:8; RSA 654:9.

### **ELECTION<sup>NET</sup>, THE STATEWIDE VOTER REGISTRATION SYSTEM**

Federal law requires that registration records on all voters in the state be entered into a single statewide computerized voter registration system. All cities and towns are currently using a single system named *Election<sup>Net</sup>*. Checklists for state-federal primaries general elections; and all town, city, school

and village district elections shall be produced from *ElectioNet*. RSA 654:45.

Upon receipt of new voter registrations, supervisors of the checklist should ensure that information on new registrants is entered into *ElectioNet* in a timely manner. The checklist data in *ElectioNet* must be updated no later than the session of the supervisors of the checklist required 6 – 13 days before any election and again as soon as practical after each election. RSA 654:27; RSA 659:13.

## **SESSIONS OF SUPERVISORS**

### **ELECTION DAY REGISTRATION**

Any person may register to vote with the supervisors of the checklist at any election (i.e., primary and general elections, town, city, school district and village district elections). Applicants must meet all the qualifications required by RSA 654:12, as judged by the supervisors. RSA 654:7-a. Best practice is to provide an opportunity for voters to register in advance of or at an annual village district meeting that elects officers by unofficial ballot or voice/division vote from the floor.

For the purposes of this section "election" refers to any voting at which absentee ballots are provided. "Meeting" refers to the deliberative session of the town, school, or village district.

### **STATE ELECTIONS**

The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election). The session must be held 6 - 13 days before the election. This session must be held for no less than 30 minutes and, at the discretion of the supervisors, may be extended for additional hours. Except for the provisions relative to

election day registration, no additions or corrections may be made to the checklist after that session is over. RSA 654:27.

### **PRESIDENTIAL PRIMARY ELECTIONS**

In addition to election day registration and the session required above, the supervisors must also hold one session for additions and corrections to the checklist prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m. The Secretary of State determines and will announce the dates of the filing period for the Presidential Primary. RSA 653:9; RSA 655:47.

### **STATE PRIMARY ELECTIONS**

Before the state primary election, the session must be on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00 p.m. and 7:30 p.m. At any session the supervisors may extend the session to end at a later time. RSA 654:32; RSA 655:47, II.

### **LOCAL ELECTIONS**

For all town, city, village district and school district elections, supervisors must hold a session on Saturday 6 – 13 days prior to the election and shall also hold one session on the day immediately prior to the first day of the filing period. In towns operating under RSA 40:13, known as the SB2 form of annual meeting, the supervisors' session shall be held on the Saturday 6 - 13 days prior to the deliberative session. Supervisors must register voters on election day of local elections. RSA 669:5; RSA 44:5; RSA 670:3.

## **NO RESTRICTIONS ON OTHER SESSIONS**

Supervisors should hold as many sessions as necessary to allow citizens in the community an opportunity to register or change party affiliation. In addition to the required sessions, supervisors may meet at any time prior to the final pre-election session required by law, as long as they post or publish notice of the meeting. RSA 91-A:2; RSA 654:27; RSA 654:32. No additions, removals, or corrections to the checklist shall be made after the closure of your city or town's final session for correction of the checklist. RSA 654:27; RSA 654:28; RSA 659:12; RSA 669:5. Qualified individuals may register on election day.

Supervisors should meet and resolve pending additions and pending removals – which appear in System Reminders of *ElectionNet*.

The board of supervisors of the Checklist are a public body subject to New Hampshire's Right-to-Know law. RSA Chapter 91-A. Whenever a quorum convene for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters these actions must be taken in a properly noticed public meeting. A quorum is two or more members of a three person Board. RSA 91-A:2. Minutes of the meeting must be taken and made available to the public on request. HB 1347 (2018), effective January 1, 2019, amends RSA 91-A:2, II, to require that minutes contain "The names of the members who made or seconded each motion." RSA 91-A:2, II. *ElectionNet* provides a report to use for this purpose. The Attorney General's Memorandum on the Right-to-Know law is an excellent guide. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf> The document is

also available in *ElectionNet* under Help/Instructions.

## **CONSOLIDATING SESSIONS**

Whenever there is more than one required session within a 21-day period, the first required session may serve to fulfill the requirements of the remaining sessions. *Example:* Multiple state and municipal elections within a short period. RSA 654:27.

## **POSTING CHECKLISTS: NOTICES OF SESSIONS**

No later than the fourth Tuesday before any state election, the supervisors shall post a current checklist at the town or city clerk's office or at town hall.

At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist showing party affiliations at the town or city clerk's office or at town hall.

Each posted checklist shall state the date, hour and place of the upcoming session(s) for checklist additions or corrections. Notice of any upcoming session must be posted in 2 appropriate places, one of which shall be on the city or town's website, if such exists, or shall be published in a newspaper of general circulation in the town or city at least 7 days prior to the session. Reconvening of a recessed session does not require the publication of additional notice. However, the notice required by the Right-to-Know law must be posted in two places at least 24 hours prior to the session. RSA 91-A:2; RSA 654:26; RSA 654:27; RSA 654:33.

Supervisors may meet at other times to conduct regular maintenance of the checklist. Supervisors must provide notice of meetings at which voters will be officially added to or removed from the

checklist and when the supervisors vote to send a 30-day letter. Work by one or more supervisors or their staff to enter new applicants into pending status, scan election history, or to otherwise perform ElectionNet maintenance which does not officially change any voter's status need not be noticed.

Notice of meetings where voters will be added to or removed from the checklist which are in addition to those required by statute as described above, should be made seven days prior to the session, but in no circumstance less than 24 hours before the meeting in a manner consistent with the Right-to-Know law, with at least two notices. RSA 91-A:2. For example, one notice might be placed on the town hall bulletin board, and another might be placed on the town's web site.

### **CERTIFICATION AND CORRECTION OF POSTED CHECKLIST**

On each posted checklist, the supervisors shall subscribe the following oath: "We, the supervisors of the checklist of the town (or ward) of \_\_\_\_\_ do solemnly swear that, according to our best knowledge, the within list contains \_\_\_\_\_ (number) names of those persons only who are, by actual domicile, legal voters in said town (or ward)." RSA 654:29.

Except for the additions and corrections made on election days, any additions or corrections shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by hand written additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk. RSA 654:28.

### **THE VOTER REGISTRATION FORM**

Each person desiring to register to vote must fill out a Voter Registration Form. (Page 218.) Supervisors should make certain that they have a sufficient supply of these forms for themselves and the town or city clerk. Forms may be found in ElectionNet under Help/Instructions. RSA 654:7. Form A must be used more than 30 days before an election. Form B must be used starting 30 days before an election and on election day.

### **DETERMINING AN APPLICANT'S QUALIFICATIONS**

When the applicant has completed the Voter Registration Form (Page 218), the clerk or the supervisors must determine whether the applicant is legally qualified to vote in the community. RSA 654:12.

- a. **IDENTITY:** A person must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant.
- b. **AGE:** For those registering prior to an election, one must be at least 18 years of age by the date of the next election; for those registering on election day, one must be at least 18 years of age on that date.
- c. **CITIZENSHIP:** An applicant must be a citizen of the United States. Naturalization papers may be requested of a naturalized citizen. If Naturalization papers are not available, the person may complete a Qualified Voter Affidavit. A permanent resident alien (green card holder) is not a United States Citizen. See additional information on determining citizenship and examples of common acceptable forms of proof at page 224.

- d. **DOMICILE:** A person must have a domicile in the town or ward in which he or she seeks to register. Supervisors shall require proof of domicile in the manner and form as is described in more detail at page 120.

Students attending institutions of learning in the state may claim domicile for voting purposes in the town or city where they live while attending the school if they otherwise meet the domicile requirements. RSA 654:1, I-a. Refer to “Voting as a College Student” on Secretary of State’s website: <http://sos.nh.gov/CollegeStudent.aspx>.

The determination of an applicant's qualifications to vote is a judgment that the supervisors must make. An applicant must be placed on the checklist unless a majority of the supervisors agree that it is more likely than not that the applicant is not qualified. The Secretary of State will assist in clarifying what these qualifications are, but cannot judge for the supervisors which applicants should or should not be registered.

The applicant must prove his or her identity during the application process. If a person has any one of the following in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver’s license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

These forms of identification are presumptive evidence of the identity of an

applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo ID that they deem to be reasonable. RSA 654:12, II and III.

A chart on page 217 summarizes the types of documentation authorized for voter registration and election day check-in.

A person who does not have one of the approved photo identifications described above may establish identity through the completion of a Qualified Voter Affidavit. RSA 654:12. Starting 30 days before an election and on election day, the person should complete the qualified voter affidavit section on the second side of Voter Registration Form B, not the separate Qualified Voter Affidavit form. RSA 654:7.

If an applicant is unable to provide the proof of identity, age, or citizenship as required in RSA 654:12, he or she may register by completing the necessary affidavits, pursuant to RSA 654:12, and completing the voter registration form. RSA 654:7.

## **REGISTRATION OF NURSING HOME RESIDENTS**

Residents of a nursing home or similar facility who no longer possess the usual forms of identification, may prove their identity through verification of their identity by the administrator of the facility or his or her designee. If an applicant for voter registration proves his or her identity by having it verified by a nursing home administrator, that registration will be treated in the same manner as would a registration where the applicant proved his or her identity with a qualified photo identification. RSA 654:12.

## **REGISTERING AT ANY ELECTION WITHOUT APPROVED PHOTO ID**

When a person who has never been registered to vote in New Hampshire

registers to vote on any election day and is unable to provide a:

- (1) Photo driver's license issued by any state or the federal government;
- (2) United States passport, armed services identification, or other photo identification issued by the United States government;
- (3) Photo identification issued by local or state government; or
- (4) Photo identification deemed legitimate by the supervisors of the checklist, the moderator, or the clerk, RSA 659:13, II (6),

he or she may establish identity through the completion of a Qualified Voter Affidavit. RSA 654:12. See chart on Page 217. Starting 30 days before an election and on election day the person should complete the qualified voter affidavit section on the second side of Voter Registration Form B.

Once registered to vote, the voter who does not have photo identification with him or her must report to the check-in table to obtain a ballot. At that point, he or she will be directed through the process for all voters who appear without qualified photo identification. Unless the person's identity is verified by the moderator, deputy/assistant moderator clerk, of a town, ward, or city, or a supervisor of the checklist, the voter will be required to complete a challenged voter affidavit. A photograph will be taken of the voter. RSA 659:13.

For an individual who successfully proves his or her identity by completing a Qualified Voter Affidavit, the election official shall inform the person that he or she will receive an identity verification letter. The Secretary of State will perform a verification of identity for that person

following the election. It is, therefore, necessary for the election official receiving the application to note on the Voter Registration Form that the person registered by completing a Qualified Voter Affidavit to establish identity. When the registration is entered into *ElectioNet*, if the person is not already in the system as previously registered elsewhere in New Hampshire, or if the town or ward of previous registration claimed on the Voter Registration Form does not match the *ElectioNet* record, the registration form must be marked to document that a Qualified Voter Affidavit was used to prove identity.

Within the time frame set forth in RSA 654:12,V(b), the Secretary of State will send a letter to each voter who is new to New Hampshire and who registered on election day by completing a Qualified Voter Affidavit or by completing the second side of the Voter Registration Form, used starting 30 days before an election and on Election Day, to establish identity. In the letter, the voter will be welcomed as a new voter, but will be instructed (a) to return written confirmation within 45 days that the person registered and voted, or (b), if not, to immediately notify the Attorney General if the person did not register and vote on election day. RSA 654:12, V(a) and V(b).

If the identity verification letter is returned as undeliverable by the United States Postal Service or if persons who were mailed identity letters have not confirmed their registration, the Secretary of State will conduct an inquiry. The inquiry may include consulting with, and examining public records held by, municipal officials, which contain information relevant to a person's qualifications to vote in New Hampshire, and interviewing persons living at the

address listed on the voter registration form. The law then requires the Attorney General to investigate, pursuant to a list prepared and forwarded by the Secretary of State, those people whose identity or eligibility to vote could not be confirmed. Additionally, if any person reports that someone else used his or her name to register and/or vote or based on the Secretary of State's referral, the law requires the Attorney General to investigate whether voting fraud occurred. RSA 654:12, V(c).

#### **REGISTERING WITHOUT DOCUMENTARY EVIDENCE OF DOMICILE**

A person registering to vote more than 30 days prior to an election is required to present documentary evidence of having taken action to establish their domicile. See further information on types of presumptive proof of domicile at page 120.

Starting 30 days before an election and on election day, a person who applies to register to vote without proof of domicile may register by completing the applicable affidavit section on the second side of Voter Registration Form B.

Within 90 days of each election, the Secretary of State shall forward a list of persons executing sworn statements on the voter registration form used starting 30 days before an election and on election day, since the prior election to both the Attorney General and the Division of Motor Vehicles. Within the time frame set forth in RSA 654:12, V(d), the Secretary of State will send each such person a letter informing him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. Any letters that are returned as undeliverable will be inquired into by the

Secretary of State. The inquiry may include consulting with, and examining public records held by, municipal officials, which contain information relevant to a person's qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the voter registration form. The law then requires the Attorney General to investigate, pursuant to a list prepared and forwarded by the Secretary of State, those people whose eligibility to vote could not be confirmed. The law also requires the Attorney General to investigate whether voting fraud occurred. RSA 654:12, V(e).

#### **IN-STATE TRANSFER OF VOTER REGISTRATION**

If ElectionNet is in use when a person is registering and the election official can determine that the person applying for registration as a voter is currently registered as a voter in another New Hampshire town or ward, the applicant does not have to re-prove age or citizenship. The applicant should still complete a Voter Registration Form and prove his or her identity and domicile. This law is intended to make the voter registration process quicker and easier for both the voter and the election official. This waiver of the requirement for proof of age and citizenship applies only when the election official is able to check ElectionNet as the person is registering. RSA 654:12, IV.

#### **PROOF OF CITIZENSHIP**

Supervisors should require an applicant to prove citizenship by presenting any one of the following:

- Birth certificate;
- United States Passport;
- Naturalization papers;
- Qualified voter affidavit;
- US Department of State Form FS-240: Consular Report of Birth

Abroad of a Citizen of the United States of America also known as a “CRBA.” CRBAs have been issued since 1919 and have taken many forms over the years. They will bear the U.S. embassy/consulate or Department seal, and are also proof positive of U.S. citizenship; or

- US Department of State Form FS-545: Certification of Birth Abroad of a Citizen of the United States which were first issued in 1960 and discontinued in November 1990. DS-1350: Certification of Report of Birth Abroad of a United States Citizen replaced the Form 545 in November 1990 and was discontinued on December 31, 2010, when the Department resumed issuing exclusively CRBAs.

See Appendix page 224 for examples of the various types of forms that are proof of citizenship.

Submission by the applicant of any one of the above documents is sufficient for compliance with this section and no further document can be required by the supervisors in this category. RSA 654:12.

The Qualified Voter Affidavit to be used more than 30 days prior to an election must be in the form shown on page 199. Starting 30 days before an election and on election day use the qualified voter affidavit section on the bottom of the second side of Voter Registration Form B.

A Lawful Permanent Resident, or permanent resident alien card, often referred to as a “green” card is evidence that the person is **not** a United States Citizen. While some green card holders become United States Citizens through naturalization, unless and until they

become United States Citizens they are not permitted to register to vote or to vote. Non-citizens may also be legally present in the United States because they hold a visa. There are many different types of visas. None are proof of United States Citizenship. Some visa programs can lead to United States Citizenship; others are to permit a temporary presence in the United States under circumstances where the person is expected to leave the United States by the expiration date.

#### **PROOF OF AGE**

The supervisors may also request any reasonable documentation which establishes that the applicant will be 18 years of age or older on election day.

#### **PROOF OF DOMICILE**

The determination of a person's domicile is a question of fact. Based on the available evidence, is it more likely than not that the person has established a physical presence at the place claimed as domicile? If yes, is it more likely than not that the person has manifested an intent, has acted, to maintain at that one place, more than any other place, a continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government? Domicile for purposes of voting is a question of fact and intention coupled with a verifiable act or acts carrying out that intent. If yes, the person has satisfactorily proven his or her domicile for voting purposes. More than 30 days before an election, a person applying to register to vote who does not bring evidence of domicile should be provided with the Verifiable Action of Domicile Form A, which lists the forms of proof of domicile recognized in statute. The applicant should be asked to retrieve proof and return to complete the registration. RSA 654:1; RSA 654:2.

A person may also register starting 30 days before an election and on election day

even if he or she does not possess or did not bring proof of domicile. The applicant may satisfy the proof of domicile requirement using the domicile section of the second side of Voter Registration Form B. The applicant has two options:

- Initial the top option which acknowledges that the applicant possesses proof of domicile, but just did not bring it when registering, and promises to mail or deliver the proof to the clerk following the election. An applicant who initials this section must be provided with the Verifiable Action of Domicile Form B, which provides information on the forms of proof of domicile recognized by statute and instructions on returning proof to the clerk; or
- Initial the bottom option, which acknowledges that the applicant is not aware of possessing any evidence of domicile. An applicant who initials the bottom choice has no further duty to provide proof of domicile. Do not give the Verifiable Action of Domicile form B to an applicant who initials the bottom option. RSA 654:7.

A voter's intention to reside and his or her actual physical presence must coincide. The mere fact that someone intends to make a town his domicile is insufficient. The person must actually have a physical presence there. A person can have only one domicile for voting purposes. RSA 654:2.

#### **HOMELESS APPLICANTS**

"All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." New Hampshire

Constitution, Part 1, Article 11. Both the New Hampshire and United States Constitutions establish that a homeless person has the same right to vote as a person who owns, leases, or rents a home. The same requirements for domicile apply to all. A homeless person has a right to register and vote in that town or ward where he or she, "more than any other place, has established a physical presence and manifests an intent [has acted to carry out an intent] to maintain" his or her domicile. RSA 654:1. This may be the street or parking lot where a person living in a car parks/sleeps more than any other place. This may be the home of another where, more often than any other, the homeless person sleeps on a couch. This can even be the park or area under a bridge where, more than any other place, the homeless person sleeps. A person, who is otherwise qualified to vote, cannot be denied voter registration because he or she is homeless. Request the applicant to provide the best available mailing address, which may be the address of a homeless shelter, church, social service organization, relative, etc. who would receive and pass along mail sent to the applicant.

Domicile is discussed further starting at page 120.

#### **DECISION TO BE MADE BY THE SUPERVISORS OF THE CHECKLIST**

The clerk should provide any completed voter registration forms to the supervisors prior to the supervisors' next session. The supervisors may issue written guidelines to the clerk describing what evidence the supervisors accept as proof of identity, citizenship, age, or domicile. It is up to a majority vote of the supervisors, made in a properly noticed public session, to make the final determination of whether to add the applicant's name to the checklist. RSA 654:11.

The supervisors should consider any applications received from the clerk at the first meeting held after the applications are received. Absentee Voter Registrations received after the supervisors' last session before an election shall be processed as election day registrations under RSA 654:7-a. RSA 657:16.

If the supervisors vote by majority that an applicant is qualified, they should add his or her name to the checklist. The original copy of the form and any affidavits used should be retained by the supervisors for their records. A copy should be mailed to the supervisors of the checklist, in care of the town or city clerk, of the city or town of the applicant's last voting address if that address is in the state of Vermont, Maine, Massachusetts, Connecticut or Rhode Island. RSA 654:11; RSA 654:3.

If the applicant is deemed not to be qualified as a voter, the supervisors must inform him or her in writing within 7 days of their decision, stating the reason for the denial. The supervisors shall write the word "REJECTED" and the date of the rejection on the form and preserve it along with a copy of the denial notification. RSA 654:13; RSA 654:23. Record the rejection in *ElectionNet* if the voter has already been entered in *ElectionNet*.

The supervisors should be aware that any citizen may appeal the supervisors' denial to the New Hampshire Superior Court. RSA 654:42.

#### **DISCLOSURE OF VOTER REGISTRATION FORM INFORMATION**

The Voter Registration Forms (starting at page 218 ) serve as the basis of a data file, maintained in *ElectionNet*, of registered voters in the town or ward. This file is, in part, a public record. However, public

information includes only the voter's name, *ElectionNet* ID number, physical street address, mailing address, town or city name, party affiliation, if any, the voter history, and for primary elections, in which party's primary the person voted. RSA 654:25; RSA 654:31; RSA 654:31-a; RSA 659:102. The remaining information on the Voter Registration Forms is not subject to the Right-To-Know law, RSA 91-A. This information may be disclosed by election officials if disclosure is necessary to resolve a challenge to the voter, for investigations of election law violations, or for the records of an individual who is the subject of a law enforcement investigation or prosecution. RSA 654:31-a. Otherwise, it is a misdemeanor to disclose non-public information from a voter's registration record. RSA 654:31.

Information about voters who have a valid protective order or who are participants in the address confidentiality program is exempt from public disclosure requirements. RSA 173-B:4; RSA 7:46.

#### **ABSENTEE VOTER REGISTRATION**

Any person who is legally qualified to vote in a town or city except that his name does not appear on the checklist, who is unable to attend a session of the supervisors or to submit a registration to the town or city clerk by reason of having a physical disability or because he or she is temporarily absent, may register to vote using a special Absentee Voter Registration Form. RSA 654:16.

New Hampshire is exempt from the federal National Voter Registration Act, the "Motor Voter" law, so if a federal motor voter postcard registration form is received from someone who is absent from town, or disabled, the clerk or the supervisors should send the applicant the

materials required for a New Hampshire Absentee Voter Registration. If the applicant is not absent from town, or disabled, he or she can be notified to come to the clerk's office or a session of the supervisors to register in person.

Absentee Voter Registration Forms may be sent out by the town or city clerk to anyone who requests them. When sending the form, the clerk must be sure to include a Voter Registration Form, use only Form A (page 218). The Voter Registration Form A, used for registering more than 30 days before an election is used for absentee voter registration because the absentee voter registration law requires the applicant to sign the absentee voter registration affidavit and to provide copies of their proof of identity and domicile with the application. RSA 654:17. Completed applications are returned to the clerk who should turn them over to the supervisors of the checklist. RSA 654:17, RSA 654:18, RSA 654:19.

The law does not set a deadline for use of absentee voter registration. RSA 654:16. A qualified applicant who will be absent from his or her town/city on election day may, up until the day before the election, obtain the forms necessary for absentee voter registration and an absentee ballot from the clerk, complete the application forms, provide the required copies of evidence of qualifications, complete the absentee ballot and affidavit envelope, and return all to the clerk. The clerk shall provide the application and supporting documents to the supervisors for processing as an election day registration under RSA 654:7-a. RSA 657:16.

## **FEDERAL OFFICE ONLY VOTERS (DOMICILED OUTSIDE THE U.S)**

A Federal Office Only Voter is neither a regular absentee voter nor a military voter (uniformed services voter) who is simply overseas. A Federal Office Only Voter is a person living outside the United States who no longer maintains a domicile in New Hampshire, but who (or a parent or legal guardian of said voter) had his or her last domicile before leaving the United States in New Hampshire. RSA 654:3.

A Federal Post Card Application (FPCA) form (or the link) may be downloaded from the Federal Voting Assistance Program <http://www.fvap.gov> and sent to voters who identify themselves as “a U.S. Citizen residing outside the U.S., and my return is not certain” on the current FPCA form. (See FPCA example on page 210.) A standard Voter Registration Form should not be sent to avoid confusing the voter with other fully qualified (legally domiciled) voters. Clerks keep a copy and provide the original to the supervisors. **Once registered, a Federal Office Only Voter is eligible to vote for federal offices only.** A Federal Office Only (FOO) absentee ballot is prepared by the Secretary of State and supplied to clerks for these voters for the state primary and general elections. RSA 654:20; RSA 654:21; RSA 654:22; RSA 654:23.

## **ABSENTEE WRITE-IN BALLOT**

Absentee write-in ballots are intended for use by voters who are unlikely to have sufficient time to receive, mark, and return a regular absentee ballot. An absent uniformed services voter, an absent voter temporarily residing outside the U.S., or a voter domiciled outside the U.S. who is unable to vote in person due to requirements of military service or due to living in an isolated area outside the United States, may apply for a write-in

absentee ballot from the clerk, which will be prepared by the Secretary of State. There are write-in ballots available for the primary and general elections. RSA 657:10-a.

An absent uniformed services voter, an absent voter temporarily residing outside the U.S., or a voter domiciled outside the U.S. may obtain an Official Federal Write-in Absentee Ballot (FWAB) from the U.S. Department of Defense (FVAP) website at <http://www.fvap.gov>

These FWABs should be accepted by moderators and clerks as official ballots, so long as there is a signature on a voter registration document.

The United States District Court for the District of New Hampshire has ruled that RSA 659:50, III, which required a comparison of the signature on the absentee ballot application with the signature on the absentee ballot affidavit to determine if the same person signed both, is unconstitutional. Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III. See: Notice Regarding the Processing of Absentee Ballots on Election Day. ElectionNet > Help>Instructions or <http://sos.nh.gov/> (Elections Division > Election Officials > Moderators > Processing on Election Day – Do not compare signatures).

See sample of the Federal Write-in Absentee Ballot (FWAB) at page 213. RSA 657:10-b; RSA 657:23.

## **MAINTAINING VOTER REGISTRATION RECORDS**

New Hampshire law requires that the supervisors maintain the following

governmental records until the voter is removed from the checklist plus 7 years:

- Completed voter registration form
- Party change form
- Same day return to undeclared form and report
- Absentee ballot voter application form (FPCA)
- Overseas absentee registration affidavit
- Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist
- Notice of removal
- Report of death
- Report of transfer
- Undeliverable mail or change of address notice
- Qualified voter and Domicile Affidavits

RSA 654:25; RSA 654:31-a; RSA 33-A:3-a.

*New Law* – RSA 654:13-a. All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted.

## **CONFIDENTIAL VOTERS**

If a voter presents a valid protective order pursuant to RSA 173-B:4, or is a participant in the address confidentiality program established by RSA 7:46 and requests that no address be maintained on the checklist, the supervisors should mark

the public checklist with an entry “Non-Public Voter” followed by a sequential number, i.e. 1 for the first such voter, 2 for the second and so on. The supervisors must then maintain a separate non-public checklist of these voters. That non-public checklist should have the usual checklist information, but must not be disclosed to anyone other than the clerk and the moderator, except as otherwise provided by law. *ElectionNet* has provisions for marking voters non-public (confidential). Clerks must send any qualified non-public (confidential) voter an absentee ballot. “The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15.” RSA 7:46.

If a voter or a person in the household of the voter is a victim of certain crimes and does not wish to have his or her name or address appear on the checklist, he or she may apply to participate in a confidentiality program through the Attorney General's Office. RSA 7:46.

If a person appears at the polling place to register and vote in person and identifies himself or herself as either being protected by a court order issued under RSA 173-B:4 or as a participant in the Attorney General's address confidentiality program, under RSA 7:46, the supervisors and the moderator should provide the voter an opportunity to register and vote confidentially. The moderator should arrange for the voter to obtain a ballot without the voter's name being publicly announced and the entry of the voter on the marked checklist used on election day should be as “Confidential Voter # \_\_\_\_.” Fill in “1” unless there are other confidential voters on the checklist, then use the next number in sequence. It is appropriate to ensure the voter knows

that he or she may vote absentee at future elections and to encourage the voter to consult with the Attorney General's Victim Witness Assistance office regarding how to vote while remaining safe. RSA 654:25; RSA 659:50.

More information on this program may be obtained by contacting the Attorney General's Office of Victim/Witness Assistance at 1-800-300-4500 or (603) 271-1240.

## **CHECKLIST CHANGES**

### **REMOVAL OF NAMES**

Only those persons legally qualified to vote should have their names maintained on a town or city checklist. Inaccurate checklists which list the name of a person who has moved from town, died, become an incarcerated felon, or who has otherwise become ineligible to vote make it easier to commit voting fraud.

While there is evidence of this occurring rarely in New Hampshire in the recent past, historically in the United States one common form of voting fraud is the use of the name of a dead or absent person, whose name is still listed on the checklist, by a person who is not qualified to vote. The public confidence in New Hampshire's election system may be diminished when a voter reviews the checklist, and finds the names of people who the voter knows are no longer alive or no longer qualified to vote. Provided supervisors keep their checklists current by fully utilizing *ElectionNet*, public confidence in the state's voting system will benefit from these changes in our law and procedures.

The supervisors should remove the name of any person who relinquishes his U.S. citizenship or domicile in the community. A domicile for voting purposes is not lost because a voter is temporarily absent from

his home. As long as a voter has a domicile in the town or city, intends to return to that domicile as his home, and does not establish another domicile for voting purposes in another community, that voter's name should remain on the checklist. RSA 654:2.

At least 30 days before removing the name of a voter from the checklist, the supervisors must first send written notice of removal by mail to the voter's last known address. The notice must state the reason considered for removing the name and the time and place where the voter may respond. RSA 654:44. Notice of removal letters can be found in and printed from *ElectioNet*.

Upon receipt of a report of transfer or a notice in System Reminders of *ElectioNet* that indicates that a voter has registered to vote in another community, or has permanently moved from the town or ward where registered, the supervisors, unless they have evidence that the notice is more likely than not in error, shall remove that voter's name from the checklist by approving the removal in System Reminders. *ElectioNet* now provides notices of death received from the Division of Vital Records through the NHVRIN system to the supervisors who shall remove the voter's name from the checklist. See page 136 for further details.

Supervisors shall also either remove a person's name from the checklist or send the person a 30 day letter if notice is received from the United States Postal Service, the Department of Safety, or through *ElectioNet* that the person has permanently moved from the town or ward where he or she is registered to vote. RSA 654:36-b.

Mail sent to a voter at the mailing address the voter last provided which is returned

by the United States Post Office indicating that the person has permanently moved should trigger removal of the person's name from the checklist. If the supervisors have reason to believe the notice is in error, then a 30-day letter should be sent to the voter before removal of the voter's name from the checklist. RSA 654:36-b.

A "notice of removal" should not be sent to the voter's last known address when removing the name of a voter for whom a notice of transfer or official notice of death has been received. *ElectioNet* will preserve a record of all electronic notices. Supervisors should record all paper notices they receive or send so that they may justify their actions in the future, if necessary. RSA 654:36; RSA 654:37; RSA 654:44.

#### **CHANGING PARTY AFFILIATION**

A registered voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a state primary or presidential primary up to the day of the primary election. When a voter moves from one New Hampshire town to another, the voter is treated as a new registrant for this purpose and may choose any party affiliation, regardless of the voter's party affiliation where the voter was previously registered.

The supervisors must hold at least one meeting prior to the filing period for the change of party affiliation by registered voters. For the Presidential Primary, the session shall be on the Friday preceding the first day of the filing period, between 7:00 PM and 7:30 PM. For the State Primary, the session shall be on Tuesday before the first Wednesday in June, between 7:00 PM and 7:30 PM. RSA 654:32

City and town clerks are authorized by law to accept changes in party affiliation. Applications to change party will not be acted on until after the state primary, if they are received after the filing period has started.

An unaffiliated voter may declare his or her affiliation at the primary and may vote the ballot of his new party.

A voter who has declared an affiliation with a party prior to primary day may only vote in that party's primary. A voter may write in the name of the person for whom they wish to vote for nomination to a particular office on their own party's ballot. Such a write-in vote for a person who is a candidate for nomination by a different party will not count as a vote in the other party's vote totals. A write-in vote for the candidate of a different party will count as a vote for that person in the primary for the voter's party and is an opportunity for the voter to express his or her support.

The voter can change parties on primary day, but then is not allowed to vote at all in that primary.

An unaffiliated voter may declare his affiliation at the primary and vote the ballot of his new party and then, **after voting**, may sign his or her name on a list of voters prepared for the purpose of recording party changes, to change his or her party status back to unaffiliated.

Voters who register at the primary election as undeclared, then affiliate with a party when checking in to obtain a ballot and vote in that party's primary, may change back to undeclared by filling out the "Return to Undeclared" form available in *ElectionNet*. See examples of these forms on page 266.

Any person who is a registered member of a party and votes a ballot of that party at a primary election SHALL NOT fill out a card to change his or her party status to unaffiliated on primary election day. RSA 654:34, III and V. To change party affiliation or to become undeclared a voter registered as affiliated must complete a party change form at the clerk's office or at a session of the supervisors of the checklist after election day.

### **CHANGE OF ADDRESS WITHIN TOWN OR WARD**

Supervisors must enter a change of address in *ElectionNet* if they: (a) observe an address change on the marked checklist from an election, (b) receive evidence from the U.S. Postal Service, or (c) obtain appropriate documentation indicating that a person has moved within his or her town or ward, or that the street name or number has been changed for a voter that has not moved.

### **PHYSICAL (DOMICILE) ADDRESS FOR EACH VOTER**

Supervisors shall ensure that each voter has a domicile address that represents a real location consistent with a recognized addressing formula within the town or ward of the person's domicile. If there is no physical address, the physical street name should correspond to a recognized legal exemption from the physical address requirement. See Frequently Asked Questions found in *ElectionNet/Help/Instructions*.

### **REMOVAL OF DUPLICATE RECORDS**

Supervisors are obligated to address duplicate voter records – records for one voter that appear in more than one New Hampshire town or city – in a timely manner. Supervisors should use the Inquiry function in *ElectionNet* when registering new voters, thereby avoiding creation of duplicates.

Once supervisors identify a duplicate record, supervisors or their designee should contact the city or town election officials where the duplicate voter appears, decide whether the same voter is on both checklists, and resolve which list the voter should remain on, which town/city the voter was last registered in.

## **CAMPAIGNING**

Political advertising used in any election, including local elections, must bear the name and address of some person responsible for the advertising. RSA 664:1; RSA 664:14. The courts have held that a communication is political advertising only if it explicitly advocates the success or defeat of any party, measure, or person at any election. RSA 664:17 controls the placement of political advertising (signs).

Under RSA 664:17, political advertising cannot be placed on or affixed to any public property, including highway rights

of way. Nor may political advertising be placed on or affixed to private property without the owner's consent.

This law allows signs to be placed within a State-owned right-of-way, but only if the owner of the underlying land gives the person erecting the sign permission and as long as the sign does not obstruct the safe flow of traffic. The law prohibits removing signs from private property, even unlawfully placed signs, except by the owner or someone authorized by the owner of the property. The law also prohibits removing signs from public property, even unlawfully placed signs, except by law enforcement or state, town, or city maintenance personnel. When public employees remove signs prior to election day, the signs must be kept until one week after the election at a place designated by the municipality so that the candidate may retrieve the signs. RSA 664:17.

## **II. PREPARATION FOR ELECTION DAY**

### **FILING OF CANDIDATES**

There are separate procedures to be followed by candidates and election officials for filing for office in state elections. Each of these procedures is detailed as follows:

#### **FOR PRESIDENTIAL PRIMARY**

All inquiries regarding filing for the presidential primary should be directed to the Secretary of State.

#### **FOR STATE PRIMARY ELECTION**

Before the opening of the filing period for a state primary election, the Secretary of State will send the “Notice to Voters of State Primary Election” to all city and town clerks. City clerks are to forward these notices to ward clerks. Within 10 days of his or her receipt of this notice, the town or ward clerk shall fill in the information and post the notices in two public places within the town or ward. This notice serves as the warrant for the state primary election. RSA 655:11; RSA 655:12.

#### **STATE REPRESENTATIVE**

In single-town representative districts, candidates file with the town clerk of that town. In districts composed of more than one town, the candidate files with the town clerk in the community in which the candidate is domiciled.

Candidates for state representative must complete every portion of the declaration of candidacy, including the affidavit of qualification, the financial disclosure and the statement declaring whether the candidate will agree to limit campaign spending or not. RSA 655:14; RSA 655:15; RSA 655:17.

Candidates who file for state representative are also acknowledging that, if they are elected, they will serve as

a delegate to the county convention. RSA 655:29.

Since candidates for state representative must file with the town or city clerk, the clerks should be aware of the qualifications of this office. Following are the constitutional and statutory requirements for state representative:

Every member of the house of representatives shall be chosen by ballot; and, for two years, at least, next preceding his election shall have been an inhabitant of this state; shall be, at the time of his election, an inhabitant of the town, ward, place or district he may be chosen to represent and shall cease to represent such town, ward, place, or district immediately on his ceasing to be qualified as aforesaid.

New Hampshire Constitution, Part 2, Article 14. \_\_RSA 655:8 further provides that “to hold the office of state representative, a person must be at least 18 years of age and must be qualified as provided” in the New Hampshire Constitution, Part 2, Article 14.”

#### **DECLARATION OF CANDIDACY**

Prior to the opening of the filing period for a state primary, the Secretary of State will provide each town and city clerk with a supply of Declaration of Candidacy forms. The Declaration of Candidacy form is established by statute. The name of a person declaring candidacy will be printed on the official primary ballot of the party in which he or she is registered. RSA 655:17. Only candidates for state representative or delegate to the Republican state convention file the form with the town or city clerk. RSA 655:15. All other candidates file with the Secretary of State.

The person signing the declaration of candidacy must be a registered voter in the town or ward where they are filing and a member of the party for which they are filing. It is the responsibility of the clerk to check *ElectionNet* and ensure these requirements are satisfied. Political organization candidates, sometime called third party candidates, for State Representative file with the Secretary of State.

**Declarations of candidacy, primary petitions, and assents to candidacy must be mailed by the town or city clerk to the Secretary of State on the same day they are filed.** RSA 655:18; RSA 655:27.

Except for candidates for State Representative or delegate to a state party convention, who must file with the town or city clerk, any person who files on the last day of the filing period must do so in person before the Secretary of State. RSA 655:15; RSA 655:16.

#### **DELEGATE TO REPUBLICAN STATE CONVENTION**

Delegates to the Republican state convention are elected at the state primary election. The number of delegates to be chosen from each town or city is set forth in RSA 662:6. Candidates for delegate are not required to pay any fee or file any petitions. RSA 653:6. They must be registered members of the Republican Party and must be domiciled in the town or city they are to represent. If the person elected delegate is entitled to serve as a delegate because he or she has been nominated for office, he or she shall not be entitled to serve as an elected delegate, and the next highest eligible vote-getter shall be elected to that delegate seat. RSA 653:6.

Currently the Democratic Party does not elect delegates. Anyone wishing to attend the Democratic State Convention should contact the Democratic State Committee. Names of those wishing to be delegates to the Democratic State Convention do not appear on the primary ballot.

#### **INCOMPATIBLE OFFICES**

No person may file in a state primary for more than one of the following offices: governor, United States senator, United States representative, executive councilor, state senator, state representative, county commissioner, county sheriff, county attorney, county treasurer, register of deeds, and register of probate. No person shall seek or hold positions as a member of the general court and county commissioner at the same time. No person shall hold 2 of the following offices: county commissioner, sheriff, county attorney, county treasurer, register of deeds, or register of probate. RSA 655:10. For local offices, see RSA 669:7 and RSA 669:8; New Hampshire Constitution, Part 2, Article 94.

#### **CANDIDATE'S DISQUALIFICATION OR DEATH BEFORE A PRIMARY**

If any candidate dies or becomes disqualified between the close of the filing period and the date of the primary, the Secretary of State may remove his or her name from the ballot and the appropriate party committee may substitute a new candidate. RSA 655:33; RSA 655:34.

The reasons for which a candidate may disqualify himself or herself are specifically defined by statute. The candidate must make a written oath that he or she does not qualify for the public office which he or she seeks because of age, domicile, or incapacitating physical disability acquired subsequent to the nomination or filing. These are the only

reasons for which a candidate may disqualify himself or herself. RSA 655:33, RSA 655:38.

If the ballots have already been printed, the Secretary of State may print or authorize the use of pasters on the ballot. If no name is to be substituted, blank pasters may be applied to the ballot to blank out the name of the withdrawn candidate. Except as provided by law, no adhesive slips, pasters, or stickers shall be used on any ballot. The use of a paster shall invalidate the vote for that office where it is used. RSA 656:21; RSA 659:65

### **PRIMARY PETITIONS**

A candidate seeking the nomination of a party may use a primary petition in lieu of paying a filing fee. Each primary petition may contain the name of only one candidate and bear the signature of only one voter. The oath of the voter upon the petition is sufficient evidence that he is a member of the party stated. No voter shall sign conflicting party petitions, nor shall he sign more than one primary petition for the same office unless more than one nomination is to be made, in which case he may sign as many primary petitions as there are nominations of his party to be made for the same office. If a voter has signed two or more conflicting primary petitions, all such petitions shall be rejected. RSA 655:21; RSA 655:23; RSA 655:24.

An Assent to Candidacy/Declaration of Candidacy completed by the candidate must accompany any primary petitions filed. The candidate must complete every portion of the form, including the affidavit of qualification, the financial disclosure and the statement declaring whether the candidate will agree to limit campaign spending or not. RSA 655:25; RSA 664:5-a; RSA 15-A:3.

It is the duty of the clerk with whom the petitions are filed to examine them. If a petition is found to be in conflict with the law, the clerk shall note the reason it is not acceptable on the petition and return it within 24 hours to the candidate. For each petition that is rejected, the candidate may file a supplementary petition with the clerk no later than the last day of the filing period for declarations of candidacy. RSA 655:26.

### **PARTY COMMITTEE NOMINATIONS**

In the event that no declaration or petition has been filed on behalf of a candidate for any office, the appropriate party committee may make a nomination to fill the vacancy by notifying the Secretary of State on or before the Wednesday following the close of the filing period. Nominations made in this manner are also subject to the payment of the appropriate fee or submission of the usual number of petitions. Affidavits must accompany the names of the candidates within the time limit. Any candidate who accepts a nomination by a party committee, who has already filed for an incompatible office as defined in RSA 655:10, must withdraw the prior filing. Any vacancy created by such a withdrawal may be filled by nomination by a party committee as described above. RSA 655:32.

### **VOTER, OFFICE HOLDER DOMICILE**

Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other

place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. RSA 654:1.

A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I. RSA 654:1, I-a.

Domicile for purposes of voting is a question of fact and intention coupled with a verifiable act or acts carrying out that intent. A voter can have only one domicile for voting purposes. RSA 654:2.

Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law. RSA 654:1, II.

#### **VOTER TEMPORARY ABSENCE**

A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile.

Domicile for the purpose of voting as defined in RSA 654:1, once existing,

continues to exist until another such domicile is gained.

Domicile for purposes of voting is a question of fact and intention coupled with a verifiable act or acts carrying out that intent.

A voter can have only one domicile for voting purposes.

No person shall be deemed to have lost a domicile by reason of his or her presence or absence while the voter or his or her spouse:

- is employed in the service of the United States; nor
- while engaged in the navigation of the waters of the United States or of the high seas; nor
- while a teacher in or student of any seminary of learning; nor
- while confined in any public prison or other penal institution; nor
- while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.

#### **TEMPORARY PRESENCE IN NH**

A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire.

A person who has been present and residing in one town or ward in New Hampshire for 30 or fewer days is presumed to be present for temporary

purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.

Temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of:

- tourism,
- visiting family or friends,
- performing short-term work, or
- volunteering or working to influence voters in an upcoming election.

#### **ACCEPTABLE PROOF OF DOMICILE**

For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall demonstrate an intent to make a place his or her domicile by providing documentation showing that the applicant has a domicile at the address provided on the voter registration form. Such documentation may include, but is not limited to:

- (1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;
- (2) Evidence of renting or leasing an abode at that place for a period of more than 30 days, to include time directly prior to an election day;
- (3) Evidence of purchasing an abode at that place;
- (4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;
- (5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that

place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

(10) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided. See "Confirmation of Domicile" form at page 223, also available in *ElectionNet* Instructions labeled: "Domicile Confirmation Form." The law does not require this form, any document containing the information called for by the form is sufficient.

An individual applying for registration as a voter 30 or fewer days before an election shall use the election day registration form required by RSA 654:7, IV(c) which shall require the applicant to provide the date

he or she established his or her voting domicile in New Hampshire. The registration form shall require the voter to identify and provide evidence of a verifiable action he or she has taken carrying out his or her intent to make the place claimed on the voter registration form his or her domicile.

A person may register on election day through use of an acknowledgment of domicile evidence obligation on the registration form and vote if he or she does not have any document in his or her possession at the polls providing evidence of an action carrying out his or her intent to make the address claimed as his or her voting domicile. A person relying on an acknowledgment of domicile evidence obligation to register must mail or present evidence of an action taken before registering to vote to carry out his or her intent to make the address claimed his or her domicile to the town or city clerk within 10 days following the election, or within 30 days in towns where the clerk's office is open fewer than 20 hours weekly.

A person who does not bring any documentary evidence of domicile when registering to vote and is not aware of possessing any evidence, may register and vote by initialing the bottom domicile option on the second side of the Voter Registration Form B, and signing the affidavit on that side of the application form. RSA 654:2.

## **NOMINATION PAPERS FOR GENERAL ELECTION**

A candidate who is not running as a Republican, Democrat, or Libertarian may have his or her name placed on the state general election ballot by filing a declaration of intent and paying the \$2.00 administrative assessment fee with the Secretary of State's Office during the regular state primary filing period. The

candidate must later file the requisite number of nomination papers, pursuant to RSA 655:40-45; RSA 655:14-a; RSA 655:17-a; RSA 655:19-c.

If a person files their declaration of intent for candidacy for a state or federal office on the last day of the filing period, they must do so in person before the Secretary of State. RSA 655:43, II.

Only registered voters may sign nomination papers. See RSA 655:42 to ascertain the number of nomination papers needed for a particular office and the districts where those who sign the papers must be from. See sample nomination paper at page 264.

No voter may sign more than one nomination paper for each office and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter must fill out and sign an individual paper. Nomination papers must be dated in the year of the election. RSA 655:40; RSA 655:40-a.

## **SUBMITTING NOMINATION PAPERS TO SUPERVISORS FOR CERTIFICATION**

The completed nomination papers must be submitted for certification to the supervisors of the checklist in the community in which the voter is registered no later than 5 p.m. on the Wednesday 5 weeks prior to the State Primary Election. The nomination paper includes a section to be completed by the supervisors. If they confirm that the person subscribing the nomination is a voter in his or her community, the supervisors should certify this by signing in the space provided. **A majority of the supervisors must certify and sign the nomination papers.**

In a city, the city clerk may certify the nomination papers instead of the

registrars. In this case, only the city clerk needs to sign the certificate.

The supervisors must have the certified nomination papers available for the candidate no later than 5 p.m. on the Wednesday 2 weeks prior to the primary and the candidate must submit the nomination papers to the Secretary of State no later than 5 p.m. on the Wednesday one week before the primary. When the nomination papers are submitted to the Secretary of State, they must be grouped by municipality. If they are not, the Secretary of State may reject them. RSA 655:41; RSA 655:42; RSA 655:43.

### **VACANCIES IN PARTY TICKETS**

If a vacancy in any party ticket occurs after a primary, the appropriate party committee may appoint someone to fill the vacancy, provided they do so within 3 days of the notice of disqualification or death and further provided that the name of the substitute candidate is received by the Secretary of State no later than the Tuesday prior to the election. RSA 655:38; RSA 655:39.

### **POLITICAL ADVERTISING**

Political advertising used in any election, including local elections, must bear the name and address of some person responsible for the advertising. RSA 664:1; RSA 664:14. The courts have held that a communication is political advertising only if it expressly advocates the success or defeat of any party, measure, or person at any election. *Stenson v. McLaughlin* 2001 U.S. Dist. LEXIS 14167. RSA 664:17 controls the placement of political advertising (signs).

Under RSA 664:17, political advertising cannot be placed on or affixed to any public property, including highway rights of way. Nor may political advertising be

placed on or affixed to private property without the owner's consent.

This law allows signs to be placed within a State-owned right-of-way, but only if the owner of the underlying land gives the person erecting the sign permission and as long as the sign does not obstruct the safe flow of traffic. The law prohibits removing signs from private property, even unlawfully placed signs, except by the owner or someone authorized by the owner of the property. The law also prohibits removing signs from public property, even unlawfully placed signs, except by law enforcement or state, town, or city maintenance personnel. When public employees remove signs prior to election day, the signs must be kept until one week after the election at a place designated by the municipality so that the candidate may retrieve the signs. RSA 664:17.

### **CLERK CONTACT/POLLING PLACE INFORMATION IN ELECTION<sup>NET</sup>**

Each town and city clerk shall establish and maintain an official e-mail address and street address, up-to-date polling place locations and polling hours for each election, all of which shall be entered in Election<sup>Net</sup> and publicly available to voters. RSA 657:19-c.

### **PRINTING OF ELECTION MATERIALS**

The Secretary of State is responsible for preparing the ballots, forms and absentee voter materials for all state elections and state referenda, including constitutional amendments. RSA 656:1. For the purposes of facilitating the examination and recounting of votes cast, all elections shall be conducted using paper ballots. RSA 656:1-a.

## **REGULAR AND SAMPLE BALLOTS**

Ballots for state elections are delivered to town and city clerks prior to the election. The Secretary of State determines the number of ballots to be printed for a state primary. The number of general election ballots sent is the number the Secretary of State deems sufficient for voting in the state general election. RSA 656:19; RSA 656:26.

## **SAMPLE BALLOTS FOR STATE AND PRESIDENTIAL PRIMARY ELECTIONS**

The package of primary election ballots will include 10 sample ballots for each political party. The clerk must post 2 sets of sample ballots in public places in the town or ward within 1 day after he or she receives them. The remainder of the sample ballots are to be posted outside the guardrail in the polling area on election day. RSA 656:28.

## **SAMPLE BALLOTS FOR STATE GENERAL ELECTIONS**

Ten sample ballots are printed and sent to the town or ward clerk to be posted in 2 public places within the community. The remainder of the sample ballots are to be posted outside the guardrail in the polling area on election day. RSA 656:18; RSA 656:28.

## **ACCESSIBLE POSTING OF SAMPLE BALLOTS**

At least one sample ballot for the general election and one sample ballot for each party for each of the primaries shall be posted by the town or city clerk not higher than 48” so as to be convenient for voters in wheelchairs. RSA 658:26.

## **ABSENTEE BALLOTS**

Absentee ballots and Federal Office Only absentee ballots are also prepared by the Secretary of State. As soon as these are ready, they are delivered to the town and city clerks along with envelopes,

instructions and application forms. RSA 656:33 through RSA 656:38.

## **REGISTRATION FORMS & ELECTION DAY AFFIDAVITS**

The supervisors of the checklist shall ensure that a sufficient quantity of voter registration forms, are available at the polling place for election day registration of all qualified persons at all elections.

Voter Registration Form B must be used starting 30 days before an election and on election day. Form B includes a second side with affidavits for domicile in a top section and a qualified voter affidavit section, for proof of identity, age, and citizenship, in a bottom section. See at page 220. (Find this form in *ElectionNet* under Help/Instructions.)

There is a separate Voter Registration Form A for use more than 30 days before an election (page 218) that has no second page. When form A is used more than 30 days before an election, the applicant may use a separate single-page qualified voter affidavit. RSA 654:7; RSA 654:7-a, I and II; RSA 654:12.

The separate “Domicile Affidavit” form is no longer used. Destroy any remaining blank Domicile Affidavit forms.

## **OTHER MATERIALS PROVIDED BY SECRETARY OF STATE**

The Secretary of State will also supply the following materials, either directly or through his web site, for state elections:

- Instructions to Voters;
- Posters listing the Purity of Elections statutes;
- Poster explaining to voters the photo ID law;

- Absentee ballot application (on Secretary of State's website sos.nh.gov);
- Federal Post Card Application forms (FPCA) via web link to Pentagon's FVAP site;
- Regular absentee voting affidavit envelopes;
- Absentee voting affidavit envelopes for UOCAVA voters;
- Envelopes addressed in black: "To the town or city clerk of \_\_\_\_" for regular absentee voters;
- Envelopes addressed in red: "To the town or city clerk of \_\_\_\_" for UOCAVA absentee voters;
- Envelopes printed in black stating: "Enclosed is the ballot of an absent voter" for sending materials to regular absentee voters;
- Envelopes printed in red stating: "Enclosed is the ballot of an absent voter" for sending materials to UOCAVA voters;
- Instructions for Absentee Voters;
- Adhesive stripped ballot box sealing certificates;
- Red sealing tape;
- Challenged Voter forms (2); and
- Ballot storage boxes.

## **BALLOTS FOR LOCAL ELECTIONS**

The town or city clerk must prepare regular and absentee ballots and instructions to voters. The clerk may save the purity of elections statutes poster from the state election or request an additional

copy from the Secretary of State. The other forms provided by the Secretary of State may be used for local elections. **However, towns are responsible for providing absentee envelopes to be used at local elections.**

Any town that has adopted bylaws regarding electioneering pursuant to RSA 31:41-c should post them at each polling place at least 72 hours before any town election.

## **ABSENTEE BALLOTS**

### **WHO IS ELIGIBLE TO VOTE ABSENTEE?**

A person may vote by absentee ballot:

1. Who will be absent from the city, town or place in which he is qualified to vote on the day of an election for which an official ballot is used;
2. Who is by reason of having a physical disability unable to vote in person;
3. Who is a member (or spouse or dependent of a member) of the uniformed services pursuant to RSA 654:3 and RSA 652:16-c, who will be absent on election day;
4. Who is entitled to vote as a Federal Office Only Absentee Voter pursuant to RSA 654:3;
5. Who because of observance of a religious commitment cannot vote in person; or
6. Who is unable to appear at any time during polling hours at his or her polling place because an employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close. For the purposes of this application, the term "employment" shall include the care of children and infirm adults, with or without compensation.

RSA 657:1; RSA 657:2; RSA 657:4.

Effective January 1, 2019, Senate Bill 527 (2018) amends RSA 657:1 and RSA 657:4 to provide that a voter who:

- is elderly or infirm,
- who has a physical disability, or
- who cares for children or infirm adults

may vote absentee on the Monday before an election if the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day for the town or ward.

The authorization to vote absentee applies where the voter would have voted in person but has concerns for his or her safety traveling in the storm or where the voter anticipates that school, child care, or adult care will be canceled and the voter would be deterred from voting by the need to care for children or infirm adults.

The clerk's office is required to be open to receive applications for absentee ballots, to allow voters to complete the absentee ballots and to receive returned ballots at a minimum from 3:00 PM to 5:00 PM on the Monday immediately prior to an election. RSA 654:7; RSA 654:12.

Clerks should send a "notice of requirements for use of absentee ballot" with the absentee ballot materials. See a sample notice at page 205.

### **APPLYING FOR ABSENTEE BALLOT**

Individuals desiring to obtain an absentee ballot must apply to the town or city clerk. They may use either the form provided by the Secretary of State on its website at [sos.nh.gov](http://sos.nh.gov) for this purpose or they may provide the same information in writing without the form. An update to the application allows an applicant to provide optional information: the applicant's phone number or the applicant's email address, or both. A uniformed services member or overseas voter who wishes to

obtain an absentee ballot and is not listed on the checklist must supply the information on the Federal Post Card Application (FPCA) or equivalent form. RSA 657:4; RSA 657:6; RSA 657:19-a.

A regular absentee voter must submit a separate written request for an absentee ballot for the primary election and the general election if the address to which the ballot will be sent is within the United States. The law allows (a) uniformed services voter or spouses or dependents, (b) a voter who is located outside the country but intends to return, or (c) a Federal Office Only voter, to request an absentee ballot for any election in which they eligible, using a single application. RSA 657:4; RSA 657:19-a.

Applications for an absentee ballot that are signed by the voter may be sent by e-mail attachment or facsimile to a town or city clerk. Clerks shall send absentee ballots to UOCAVA voters either by mail or e-mail, as requested by the voter. The option to email ballots only applies to UOCAVA voters. RSA 657:15; RSA 657:19.

If a person assists an applicant who is blind or has a disability, the person providing assistance must sign a statement acknowledging the assistance.

his or her absentee ballot to be counted (page 205).  
RSA 657:16.

An Absentee Ballot Registration Package can be found in *ElectionNet* under Help/Instructions.

#### **LIST OF ABSENTEE VOTERS MAINTAINED BY CLERK**

The clerk shall maintain a listing by date, arranged by voting place, of all (regular and UOCAVA) applicants (a) who have requested an absentee ballot, (b) to whom absentee ballots have been sent and (c) who have returned envelopes purporting to contain absentee ballots. This information - (a), (b), and (c) - shall be entered without delay into *ElectionNet*. The data entry is essential to allow a voter to track the progress of his or her absentee ballot on the Secretary of State's voter information lookup web site. That tool is available through the secretary's home page at: <http://sos.nh.gov/>. RSA 657:15; RSA 657:26.

The list of persons requesting absentee ballots is not a public document and clerks may only provide it to a candidate whose name appears on the ballot, or his or her designee (if the designee presents a notarized request signed by the candidate or a copy of that request). RSA 657:15.

Candidates whose names appear on the ballot for statewide office may obtain a list of absentee voter applicants from the Secretary of State. RSA 657:15.

The list of absentee voter applicants shall not be available for public inspection at any time without a court order. The list excludes confidential voters who have presented to the supervisors of the checklist valid protective orders pursuant to RSA 173-B:4 or who are participants in the Attorney General's Address

#### **RECEIPT OF ABSENTEE BALLOT APPLICATION BY CLERK**

Upon receipt of an application for a regular absentee ballot, the clerk shall determine if the applicant's name is on the checklist. All information must be provided and the form or request must be signed by the applicant. The absentee ballot application form includes a place for the voter to indicate that he or she will qualify for one of the exceptions that permit absentee voting. If the voter applies by letter or otherwise in writing, but not using the form, the application should be accepted even if it does not state the exception that will permit the voter to vote absentee.

If the applicant's name is not on the checklist, the clerk shall mark the absentee ballot application "Not Registered" and send the applicant a(n):

- Absentee registration form;
- Absentee ballot;
- Affidavit envelope, marked with the words "Not registered;" Return envelope, marked with the words "Not registered";
- Notice of requirements for absentee voting; and  
Written notice of what documents and forms the applicant must return in order for

Confidentiality program. RSA 7:43; RSA 657:15.

People interested in information on who voted absentee are, after the election, entitled to see and/or copy the checklist used on election day, where absentee voters are marked with a red ink “A.V.” when the voter is checked off and a single thin line is drawn through the last name to mark the voter as having voted.

At the polling place on election day for all rejected absentee ballots, the moderator shall record next to the name of the absentee voter on the clerk’s list, the word “rejected” and the reason for the rejection. The moderator also records this information on the face of the absentee ballot envelope. No entry is made on the checklist for a rejected absentee ballot. RSA 659:53.

#### **CLERKS TO SEND OR DELIVER ABSENTEE BALLOTS**

The clerk must mail (alternately, e-mail to UOCAVA voters only upon request) or personally deliver the absentee ballot, making certain that the appropriate ballot, affidavit, and instructions are enclosed. If the application for an absentee ballot does not state that the voter will be absent from town or unable to vote in person due to religious observance, physical disability, or work obligations, the clerk should also send a notice of the requirements for absentee voting. See model notice at page 205.

The clerk may designate an assistant to deliver an absentee ballot, provided that the assistant is not a candidate for office or working for a candidate. The clerk shall send absentee ballots in response to verified absentee ballot requests until 5 PM on the day before the election. RSA 657:15.

#### **SENDING ABSENTEE BALLOTS TO UOCAVA VOTERS**

Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter, whether the FPCA form (page 210), a Federal Write-in Absentee Ballot (FWAB) (page 212), or a written statement containing the required information, a town or city clerk shall retain the application and, without delay, enter the application into *ElectionNet*. RSA 657:10-b; RSA 657:19; RSA 657:26.

The clerk shall send the appropriate ballot and materials, regardless of whether the applicant appears on the checklist. Upon receipt of an outer envelope from an unregistered applicant, the clerk shall open the outer envelope.

It is best practice to enter the applicant into *ElectionNet* in the “Pending” status, which allows the clerk to enter the voter and the date the ballot was received in *ElectionNet*’s absentee ballot tracking system. This ensures the voter can look up the status of their absentee ballot online using the Voter Information Look-up tool at: <http://sos.nh.gov/>. Entering the data into *ElectionNet* also ensures that the voter will appear on the clerk’s absentee ballot list. Forward any voter registration documents to the supervisors of the checklist. Any clerk who finds a UOCAVA absentee ballot application to be invalid shall provide the voter with the reason why it is invalid within 7 days of receipt of the application. RSA 657:19, X.

Clerks shall send absentee ballots to UOCAVA voters without delay, either by mail or e-mail, as requested by the voter. RSA 657:19.

#### **ABSENTEE BALLOTS FOR EMERGENCY SERVICE WORKERS**

If an emergency services worker receives notice after noon on the Friday before an

election that he or she is being called into service under circumstances that will prevent that person from voting in person or absentee using the usual procedures, the Secretary of State's Office should be informed. The Secretary of State with assistance from the Attorney General and the Department of Safety will make every reasonable effort to get absentee ballots and materials to these emergency service workers and back to the local polling places.

One important effect of this law is that it waives the usual requirement that ballots be received at the polls by 5:00 P.M. Under this law any absentee ballot received before the polls close from a deployed emergency services worker, if found properly qualified, must be counted.

Local election officials should make an effort to ensure that local emergency services workers are aware of this law. In the event of a local emergency that ties up local emergency services workers and prevents those who planned to vote in person at the polls from doing so, local officials should contact the Secretary of State and make arrangements for a local official to transport absentee ballots and materials to the site of the local emergency and afford qualified emergency services workers the opportunity to cast absentee ballots. RSA 657:21-a.

#### **VOTER TRACKING OF ABSENTEE BALLOT**

The clerk should provide instructions to absentee voter applicants describing how to access the Secretary of State's website to determine whether:

- Their absentee ballot request was received;
- The clerk has sent the absentee ballot to the voter;;

- Their returned ballot was received by the clerk; and
- The absentee ballot was counted or rejected by the moderator. If rejected, the reason for rejection.

Voters can log on to the Secretary of State's website at: <http://sos.nh.gov/> and click on "Voter Information Lookup." RSA 657:26.

#### **ADVERTISING ENCOURAGING USE OF AN ABSENTEE BALLOT**

Political parties and candidates sometimes promote voter turnout by sending out materials promoting voting by mail. New Hampshire only permits voting by mail using an absentee ballot for limited reasons. To be qualified to use an absentee ballot, a voter must be unable to vote in person due to having a physical disability, religious observance, absence from the jurisdiction or must be unable to vote in person at the polling place because he or she will be at work or commuting to or from work from the time the polls open until after the time for the polls to close. For the purposes of being entitled to vote by absentee ballot, being at work includes the care of children and infirm adults, with or without compensation. RSA 657:1.

RSA 657:4, II requires that anyone promoting voting by absentee ballot in any written advertising include a copy of the state application for an absentee ballot or a facsimile of that form. The State issued absentee ballot request form contains a list of the lawful reasons that allow an individual to vote by absentee ballot. Please monitor the applications that come into your office. If you see pre-printed applications that appear to have been altered or have come from political advertising but do not include the qualifications or requirements for voting absentee, immediately alert the Attorney General's Office. It is unlawful for

anyone to vote or attempt to vote by absentee ballot who is not entitled to do so. RSA 657:24. It is also unlawful for others, including campaigns, to conspire with others to violate this law. RSA 629:3. This procedure is intended to reduce the frequency of voters being misled to believe that they can vote absentee without justification.

RSA 657:4, II(b). “Any person that publishes, mails, or distributes forms as described in subparagraph (a) (absentee ballot promotions) as part of any communication that is made for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures, as defined in RSA 664:2, shall be identified in the same manner as political advertising under RSA 664:14.”

#### **UNLAWFUL USE OF AN ABSENTEE BALLOT**

Anyone who votes or attempts to vote under the provisions of this chapter who is not entitled to vote by absentee ballot or anyone who votes or knowingly attempts to vote in violation of any provision of the Absentee Voting law, RSA Chapter 657, shall be guilty of a misdemeanor.

Election officials suspecting that a voter has voted using an absentee ballot when that voter was able and available to come to the polls and vote in person should notify the Attorney General’s Office.

However, the person’s absentee ballot, if the affidavit otherwise satisfies the law and the voter is otherwise qualified as a voter, must be cast and counted. A person loses his or her right to vote and to have his or her vote counted only if the voter is an incarcerated felon or has been convicted of a willful violation of the election laws. New Hampshire

Constitution, Part 1, Article 11; RSA 607-A:2. Therefore, it would violate the voter’s rights to refuse to count his or her ballot because of suspicion that he or she wrongfully used an absentee ballot when he or she was required by law to vote in person at the polls. While New Hampshire is a vote-in-person-at-the-polls state, it is important not to violate a person’s right to vote by not counting their ballot based on a yet-to-be-proven suspicion that they are improperly voting absentee. Even if convicted the voter likely will not lose the right to vote.

#### **ABSENTEE VOTER – NOT REGISTERED**

Upon receipt of an outer envelope marked “Not Registered” the clerk shall open the outer envelope. If the applicant returns the required documents in proper form, it is best practice for the clerk to enter the applicant into ElectionNet in the “Pending” status, which allows the clerk to enter the voter and the date the ballot was received into ElectionNet’s absentee ballot tracking system. This ensures the voter can look up the status of their absentee ballot on-line at: <http://sos.nh.gov/>. Entering the data into ElectionNet also ensures that the voter will appear on the clerk’s absentee ballot list. Forward any voter registration documents to the supervisors of the checklist.

If the applicant is found to be qualified by the supervisors, he or she shall be added to the checklist and the absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter.

The town or city clerk shall notify individuals with deficient or incomplete documents of the deficiency within 7 days of receipt of the application.

If the absentee ballot is returned by the voter without the required registration documents in the proper form, the ballot shall be brought to the polling place and be marked and treated and preserved in the manner set forth by law for successfully challenged absentee ballots. An asserting a challenge form shall be completed by the election officials (often the supervisors of the checklist) who make the determination.

The affidavit envelope and contents of a successfully challenged absentee voter shall be preserved unopened, stored with the ballots, and destroyed unopened when the time comes for destruction of the ballots from that election.

The supervisors shall ensure an adequate description of their decision is documented on the Asserting a Challenge form (page 202) or otherwise in the voter's records. The clerk shall note the outcome of the challenge on the clerk's absentee ballot list. RSA 654:7; RSA 654:13; RSA 657:16; RSA 657:26; RSA 659:27-a; HAVA Section 703.

#### **NOTICE TO VOTERS OF REJECTED ABSENTEE BALLOT**

It is recommended, but not required by law, that all successfully challenged absentee voters be sent a notice. The notice should advise the voter that his or her absentee ballot was successfully challenged or was rejected by the moderator, as well as the grounds for the challenge or the reason for rejection. The voter should be notified so he or she can correct the deficiency when voting at future elections.

All persons whose voter registration application has been rejected shall be provided notice within 7 days. RSA 657:16; RSA 657:19, X.

The moderator shall not unilaterally reject an absentee ballot for a challenge to the voter's age, citizenship, or domicile without first obtaining a ruling from the supervisors of the checklist, and completing a signed Asserting a Challenge form. RSA 659:27; RSA 659:27-a. If the supervisors determine based on the challenge that the absentee voter is not qualified as a voter, following the election, the supervisors should initiate removal from the checklist by sending the voter a 30-day letter, except where there is an official notice of death or notice of transfer of voter registration.

#### **DEADLINE FOR RETURN OF MARKED ABSENTEE BALLOTS**

A voter who has received an official absentee ballot must either mail or personally deliver it to the city or town clerk.

Town and city clerks must be available for absentee voters between 3 and 5 p.m. on the day before any election. This is the deadline for absentee ballots personally delivered by the voter.

If a voter brings his or her absentee ballot in person to the polling place on election day, the voter should be instructed to vote in person using an election day ballot. The voter can either keep the absentee ballot/affidavit envelope or if turned in, it should be rejected, preserved unopened, and marked "voted in person."

**Absentee Ballots delivered by mail shall be accepted no later than 5 p.m. on election day.** RSA 652:20; RSA 657:22.

The voter's spouse, parent, sibling or child may, before election day, hand deliver an absentee ballot to the town or city clerk's office or, on election day, to the town, city or ward clerk at the polling place as late as

5:00 PM, so long as the family member presents personal identification and signs an Absentee Ballot Return Form. RSA 657:17.

#### **RECEIPT OF MARKED ABSENTEE BALLOTS BY CLERK**

Upon receipt of a return envelope purporting to contain an official absentee ballot, the clerk shall attach the voter's absentee ballot application to the return envelope. The clerk shall enter the return date of the absentee ballot in *ElectionNet*. The envelopes shall be preserved unopened until they are processed on election day. RSA 657:18. Upon receipt of a return envelope marked “not registered” or purporting to contain registration information for UOCAVA voters, the clerk is authorized to open the outer envelope and deliver the registration information to the supervisors of the checklist. RSA 657:16; RSA 657:21.

Any absentee ballots received in the mail prior to 5 p.m. on election day must be presented to the moderator for processing.

#### **DEATH OF AN ABSENTEE VOTER**

If the election officials counting ballots have knowledge that an absentee voter has died prior to the opening of the polls, the absentee affidavit envelope must not be opened and the vote must not be counted. Supervisors of the checklist should be consulted, and an Asserting a Challenge form must be completed and signed. Use “The person seeking to vote is ineligible to vote pursuant to . . .” option and fill in “RSA 659:48.” RSA 659:48; RSA 659:27-a.

#### **FEDERAL POST CARD APPLICATION**

The United States Department of Defense makes available on its web site “Federal Post Card Applications” (FPCAs) for voter registration and absentee ballots. The form serves in New

Hampshire as a request for an absentee ballot and an absentee registration application.

An absentee ballot request by a UOCAVA voter on an FPCA received on or after January 1 of each year shall be valid through December 31 of the same year for all state and municipal elections to be held within that year, subject to the request of the voter and the eligibility of the voter. An absentee ballot request made the year before a presidential primary will be valid through the presidential primary in the following year. RSA 657:19-a.

The clerk should make a copy of the FPCA (or other written request (with all the required information) for an absentee ballot), submit the original to the supervisors of the checklist, keep copies in the UOCAVA folder(s) for that year, and attach the copy to each return envelope prior to processing on election day. RSA 657:19; RSA 657:19-a.

#### **SELECTING PARTY AFFILIATION - FEDERAL POSTCARD**

If the voter does not indicate a party affiliation, he or she cannot vote in a primary election. Clerks are encouraged to reach out to voters who are undeclared and request an absentee ballot for a primary without identifying the party with which the voter seeks to affiliate. Political party affiliation is not required to vote in a general election.

#### **NOTICE OF VOTER PHOTO IDENTIFICATION REQUIREMENTS**

Every town and city clerk, and the governing body of each town or ward, shall prominently display a notice prepared by the Secretary of State explaining the photo identification

requirements for voters and directing voters to the Department of State's website for additional information. Such notice shall be displayed for at least 14 days prior to each election. RSA 652:25; RSA 658:29-a

### **MODERATOR MUST PREPARE POLLING PLACE STAFF**

The moderator is responsible for making certain that each of the election officers and inspectors of elections/ballot clerks understands what his or her specific responsibilities will be. RSA 659:9.

### **INSPECTORS OF ELECTIONS/BALLOT CLERKS**

Between May 15 and July 15 of each general election year, the state chairmen of each of the two major political committees should appoint inspectors of election to act at each polling place. Generally, there are at least two inspectors of election for each of the two major parties. However, if the number of voters at the polling place exceeds 2000, the parties may appoint 1 additional inspector for each 1500 voters. RSA 658:2.

By April 15 of each general election year, the Secretary of State shall provide a list to the chairman of each such state political committee of the number of inspectors of election that should be appointed for each town or ward. RSA 658:2.

If any such appointments are not made by the chairmen of the state political committees and proper notification thereof given on or before July 15, the selectmen in the town or wards concerned shall make the appointments of the inspectors of election in equal numbers between the two major political parties. If the moderator so requests, the political parties may appoint on an equal basis an additional number of inspectors as the moderator deems necessary. RSA 658:2.

The moderator chooses the ballot clerks from among the inspectors of election. Two clerks are chosen, one from each political party for each check-in position (section of the checklist divided alphabetically so there are approximately equal numbers of voters in each section). The ballot clerks shall have charge of the ballots during the time the polls are open and shall furnish ballots to the voters. RSA 658:25; RSA 659:13.

The inspectors who are not designated as ballot clerks are assigned duties by the moderator at the polling place, such as relieving the ballot clerks, greeting voters and assigning them to appropriate lines, and assisting elderly voters, the illiterate, or voters with disabilities requiring assistance in marking their ballots. RSA 658:25; RSA 659:20.

### **OATH OF OFFICE REQUIRED**

Inspectors of elections (ballot clerks), appointed assistant election officials, moderators pro tempore, supervisors pro tempore, clerks pro tempore, and selectmen pro tempore, including anyone recruited to count ballots, all must take an oath of office before engaging in the duties of their position. See Swearing in of Election Officials at page 45 and page 197. A blank Oath of Office template is available in *ElectionNet* and at page 196. The wording of the Oath of Office is set forth in the New Hampshire Constitution, Part 2, Article 84. Officials administering an oath must file the completed Oath of Office forms with the clerk. RSA 42:1; RSA 42:7; RSA 42:8; RSA 658:4.

In addition to being a formal requirement of law, taking the oath of office helps ensure the individual understands that he or she is agreeing to fulfill the duties assigned by law to the office/position and that he or she will be subject to the consequences established in law for

knowingly failing to perform those duties. RSA 42:1-a; RSA 643:1; RSA 666:3.

## **DISQUALIFICATION/ABSENCE OF CERTAIN ELECTION OFFICIALS**

Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than a position as an election official, is to be disqualified from performing duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than the position of an election official, shall be disqualified from handling of marked ballots and counting of votes. RSA 658:24. An election official whose name is on the ballot should not be appointed or assigned to do the duties of a different election officer. For example, a selectman who is on the ballot seeking re-election may perform the duties of a selectman at the election, but should not be appointed or assigned to fill in for the moderator.

Election officials in towns that have adopted an electioneering ordinance pursuant to RSA 31:41-c or a conflict of interest ordinance pursuant to RSA 31:39-a must also review those ordinances to ensure they do not create a duty for the official to disqualify himself or herself.

The absence created in the position of election official or any other temporary absence must be filled as follows:

a) A moderator pro tempore shall be appointed by the moderator if the moderator is absent or disqualified. RSA 658:19.

b) A supervisor pro tempore shall be appointed by the moderator, if more than

one member of the board is absent or disqualified. RSA 658:21.

c) A town or ward clerk pro tempore shall be appointed by the town or ward clerk if a clerk is absent or disqualified. If a town or city ward has a deputy clerk, the deputy clerk would fill in for the absence or disqualification of the clerk. RSA 658:20.

d) A selectman pro tem may be appointed by a selectman who is absent or disqualified. If such selectman has not appointed a selectman pro tem, the moderator is authorized to appoint a selectmen pro tem. RSA 658:21-a.

e) An inspector of election shall be appointed by the selectmen if an inspector of election is absent or disqualified. RSA 658:22.

f) For a school district election, a school board member pro tem shall be appointed by the absent school board member. If one or more school board members are absent or unable to perform their duties and have not appointed school board members pro tem, the moderator is authorized to appoint school board members pro tem. RSA 671:28-a, as amended by HB 1340 (2018), effective August 7, 2018.

The term “election official” includes the town clerk, ward clerk, deputy town clerk, city clerk, deputy city clerk, selectmen, moderator, supervisors of the checklist, registrar or deputy registrar, and any assistants appointed in accordance with RSA 658:7. The term “election officer” is specifically defined in RSA 652:14. The terms “election officer” and “election official” are generally interchangeable. If a school district conducts a separate election, the term would also include, for that election, the school district clerk, school moderator, and school board members. Any official so appointed will have the same duties and authority as the

“election official” who was disqualified.  
RSA 658:23; RSA 658:24.

## **ADDITIONAL ELECTIONS STAFF**

The moderator may appoint an assistant moderator and such other election officials, as he or she deems necessary. The town clerk, upon request of the moderator, may appoint an assistant town clerk. The supervisors of the checklist may appoint an assistant supervisor of the checklist who will be an assistant election official and have the power of the supervisor for the purpose of registering voters on election day. RSA 658:7. The term of office of each of the assistant election officials appointed as provided in RSA 658:7 shall expire at the close of the proceedings at the election for which he or she was appointed. RSA 658:8.

Seventeen year-olds, while not eligible to vote at an election, may be appointed as election officials. Communities should consider recruiting young people to serve as election officials as a way of encouraging broad participation in the democratic process. RSA 658:7; RSA 658:7-a.

## **CHOOSING THE POLLING PLACE**

The selectmen of the town or ward must provide a suitable site in which to hold the election. This site should be well-known, such as the town or city hall, school gymnasium, fire station, etc. The room where the voting is held should be large enough to accommodate voters, election officials, and to have a public area where people can watch the conduct of the election. It must also be well-lit and heated. The polling place must be furnished with the proper supplies and conveniences.

New Hampshire’s Constitution, as well as Federal and State law, require that all registration and polling places be accessible to elderly voters and voters with disabilities. An accessible polling place should have an entrance that is either at ground level or provided with a ramp; walkways which are level and continuous; smooth, even floors with no thick mats or carpets which could trip a person or block a wheelchair; doors which can be easily opened without twisting a doorknob; and, it should be well-lit. Large and clear signs should identify the route to the check-in table. Voting instructions must be posted at levels visible to those in wheelchairs. RSA 658:9-a. See further discussion of accessibility starting at page 174.

If your registration and polling place facilities are currently inaccessible, it is the responsibility of the selectmen of the town or ward to ensure that either a new accessible polling place is secured, or that the current facilities are made accessible. The moderator has a duty to ensure that this occurs. Any election officer may contact the Secretary of State’s Office, Governor’s Commission on Disability (271-2773), Granite State Independent Living Foundation (228-9680), or other advocacy groups for persons with disabilities for assistance in identifying accessibility problems and advice on solutions. See additional information on accessibility starting at page 174.

## **EQUIPPING THE POLLING PLACE**

The selectmen are responsible for providing a ballot box, pencils or pens for marking Accuvote ballots, voting booths, a United States flag and guardrail. The clerk must bring the ballots, absentee ballots, checklist and election forms supplied by the Secretary of State for election day. RSA 658:9. See further discussion starting on page 168.

Also, each polling place must have at least one voting booth which is easily accessible to the elderly and to persons with disabilities. The dimensions and restrictions on this voting booth are outlined in RSA 658:9, III. Each polling place must also have at least two table-top voting screens available for use in an election. The dimensions and placement requirements of the voting screens are outlined in RSA 658:9, IV. The formula for calculating the minimum number of voting booths and screens that need to be erected for an election is:

- 1) For a general election where votes will be cast for president, one for every 100 voters on the checklist. This requirement may be modified with the approval of the Secretary of State and the attorney general if the conditions within the polling place will not permit the required number of voting booths. Under no circumstances will the required number of voting booths drop below one booth for every 125 voters;
- 2) For a general election where votes will not be cast for president, one for every 125 voters on the checklist;
- 3) For all other state elections, including the state primary election, one for every 150 voters on the checklist; and
- 4) For all city, town, school district, and village district elections, one for every 200 voters on the checklist.

These minimum requirements may be satisfied with any combination of booths or screens, provided that no more than 50 percent of the minimum requirement is satisfied by voting screens and that each polling place must never have fewer than one voting booth which is easily accessible to the elderly and to persons with disabilities and two voting screens for use in an election. RSA 658:9, V.

Portable booths set up in pods of up to 4 voting stations may be used in lieu of booths described in RSA 658:9, II and screens described in RSA 658:9, IV. Each voting station in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep and the edge of the table facing the voter no less than 25 inches in width. The third open side of the voting station shall be enclosed by a curtain large enough, and designed in a way to give the voter privacy. RSA 658:9, VI.

The supervisors and the town clerk should supply a sufficient quantity of voter registration form B, pages 219 - 220, Challenged Voter Affidavits, page 200, Affidavits of Religious Exemption, page 201, and “Asserting a Challenge” forms, page 202, for use on election day. On Election Day, the supervisors shall supply the New Hampshire Voter Registration Form B, “For Use Starting 30 Days Before An Election and At The Polling Place On Election Day,” which incorporates a second side. The top of the second side is to be used by applicants who do not have proof of domicile with them when registering. The bottom of the second side is to be used by applicants who do not have proof of identity, citizenship, and age. (Find this 2-sided voter registration form in *ElectionNet* under Help/Instructions.)

For domicile, the applicant must either acknowledge possessing documentary evidence of acting to carry out his or her intent to establish domicile and initial the top option agreeing to mail or deliver that evidence to the clerk after the election. Alternatively, the applicant can initial the bottom option acknowledging that he or she is not aware of possessing such

evidence. Applicants using the bottom option have no duty to submit proof following the election. RSA 654:7.

## **PRIMARY ELECTION – RETURN TO UNDECLARED LIST**

At each primary a “return to undeclared signature list” of undeclared voters should be printed from *ElectioNet*, to allow undeclared voters who declare an affiliation and vote in a party’s primary, to return to undeclared status on election day. See page 267. RSA 654:7-a; RSA 654:7; RSA 654:34. *ElectioNet* is designed to print a list of all undeclared voters that contains bar codes for each voter and party choice. When a voter signs this list indicating that he or she desires to change their party affiliation after having voted in a primary, the supervisors can use the bar code reader issued as part of the *ElectioNet* system to quickly and easily enter the record of party changes into *ElectioNet*. The sheets containing the signatures of those voters who choose to change party affiliation should be preserved. Bring the sheets to the next primary to help resolve future disputes about whether the voter actually did change party affiliation. RSA 33-A:3-a.

Also print and bring copies of the “Undeclared Voters Election Day Party Affiliation Change Form” available in *ElectioNet*. See page 267. This form may only be used by a person who registers on primary day as undeclared, declares affiliation at the check-in, votes in a party’s primary, and then wishes to change back to undeclared. As a new voter, that person’s name will not be on the “return to undeclared signature list” because he or she will not yet have been entered into *ElectioNet*.

Best practice is to bring the “return to undeclared signature list” and completed “Undeclared Voters Election Day Party

Affiliation Change Forms” and a copy of the checklist used at the primary to the next primary, to be available to show voters who do not remember affiliating with a party or that they failed to sign the list returning to undeclared.

## **BALLOT COUNTING DEVICES**

The mayor and aldermen of a city or the selectmen of a town may elect to use electronic ballot counting devices in their communities. RSA 656:40. If such a decision is made, the town or city must notify the Secretary of State. Once properly adopted, “electronic ballot counting devices shall be used in said town or city” at future elections. RSA 656:40.

The make and model of all electronic ballot counting devices either purchased or leased must first be approved by the Ballot Law Commission. RSA 656:40-43. The Accuvote optical scanning device, version 1.96.13, has been approved for use in New Hampshire elections.

If a special state election for state representative occurs in a town that has adopted electronic ballot counting devices, the Secretary of State may prepare and issue paper (hand-counted) ballots, which shall be used in that election.

Extra ballots are supplied to towns that use Accuvote electronic ballot counting devices. These ballots must be used to test the devices for accuracy in tabulating votes. See instructions for security and testing electronic ballot counting devices at page 229. RSA 656:42, VII and VIII.

Monitor and empty the storage bin under the ballot-counting device each time the accumulated ballots cast nearly fill the bin.

## **POSTING OF WARRANT**

Warning of the time and date for a general election in towns or wards and town meeting in towns is the responsibility of the selectmen. The warrant must state the hours during which the polls will be open and the hour before which the polls may not close, offices to be elected, questions to be voted on by ballot, and the polling place location. RSA 658:1; RSA 669:2.

The warrant must be posted at least 14 days prior to any election at all polling places and at the office of the town or city clerk or at the town hall. See dates in the New Hampshire Political Calendar published by the Secretary of State. The New Hampshire Political Calendar is also available on-line at: <http://sos.nh.gov/>.

## **PUBLIC NOTICE OF POLLING PLACE LOCATION AND HOURS**

The town or city clerk shall enter and maintain in *ElectionNet* for each election the polling place location, street address and polling hours, and verify it on the Secretary of State's website [sos.nh.gov](http://sos.nh.gov). RSA 657:19-c.

## **ADDITIONAL POLLING PLACES**

Any town may vote at the town meeting to provide additional polling places and to establish the districts to be served by them. The city council in any city may establish additional voting districts within the wards of the city. The city council is responsible for designating the districts within the wards and to select the various election officials to run the polling place unless the city charter provides otherwise. RSA 658:10; RSA 658:18.

The selectmen of the town are responsible for equipping the additional polling place in the same manner as the central polling place. The moderator elected by the town shall preside over the central polling place.

He or she may appoint an assistant moderator, who must be domiciled in the voting district, to run the additional polling place. RSA 658:11; RSA 658:14.

The town clerk should also appoint an assistant town clerk (domiciled in the town) to assume the duties of the clerk at the additional polling place. Two additional inspectors of election for each additional polling place are to be designated by each political party. The inspectors must be domiciled in the town and qualified, in the same manner as the officers of the central polling place. RSA 658:14; RSA 658:15.

Supervisors must prepare a list of the voters entitled to vote in the polling place using *ElectionNet*. No later than 14 days prior to the election, they must post a copy at the town or city clerk's office or at the town hall. They must also give the town clerk 2 copies of that checklist. RSA 658:12.

All officers of the additional polling place shall have the same duties as officers at the central polling place. RSA 658:14.

## **INSPECT BALLOTS UPON RECEIPT**

The town or city clerk must open all boxes of ballots received from the Secretary of State for a state election in the presence of at least one other voter as soon as possible after those boxes are received. The clerk should verify that all the ballots are the proper ones for that town or city, remove the number of ballots needed to test the electronic ballot counting device, and then reseal the boxes using the sealing label provided in the box. RSA 656:20; RSA 656:22; RSA 656:29.

## **CERTIFICATION OF THE CHECKLIST**

The checklist(s) used at the election must be certified at two different moments in time by two different sets of officials.

Before the election, the supervisors must certify that the corrected checklist according to their best knowledge contains (fill in number) of names of those persons, “who are by actual domicile legal voters” in the town or ward. RSA 654:29. Two certified copies must be provided to the clerk. The clerk and moderator must use those certified copies as the checklist for the election.

After closing of the polls to voting the moderator and the clerk must certify the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

### **III. ELECTION DAY**

#### **DATES OF ELECTIONS**

Town elections are held annually on the second Tuesday in March, the second Tuesday in May, or the Tuesday after the first Monday of November in odd-numbered years. RSA 669:1. Towns which adopt the provisions of RSA 40:13, known as Senate Bill 2 (“SB2”) towns, adopt separate dates for a deliberative meeting and an election day where warrant articles are voted on by official ballot. The dates chosen must be in accord with the restrictions set forth in that statute.

City elections are held in accordance with applicable provisions of the city charter.

The state primary is held on the second Tuesday in September. RSA 653:8.

The state general election is held on the first Tuesday after the first Monday in November. RSA 653:7.

Presidential preference primaries shall be held on the second Tuesday in March or on a date selected by the Secretary of State which is 7 days immediately preceding the date on which any other state shall hold a similar election, whichever is earlier, of each year in which a President of the United States is to be elected, or the year previous. The Secretary of State will call a special election if other than on the second Tuesday in March. RSA 653:9.

#### **TIME POLLS ARE TO BE OPEN**

At all state elections the polls in both towns and cities shall open not later than 11 o'clock in the morning and may not close earlier than 7 o'clock in the evening.

In cities, the city council shall determine the polling hours at least 30 days prior to the election. RSA 659:4.

At the 1994 general election, many communities voted yes on the following question: "Shall we adopt polling hours in \_(town name)\_ at all state elections beginning with the 1996 state primary election under which the polls shall open not later than 8 o'clock in the morning?" If a community voted yes, then their polls must open at 8 a.m. for all state elections. This provision does not apply to local elections.

Any town wishing to change their polling hours may do so by voting on an article at town meeting under the provisions of RSA 659:4-a. If the article passes, the Secretary of State shall be notified, so that the question to change the hours can be put on the next general election ballot for that town. As an alternative, the governing body of a town may extend the hours of polling in the town, provided that no extension of the hours of polling may take effect sooner than 60 days after its adoption. RSA 659:4-a.

For city elections, hours are set by city charter, or by the city council.

Polling hours for a town meeting or election shall be set by the selectmen or by a vote of the town. RSA 669:25. Municipalities are encouraged to have uniform polling places and hours to make it easy for voters to know when and where they vote at any election, state or municipal.

## **ROLE OF THE MODERATOR**

The moderator is the chief election officer in charge of the polls. It is his or her responsibility to make certain that all the election officials are available on the day of the election and that each is familiar with his or her duties for the day. See further discussion of the moderator's duties starting at page 93. In cities the city clerk is the Chief Election Officer for the city and may establish uniform procedures that will apply citywide. RSA 652:14-a; RSA 659:9-a.

## **SETTING UP THE POLLING AREA**

The polling area should be set up to provide an orderly flow of voters. The guardrails must be placed so that no person outside the rail can approach closer than 6 feet to the voting booths. No person other than the election officials or registered voters in the process of voting may be within the rails except by the authority of the election officials. Ballots may not be removed from within the rail until sealed in storage boxes after the counting is completed. RSA 659:15; RSA 659:38.

It is recommended that a table or station be set up near the entrance of the polling area to enable voters without a photo ID to obtain and complete a Challenged Voter Affidavit. Under the law, the moderator, deputy moderator, assistant moderator, town clerk, selectman, supervisors of the checklist, registrar, city clerk, deputy city clerk, ward clerk, notaries, and justices of the peace are permitted to witness the signing of these affidavits. Accordingly, it is recommended that these tables be staffed by the selectmen or assistant election officials. RSA 652:14.

## **READY FOR OPENING THE POLLS**

Prior to the opening of the polls, the moderator must ensure that the polls are properly equipped and staffed. Recommended checklists are provided on pages 94 and 227 - 228.

## **SETTING UP AN ADDITIONAL POLLING PLACE**

For those towns which have elected to use additional polling places, the following must be done as well:

- 1) Two copies of a certified copy of the supervisor's checklist for the area served by that additional polling place must be given to the clerk before the election.
- 2) On the day of the election, the clerk must bring the copies of the checklist as prepared by the supervisors and deposited with him or her to the additional polling site.
- 3) The clerk is also responsible for providing a sufficient number of ballots for the additional polling place. The preparation of this package is done in the presence of the moderator and selectmen, and it is then delivered to the assistant moderator at the additional polling place by 2 election officers designated by the moderator.

Voting procedure at the additional polling place is conducted as it is at the central polling location. RSA 658:33; RSA 658:16.

## **PROCEDURE FOR ACCEPTING VOTERS**

- 1) When the prospective voter enters the polling place, they should be directed to one of three different locations. For high volume polling places/elections

use a greeter to direct people to the correct line (see page 102):

- a) Unregistered voters: The supervisors of the checklist table to become registered;
  - b) Registered voters with photo ID: The ballot clerk tables, to check in and pick up a ballot;
  - c) Registered voters without photo ID: The “No Photo ID” table to obtain and sign Challenged Voter Affidavits.
- 2) Any unregistered person who wishes to vote in any election, shall proceed directly to the supervisors of the checklist to register to vote in the polling place. The applicant shall complete the Voter Registration Form B including any affidavits on the second side required by the supervisors. Supervisors should **only accept** voter registration form affidavits if they have been signed **in their presence at their request**.
- 3) He or she must prove identity, age, citizenship and domicile as required by RSA 654:12. If the applicant previously submitted an absentee voter registration form by mail, but did not submit a copy of a current and valid photo identification or other proof of qualification, then he or she must present such proof the first time the applicant votes in person. HAVA Section 303 (b). If approved by the supervisors, the newly registered voter shall then proceed to the ballot clerk, with proof of registration, to receive a ballot for that election. A person registering to vote without photo ID is required to complete the “identity” section of the affidavit on second side of Voter Registration Form B. Once registered that voter will then need to be directed to the “No Photo ID”

table, where the voter’s identity will be verified or a photo taken. Then the voter will be directed to the ballot clerk table to check in and obtain a ballot.

- 4) If there is a line waiting to check in, a previously registered voter without a photo ID or a newly registered voter without a photo ID should be directed to the “No Photo ID” table. If doing so does not delay other voters waiting in line, ask the voter if he or she personally knows the moderator, clerk, or any supervisor. If the person is known by any of these officials, arrange for them to verify the voter’s identity. The “No Photo ID” table should be staffed by person(s) authorized to witness the signing of a Challenged Voter Affidavit. A copy of the official checklist should be at the table. If a voter approaches the table, he or she should be asked their name to confirm they are a registered voter or if a newly registered voter, asked to provide the proof of registration provided by the supervisors. A person’s identity may be verified by a moderator, supervisor of the checklist, or clerk. Unless the verification is challenged, the voter need not complete a challenged voter affidavit. The moderator, supervisor, or clerk making the verification should direct the voter to the ballot clerk table and inform the ballot clerk that the voter’s identity has been verified. If the voter’s identity is not verified, he or she must complete the Challenged Voter Affidavit. Once the affidavit has been signed and witnessed, the voter will be directed to take their Challenged Voter Affidavit and proceed to the ballot clerks to receive a ballot for that election.
- 5) A previously registered voter with a photo ID, a voter who has had his or her identity verified by a moderator,

supervisor, or clerk, or if the voter has no photo ID, and has not had his or her identity verified, a voter with a signed Challenged Voter Affidavit, should approach the guardrail and state his or her name and address to a ballot clerk. The ballot clerk then repeats the name and verifies that it appears on the checklist. If the name appears on the checklist, the ballot clerk should position a ruler under the voter's name and address, place a check next to it, and repeat the name a second time.

- 6) The ballot clerk shall then state the address for the Voter that is printed on the checklist and ask the Voter if the address is correct.
- 7) If the address is NOT correct, and the Voter's current address is within the same town or ward, the ballot clerk shall correct the address in red on the paper checklist to reflect the correction.
- 8) If the address is NOT correct, and the Voter's current address is NOT within the same town or ward, the ballot clerk should inform the Voter that he or she is not at the correct polling place and that he or she can only vote where he or she are domiciled. The Voter should be directed to the moderator or clerk if directions to the correct polling place are needed. Encourage the Voter to use election day registration and vote at his or her correct polling place.
- 9) The ballot clerk shall request the Voter to present a valid photo ID in the form of:
  - a. A driver's license issued by any state or the federal government;
  - b. A non-driver ID issued by any state;

- c. An ID card issued by NH DMV for voting purposes only;
- d. A United States Armed Services ID card;
- e. A United States Passport or Passcard;
- f. A NH Student ID card: See Ballot Clerk Procedure at pages 244 & 246. Acceptable student photo IDs must be issued by schools identified in the Department of Education's list, which is available on the Secretary of State's website: <http://sos.nh.gov/ElecOff.aspx>. The student ID card has either an expiration date or an issuance date that has NOT exceeded 5 years;
- g. A photo ID not mentioned above, but determined to be legitimate by the moderator, supervisors of the checklist or clerk of a town, ward or city;
- h. Verification of the person's identity by the moderator, a supervisor of the checklist or the clerk of a town, ward or city. (Not a ballot clerk/Inspector of Elections).

- 10) A valid photo identification shall show the name and photo of the individual. The name shall substantially conform to the name of the individual on their voter registration record.

The photo identification shall also have an expiration date that has not been exceeded beyond 5 years. Exception: a voter 65 years or older may use an acceptable ID without regard to the expiration date.

- 11) In a primary, the party affiliation of the voter must also be stated by the voter.

Voters who are unaffiliated with any party may declare their party affiliation at a primary. Those who do so may vote the ballot of his or her new party at that election. A VOTER WHO IS ALREADY AFFILIATED WITH A PARTY ON THE DAY OF THE PRIMARY MAY CHANGE HIS AFFILIATION; IN THIS EVENT, HE OR SHE MAY NOT VOTE IN THAT PRIMARY. RSA 659:14; RSA 654:34.

- 12) If the photo identification is an out-of-state driver's license or non-driver's identification card, the ballot clerk shall record the state of issuance on the checklist beside the Challenged Voter Affidavit (CVA) box with a two letter abbreviation (i.e. VT, MA, ME, NY).
- 13) If the Voter has executed a "Challenged Voter Affidavit" (CVA) with a photo attached, or executed the CVA and an Affidavit of Religious Exemption, the ballot clerk shall put a check mark in the "CVA" box and take the affidavit form(s) from the voter and place them in a folder or container marked for this purpose.
- 14) The Voter, if still qualified to vote in the town or ward and having (a) presented a valid photo ID, (b) had their identity verified by a moderator, clerk or supervisor of the checklist, or (c) having presented a "Challenged Voter Affidavit," shall then be allowed to enter the space enclosed by the guardrail. A challenge of a voter shall be handled as provided in RSA 659:27 through RSA 659:32. Unless the voter presents (a), (b) or (c) above, the voter should not receive a ballot.

After a Voter is allowed into the area within the guardrail to vote:

The ballot clerk gives the voter the appropriate ballot(s). The ballot clerk shall use a ruler or straight edge to mark the checklist with a single thin line through the last name to indicate that the Voter has obtained his or her ballot. **The line should not be so thick that you cannot read the voter's last name.**

Absentee voters shall be marked in red ink with the letters "A.V." to the left of the check box. The absentee voter's checklist entry should have the checkmark, the single thin line through the last name, and the letters "A.V."

After the moderator and clerk no longer require access to the checklist for election reporting purposes, the supervisors of the checklist must scan the bar codes of those voters marked on the checklist as having checked in and picked up a ballot. Supervisors will also scan voters to indicate that they presented Challenged Voter Affidavits. Finally, for voters who use an out-of-state driver's license or non-driver ID for a photo ID, the supervisors will enter the state that issued the license/ID into *ElectionNet*.

Using both a check mark and a single thin line through the voter's last name confirms that the voter both checked-in and was issued a ballot. The accuracy of the checkmarks made beside the names of voters who check in to vote is critically important. The mark made by using a ruler or straight edge to indicate the voter received a ballot will prevent the person whose name is marked from voting again later that day. Therefore, it is very important that the mark not be erroneously placed beside the wrong name.

This mark will also be used by supervisors and the Attorney General's Office as evidence that a person voted, should there

be an investigation into whether the person voted at more than one polling place or in more than one state.

Errors should be clearly corrected and should show the initials of the election official making the correction.

If the voter's name does not appear on the checklist, it may be because the individual was never registered, the name was inadvertently removed from the checklist, or he or she may be at the wrong polling location. If the name does not appear on the checklist, the voter may not be given a ballot unless the supervisors determine that the person had been unjustly dropped from the checklist, omitted by reason of a clerical or technical error, or qualifies to and registers on election day.

This means that even if a person's name is removed from the checklist during a purge, that person must be given an opportunity on election day to prove that he or she is qualified as a voter. The supervisors should certify to the moderator that the voter is indeed registered and entitled to vote, and should place the name on the checklist. RSA 659:12.

To prevent voters from marking ballots in public or trying to leave the area within the guardrail with a ballot, moderators may require the ballot clerks to hand out ballots only when a voting booth/screen is available. RSA 659:13; RSA 659:14.

### **ONE4ALL ACCESSIBLE VOTING SYSTEM**

For voters using the accessible voting system (AVS) at a primary, the voter would be handed pink paper for a Republican voter and blue paper for a Democratic voter. Alternately, at some stage in the future (with notice) the AVS may use pre-printed ballots.

For voters using the AVS at a general election, the voter would be handed a white sheet of paper. Alternately, at some stage in the future (with notice) the AVS may use pre-printed ballots.

The voter should then be directed to a vacant voting booth or voting screen in which he or she can mark his or her ballot. No voter should be allowed to remain in the booth for an inordinate length of time when others are waiting to use it. RSA 659:15; RSA 659:25.

Refer to Ballot Clerk Procedure on pages 244 and 246 for more information on the voter check-in process.

### **VOTER REQUESTING ASSISTANCE MARKING BALLOT**

Any voter who declares to the moderator under oath that said voter is unable to mark his or her ballot without assistance shall, upon the voter's choice and request, after the moderator has informed the voter of the available accessible voting options, receive the assistance of an Inspector of Election detailed to provide assistance to voters by the moderator or receive assistance from a person of the voter's choice provided that the person is not the voter's employer or union official. RSA 659:20; 52 U.S.C 10508. Both the person requesting assistance and the person providing assistance must complete the oath on page 195.

### **SERVICE ANIMALS**

The Governor's Commission on Disability advises that under the Americans with Disabilities Act ("ADA"), organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where the public is normally allowed. When it is not obvious what service a dog provides, only two questions are appropriate:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

For further information visit: <https://www.nh.gov/disability/documents/servicedogbrochure.pdf> or contact the Governor's Commission on Disability at (603) 271-2773.

## **SPOILED BALLOTS**

Any voter who spoils a ballot(s) may receive a replacement, not exceeding 3 in all, upon returning the spoiled ballot(s) to the moderator. The moderator must write the word "canceled" on the ballot and sign it. It is important during the counting process and at any recount to be able to clearly identify marked ballots that were not cast, and therefore must not be counted. Any spoiled ballots should be held by the moderator and sealed with the other unused ballots at the end of the counting. RSA 659:22.

## **DEPOSITING COMPLETED BALLOT**

Upon completing the marking of a ballot that will be hand counted, the voter should fold the ballot so that the votes cannot be seen. If ballot counting devices are in use, the ballot should be placed in a privacy folder so that the votes cannot be seen. In a hand count town, the voter should then approach the checkout table and state his or her name (name and party, if a primary) to the town or ward clerk. The clerk places a mark beside the voter's name on the checkout checklist. RSA 659:23.

In a hand count polling place, the voter then must hand his ballot to the moderator who must place the ballot in the ballot box himself or herself. The purpose of this statute is to provide another check that the voter is depositing only one ballot in the box. Reluctant

voters should be counseled that the law clearly dictates this procedure. RSA 659:23.

In towns that use ballot counting devices, the voter may insert his or her ballot in the ballot counting device. The moderator must monitor the voter to ensure only the appropriate number of ballots are inserted. A checkout checklist is not required in towns that use ballot counting devices. RSA 659:23, II. The voter should then leave the voting area.

At a primary, undeclared voters may, after declaring a party and voting, complete the party affiliation change card or sign the list of undeclared voters provided by the supervisors at the polls to return to undeclared status on election day. ElectionNet produces a signature list that contains a bar code for each voter. RSA 654:34, II(b). The retention requirement for this list or card is 7 years. RSA 33-A:3-a.

No voter whose name has been checked off on the checklist may be allowed to re-enter the polling area, except to assist a voter as described above. RSA 659:26.

## **ELECTRONIC POLL BOOKS TRIALS**

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

## **CHALLENGER VS OBSERVER**

A "Challenger" is not an "Observer." A challenger, to hold that status, must have a letter of appointment from one of the political parties, typically signed by the State Chairperson. While a "Challenger" may also do what an "Observer" does, the "Challenger" has a statutory right to be

positioned where he or she can hear voters check in. “Observers” and other members of the general public have a right to watch the conduct of the election from outside the rail, they do not have other specific statutory rights. Furthermore, while any voter registered in a town or ward has the right to “challenge” another voter in that town or ward, he or she is not recognized as an appointed “Challenger” in the statutes.

“Challengers” rarely actually challenge voters, more often they are tracking who votes for get-out-the-vote efforts or as trained monitors of the conduct of the election for the political parties.

## **CHALLENGE OF A VOTER**

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials, challengers appointed in writing by the political party committees, or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5.

Usually challenges occur at the time the voter is at the check-in table before being given his or her ballot. No voter or appointed challenger shall challenge a person’s qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, occur at any point up until the ballot is deposited in the ballot box. Challengers must be so positioned in the polling place so that they can see and hear each voter as he offers to vote, but challengers cannot be within the guardrail. RSA 666:4; RSA 666:5.

A challenge must be made for a specific reason. No challenge may be made unless an “Asserting a Challenge” form is filled out and signed under oath. See “Asserting a Challenge” form at page 202.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. RSA 659:27-a. If the challenge is found to be not well grounded, that is the available evidence makes it more likely than not that the voter is qualified to vote, the voter shall be allowed to vote without completing the Challenged Voter Affidavit. RSA 659:27.

Challenged Voter Affidavits completed in response to a successful challenge should be maintained separately from Challenged Voter Affidavits completed by voters who did not present a valid photo identification during the check-in process.

For more detail on challenges, see discussion starting at page 182.

## **MONITOR FOR ELECTIONEERING**

1. The moderator should assign an election officer to periodically check the voting booths to remove campaign materials. This officer should also make certain that the pencil is sharpened (or that the pen has not dried out), and that the voter instructions are still posted.

2. RSA 659:43: “No person shall distribute, wear, or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, pin, sticker, circular, or article of clothing which is intended to influence the action of the voter within the building where the election is being held.” Important, before enforcing the electioneering law, review: Electioneering starting at page 185.

3. No person who is a candidate for office or representing or working for a candidate shall, within the building where the election is being held, distribute or post any cards or other printed or written material. RSA 659:43. The moderator has the authority to deter electioneering within the room where the voting occurs, along the path from that room to the entrance to the building, and along any corridor established by the moderator outside the building leading from the entrance door, at least ten feet wide, as far into the street or parking area as the moderator determines is necessary. See further discussion of electioneering starting at page 185.

4. No election official shall electioneer (act to influence voters) while performing his official duty. RSA 659:44. While election officials are not strictly prohibited from going outside and electioneering during breaks or while off duty, this practice is strongly discouraged. At the least the election official should remove his or her election official name tag and any other indication that he or she is an election official. Election officials who want to electioneer are strongly encouraged to temporarily step down for the entire election and allow a temporary replacement to perform their election duties.

## **PROCESSING AND CASTING THE ABSENTEE BALLOTS**

Absentee ballots must be processed before any counting takes place. The moderator must announce in a loud voice so that everyone in the hall can hear that he or she is about to begin processing the absentee ballots. Generally, absentee ballots must begin to be processed and cast into the ballot box at 1:00 p.m. unless 10 or more voters present at the polls submit a written objection to the moderator. If they do, then the processing of the absentee ballots shall be

done as soon as the polls close, **but before any ballots are counted.**

Processing of absentee ballots may begin at a different time that is no earlier than 2 hours after the opening of the polls. The moderator, or designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open, the moderator shall announce the time at which the processing of absentee ballots shall begin.

Any absentee ballots received in the mail after the start time for processing absentee ballots and prior to 5 PM on the day of the election shall be processed as soon after receipt as possible. **No ballots may ever be hand counted before the polls close: device counted ballots may be inserted into the ballot counting device.** RSA 659:49; RSA 659:49-b; RSA 659:50.

First the moderator opens the outer mailing envelope, being careful not to mar or tear the affidavit.

The United States District Court for the District of New Hampshire has ruled that RSA 659:50, III, which required a comparison of the signature on the absentee ballot application with the signature on the absentee ballot affidavit to determine if the same person signed both, is unconstitutional. Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III. See: Notice Regarding the Processing of Absentee Ballots on Election Day. ElectionNet > Help>Instructions or <http://sos.nh.gov/> (Elections Division > Election Officials > Moderators > Absentee Ballot Processing on Election Day – Do not compare signatures).

**SIGNATURE REQUIREMENT  
EXCEPTION FOR VOTERS WITH  
DISABILITIES**

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by a voter. A voter may receive assistance from any person.

If the moderator finds that any of these conditions have not been met, he or she should not open the envelope containing the ballot.

Count the absentee ballot if the requirements set forth below are satisfied:

- a. The name of the voter is on the checklist;
- b. The affidavit appears to be properly executed;
- c. (Deleted)
- d. The signatures appear to be those of a duly qualified voter who has not voted at the election; and/or
- e. The name of the voter is not on the checklist, but he or she has provided the proper documents to become registered in the judgment of the supervisors of the checklist,

then the moderator shall publicly announce the name of the absentee voter. RSA 659:50. An exception to public announcement exists for non-public, confidential voters, voters who have established that they are under a protective order due to being a victim of domestic violence. The clerk and moderator should process absentee ballots from non-public, confidential, voters without publicly disclosing the voter's name.

If an absentee ballot is rejected the moderator must write the words "Rejected" and the reason for the rejection (such as "rejected as not a voter," "voted in person" or "affidavit improperly executed") across the envelope and on the absentee ballot list provided by the clerk. If an absentee ballot is rejected because the voter did not submit adequate materials to become registered to vote, or the moderator questions the absentee voter's age, domicile or citizenship, the moderator must complete and sign an "Asserting a Challenge" form (page 202). The supervisors would then decide if the person is qualified to vote. If the challenge is determined to be well grounded or the supervisors determine the voter is not qualified, the ballot should not be cast but must be preserved in the unopened envelope. RSA 659:27-a; RSA 659:50; RSA 659:51.

The moderator shall enter the word "challenged" and the reason for the challenge on the clerk's official absentee ballot list. The clerk shall enter the reason in *ElectionNet*. RSA 659:51.

The moderator shall publicly announce the name of the voter and just that the absentee voter's ballot has been successfully challenged/rejected. The reason for the challenge/rejection should not be announced. Some "Get Out The Vote" efforts will monitor absentee ballot processing and seek to contact any rejected absentee voters to encourage them to report to the polls in person to vote, if possible.

If the moderator finds that all of the conditions have been met, he may proceed with announcing the name of the absentee voter. The ballot of the absentee voter is now subject to challenge from any other voter in the town or ward or a properly appointed challenger.

## **CHALLENGES TO ABSENTEE BALLOTS**

If a challenge is made to an absentee ballot, the challenger must fill out and sign the "Asserting a Challenge" form. Regardless of the merit of the challenge, the moderator should then mark on the envelope containing the ballot the word "Challenged," the name and address of the person making the challenge and the basis for the challenge.

Each challenged ballot must be numbered in sequence, the first so challenged being number 1 (Challenged Ballot #1, Challenged Ballot #2, etc.)

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds and must sign the "Asserting a Challenge" form. If the moderator decides the challenge is well grounded, the ballot should not be cast, but kept with spoiled ballots.

The moderator shall record on the clerk's list of absentee voters the word "challenged" and the reason for the challenge.

The clerk shall record this information in *ElectionNet* and the reason for rejection will be made available to the voter on Secretary of State's website. RSA 657:26; RSA 659:51, III.

If there is no challenge, or if the moderator, where appropriate with assistance of the supervisors, determines that a challenge to a ballot is not well grounded, the moderator shall proceed to open the envelope containing the ballot, being careful not to unfold the ballot so that any of its marks may be seen.

If the ballot was challenged but the moderator had rejected the challenge (i.e. accepted the ballot), then the moderator must mark the reverse side of the folded ballot with the same challenge number as he wrote on the envelope containing the ballot when the challenge was made.

The mark "A.V." must be placed against the name of the absentee voter on the checklist in red ink. The ballot clerk must also place a checkmark beside the name and draw a single thin line through the voter's last name.

The moderator then casts the ballot with all the other ballots, by placing the ballot in the ballot box or putting it into the ballot counting device.

The moderator should save all the rejected (unopened) and any challenged absentee ballot envelopes, opened and unopened, and keep them with all the ballots cast at the election. Retain these materials and preserve them in accordance with the laws governing the retention, preservation and destruction of ballots. In the event of a recount, the opened (empty) absentee

ballot envelopes should be sent to the Secretary of State along with the ballots. RSA 659:101; RSA 33-A:3-a.

The clerk must record reasons for all absentee ballot rejections to enable entry into *ElectionNet* and transparent reporting to the voter via the Secretary of State's website. See Voter Information Lookup at: <http://sos.nh.gov/>. RSA 659:51; RSA 657:26; HAVA Section 703.

Once all the absentee ballots have been cast or rejected, the ballot box can be opened and the counting process begun for each office on the ballot, referendum questions and any constitutional amendments. RSA 659:51; RSA 659:52; RSA 659:53.

### **CLOSING THE POLLS TO VOTING**

The moderator must punctually close the polls to further voting at the hour stated in the warrant or notice, unless the hours have otherwise been extended. Everyone waiting in line when the poll closing is announced must be allowed to register and vote. If there is a line of cars waiting to gain access to parking or are backed up on the road leading to the parking lot at the moment when the polls close to voting, these individuals also are entitled to vote.

Those in line at the time the announcement is made that the polls have closed, provided they are qualified voters, must be allowed to vote. Those that arrive at the polling place after the announcement is made that the polls have closed may not be allowed to vote. The door to the polling place should not be locked until the counting of ballots is complete, the results have been publicly announced, and the ballots sealed into boxes for storage.

In the event the hours of polling are extended by a federal or state court order, the moderator shall follow the guidelines in RSA 659:26-a. See extended hours voting at page 108.

### **SET UP THE POLLS FOR COUNTING**

Once the moderator has announced that the polls are closed and the last voters who were waiting in line to register or vote have had the opportunity to vote, the moderator should immediately proceed to set up the voting area for the counting process. RSA 659:60.

No person other than an election official is permitted to be within 4 feet of the counting, although it is important to remember that the counting process is public. The tables should be drawn together to afford the election officers ample room to spread out the ballots for counting. RSA 659:63.

### **DISQUALIFICATION OF ELECTION OFFICIALS-COUNTING PROCESS**

A moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than the position of election official, is disqualified from the counting of votes. The moderator shall fill any vacancy so occurring. Everyone filling a vacancy or otherwise being used to count ballots, who has not already taken an oath of office, must be sworn in. RSA 658:24; RSA 659:58.

### **COUNTING THE BALLOTS**

The moderator is responsible for supervising the counting of ballots. The town clerk, selectmen, and other election officials should participate in the counting process as directed by the moderator. RSA 659:60. Everyone used to count

ballots, who has not already taken an oath of office, must be sworn in.

The selectmen of a town or the alderman of a city determine whether a ballot counting device will be used to count ballots. Once use of a ballot counting device has been authorized in accordance with RSA 656:40, “electronic ballot counting devices shall be used in said town or city.” RSA 656:40. In conformance with this requirement, the moderator for a polling place that uses a ballot counting device makes the decision on how ballots that require hand counting are to be counted. In towns that have not adopted the use of ballot counting devices, the moderator makes the decision on how all ballots will be hand counted. Each moderator should devise a system for counting ballots which is accurate and which will expedite the process. RSA 659:60; RSA 659:64.

The New Hampshire Constitution assigns responsibility for counting ballots to the moderator:

The meetings for the choice of governor, council and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote for senators; and **shall, in said meetings, in presence of the said selectmen, and of the town or city clerk, in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person; and the town or city clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the Secretary of State,** within five days

following the election, with a superscription expressing the purport thereof.

New Hampshire Constitution, Part 2, Article 32. (emphasis added).

Inherent in the duty to count and publicly report the results is a duty to ensure the count is accurate. RSA 659:60; RSA 659:64; RSA 659:77. RSA 658:32 requires that the moderator ascertain and certify on the “Moderator’s Certificate” the total number of ballots received. RSA 659:73 requires that the moderator ascertain and record the total number of ballots cast. Best practice requires counting the number of voters who are marked on the checklist as voting. On election night, it is not effective to scan the checklist into ElectionNet and use the ElectionNet totals. Hand counting the checklist is recommended.

## **BALLOT COUNTING DEVICE LONG REPORT TAPE**

Best practice at polling places that use ballot counting devices is to also calculate the ballots cast using the number reported on the “Election Results Report,” on the “Long Report Tape” labeled “Ballots Cast.” In a primary, the “Long Tape Report,” at the top and repeated at the bottom, will report the ballots cast by party: (EXAMPLE)

### **BALLOTS CAST SUMMARY**

CARD	QUANTITY
10001 DEM	345
10003 REP	168
10005 LIB	022
TOTAL	535

The counter visible on the outside of the device will report the total number of paper ballots counted. In a primary, this will be the total of DEM + REP + LIB ballots. That number is not helpful in a primary when you need to determine the

number of ballots cast for each political party.

Add to the “Long Report Tape” number for each political party the number of ballots that were not counted by the device and were hand counted for each political party.

In a general election where a single ballot is used, the “Long Tape Report” Ballots Cast Summary number should be the same as the counter number on the device. Both are the total number of ballots the machine counted. Add to this number the quantity of ballots that are hand counted.

### **TO PRINT A “LONG REPORT TAPE”**

When the polls have closed to voting, feed the “Ender Card” through the Accuvote device. The device will automatically print a “short” report. This is not the “Long Report Tape” that is desired. Let the automatically generated “short” report run all the way through. When the Accuvote device asks whether another copy is needed, shut off the Accuvote device. Turn the Accuvote device back on. The Accuvote device will then ask the following series of questions on the small digital screen. Answer the questions using the “yes” or “no” buttons on the front face of the device.

1. Reprint elections results report?  
Answer “no.”
2. Send results by telephone?  
Answer “no.”
3. Send results by direct mode?  
Answer “no.”
4. Print elections totals report?  
Answer “yes.”
5. Print long report? Answer “yes.”

This process must be followed in order to have the Accuvote device print the “Long Report Tape” that will separately list the Democratic, Republican, and Libertarian

ballots cast on the “Ballots Cast Summary.”

To print a duplicate “Long Report Tape” to send to the Secretary of State with the “Return of Votes,” when prompted to print another copy, press the “yes” key.

### **HAND COUNT BALLOTS**

Typically the hand count ballots include the one4all, accessible voting system ballots, UOCAVA e-mailed ballots that were printed by the voter, any unofficial ballots created by photocopy and authenticated by the clerk, and any ballots rejected by the device due to dampness, folds, etc.

### **RECONCILIATION**

Prudent practice compares votes, voters, and ballots cast, three different measures:

- How many votes in contest: total votes candidates for a particular office received (including overvotes and undervotes – reported as blanks on the device results tape).
- How many people voted (how many people were marked as voting on the checklist),
- How many ballots were cast (how many individual paper ballots were marked.),

Ideally, each measure is exactly equal, that is:

Total votes for an office or question, for races the candidates printed on the ballot, write-in candidates, overvotes, undervotes, and blanks

=

The total number of voters marked on the checklist as voting

=

The total number of ballots used at the election.

However, errors in marking the checklist during the day, from weaknesses in hand counting procedures, or errors when combining vote sub-totals from different teams/devices will result in differences. Moderators need to assess when the counting is as accurate as is possible, in light of the margin of victory of the closest race(s) or questions voted. Discrepancies which cannot be resolved should be publicly disclosed to allow those considering requesting a recount to consider the potential implications of the discrepancy.

### **HAND COUNTING CERTAIN BALLOTS NOT COUNTED BY THE BALLOT COUNTING DEVICE**

When a ballot-counting device is used most, but not all, ballots are fully counted by the device. Ballots accepted by the device are counted provided the voter has followed the instructions to fill in the oval beside his or her choice.

If a voter chooses to write in a person's name as their choice for an office, the voter is instructed to fill in the oval beside the write-in line. If the voter completes this oval the device diverts that ballot from the primary storage bin under the device to a second bin.

Ballots that have no ovals for any race or question filled in are also diverted into this second bin. These ballots are treated by the device as blank, an abstention from voting on every race and question.

Ballots in the second bin, sometimes called the "write-in vote" bin must be carefully examined.

For a ballot in the write-in vote bin, where ovals have been filled in, those votes have already been counted. The hand count should only record the name of the person who the voter wrote in for each office

with a write-in vote. The device's total tape number of ballots counted already includes these ballots, therefore, if you determine the total number of ballots used by adding the device "Long Report Tape" total ballots to the hand count total ballots (number of ballots not counted by the device), do not count these ballots as hand counted.

For a ballot where no oval has been filled in, the device has treated the ballot as a blank ballot. The ballot is included in the number of ballots counted on the device's Long Report Tape "Ballot Cast Summary." The hand count should determine whether the voter used some mark other than filling in the oval to make his or her vote. If the intent of the voter can be determined, for example if the voter circled the name of his or her choice for each race or question, count each vote as marked.

For the purpose of determining the total number of ballots used, these ballots have already been included in the total ballots reported by the device. Do not add them as hand counted ballots.

For the purpose of determining the total number of votes for a particular office or question, including undervotes and overvotes, for every vote you add to a candidate or question total, you must subtract "1" from the "blanks" total. By determining the voter's intent, you are changing the ballot from being a blank (abstention, undervote, overvote) to being a vote for the marked candidate or marked choice on a question.

The ballots that the device rejects due to dampness, folds, etc. along with the one4all ballots, UOCAVA e-mailed (home printed) ballots, federal office only, federal write-in, and any other ballot that is hand counted, must be added into the

total ballots used if the total ballots cast is being calculated by using the “Long Report Tape” number.

For these fully hand counted ballots, votes must be added to the totals for each candidate or question taken from the device results tape. The undervotes or overvotes (where the voter abstained to vote for any candidate in a race or voted for more candidates than permitted) must be added to the total blanks reported on the results tape. The end of the ballot counting process compares the total ballots used, (which will include these fully hand counted ballots), the total votes for a particular office or question, and the total voters.

#### **BALLOTS WITH ALL FILLED-IN OVALS COUNTED**

Best practice is to have the ballots in the primary bin (fully counted bin) carefully segregated from those ballots where the name of the write-in must be obtained or that must be fully hand counted. Have election officials make a quick visual check of each of these “fully counted” ballots for write-in votes where the voter failed to also mark the oval beside the write-in line. The device will treat these ballots as an undervote for that race, diverting the ballot into the primary bin containing the fully counted ballots. The team should also check these ballots for other potentially significant marks. Ballots with write-in votes or stray marks should be set aside for a careful review by the moderator.

Where a write-in vote is found, that vote should be added to the total for that write-in candidate. For each write-in found where the oval was not filled in also reduce the number of blanks for that race by one.

Where other marks are found that make it more likely than not that the voter

intended to vote in a manner different from the marks the voter made in the oval, adjust the vote totals to reflect the voter’s intent.

For example, in a “vote for not more than one” race there are two ovals filled in. However, the name of one candidate, whose oval is filled in, is crossed out and the voter wrote “no vote” associated with that candidate’s name. The device will count this as an overvote for that race. In the device totals, no candidate received the vote. The device counts the ballot as a blank for that race. If the moderator and other election officials determine the voter’s intent was to vote for the candidate whose oval is filled in, but whose name is not crossed out, add one vote to that candidate’s total and reduce the number of blanks for that office by one.

The results report from the ballot counting device must be used along with the hand count results to determine the outcome of the election. RSA 656:40. Moderators may hand count ballots that have already been counted by a device only if reliable and documented evidence exists that the device count is inaccurate and this evidence has been reported to the Attorney General and the Secretary of State. At state elections, the Attorney General and/or Secretary of State may send staff to the polls to obtain the evidence and provide guidance on finalizing the results.

#### **MODEL COUNTING INSTRUCTIONS**

There are several proper ways to count ballots. See model instructions for counting ballots starting at page 248 for examples of how some towns hand count ballots.

#### **COUNTING BALLOTS AT ADDITIONAL POLLING PLACES**

Ballots may be counted at an additional polling place if the moderator for the

town or ward has authorized such beforehand and in writing. In this case, the assistant moderator with the assistant clerk and other election officers may tabulate the votes at the additional polling place. RSA 659:59.

After the votes at the additional polling place are tabulated, the assistant moderator should place and seal the counted ballots back in the ballot box. This process should be certified by the clerk and witnessed by the election inspectors. The duplicate checklists, cast ballots, spoiled ballots, and unused ballots shall be sealed in the ballot box. (See seal on page 233.) A written report of the tabulation signed by the assistant moderator and assistant clerk should then be delivered with the sealed ballot box to the moderator at the central polling place. RSA 659:59.

If counting has not been authorized by the moderator, then upon the close of the polls, the assistant moderator should close the ballot box and seal it in the presence of the election inspectors. He must then seal the duplicate checklists together with the spoiled and unused ballots. This whole process must be certified by the assistant clerk. All of these materials must be returned to the moderator at the central polling place by two designated election officers, one from each of the two major political parties. RSA 659:62.

The moderator at the central polling place then proceeds to count the ballots from the additional polling place.

Regardless of where the counting takes place, the final tabulation of all votes from a town or ward should be announced as a single total.

## **WHAT CONSTITUTES A LEGAL VOTE**

The overriding consideration of how to count a ballot is the voter's intention. Determining the intention of a voter ultimately requires a common sense judgment by the election officials. Remember: the whole thrust of our election laws and their application is to enfranchise as many citizens as possible and to count their votes whenever possible. RSA 659:64.

The New Hampshire Supreme Court in addressing the counting of ballots has stated that “care must be taken that the matter is not decided on the basis of unwarranted technicalities. The goal must be the ascertainment of the legally expressed choice of the voters. The object of election laws is to secure the rights of duly qualified voters, and not to defeat them. . . . [D]etermine a voter’s intent by giving weight to all marks placed on the ballot, regardless of the method by which the voter chose to cast a vote.” *Appeal of McDonough (Ballot Law Comm’n)*, 149 N.H. 105, 112, (2003).

## **GUIDELINES IN DETERMINING LEGAL VOTES**

If there is a question concerning the vote on a ballot for a particular office, only the vote for that office shall be affected, and the rest of the ballot should be counted.

If a voter votes for more names than there are persons to be elected to that office (overvote), his ballot shall be regarded defective for that one office and the vote(s) shall not be counted for that office. Treat the ballot as if the voter, for that office or question, did not vote for any candidate or for either choice of a question. It is helpful in reconciling ballot counts to have counting teams record the number of undervotes (voting for fewer choices than were available to the voter

for that office or question) and overvotes for each contested office or question.

If the ballot instructions states, “Vote for not more than 3,” and the voter marks 4 candidates for that office, there are more than the permitted number of votes for the office, and the number of overvotes is 3, because the voter has given up 3 choices. The ballot counting device will record this as three “blanks.”

The counting device combines the number of overvotes and undervotes into a single tally of “blanks” for each contest.

An individual may vote for one or more candidates by making the appropriate mark (i.e. an X for hand count style paper ballots or fill in the oval for Accuvote paper ballots) opposite the name(s) or by writing the name(s) on the write-in line and filling in the oval beside the name.

**Write-ins:** To vote for a candidate by write-in on a hand count ballot, the voter needs only to write the name of the person he wishes to vote for on the appropriate line. A mark does not need to be placed in the square opposite the write-in line.

However, when a voter is writing in his choice of a write-in candidate on the AccuVote paper ballot, in addition to writing in the name, the oval **should be filled in** so that the scanner will know that a write-in vote has been made by the voter. If the oval is not filled in, the ballot may be sent to the bin under the ballot counting device where the fully counted ballots are sent. Ballots in the fully counted bin should be checked for write-ins where the voter failed to fill in the oval or other marks showing the voter’s intent on ballots where the oval for that office was not filled in.

In the case of a write-in vote for a candidate whose name also appears on the ballot as a nominee of a party for the same office, the ballot shall be counted as one vote for that candidate for that office. RSA 659:67. For example, if Jane Doe is a candidate for Governor and the voter writes “Jane Doe” on the write-in line, one vote should be counted for Jane Doe. If the voter marks the oval beside the printed name “Jane Doe” and writes in the name “Jane Doe” on the write-in line, one vote should be counted for Jane Doe.

Votes cast for the same person for the same office on the ballot of different parties at any primary shall not be added together but shall be credited to the party on whose ballot the name appears and the vote is cast. RSA 659:69.

Referendum questions should be voted by making the appropriate mark next to the “yes” or “no.”

No ballot without an official endorsement shall be inserted in the ballot box or counted, except unofficial ballots prepared in the event of exhaustion of the supply of official ballots. RSA 659:65. These unofficial photocopied ballots should have the signature or initials of the town or city clerk on them.

If a voter chooses to write in the name of a candidate he supports rather than marking the appropriate box for that same person printed as a candidate on the ballot, the vote is considered valid for that candidate.

If a ballot does not readily lend itself to a determination of the voter's intention, the ballot shall be counted in accordance with a majority vote of the election officials present. If no particular count of that ballot can be decided by majority vote, that ballot shall be considered defective

for that office and counted as if the voter made no vote for that office. RSA 659:64.

### **VALID VOTING MARKS**

The instructions for voting on all ballots printed by the Secretary of State for state elections direct the voter to “completely fill in the oval.” RSA 659:17. Any mark that makes it more likely than not that the voter intended to fill in the oval shall be counted as a vote for that candidate or choice for a question, unless there are contradictory marks.

A. If a cross "X" is marked on a ballot in an imperfect manner, it shall be counted if it is possible to determine the intention of the voter from the mark.

B. The mark also is valid outside the square if it is near enough to the square or in line with the name such that it indicates the intent of the voter.

C. A double cross is valid if it is distinguishable from an attempt to obliterate a choice on the ballot.

D. Cross marks or filling in ovals are a directive of the law and are not mandatory. The uniform use of a mark other than "X" is clearly a valid marking of the ballot. The shape of the mark may change somewhat or be somewhat irregular and still be considered uniform and therefore valid.

E. When there is a different kind of mark (i.e. a ballot marked with checks and crosses intermingled) the marks may be valid.

F. Erasures and obliterations: when two candidates have marks and one of the marks is erased or obliterated, the ballot counts for that office only if the erasure or obliteration is complete.

G. When examining a questionable mark, look at how the voter has marked other races or questions. The pattern of marking used in other areas of the ballot may reveal the intent of the voter.

### **COUNTING THE CHECKLIST**

The moderator should direct assistants or ask the supervisors to count the number of voters who are checked off on the checklist as having voted. This number will be used in the reconciliation process to help verify that the election night count is accurate.

### **REPORTING THE VOTE – VOTES, VOTERS, & BALLOTS CAST**

#### **VERIFYING THE RESULTS**

Prior to making the announcement of the voting results, totals should be rechecked for any obvious tabulation errors such as missing or double counting tallies done by one counting team. Compare the vote totals for each office or question against the total number of persons checked off on the checklist as having voted. Also compare the vote totals to the total number of ballots used (ballot inventory and/or count of cast ballots). Refer to the Moderator’s Worksheet on page 255 and Votes in Contests - Examination of Individual Races spreadsheets starting on page 2597.

Look for obvious discrepancies such as a vote total combining votes for all candidates for an office (including undervotes, overvotes, or blanks) which is larger than the number of voters who voted counted from the checklist or the number of ballots used from the ballot inventory and/or a count of the cast ballots. If the vote totals exceed either number, the results are facially inaccurate and that discrepancy must be resolved.

To avoid obvious mistakes, adopt verification practices using the Moderator's Worksheet and the Votes in Contests - Examination of Individual Races, starting at page 255, and which are updated in the Secretary of State's NHVotes on-line training in the Glossary and Forms Section at <http://nhvotes.sos.nh.gov/login/index.php> and <http://sos.nh.gov/ElecOff.aspx>

Many moderators ask someone with an accounting or bookkeeping background, for example their Town Treasurer, to assist with the final verification. Bring in a fresh set of eyes to check if the numbers make sense before the results are finalized and announced.

### **REPORTING THE RESULTS**

After all state election ballots have been counted, the town or ward clerk must submit (a) the election results entered on the Secretary of State's Return of Votes forms, and (b) the one4all accessible voting system tablet, bundled together, by 8 AM on the morning after the state election. The ward clerk should send copies to the city clerk. Within 48 hours after the polls close, the moderator shall provide the clerk with a Moderators Worksheet. The city or town clerk must keep a copy of the Return of Votes, Moderators Worksheet, Names on Checklist, and should keep other tally sheets and reconciliation worksheets in case there are questions. Do NOT seal these documents up with the ballots used at the election.

If an official state election return is sealed along with the ballots, at the request of the Secretary of State, the clerk having custody of the sealed ballots shall unseal the ballots in the presence of a state election official and retrieve the election return. The ballots must immediately be resealed and the election return must be

delivered to the Secretary of State by the election official. RSA 659:73; RSA 659:75.

The moderator must report the result of the vote count to the public after the count has been completed. The moderator should post a copy of the results.

"The moderator "shall, in the presence of the said selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all inhabitants of such towns and wards present, and qualified to vote . . . and shall . . . in the presence of the said selectmen, and of the town or city clerk, . . . sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person . . ." New Hampshire Constitution, Part 2, Article 32.

### **SECURING THE BALLOTS**

After the ballots have been counted and a declaration and record of the result has been made, the moderator in the presence of the selectmen shall put the cast, canceled and unused ballots into the ballot storage boxes received from the Secretary of State, and shall indicate the number of such ballots on the seal. See example on page 233. RSA 659:95.

### **SPOILED & UNUSED BALLOTS, ABSENTEE BALLOT ENVELOPES & APPLICATIONS**

The moderator should save all spoiled and uncast ballots, the rejected (unopened) absentee ballot envelopes, any challenged (opened or unopened) absentee ballot envelopes and keep them with all the ballots cast at the election. These materials are retained and preserved in accordance with the laws governing the retention, preservation and destruction of ballots. RSA 659:101; RSA 33-A:3-a. See

Retention Chart at page 268. In the event of a recount, the opened (empty) absentee ballot envelopes should be sent to the Secretary of State along with the ballots.

boxes of ballots should be stored in a secured area.

### **LABELS & SEALING**

This resealing label, called the “Label for Resealing Ballots” must be signed by the moderator and selectmen or their designees.

Each container must be securely sealed. First seal up all sides of the box with filament tape. Second, stick the official “Label for Resealing Ballots” on the box. Third, use the red security tape to make a tape seal around the entire box, and along the edge of the label. Then tape down the ends of the label with two short strips of the red tamper-evident tape.

This red security tape will change its appearance if it is pulled loose after being stuck to the box. This “tamper-evident” tape is intended to prove that the box of ballots has not been opened between being sealed on election night and being opened at a recount or a court hearing.

**Do not put marked checklists, tally sheets, Challenged Voter Affidavits, or any other documents that may be needed later in the box with the ballots.**

The Secretary of State will provide containers for ballot storage only for state elections. Local officials should make certain that they have suitable containers available for preserving ballots after any local election. RSA 659:95; RSA 659:97.

The moderator and selectmen or their designees should deliver the ballots in their sealed container to the town or city clerk. The clerk shall subscribe upon the label the hour when he or she received the ballots and sign his or her name in the place provided. RSA 659:98. The sealed

## **IV. POST ELECTION DAY**

### **CERTIFYING THE WINNERS**

Following a primary election, the Secretary of State will directly notify all persons who won a nomination by write-in. RSA 659:89.

Following a state general election, the Governor for federal offices and the Secretary of State for state and county offices will issue a certificate of election after the time for any recount has passed. RSA 659:84.

### **PRESERVATION OF CHECKLIST**

Within 90 days of the closing of the polls after each state general election and a presidential primary, one original marked check-in checklist used at the election must be forwarded by the supervisors of the checklist to the State Archives in Concord. RSA 659:102. The clerk shall preserve a copy to be available as a public record at the clerk's office.

Names of voters who registered to vote and who voted in any state primary or state general election shall be included on the checklist and marked as such by the supervisors. Those voters shall be included on the voter checklist and database of registered voters for all future federal, state and local elections, so long as they are qualified to vote in these elections. RSA 654:7-b.

The duties of supervisors of the checklist include the data entry of all voter registration information and the scanning of voter history on the checklist into *Electionet*.

After every election, state or local, the town or city clerk must preserve a marked copy of the checklist as a public record for

a period of at least 7 years. See retention chart at page 268. RSA 659:102; RSA 33-A:3-a.

### **PRESERVATION OF BALLOTS AND RELATED MATERIALS**

Ballots, absentee ballot applications, absentee affidavits, absentee ballot lists, and challenged voter affidavits must be retained by the clerk:

- For federal elections, until the contest is settled and all appeals have expired (or investigations are complete) or at least 22 months after the election, whichever is longer.
- For non-federal elections, until the contest is settled and all appeals have expired, or at least 60 days after the election, whichever is longer.
- Challenged Voter Affidavits from non-federal elections must be kept for 22 months after the election or until all appeals have expired (and investigations are complete), whichever is longer.

See retention chart at page 268. RSA 33-A:3-a; RSA 659:99; RSA 659:100.

### **RECORDING USE OF OUT-OF-STATE IDENTIFICATION**

When a voter obtains a ballot with either an out-of-state driver's license or identification card, that information needs to be noted by writing the two letter state abbreviation (MA, ME, VT, NY) on the checklist and after the election recorded in the statewide centralized voter registration database. Within 30 days of the election, the supervisors of the checklist, or someone designated by them, shall record the state of issuance of a voter's driver's license or identification card in the

statewide centralized voter registration database. RSA 659:13, I(b).

Election*Net* also requires the supervisors to report if there are no voters in their polling place who used an out-of-state driver's license or non-driver ID to verify their identity. The Election*Net* entry screen for activities/batch elections/record of out-of-state driver's license state, has a button for this purpose.

## **V. TOWN ELECTIONS**

### **OFFICIAL VS. UNOFFICIAL BALLOT SYSTEMS**

Every town in New Hampshire elects officers and conducts certain town business using either unofficial ballots, partisan official ballots or non-partisan official ballots. In order to use either partisan official or non-partisan official ballots for election of officers, a town must vote to adopt such a system at a town meeting. All towns which have never voted to adopt an official ballot system or which have voted to rescind the use of official ballots are to conduct business by unofficial ballots. An unofficial ballot is the use of plain paper distributed to voters at a meeting, where the voter writes the name of the candidate they vote for on the paper. An unofficial ballot on a question may have “yes” and “no” pre-printed on paper ballots. RSA 669:11; RSA 669:12; RSA 669:13; RSA 669:14.

Any vote to adopt or rescind the use of partisan or non-partisan official ballots shall not take effect until the next following town election.

### **ELECTION DAY REGISTRATION**

Any person may register to vote with the supervisors of the checklist at any election (i.e. primary and general elections, town, city, school district and village district elections). The applicant must provide proof of identity, age, citizenship and domicile as required by RSA 654:12.

For the purposes of this section, "election" refers to any voting at which absentee ballots are required. See New Hampshire Constitution, Part 1, Article 11.

"Meeting" refers to the deliberative session of the town, school, or village district.

### **FILING FOR OFFICE**

Towns that have adopted official ballots must print ballots in advance of the town election. If the town uses partisan official ballots, a party caucus as provided in RSA 669 nominates candidates for the town offices. RSA 669:37 through RSA 669:51. The caucus chair and clerk shall certify names of party nominees. As an alternative to nomination by party caucus, a candidate may have his name placed on a partisan town election ballot by submitting nomination papers. RSA 669:18; RSA 669:49; RSA 669:52.

If the town uses non-partisan official ballots, candidates who desire a certain office must file a declaration of candidacy with the town clerk during the 10 day filing period which begins on the seventh Wednesday before the town election. All candidates who file on the last day of the filing period shall do so in person before the town clerk. RSA 669:10-19.

No person shall file as a candidate for a town officer under the provisions of RSA 669:19 or RSA 669:42 for more than one seat on the same town or school district board, commission, committee or council. RSA 669:17-a. No person shall at the same time file a declaration of candidacy for any 2 or more elected offices that are incompatible under RSA 669:7.

Towns using unofficial ballots may entertain nominations from the floor at a town meeting, for people who wish to run for office.

## **WITHDRAWAL OF CANDIDACY PROHIBITED**

After a filing period for a non-partisan town election, or after a caucus has certified a nominee for a partisan election, the town clerk may not accept withdrawals of candidacy unless the candidate dies or makes oath that he does not qualify because of age, domicile or incapacitating physical disability acquired subsequent to his filing. RSA 669:22.

## **ABSENTEE VOTING**

Towns using official ballots must provide for absentee voting whenever official ballots are used. Absentee ballots and other absentee voting materials must be prepared and sent out by the town clerk. RSA 669:26-29.

## **POLLING HOURS**

Polling hours for an official ballot vote must be fixed either by action of a previous town meeting or by a vote of the board of selectmen. Polling hours must be posted as beginning at a certain time and ending not earlier than another hour.

The voters present at the election may vote to extend these hours, but may not vote to shorten them. The polling hours and polling place must be posted in a warrant which clearly states which items are to be voted on by official ballot. Where unofficial ballots are going to be used, the warrant must state the place, date, and hour of the meeting, the items to be considered and the officers to be elected. RSA 659:6; RSA 669:2; RSA 669:25.

## **USE OF OFFICIAL BALLOTS**

Most towns in New Hampshire and all cities use official ballots to elect officers. An official ballot is a pre-printed ballot containing the names of the candidates who have filed and the text of any

questions to be voted on. Absentee voting must be available at all elections where official ballots are used. New Hampshire Constitution, Part 1, Article 11. Any town may vote to adopt partisan official ballots or non-partisan official ballots for the election of town officers.

Some statutes require votes on certain questions to be taken by official ballot. For instance, RSA 41:8-b states that the question of whether a town will increase the membership of the board of selectmen must be printed on an official ballot. The language of the question is fixed by law. If the town does not use official ballots, the clerk is instructed to prepare a printed ballot for that question.

In other instances, the clerk would print the question on an official ballot only if that town uses official ballots for election of officers. Such is the case with the question of combining the offices of town clerk and tax collector. (RSA 41:45-a.) If the town does not use official ballots, the question would be voted on by unofficial ballot (yes-no ballot) at the town meeting.

In most circumstances, unless a specific question is outlined in a statute with a specific direction that the question is to be placed on the official ballot, that question shall not be printed on an official ballot. The law authorizes, but does not require, the use of an official ballot for certain questions where state law prescribes specific wording to be printed on a ballot for an article to be put to the voters. The vote on any other such question would be taken by voice vote, a division vote, or by a yes-no ballot vote at the town meeting. RSA 39:3-d.

## **DESIGNING OFFICIAL BALLOTS**

The offices listed on a ballot are identical on regular, absentee (non-UOCAVA) and sample ballots. Non-UOCAVA absentee

ballots must be printed on the same color paper as regular ballots. The order of offices, while dictated by state law for state elections, is left to the discretion of the town or city clerk for local elections. Most town clerks print the offices which a town is required to elect first on the ballot - moderator, selectman, town clerk, supervisors of the checklist. Optional offices such as auditor, sewer commissioner, constable, etc. are usually printed further down on the ballot.

Whenever there are two or more candidates for the same office whose names will appear together within the same column or list on a ballot, the position of such names shall be determined according to RSA 656:5-a and the following chart, which shall be valid through June 2020, after which date a new order will be established:

Number of Candidates	Start Number for Rotation of Names
2	1
3	1
4	3
5	3
6	4
7	4
8	4
9	1
10	2
11	8
12	10
13	5
14	1
15	7
16	7
17	12
18	16
19	11
20	6
21	20
22	22

To determine the order of names on each ballot, the candidates for each office in the same list shall be temporarily listed alphabetically by surnames and the positions in such list shall be temporarily numbered in ascending order. The candidate whose position in the initial temporary list equals the seed number selected under the above chart for the appropriate list length shall appear first on the ballot. The order of candidates after the candidate in the first position shall follow alphabetically by surname. Surnames beginning with the letter “a” will follow surnames beginning with the letter “z.” RSA 656:5-a; RSA 655:32; RSA 669:23.

#### Example # 1

If you have 3 candidates for an office, place your candidates in alphabetical order by surname:

- 1) Martha Jones
- 2) Larry Smith
- 3) John Zorro

Since the number 1 was drawn for a circumstance where there are 3 filed candidates, list candidate names on the ballot with the candidate listed first alphabetically in the first position on the ballot.

List the candidates in this order:

- 1) Martha Jones
- 2) Larry Smith
- 3) John Zorro

#### Example #2

If you have 10 candidates for an office, place your candidates in alphabetical order by surname:

- 1). Jane Adams
- 2) Bruce Brown
- 3) Joan Curtis
- 4) Alice Dean
- 5) Frank French
- 6) Candace Lozenge

- 7) Susan North
- 8) Joseph Smith
- 9) Jill Thomson
- 10) John Zorro

Since the number 2 was drawn for a circumstance where there are 10 candidates filed for an office, list candidate names on the ballot with the candidate listed second alphabetically in the first position on the ballot.

**Order of Names on the Ballot:**

- 2) Bruce Brown
- 3) Joan Curtis
- 4) Alice Dean
- 5) Frank French
- 6) Candace Lozenge
- 7) Susan North
- 8) Joseph Smith
- 9) Jill Thomson
- 10) John Zorro
- 1) Jane Adams

Voters shall vote on questions by making an appropriate mark as instructed on the ballot next to the answer they desire to give. RSA 659:19.

**CHECKLIST FOR PREPARING THE OFFICIAL BALLOT**

1. Is everything spelled correctly?
2. Are the offices in logical order?
3. Is all the print uniform and legible?
4. Are names of candidates in correct order if more than one name appears for that office?
5. Are absentee ballots and regular ballots printed on the same color paper as required by RSA 669:24?
6. Have you made sure to print sufficient numbers of regular, absentee and sample ballots?

7. Is there a blank line for each office for voters to write in their choice(s)?

The endorsement of an official ballot is the same for partisan and non-partisan ballots and includes:

- Name of town or city (ward).
- Date of election.
- Type of election - town election, special town election, municipal primary election, etc.
- Facsimile signature of town or city clerk. Town or city seal (optional).

**FOLDING OFFICIAL BALLOTS**

All hand count ballots must be folded with the endorsement side showing so that a voter's marks cannot be seen. Absentee ballots must be folded small enough to fit into an affidavit envelope.

Official Accuvote ballots do not need to be folded. A privacy folder should be provided for those voters who wish to use them.

**SAMPLE BALLOTS**

Sample ballots should not have the signature or facsimile of the signature of the clerk. Should someone make copies of a sample ballot on the paper color of the official ballot, the absence of the clerk's signature will reveal that it is not an official ballot.

**RECOUNTS OF TOWN ELECTIONS**

Any person for whom a vote was cast and recorded for town office may request a recount of the ballots cast. RSA 669:30. The application must be in writing and submitted to the town clerk with the applicable fee, as set forth in RSA 669:31. See recount chart on page 262. The deadline for applying is 5 p.m. on the Friday following the election.

The clerk then appoints a time for the recount, which is not earlier than 5 days, nor later than 10 days after receipt of the application. This period allows all recounts requested for an election to be held at one time if the clerk so wishes. The clerk must notify each candidate of the scheduled date of the recount at least 3 days prior to the recount. RSA 669:30; RSA 669:31. The notice should include information on the number of recount teams that will be used so that the candidates have the opportunity to bring an appropriate number of representatives so that the candidate or a representative can watch each recount team.

A board of recount composed of the town clerk, moderator and selectmen conducts the recount. A recount officer whose election is being recounted must disqualify himself or herself from the recount. The moderator would then appoint a replacement. Candidates or their representatives ought to be given an opportunity to view, but not touch or handle, the ballots at the recount and to record any protest they have as to how any particular ballot is counted. RSA 669:32.

“When counting ballots [during a recount] the board of recount or their assistants shall visually inspect each ballot. No mechanical, optical, or electronic device shall be used for the counting of ballots.” RSA 669:32.

Following the recount, the ballots are resealed and preserved by the town clerk for at least 60 days unless otherwise instructed by a court. RSA 669:33.

See the section on Swearing In of Election Officials, at page 82 and 197 for the law on when the winner of a recount can take office. The Oath of Office is provided at page 196.

Any 10 voters of a town may request a recount of a question appearing on the official ballot by applying to the town clerk (or school district clerk in the case of school district questions appearing on the school district ballot). The request must be filed in writing before the expiration of 7 days from the election (or the special meeting). The clerk shall appoint a time and place for the recount which shall be held not earlier than 5 days nor later than 10 days after receipt of said request.

The clerk shall give notice by mail of the recount to the first-named voter who applied for a recount on a question and to any other person who requested notice in writing, at least 3 days prior to the day appointed for the recount of ballots. Notice of the time and place of the recount shall be posted in 2 public places at least 24 hours prior to the recount. RSA 40:4-c, I.

The applicant shall pay to the town clerk, for the use of the town, the following fee:

(a) If the difference between the vote cast for the applying candidate and a candidate declared elected is less than one percent of the total votes cast, the fee shall be \$10.

(b) If the difference between the vote cast for the applying candidate and a candidate declared elected is between one percent and 2 percent of the total votes cast, the fee shall be \$20.

(c) If the difference between the vote cast for the applying candidate and a candidate declared elected is between 2 percent and 3 percent of the total votes cast, the fee shall be \$40.

(d) If the difference between the vote cast for the applying candidate and a candidate declared elected is greater than 3 percent of the total votes cast, the candidate shall pay the fee as provided in RSA 669:31, II(c) and shall agree in

writing with the town clerk to pay any additional costs of the recount. RSA 40:4-c; RSA 669:30; RSA 669:31; RSA 669:32; RSA 671:32.

### **REPORTING CAMPAIGN CONTRIBUTIONS AND EXPENDITURES**

Towns and city councils may make bylaws requiring the reporting of certain campaign contributions to, and expenditures by, any candidate or political committee. The contributions or expenditures must be made for the purpose of influencing the election of any

candidate for local elective office. In addition, towns may make bylaws requiring the reporting of contributions to, or expenditures by, any person or committee for the purpose of influencing the vote on any local ballot or referendum question. RSA 31:39, I(o); RSA 47:17, XIV-b.

Towns may appoint all such officers necessary to carry the bylaws into effect. Towns may enforce the observance of the bylaws by suitable penalties not exceeding \$1,000 for each offense to be used as the town may direct. RSA 31:39 II and III.

## **PART 2 – RESPONSIBILITIES OF ELECTION OFFICIALS BY OFFICE**

### **VI. ELECTION OFFICIALS**

#### **WHO IS AN ELECTION OFFICER?**

“Election Officer” shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar. RSA 652:14.

The term “election official” is not defined by statute. The terms “election officer” and “election official” are used in the election law in manner that suggests they are interchangeable.

#### **MODERATOR**

Elected for a two year term at the annual meeting, in towns every even numbered year, in cities every other regular city election. RSA 40:1.

#### **TOWN CLERK**

Elected for a one year or three year term, depending upon which option the town voted to enact. RSA 41:45-a; RSA 41:2-a; RSA 41:16-a; RSA 41:26-b.

#### **SELECTMAN**

Elected for a three year term at the annual meeting. RSA 41:8 through 8-e.

#### **SUPERVISOR OF THE CHECKLIST**

Elected for a six year term, one elected every even numbered year. RSA 41:46-a.

#### **INSPECTORS OF ELECTION**

There shall be two inspectors from each of the two parties that received the largest number of votes in the last previous general election. RSA 658:2. Each inspector of election shall be sworn and hold office for two years from August

1 in the year he is appointed or until a successor is appointed and qualified. RSA 658:4. Inspectors of Elections are not “election officials.”

Moderators should request appointment by the two parties, or if not appointed by the parties, appointment by the selectmen of as many additional Inspectors of Election as are needed to effectively staff each checklist check-in station, a greeter position, and fulfill other anticipated duties based on the anticipated turnout for the election.

Moderators report it is beneficial to have two or more shifts of Inspectors of Elections and sufficient numbers to allow regular breaks during busy elections. While two or more shifts requires recruiting more ballot clerks, moderators report recruitment is actually easier as people are only signing up for a shift with limited hours.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to have sufficient staff to effectively conduct the election. RSA 658:7.

#### **CITY ELECTION OFFICIALS**

**(Some election laws are different in cities as compared to towns.)**

City government operates under the home rule powers recognized by the New Hampshire Constitution, Part 1, Article 39, of the New Hampshire Constitution. To that end, the general court has provided cities the authority to adopt charters. Within statutory limitations

intended to ensure uniform procedures and practices, charters allow cities to adopt a form of government that best addresses local needs. RSA 49-B:1. Therefore, each city in the state has variations in its charter. City election officials, their terms of office, duties and titles may differ from those in towns.

Typically, city election officials include, besides the city clerk, in each ward: ward moderator, ward clerk, three ward selectmen, checklist board of supervisors or, in some cities, registrars and deputy registrars.

### **HOW CITY ELECTION OFFICIALS ARE CHOSEN**

- **City Clerk:** RSA 48:2 provides that a city council, being met in convention upon the day appointed by law or ordinance, shall by joint ballot elect a city clerk.
- **Ward Clerks, Ward Selectmen, Ward Moderator:** Shall be elected in each of the wards, and shall have the powers, perform the duties, and be subject to the liabilities of those offices in towns, so far as it relates to the warning of meetings, conducting elections, counting and declaring votes, and all other matters relating to elections. RSA 44:12.
- **Board of Supervisors of the Checklist, Typically Called Registrars in Cities:** Shall be elected in each of the wards, and shall have the powers to prepare, post and revise the checklist for city elections.
- **Inspectors of Election:** The same appointment process that is followed in towns.

The city clerk is the chief election officer for the city. The clerk is required to establish uniform procedures to be used at all polling places in the city. The other city election officials are required to follow the procedures established by the city clerk. RSA 652:14; RSA 659:9-a.

### **SWEARING IN OF ELECTION OFFICIALS**

The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office. RSA 42:2.

Every town officer shall make and subscribe the oath or declaration as prescribed by the New Hampshire Constitution, Part 2, Article 84, and any person who violates said oath after taking the same shall be forthwith dismissed from the office involved. RSA 42:1. See page 197. Inspectors of Elections (ballot clerks) and any assistant or pro tempore election officials appointed to assist at elections must also take the oath of office before engaging in the duties of their position. RSA 658:4; RSA 658:7; RSA 658:23.

Except as otherwise provided, the term of any town officer elected shall begin upon his or her election and qualification for office and shall end upon the election and qualification of his or her successor. RSA 669:10, I; RSA 41:3. No person shall assume a town office until after the time period for requesting a recount is over, except where a person is elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office. Such persons may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. In all other cases, if a recount is

requested, no person shall assume that office until the recount is completed. RSA 669:10, II.

A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount.

When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount.

If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office. RSA 669:34.

Taking the oath of office constitutes assuming office. State officers assume office on the date set by the New Hampshire Constitution and County officers assume office on the first Wednesday after the first Tuesday in January of the year following the state general election at which they were elected. RSA 653:10.

All town officers must take the written oath of office as prescribed by part 2, article 84 of the New Hampshire Constitution before qualifying for office. See page 196. A blank copy of the oath appears in *ElectionNet/Help/Instructions*. RSA 669:9.

## **MANNER OF DISMISSAL – BREACH OF CONFIDENTIALITY**

A town officer who violates his or her oath of office can be dismissed by the Superior Court. A party seeking dismissal of a town officer must file a petition with the Superior Court. In addition to other violations of the oath of office, a town officer may be dismissed for the improper disclosure to the public of certain confidential information which that officer learned by virtue of his or her public office. RSA 42:1-a; RSA 91-A:3; RSA 91-A:5.

## **VACANCIES IN ELECTION OFFICES**

A vacancy in public office occurs when a person:

- Dies, resigns or ceases to be domiciled in the state or district from which he was elected. RSA 652:12, I.
- Is determined by the court to be insane or mentally incompetent. RSA 652:12, II.
- Is convicted of a crime which disqualified him or her from holding office. RSA 652:12, III. A person convicted of a felony, from the time of his or her sentence until his or her final discharge, may not seek the nomination of a political party or become a candidate for or hold public office. A public office held at the time of sentencing is forfeited as of the date of the sentence. RSA 607-A:2.
- Fails or refuses to take the oath of office within the period prescribed in RSA 42:6 or to give or renew an official bond if required by law. RSA 652:12, IV. This would

include a situation where a person is elected to office, but subsequently concedes that he or she is not qualified to hold office and for that reason fails or refuses to take the oath of office.

- Has his or her election voided by court or Ballot Law Commission decision. RSA 652:12, V.
- Is a State Representative or State Senator and a member of the military reserve or National Guard, and is unable to perform his or her legislative duties because of military service, as determined by the House for House members and the Senate for Senators, for more than 180 consecutive days and the selectmen from any town the Representative or Senator represents requests that the Governor and Council declare the office vacant. RSA 652:12, VI.
- The Superior Court has dismissed an officer pursuant to RSA 42:1-a.

See also RSA 654:1.

### **TEMPORARY ABSENCES**

A vacancy should not be confused with a temporary absence. A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, or otherwise unable to perform his or her duties for a certain period of time.

Temporary absences among election officials must be filled under the provisions of RSA 658:19 through RSA 658:23. Vacancies in town offices must be filled as provided in RSA 669:61 through RSA 669:75. People serving in the absence of an official serve only until the officeholder returns to service. People appointed to fill vacancies serve until the

next annual town election when a person is elected to fill the unexpired term, unless otherwise stated in law. RSA 669:61; RSA 658:24; RSA 659:58. For certain offices, such as Trustee of the Trust Fund or Highway agent, the appointee serves the remainder of the unexpired term. RSA 669:73; RSA 669:74.

### **TOWN OFFICE VACANCIES**

Whenever a vacancy occurs in any elected town office or whenever a town neglects or refuses to fill an elective town office, said vacancy shall be filled by the action of that body or person authorized by law to appoint or elect such officer for a term ending upon the election and qualification of his or her successor, unless otherwise provided. At the next annual town election, unless otherwise provided by law, the voters of the town shall then elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. RSA 669:6, I-III.

A town may choose to adopt or rescind an alternative procedure for filling vacancies. Under the alternative procedure, if the authorized person or body does not make an appointment to fill the vacancy pursuant to RSA 669:61, I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting and presented not less than 90 days before the next annual town meeting, the selectmen must call a special election to fill the vacancy. The special election is subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election serves for a term ending upon the election and qualification of his or her successor. RSA 669:61, IV.

**WHO FILLS THE VACANCY FOR TOWN MODERATOR?**

Vacancies shall be filled by appointment made by the supervisors of the checklist, or by the town selectmen where no board of supervisors exists. RSA 669:62.

**WHO FILLS THE VACANCY FOR SELECTMEN?**

Vacancies shall be filled by appointment made by the remaining selectmen. Whenever the selectmen fail to make such appointment, the Superior Court or any justice thereof, on petition of any citizen of the town may appoint a suitable person. If the town has adopted the provisions of RSA 669:61, IV, and a petition is submitted thereunder before a petition for appointment by the Superior Court is submitted, the alternative appointment procedures established in RSA 669:61, IV will apply. RSA 669:63.

**WHO FILLS THE VACANCY FOR SUPERVISOR OF THE CHECKLIST?**

Vacancies shall be filled within 45 days by the remaining supervisors. If there is only one member or the entire board is vacant, or the remaining supervisors fail to fill the vacancy within 45 days, the moderator shall make the appointments. If the supervisors are elected by the partisan ballot system, the appointee shall be of the same political party as the supervisor whose place he or she is filling. RSA 669:64. Currently, in New Hampshire there are no towns that use the partisan ballot system; therefore, appointees may be from any party. RSA 669:64. Vacancies in the office of a city registrar would be filled in the same manner unless the city charter makes some other provision for filling the vacancy.

**WHO FILLS THE VACANCY FOR TOWN CLERK?**

Vacancies shall be filled by appointment made by the selectmen except in towns where pursuant to RSA 41:18, the clerk,

with approval of the selectmen, has previously appointed a deputy town clerk, in which case the deputy shall serve as town clerk until the next annual meeting. RSA 669:65.

**WHO FILLS THE VACANCY FOR A COMBINED TOWN CLERK - TAX COLLECTOR?**

If a vacancy occurs, the deputy provided for in RSA 41:45-c shall discharge the duties of the town clerk - tax collector until the selectmen fill the position within 30 days. RSA 669:66.

**WHO FILLS THE VACANCY FOR INSPECTOR OF ELECTIONS?**

Political committees or town and ward selectmen may designate a list of alternates who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the appointees fails to accept the appointment or is otherwise unavailable to perform his or her duties. RSA 658:5. If the chairmen of the state political committees of the two parties have not made appointments and proper notification of those appointments by July 15, then the town or ward selectmen, in consultation with the moderator, shall appoint Inspectors of Elections in equal numbers from the two political parties. RSA 658:2. In case any appointment is not made as provided in RSA 658:2 or RSA 658:5 or vacancies are not filled as provided in RSA 658:22, then on application of 6 qualified voters of the town or ward, a justice of the municipal or district court shall appoint the inspectors. RSA 658:6.

Cities should consult their city charter when a vacancy occurs. If the charter offers no procedure for filling a vacancy, state law may provide a procedure for filling a vacancy in a corresponding town office. If this fails, the city council may decide.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

### **ABSENCES ON ELECTION DAY**

A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, has recused himself or herself because he or she is running for an office other than that of an election officer or is otherwise unable to perform his or her duties for a certain period of time.

### **DISQUALIFICATION OF OFFICIALS WHO ARE ON THE BALLOT**

Any moderator, clerk, selectmen, inspector of election, or supervisor of the checklist whose name appears on the ballot for an elective position other than an election official is not disqualified from performing election duties so long as they do not handle marked ballots or count votes.

If a moderator, clerk, selectman, inspector of election, or supervisor of the checklist is on the ballot for election official, they can perform their duties, including handling marked ballots. We strongly recommend that officials not count votes in races in which they are on the ballot. This disqualification creates a temporary absence.

A moderator who is running for re-election is not disqualified from serving as moderator at the election where his or her name is on the ballot. If that moderator, however, is running for a different position, for example as State Representative, he or she would be disqualified from the handling of marked ballots and counting of votes. RSA 658:24.

### **PRO TEM OFFICER**

Temporary absences must be filled under the provisions of RSA 658:19 through RSA 658:23, which states: an election officer pro tempore shall have all the powers and duties of the officer he replaces as provided in the election laws and shall take the oath of office in like manner.

### **TERM OF OFFICE**

The term of office shall expire at the termination of the proceedings at the election for which he or she was appointed. RSA 658:23. For example, a moderator pro tem would serve until the results were announced, the ballots sealed up on election night, and election return paperwork described in RSA 659:73 has been filed with the Secretary of State and the clerk - unless there is a recount, then until the recount is completed.

### **MODERATOR PRO TEM**

If the moderator is absent from an election or unable to perform his or her duties, a moderator pro tempore shall be appointed by the moderator. RSA 658:19. The law has a separate provision for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the selectmen of a town where there is no board of supervisors. RSA 40:3.

### **CLERK PRO TEM**

If the town or ward clerk is absent or unable to perform his or her duties and there is no deputy clerk as provided in RSA 41:18, a town or ward clerk pro tempore shall be appointed by the town clerk. RSA 658:20.

### **SUPERVISOR PRO TEM**

If more than one member of the board of supervisors is absent or unable to perform his or her duties, a supervisor pro tempore shall be appointed by the moderator. RSA 658:21.

### **INSPECTOR OF ELECTIONS PRO TEM**

If any of the appointed inspectors of election shall be absent or unable to perform his or her duties, the selectmen shall appoint some person qualified as provided in RSA 658:3, using the list of alternate appointees provided under RSA 658:4, unless no person on the list is available. RSA 658:22. If the selectmen have failed to provide adequate inspectors, the moderator may also use his or her general authority to appoint election officials to appoint inspectors pro tem. RSA 658:7.

### **SELECTMEN PRO TEM**

“If a selectman is absent from or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a.

### **INCOMPATIBILITY OF TOWN OFFICES**

There are several offices in town government for which a person may not file for or serve while holding another office. RSA 669:7 deals with these offices as follows:

- No person shall at the same time file for or hold any two of the following offices: selectmen,

treasurer, moderator, trustee of trust funds, collector of taxes, auditor and highway agent.

- No person shall at the same time file for or hold any two of the following offices: town treasurer, moderator, trustee of trust funds, selectman, and head of any police department on full time duty.
- No person shall at the same time file for or hold the office of town treasurer and town clerk.
- No full time town employee shall at the same time hold the office of selectman.
- No official handling funds of the town shall at the same time hold the office of auditor.
- No selectman, moderator, town clerk, deputy town clerk or inspector of election shall file for or at the same time serve as supervisor of the checklist.
- No selectmen, town manager, school board member (except a cooperative school board member), full-time town, village district, or school district employee (except a cooperative school district employee,) or their associated agency employee or village district commissioner shall file for or serve at the same time serve as a budget committee member at large under RSA 32.

The provisions above refer to the actual holding of office and are not to be construed to prevent the transfer between offices of information obtained in the regular conduct of business nor to prevent the personnel in any office from

furnishing clerical assistance to any other office.

A town manager may be elected or appointed to any municipal office that would be subject to his or her supervision; but may not hold any other public office. For example, if the town road agent is supervised by the town manager, but the police chief is supervised by an elected police commission, the town manager could be elected or appointed as road agent, but not as police chief. RSA 669:8.

In the case of towns, any two appointed or elected members of the planning board may also serve together on any other municipal board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the local governing body, or a local land use board as defined in RSA 672:7 and RSA 673:7, I.

## **VII. DUTIES OF INSPECTORS OF ELECTION (BALLOT CLERKS)**

### **MODERATOR ASSIGNS DUTIES**

The moderator typically assigns Inspectors of Election to specific duties, including serving as ballot clerks. The title “ballot clerk” is often used to describe the position of Inspector of Elections, and for most assignments is a more accurate description.

### **APPOINTMENT OF INSPECTORS**

Each state political committee of the two political parties which cast the largest number of votes for governor in the state at the last previous general election appoints inspectors of election. RSA 658:2. Inspectors are appointed between May 15 and July 15 of each general election year. If any party appointments are not made by July 15, the selectmen shall fill the positions in equal numbers from the two political parties. For school district meetings, conducted separately from the town election, the school board appoints inspectors. RSA 671:28.

The chairmen of the state political committees of the state’s largest two political parties shall notify the appointees and the town clerk, or the ward clerk and city clerk on or before July 15 of each state general election year. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

### **INSPECTORS’ QUALIFICATIONS**

Inspectors shall be registered to vote at the polling place where they serve. RSA 658:3.

### **NUMBER APPOINTED**

Two inspectors of election are appointed to act at each polling place. If the number of registered voters at a polling place exceeds 2,000, the political committees may appoint an additional inspector for each 1,500 in excess of 2,000. Each state political committee also may appoint such additional inspectors as the moderator considers necessary for the efficient conduct of the election. RSA 658:2.

### **ALTERNATES**

State political committees or, in their absence, town and ward selectmen, in consultation with the moderator, may designate a list of alternates, who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the principal appointees fails to accept the appointment or is otherwise unable to perform his or her duties. RSA 658:5.

Moderators for polling places that have a high volume of voters and high turnout at certain elections report it is helpful to have two or more shifts of ballot clerks and at least one extra clerk on each shift who can give the other clerks regular breaks. Most polling places have the highest volume of voters when the polling place opens in the morning and again during the drive home period in the afternoon. Consider having extra ballot clerks and check-in stations for the busy periods at your polling place.

### **ELECTION DAY DUTIES**

Two of the inspectors, one from each of the 2 political parties, shall be designated by the moderator at the opening of the polls to act as ballot clerks. They shall have charge of the ballots and shall furnish them to the voters. RSA 658:25.

### *Duties of Inspectors of Election (Ballot Clerks)*

Polling places that break the checklist into sections organized alphabetically by the first letter of voter's last names will need two ballot clerks for each check-in section.

Ballot clerks are inspectors of election who process voters in the check-in line. See page 244 for a complete description of Ballot Clerk Procedures to accommodate the Photo ID law.

The other inspectors shall be assigned such duties in the polling place as the moderator may determine, including, but not limited to, relieving the ballot clerks, greeting arriving voters and directing formation of lines at the poll entrance, and providing assistance to those voters who declare under oath that they need assistance. RSA 659:20; RSA 658:25.

When school districts conduct their own election, most school district elections are combined with town elections, school district inspectors shall assist the school district moderator in counting votes for school district officers and questions. RSA 671:28.

Each inspector shall be sworn to the faithful performance of his or her duties and shall hold office for two years from August 1 in the year in which he or she is appointed or until a successor is appointed and qualified. RSA 658:4. See oath of office at Page 196. Moderators may also appoint Inspectors of Elections pro tem as assistant election officials for a particular election, in which case the pro tem official's term of office would end upon the election being finalized.

### **IMPORTANCE OF PROPERLY MARKING THE CHECKLIST**

The marked checklist serves important legal purposes:

- Identifying who has voted, so that person is not permitted to vote a second time;
- Identifying who voted to allow enforcement of the laws prohibiting voting in two towns/ward or two states in the same election;
- Allowing a count of how many voters participated in the election for comparison with the total number of ballots used from the starting inventory to verify the integrity of the election results;
- The count of voters marked as voting also is compared to the total votes cast, including undervotes and overvotes (listed as "blanks" on the ballot counting device tape) to ensure the tally of votes cast for a given office is consistent with the number of people who voted.

It is therefore very important that the checklist be marked in a consistent and uniform manner.

For each voter a checkmark should be entered next to the voter's name at the start of the voter intake immediately upon finding the voter's name on the checklist.

After the voter's address and identity has been verified, at the moment when the voter will be issued a ballot, a single thin line should be drawn through the voter's last name using a ruler or other straight edge.

**Be careful to mark the correct name on the checklist.**

### **CHECKLIST USED AT AN ELECTION**

The checklist used at the election must be unmarked when the polls open. The

### *Duties of Inspectors of Election (Ballot Clerks)*

practice of pre marking absentee voters on the checklist in advance of the election is improper and is a suspected source of inaccurate checklist markings regarding absentee voters.

Instruct ballot clerks to make only those marks on the checklist that are required by law.

- Checkmark beside the name immediately upon finding the name on the checklist as the check in starts – Ballot Clerk Procedure – page 244
- RSA 659:13, requires that ballot clerks “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address information in voter registration files. Address Changes must be marked in red ink. – RSA 659:13, I (Supervisors may establish a local policy asking voters, after they vote, to complete a new Voter Registration Form B to obtain a good record of the new address);
- When an out-of-state driver license or non-driver ID is used as photo ID, enter the two-letter abbreviation for the state that issued the ID. RSA 659:13, I(b).
- If the voter did not have photo ID and is presenting a completed challenged voter affidavit (“CVA”) with a photograph or religious exemption from a photograph affidavit, put a check mark in the CVA box on the checklist. RSA 659:13, I (c)(1).
- After the voter is issued a ballot, a single thin line must be drawn with a ruler or straight edge through the last name of the voter. RSA 659:13, I(b).

- For an absentee voter, when the ballot is presented by the moderator, mark “A.V.” in red ink beside the voter’s name, place a checkmark beside the voter’s name, and draw a single thin line through the voter’s last name using a ruler or straight edge. RSA 659:52.

Other changes to a voter’s record, such as a name change which is first reported at the check-in table, must be processed with the supervisors of the checklist using the voter registration form B, marking the upper right corner to indicate the form is completed for a name change or address update. RSA 654:7.

Best practice for documenting a name change reported at the polling place on election day is as follows:

- Voter checks in at the ballot clerk table and reports a name change. No action is taken at this moment by the ballot clerk and the voter is directed to the supervisors of the checklist;
- Voter is asked to complete a new Voter Registration Form B, marking in the upper right hand corner the form is completed due to a name change.
- Supervisors require the voter to provide proof of identity, to verify the validity of the new name. Any form of proof of identity used by a new voter to register is acceptable. As the person has already proven age, citizenship, and domicile to become registered, the voter is not required to provide proof of those qualifications.
- Supervisors send the voter back to the ballot clerk table to check in and either:

*Duties of Inspectors of Election (Ballot Clerks)*

- Accompany the voter to explain the name change to the ballot clerk; or
  - Provide the voter with the same document provided to new voters to notify the ballot clerk that the person has been registered, but specially mark that document to show the voter's former and current name. See sample form at page 215.
- The ballot clerk should find the voter's former name on the checklist and place a checkmark beside that name. The ballot clerk next needs to verify the voter's identity in the same manner as for other voters, a photo ID with the new name is appropriate proof, but any proof accepted for other voters is acceptable. The ballot clerk will then draw a single thin line through the voter's entire name on the checklist and write in the voter's new name immediately above the printed name. The new name will not be in its proper alphabetical position on the checklist. The name needs to be entered immediately above the former name to avoid confusion in the count, made after the polls close, of the number of voters marked as voting.
  - The new name should **not** be written in where the names of new voters are written in at the end of the pages for the first letter of the voter's new last name.
  - When election day registrations are counted, name changes for a previously registered voter should not be counted as a new election day registration. The voter with a name change should be counted with other previously registered voters when tallying how many previously registered voters cast a ballot in the election.
- Non-public information, such as voter's dates-of-birth or other data that may be missing from voter records may **not** be written onto the election day checklist. The election day checklist becomes a public document following the election. The supervisors and clerk may adopt local procedures for collecting this information.

## **VIII. DUTIES OF MODERATORS**

### **MODERATOR TO OVERSEE VOTING**

Elections “shall be . . . governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote . . . and shall . . . in the presence of the said selectmen, and of the town or city clerk, . . . sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person . . .” New Hampshire Constitution, Part 2, Article 32.

The moderator is responsible for making certain each election officer understands his or her responsibilities. RSA 659:9. The moderator shall preside at the town meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed, and may prescribe rules of proceeding; but such rules may be altered by the town. RSA 40:4. In cities, the city clerk may establish uniform city wide procedures that must be followed by the ward moderators.

### **KEEP ELECTION OFFICIAL/POLLING PLACE INFORMATION CURRENT IN ELECTIONET**

Provide the clerk with your current contact information to ensure that the Secretary of State and Attorney General can:

- Contact you to address discrepancies and complaints;
- Send you legal updates; and
- Send you meeting and training invitations.

The clerk shall enter, maintain, and keep up to date election official contact and polling place location/hours in *Electionet*. RSA 654:45, VII.

### **APPOINTMENT OF ADDITIONAL INSPECTORS OF ELECTION**

If the moderator requests, the political parties may, between May 15 and July 15 of each even numbered year, appoint an equal number of additional inspectors. After the time for appointment by the parties has expired, the selectmen shall appoint additional inspectors of election to satisfy the moderator’s request. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

### **MODERATOR PRO TEM**

If the moderator is absent from any election or unable to perform his or her duties, he shall appoint a moderator pro tempore. RSA 658:19.

HB 87 (2017) amended the statute for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the board of selectmen, if there are no supervisors. RSA 40:3.

### **SELECTMAN PRO TEM**

“If a selectman is absent or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her

duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a:

### **SUPERVISOR PRO TEM**

If more than one member of the supervisors of the Checklist is absent from any election or unable to perform his or her duties, the moderator shall appoint a supervisor pro tempore. RSA 658:21. At a town election a supervisor vacancy shall be filled by the remaining supervisors, unless there is only one, then by the moderator. RSA 669:64.

### **OTHER ELECTION OFFICIALS**

The moderator may appoint an assistant moderator and such other election officials as he or she deems necessary. The town clerk, upon request of the moderator, may appoint one or more assistant town clerks. RSA 658:7.

### **CENTRAL POLLING PLACE**

The moderator elected by the town shall preside over the central polling place. He or she may appoint an assistant moderator, who must be domiciled in the voting district, to run the additional polling place. RSA 658:11 through RSA 658:14.

### **ELECTION DAY**

#### **IN CHARGE OF THE POLLS**

The moderator is the chief election officer in charge of the polls. It is his or her responsibility to make certain all election officials are available on the day of the election and that each is familiar with his or her duties for the day. New Hampshire Constitution, Part 2, Article 32; RSA 659:9.

### **ARRANGEMENT OF THE POLLING PLACE**

New Hampshire election laws do not specify any specific arrangement of the polling place. The Secretary of State provides an example of a polling place layout that can be used for hand-count and ballot counting device towns. See diagram on page 242. Variations must ensure that there is some public area outside the rail where the public can watch the election. The Right-to-Know law provisions applicable to public meetings apply to an election. RSA 91-A:2. See *Lambert v. Belknap Cty. Convention*, 157 N.H. 375, 379 (2008), noting the exemption for secret ballots at elections in the Right-to-Know law which has a general rule that votes must be taken in open session. The exception would be unnecessary if the law did not otherwise apply to elections.

It is also essential that there is a clear and well-marked path from the accessible entrance to the check-in table.

### **POLL OPENING CHECKLIST**

Prior to the opening of the polls, the moderator should ensure that:

- 3 copies of the Instructions for Voters have been posted outside the guardrail. RSA 658:28.
- 1 copy of the Instructions for Voters has been posted inside every booth. RSA 658:28.
- Sample ballots have been posted outside the guardrail (8 for the state general election and 8 of each party for the primary, and at least several for local elections). RSA 658:26. State law requires a minimum of 2 sample ballots be posted, however, the law also requires the Secretary of State to

provide 10 sample ballots, two for posting in advance of the election, therefore it is recommended that the remaining 8 be posted.

- At least one sample ballot for the general election and one sample ballot for each party at a primary election are posted no higher than 48" for those voters in wheelchairs. RSA 658:26.
- A notice indicating the time for processing absentee ballots is posted.
- A sharp pencil or pen has been placed in each voting booth.
- Purity of Elections statutes are posted outside the voting area. RSA 658:29.
- Proof of Voter Identity Instructions are posted outside the guardrail. RSA 658:29-a.
- Two duplicate checklists to be used at the election are ready and available. The supervisors of the checklist have certified the checklist as accurate and complete, as of the start of the election, by signing the supervisor's certification section printed on the last page of a checklist printed from ElectionNet. If the town/ward uses ballot counting devices, only 1 checklist is required. The checklist to be used at the election must be unmarked. The practice of pre marking absentee voters is improper and is a suspected source of inaccurate checklist markings.
- Ballot clerks should be instructed to make only those marks on the

checklist that are required by law. See Duties of Inspectors of Election at page 89. Non-public information, such as voter's dates-of-birth or other data that may be missing from voter records may not be written onto the election day checklist. The election day checklist becomes a public document following the election, therefor may not have dates of birth or other non-public data written on them.

- Certify that all electronic ballot counting devices and memory cards have passed testing requirements and deposit evidence of testing in the front pocket of the canvas bag for the device. Verify that all device seals are intact and that appropriate activity and access logs are recorded, signed and stored in the front pocket of the canvas bag. RSA 656:42. See Electronic Ballot Counting Device Standard Operating Procedures for Testing & Security Seals on page 229. Do not put a ballot counting device into use that has not been properly tested or which is not properly sealed. The moderator must report any broken seals that are not documented in the device activity log to the attorney general, the Secretary of State, the clerk, and the selectmen. RSA 656:42 VIII (d)(5). The ballots must be hand counted or the town/ward can arrange for the vendor to provide a replacement device which must be properly tested and sealed before being used.
- Count all the ballots delivered to him or her from the clerk, to establish the number of official

### *Duties of Moderators*

- ballots. This number must be reported on the moderator's certificate, will aid the moderator in anticipating the need for the clerk to prepare extra ballots if there is a heavy turnout, and is available as a cross reference when checking the accuracy of the ballot counting, and completing the Moderators Worksheet. (See page 255) This pre-election count establishing the number of ballots in the inventory may be done prior to election day, provided the clerk posts a notice and the public has an opportunity to observe. RSA 658:31.
- Fill out the two copies of the moderator's certificate if the election is a state election. One copy is for the moderator's records and one will be returned to the Secretary of State with the Return of Votes.
  - Position all officials:
    - Trained greeters are positioned to meet voters as they enter the polling place and to ask them to go to (a) the supervisors of the checklist if they are unregistered (b) the "No Photo ID" table if they have no approved photo ID, or (c) the "Voter Check-in" line if they are registered and have a photo ID or a completed Challenged Voter Affidavit.
    - A "No Photo ID table" should be equipped with a camera, film, copy of the checklist, ballot clerk instructions, a copy of RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits.
    - Ballot clerks sit at the check-in table.
    - In hand count towns, the town or ward clerk, or a deputy clerk/assistant clerk is positioned at the checkout table by the ballot box.
    - In hand count towns, the moderator or an assistant moderator stands where the ballot box is placed and inserts the ballot handed to him or her by the voter. In towns where ballot counting devices are used, the voter may insert his or her cast ballot into the device without the assistance of the moderator. The moderator or a designee should still closely monitor the process to provide assistance and ensure that only the proper number of ballots are inserted by any one voter.
    - Position any challengers appointed by either a party committee or the Attorney General, outside the rail, but in a position where he or she can hear and see each voter as the voter checks in.
    - Position the selectmen, supervisors and any other assistants he deems necessary within the polling place.
  - Open the polls punctually at the appointed hour.
  - Inspect the ballot box, prior to the first ballot being issued to a voter, and show any members of the public present that it is empty. If a ballot counting device is used, the moderator should display the

zero tape produced by the device when it is set up and turned on for the election. This tape shows that the starting count for each candidate and question is zero. The zero tape must be preserved and kept with the results tape following the election.

- Seal the ballot box.
- Publicly announce when the processing of absentee ballots shall begin. This customarily begins at 1 PM. However, if 24-hours notice is provided in two public places, the moderator may announce the beginning of processing absentee ballots no earlier than two hours after the polls open. RSA 659:49.
- The moderator shall designate 2 or more of the inspectors of election, one from each party for each check-n station, to act as ballot clerks for each check-in station. RSA 658:25; RSA 659:23.
- Begin accepting voters.

RSA 658:30 through RSA 658:36.

## **MANAGING EXIT POLLING**

No one can obstruct voters as they enter or exit the polling place, and no one can electioneer within the polling place. See page 185 which addresses electioneering. Otherwise, there are no specific restrictions on exit polling. The same limits should be placed on persons taking exit polls, girl scouts selling cookies, the flower club bake sale, or any non-election activity that is allowed at the building where voting takes place. The best practice is to require anyone involved in any of these activities to set up outside the railed-in area and outside the usual and

customary path into and out of the polling place. Where an adjacent room is available, that is an ideal place for such activities. New Hampshire Constitution, Part 2, Article 32; RSA 659:9; RSA 659:43; RSA 659:44.

## **BALLOT COUNTING DEVICES**

Those communities which utilize electronic ballot counting devices shall not be required to have a check-out checklist. The voter should feed the ballot into the ballot counting device without the moderator directly handling the ballot. RSA 659:23.

The Attorney General's Office reports complaints from voters, particularly in communities where ballots are printed on two sides, that the voter's right to cast a secret ballot is violated when it is necessary to make the marked ballot visible while carrying it from the voting booth to the ballot counting device and while inserting the ballot into the device.

It is recommended that communities using electronic ballot counting devices provide each voter with a privacy folder in which to carry the marked ballot. A properly designed privacy folder looks like a typical manila file folder, is wider than the ballot, but slightly shorter. When the ballot is placed in the folder the ballot sticks out of the top just enough to allow the ballot to be fed into the ballot counting device while the voter holds the sides of the privacy folder.

When a privacy folder is used, it is not possible for other voters standing in line, persons standing outside the rail monitoring the voting, election officials, or the moderator to see how the ballot has been marked.

The privacy folder is turned in to the moderator once the ballot is fed into the

ballot counting device. Because the folders can be recycled back to the ballot-issuing table as soon as the voter feeds his or her ballot into the ballot counting device, it is not necessary to have a folder for every ballot printed. Depending on the size of your community, typically one (1) privacy folder for every voting booth will be sufficient.

### **ONE4ALL ACCESSIBLE VOTING SYSTEM**

The Accessible Voting System, named “one4all” is a tablet-based system which is provided by the Secretary of State and which must be available for use by voters. The one4all must be placed in the accessible voting booth provided by the Secretary of State for that purpose. This booth is ideally set up near the moderator’s post by the ballot box/ballot counting device, to permit the moderator to readily receive the ballot by hand in a privacy sleeve. It shall be turned on and tested before the polls open. If the screen is dark during an election, the system has not been turned on as required. HAVA Section 301.

### **ELECTRONIC POLL BOOKS TRIALS**

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

### **DISQUALIFICATION OF OFFICIALS**

If an election official other than the moderator is disqualified, the moderator shall appoint an assistant who shall perform the same duties until the official can properly return. RSA 659:58.

### **NUMBER OF VOTERS WITHIN GUARDRAIL**

The moderator must ensure that the number of voters within the guardrail who have a ballot, excluding those handing the moderator the ballot or feeding it into the ballot counting device, does not exceed the number of voting booths and voting screens. RSA 659:16. When the booth(s) equipped for use by voters with disabilities are open they should be used by the next voter waiting for a booth. These booths equipped for use by voters with disabilities need not be reserved exclusively for use by voters with disabilities. They should be used by all voters.

Voters must not be allowed to leave the area enclosed by the guardrail while in possession of a ballot. RSA 659:15. Anyone who knowingly removes an official ballot to outside the guardrail before the close of the polls is guilty of a misdemeanor. RSA 659:38. No one other than election officials, voters casting their ballot(s), or a voter admitted by approval of the moderator to assist another voter, can be admitted within the guardrail. RSA 659:21. Voters may not allow their marked ballot to be seen by any person with the intention of letting it be known how they are about to vote or how they have voted. RSA 659:35.

### **ASSISTANCE IN VOTING**

Any voter who declares to the moderator under oath that he or she needs assistance marking their ballot, shall, upon the voter's choice and request, after the moderator has informed the voter of the accessible voting options that are available, receive the assistance of one or both of the Inspectors of Election detailed for providing assistance to voters by the moderator or receive assistance from a person of the voter's choice, provided that the person is not the voter's

employer or union official. RSA 659:20; 52 U.S.C 10508. Both the person requesting assistance and the person providing assistance must complete the oaths on page 195.

#### **A PERSON WHOSE PHYSICAL DISABILITY PREVENTS THEM FROM SIGNING THEIR NAME**

Some accommodation must be made to allow a person with this type of disability to vote. The best practice would be for the clerk to appoint someone neutral to take the absentee ballot to the voter and to verify that the stamped name is legitimate as the voter's signature. The clerk's appointee should countersign both the application and the affidavit envelope next to the stamped signature or submit a written and notarized statement to accompany the sealed affidavit envelope verifying that the voter himself or herself caused the ballot to be marked and the affidavit to be stamped with the voter's signature. New Hampshire Constitution, Part 1, Article 11.

#### **SIGNATURE REQUIREMENT EXCEPTION FOR VOTERS WITH DISABILITIES**

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by a voter. A voter may receive assistance from any person. "Any person who assists a voter with a disability in executing" the application for an absentee ballot or the affidavit on the absentee ballot envelope "shall make a statement acknowledging the assistance on the application form [and on the affidavit] envelope." RSA 657:4; RSA 657:7, II(b), RSA 657:17. The law does not require the same person to assist with both documents.

#### **ASSISTANCE TO PERSONS WHO ARE UNABLE TO COMMUNICATE**

Persons with Alzheimer's disease or persons with other disabilities, who are otherwise qualified as voters, should be allowed to vote as long as they are able to vote without assistance. If the voter needs assistance, he or she must be able to communicate his or her choice on how their ballot should be marked. Any means of communication that could be understood by a stranger should be considered acceptable. This might include communication such as blinking their eyelids once for yes and twice for no, or tapping a finger once or twice, as the person assisting them reads off the choices.

A family member or friend should not be allowed to mark the ballot based on how the family member or friend believes the voter would have voted had the voter been able to communicate a choice. A person with a power of attorney is not allowed to vote for such person or any other voter. Both the voter and the person assisting the voter must take the oath required by law. Page 195. The voter must be afforded the opportunity to take the oath orally, in writing, or by any other means of communication. If the voter lacks the capacity to take the oath they are not allowed to vote. RSA 659:20.

#### **UNFORESEEN ACCESSIBILITY EVENTS**

RSA 659:20-a, which enables an absentee ballot to be delivered outside the polling place, provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was unable to do so. This law cannot be used in lieu of maintaining an accessible polling place, and it should not be used for a voter's convenience in place of voting absentee

when a voter can anticipate difficulty getting into the polling place and request an absentee ballot. See page 159 for the law and discussion.

### **SERVICE ANIMALS**

The Governor's Commission on Disability advises that under the Americans with Disabilities Act ("ADA"), organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where the public is normally allowed. When it is not obvious what service a dog provides, only two questions are appropriate:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

For further information visit: <https://www.nh.gov/disability/documents/servicedogbrochure.pdf>

or contact the Governor's Commission on Disability at (603) 271-2773.

### **SPOILED BALLOTS**

A voter who spoils his or her ballot may receive a replacement ballot, not to exceed 3 ballots in all, including the ballot originally issued, after returning the spoiled ballot to the moderator. The moderator must write "canceled" on the ballot and sign it. Any spoiled ballots are held by the moderator and sealed in a separate envelope placed in the container with other ballots when counting is over. RSA 659:22. It is important during the counting process and at any recount to be able to clearly identify marked ballots that were not cast and should not be counted.

### **MANAGING OBSERVERS**

#### **CHALLENGER VS OBSERVER**

A "Challenger" is not an "Observer." A challenger, to hold that status, must have a letter of appointment from one of the

political parties, typically signed by the State Chairperson. While a "Challenger" may also do what an "Observer" does, the "Challenger" has a statutory right to be positioned where he or she can hear voters check in. "Observers" and other members of the general public have a right to watch the conduct of the election from outside the rail, they do not have other specific statutory rights. Unless the Moderator gives explicit permission, a member of the public (an observer) may not be within six feet of the ballot clerk's check-in table. RSA 659:13-a. Furthermore, while any voter registered to vote in a town or ward has the right to "challenge" another voter, he or she is not recognized as an appointed "Challenger" in the statutes.

"Challengers" rarely actually challenge voters, more often they are tracking who votes for get-out-the-vote efforts or as trained monitors of the conduct of the election for the political parties.

#### **RIGHT TO OBSERVE**

Anyone can come and watch the casting of ballots and the counting of ballots and see for himself or herself whether the election is conducted in accordance with the law.

These individuals can best be understood as "Observers." They have no special status in law and like all members of the public are entitled to silently observe the election as long as they are not disruptive.

At recent elections, political parties and activist groups have sent a variety of individuals to observe the conduct of elections in New Hampshire. Some of these individuals were attorneys or other people who had received some training in the law of elections. These individuals should be accommodated as much as is

practical without allowing them to disrupt the election.

It is recommended that these individuals be addressed by the moderator and told that they cannot interfere with voters or election officials. If the Observer has a question or concern, he or she should bring that concern to the moderator, by silently or quietly signaling to the moderator, who should as soon as is convenient meet with the Observer outside the rail.

Observers may not be positioned within 5 feet of the voter registration table where the exchange of non-public information between the applicant for registration and the election official receiving the information may be heard or seen. RSA 654:7-c.

No person unauthorized by law may stand or sit within 6 feet of the ballot clerk for purposes of observing the check-in of voters without the express permission of the moderator. RSA 659:13-a.

The Attorney General's Office is available on election day to address concerns that these Observers may have with election procedures. If a moderator is unable to easily resolve concerns raised by an Observer, or if an Observer insists that the law is not being followed, consider contacting the Attorney General's Office. The following toll free line is staffed by attorneys during each State election day: 1-866-868-3703. These attorneys are prepared to review the law with the moderator or any observer and to resolve any concerns that the election law is not being complied with.

## **LINE MANAGEMENT**

A registered voter should generally not be required to wait more than 15 minutes to reach the ballot clerk's check-in table. An

applicant for registration as a voter should generally not be required to wait more than 30 minutes to reach the voter registration table. Persistent lines are usually only an issue at the small number of polling places in New Hampshire that have a high volume of voters and then primarily only at high turnout elections.

Research reports from across the United States and anecdotal reports from New Hampshire indicate that the longest lines often occur at the moment when the polling place opens, as voters queue up to vote at the start of the day. At high turnout elections at high-volume polling places, research suggests that failing to effectively process lines at any point in time will increase the likelihood of lines later during the day. When a long line has formed, do not assume it will resolve itself.

## **CHECK-IN STATIONS**

For high-volume polling places, it is important to break the checklist into sections, so that more than one voter can check in simultaneously. The first letter of the last name of voters in New Hampshire is not uniformly distributed to all letters of the alphabet. A recent analysis by the Secretary of State of all active voters in *ElectionNet* shows that almost 10% of New Hampshire Voters' last names start with the letter "M," while less than 2% start with the letter "N." Each check-in station should have a proportionate number of voters, not an equal number of letters of the alphabet. See the chart at page 243 for suggestions on splitting up the checklist.

## **FLEXIBLE DISTRIBUTION BY ALPHABET**

A best practice is to have the checklist used at the check-in table printed with a page break at the end of each letter of the alphabet. Voters arrive at the polling place in patterns unrelated to the first

letter of the voter's last name. Moderators or an assistant assigned to monitor the flow through check-in stations should be able to shift one or more letters from one section of the alphabet to the adjacent section, when one section has a sustained line and the adjacent section does not. For example, if the "A-B-C-D-E" check-in position seems to constantly have a line and the "F-G-H-I" section does not, move "E" or "D-E" from the first station to the second. It may be necessary to shift the sections of the check-in checklist back later in the day. Moderators report that this practice is beneficial. This process requires letter signs for check-in stations that are easily changeable.

#### **FLEXIBLE NUMBER OF CHECK-IN STATIONS**

For polling places with a history of excessive wait times or expected high turnout, the moderator should consider adding check-in stations during the times of day when peak turnout occurs. At most high-volume polling places, peak volume is at the opening of the polls and again in the later afternoon/early evening. Consider having additional part-time polling place staff and one or more additional check-in stations just during those busy times of the day.

#### **GREETERS**

If your polling place experiences a high-volume of voters and individuals who register to vote on election day, a best practice is for the moderator to assign one or more greeters. A greeter should be positioned where voters arrive at your polling place. The greeter should assist those arriving to find the correct line. The greeter should either carry or have easy access to a checklist to allow the greeter or the voter to examine the checklist to determine whether the person is already registered to vote at that polling place. Also consider having a checklist posted in the area where voters wait in line.

*ElectionNet* can be used to print a compressed list of registered voters. Posting the compressed list requires less space to post and can be carried more easily.

#### **MEASURE LINES TO MANAGE AND ADDRESS COMPLAINTS**

Line management experts encourage the use of relatively easy systematic measurement documenting how many people are waiting in line. For polling places with a history of long lines at high turnout elections, use of a volunteer for some minimal record keeping on the number of people waiting in the lines at regular intervals (e.g., every 30 minutes, or every hour) can provide moderators with valuable information. Average wait time can be calculated from this data. Accumulating this data over a few elections will provide decision makers with data to assess the need for additional staff for the times of day when your polling place has peak turnout.

Having a systematic record of how many people are in line at regular intervals also will help address complaints. Anecdotal evidence is that severe line problems are rare, but do occur most typically every four years during the general election when the office of President of the United States is on the ballot. Even at those elections only a small number of the state's polling places experience excessive lines. A record that demonstrates whether the problem of excessive lines occurs and if so whether the lines are long lasting throughout the day versus just when turnout spikes or some problem arise can alleviate public concern when long lines become major news stories. Furthermore, the record will be evidence the moderator is proactive. That, he or she is alert for and prepared to address excessive wait times.

## **PLAN FOR CONTINGENCIES**

Excessive lines form at polling places when unpredictable problems arise. While ballot counting device problems are rare in New Hampshire, when a ballot gets jammed in the device or it otherwise stops taking ballots excessive lines too often occur. Make maintaining the flow of voters through the polling place a priority. Officials will be able to feed any accumulated ballots through the ballot counting device later in the day.

Have a ballot box on site. As soon as a line of voters waiting to insert their ballot into the device starts to form, promptly put the ballot box into use. While any container suffices, ideally having something that looks like a formal ballot box that voters will recognize as legitimate will diminish concern. Anecdotal reports and voter's phone calls to the Secretary of State's Office highlight the concerns that arise when voters are asked to deposit their ballot anywhere other than in the familiar ballot counting device. If you do not have a formal recognizable ballot box, consider adding a sign to any cardboard box put into use.

If you use a ballot box while your ballot counting device is out of service, be very transparent when you feed accumulated marked ballots into the device. Publicly announce to all present that the marked ballots deposited into a ballot box by voters will now be inserted into the ballot counting device.

## **KEEP EVERYONE AT THE POLLS INFORMED**

Public confidence in the legitimacy of elections benefits when the voting process and all activities at the polling place are understood by those present. When doing something unusual or which may be misunderstood, a public explanation will preempt protests from observers or

public misunderstandings that harm confidence in the process. The prevalent use of social media, taking and distributing video with smart phones, tweeting photos, etc. increases the risk that if someone misunderstands what is occurring, that misinformation will be broadcast widely.

For example, a ballot counting device jams, you have used a ballot box, and now those marked ballots are being inserted into the functioning ballot counting device.

Another common example is when the box under the ballot counting device reaches capacity and ballots must be moved into the ballot storage boxes supplied by the Secretary of State. Monitor the bins under the device and empty the storage bins whenever they are nearly full. If someone seeing marked ballots being moved into a cardboard box suspects ballot box stuffing or other fraud, that misinformation may be quickly spread far and wide. A proactive public announcement, keeping all present in the polling place informed about what is going on will reduce the risk that a false alarm will be sounded.

Informing and educating those present at the polls about election day procedures enhances the free, fair, and transparent character of New Hampshire's elections.

## **CHALLENGES**

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials and challengers appointed in writing by the political party committees or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5.

Usually challenges occur at the time the voter is at the check-in table before being given his or her ballot. No voter or appointed challenger shall challenge a person's qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, occur at any point up until the ballot is deposited in the ballot box. Challengers must be so positioned in the polling place so that they can see and hear each voter as he offers to vote, but challengers cannot be within the guardrail. RSA 666:4; RSA 666:5.

A challenge must be made for a specific reason. No challenge may be made unless an "Asserting a Challenge" form is filled out and signed under oath. See "Asserting a Challenge" form at page 202.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. RSA 659:27-a. If the challenge is found to have insufficient basis – the evidence is insufficient to make it more likely than not that the person is not qualified - the voter shall be allowed to vote without completing the Challenged Voter Affidavit.

RSA 659:27-32. Challenges to voters are discussed further starting at page 182.

The law makes it a specific felony offense to engage in voter suppression, for example, making a challenge based on information the challenger knows to be false or misleading.

"No person shall engage in voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information. Prohibited acts of voter suppression include:

(a) Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading.

(b) Attempting to induce another person to refrain from registering to vote or from voting by providing that person with information that he or she knows to be false or misleading.

(c) Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

IV. Whoever violates the provisions of this section or whoever conspires to violate the provisions of this section shall be guilty of a class B felony." RSA 659:40.

## **ABSENTEE BALLOTS**

The moderator shall receive absentee ballots from the clerk prior to the closing of the polls or time set for processing of absentee ballots. RSA 657:23; RSA 659:49.

Absentee ballots delivered through the mail or by the voter's spouse, parent, sibling, or child shall be received by the town, city, or ward clerk no later than 5:00 p.m. on the day of the election. RSA 657:17

Absentee ballots from deployed emergency service workers which are received at the polls before the polls close

to voting shall be processed according to the law and if found otherwise in conformance with law shall be counted. RSA 657:21-a, V.

An absentee ballot completed by a disabled voter who appears at the polling place location but is unable to access the polling place due to disability and votes curbside, shall be processed using the same procedure as any other absentee ballot until the polls close to voting. RSA 659:20-a.

#### **ANNOUNCE ABSENTEE BALLOT PROCESSING**

At the pre-announced time, the moderator begins processing absentee ballots by announcing that he or she is about to open the envelopes. The moderator removes the envelope containing the ballot of each absentee voter and he or she examines the the affidavit and the application.

#### **SIGNATURE REQUIREMENT EXCEPTION FOR VOTERS WITH DISABILITIES**

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by a voter. A voter may receive assistance from any person. "Any person who assists a voter with a disability in executing" the application for an absentee ballot or the affidavit on the absentee ballot envelope "shall make a statement acknowledging the assistance on the application form [and on the affidavit] envelope." RSA 657:4; RSA 657:7, II(b), RSA 657:17.

Effective January 1, 2019, Senate Bill 527 enacts a new statute, RSA 657:17-a, Verification of In-Person Absentee Voter. This statute provides that if a voter returns a completed absentee ballot to the clerk's office in person and either:

- Voluntarily shows the clerk a photo identification that meets the requirements of RSA 659:13 (the requirements for photo identification at the polling place); or
- Voluntarily completes a challenged voter affidavit in the same manner as is required for an election day voter without photo identification

the clerk will mark the envelope and the clerk's list of absentee voters: "voter verified." 657:7; RSA 657:17-a.

If the name of the voter is on the checklist, and the affidavit is properly executed the moderator then publicly announces the name of the absentee voter. With respect to any voter who has been included in the address confidentiality program under RSA 7:43 or who has been granted a protection order under RSA 173-B, the moderator shall identify such voters as "confidential voter #1, and "confidential voter #2," and so forth. RSA 659:50

Moderators are prohibited from conducting the signature comparison set forth in RSA 659:50, III. See below.

If the moderator determines that the absentee ballot will be rejected, the moderator must publicly announce the voter's name and just that the absentee ballot has been rejected. Do not publicly announce the reason for the rejection. Campaigns and political parties may monitor the absentee ballot processing and try to contact any absentee voter whose ballot has been rejected to encourage the voter to come to the polling place and vote in person if possible.

#### **CHALLENGES OF ABSENTEE VOTERS**

All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter, except for voters provided for in RSA 7:46 and those who have a valid protection order under RSA 173-B:4. Challenges cannot be initiated after the ballot is removed from the envelope.

If the absentee ballot is challenged, the moderator shall write on the envelope containing the ballot the word "challenged," number the ballot and write the name and address of the person making the challenge and the basis of the challenge on the envelope or on a form for that purpose.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. If the challenge is based on the reported death of the voter, the supervisors should be consulted, since it is their duty to follow a procedure for striking deceased individuals from the checklist.

The moderator rules on challenges based on all other grounds. If the moderator

determines that the challenge is well grounded, the available evidence makes it more likely than not that the voter is not qualified to vote, the envelope is not opened and it is preserved unopened with other cast ballots. If the challenge is not well grounded, that is the available evidence makes it more likely than not that the voter is qualified to vote, the envelope is opened and the reverse side of the ballot is numbered with the same number written on the envelope. The ballot is then processed in the same manner as an unchallenged absentee ballot. RSA 659:51.

The moderator shall ensure that an "Asserting a Challenge" form (see page 202) is completed for all challenged and rejected absentee ballots, including those that are challenged by the moderator, clerk and other election officials. RSA 657:27; RSA 659:27-a; HAVA Section 703.

#### **PROCESSING ABSENTEE BALLOTS**

The moderator opens the envelope containing the ballot in public (envelope is preserved), the ballot is removed (without unfolding it or examining it), the ballot clerks are directed to place a checkmark beside the name of the absent voter on the checklist adding the letters "AV" in red ink. The ballot clerk next draws a single thin line on the checklist through the voter's last name. After it has been verified that the voter has not voted in person and the checklist has been marked, as the last step the ballot is deposited in the ballot box or inserted into the ballot counting device. The opened (empty) envelope is preserved using the same retention period as the cast ballots. RSA 659:49-b; RSA 659:52; RSA 659:101; RSA 33-A:3-a.

#### **REJECTED ABSENTEE BALLOTS**

If the moderator determines the absentee voter is not entitled to vote, the envelope

is not opened and the reason the ballot is rejected is marked on the envelope. The moderator publicly announces the absentee voter's name and that the absentee ballot is rejected. The moderator shall also record next to the name of the absentee voter on the clerk's absentee voter list the word "rejected" and the reason for the rejection. The moderator preserves unopened rejected absentee ballot envelopes using the same retention period as the cast ballots for that election. RSA 659:53. Rejected absentee ballots should be placed in a separate marked envelope/container that is then sealed into boxes with the other ballots.

#### **IMMATERIAL DEFECTS**

The moderator shall not reject an absentee ballot for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required herein. RSA 659:54. Immaterial defects include, but are not limited to, stray marks on the ballot, a tear in the ballot, a coffee stain.

No absentee ballot that has been electronically transmitted to a UOCAVA voter shall be rejected for any ballot, envelope or affidavit weight, size or color, or any ink, font size, alignment or color. This means that the ballot must be accepted and counted even if the ballot is on paper that is heavier or lighter than regular ballots, is printed on an odd size of paper or in a different color ink or font. RSA 659:54-a.

The United States District Court for the District of New Hampshire has ruled that RSA 659:50, III, which required a comparison of the signature on the absentee ballot application with the signature on the absentee ballot affidavit to determine if the same person signed both, is unconstitutional. Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III. See: Notice Regarding the Processing of Absentee Ballots on Election Day. ElectionNet > Help>Instructions or <http://sos.nh.gov/> (Elections Division > Election Officials > Moderators > Absentee Ballot Processing on Election Day – Do not compare signatures).

RSA 657:4; RSA 657:7.

#### **OUT OF BALLOTS**

The moderator should monitor the voter turnout and request the town or city clerk to prepare additional unofficial ballots if it appears that the supply of official ballots

will be exhausted. RSA 659:24; RSA 658:35. Any unused absentee ballots should be authenticated and used first. Best practice is for the clerk to draw a line through the word “Absentee” on the absentee ballot and then sign or initial the ballot. Next, photocopies of the official ballot should be used. These unofficial ballots must be authenticated by the signature or initials of the clerk or a designee prior to the ballots being issued to voters. This will distinguish these extra ballots from any that might be created and added to the official ballots fraudulently.

It is essential that the clerk and the moderator keep an accurate count of the number of absentee or photocopy ballots that are put into use as election day ballots. The total number of ballots used, that is issued to voters, must be reported to the Secretary of State. The total number of ballots used is an important number, because it can be used by the moderator to compare with the total votes cast for particular offices or questions when reconciling the ballot count.

Only authentication marks, typically the signature or initials of the clerk, can be made on these ballots, otherwise, it is a misdemeanor for any election officer to place a mark on any ballot, except when marking a ballot at the direction of a voter with disabilities, extended hours, marking a spoiled ballot or marking a challenged ballot. RSA 659:36; RSA 659:26-a.

The moderator should make his or her best effort to prevent the use of unofficial ballots from inadvertently compromising the secrecy of how the last few voters marked their ballots. For example, if only one unofficial ballot is used and the people who will be counting know who the last voter was, identifying the unofficial ballot would make it possible to tell how that person voted. When the

ballots are examined during hand counting it should not be possible to tell how any voter voted by knowing who used the unofficial ballot. As a general rule, try to have no less than ten voters use unofficial ballots, even if doing so means a few official ballots are not used prior to starting to use unofficial ballots.

Applying the same principle, try to ensure that at least ten voters use the Accessible Voting System (one4all tablet) that must be available for use by voters with disabilities. Ideally, the moderator and election officials would use the system early during election day to ensure their familiarity with the system should they need to assist voters. Other voters can be invited to volunteer to use the system.

## **VOTING DURING EXTENDED HOURS**

RSA 659:26-a provides that if a court orders that the polls are to be kept open for extended hours, the moderator shall cause the ballots cast during those extended hours to be marked with the letters “EH.” The ballots should be marked before they are given to voters. The position of the mark should not interfere with the marking or counting of the ballots and should be uniform on each ballot. If the ballots have offices or questions on only one side, the mark should be put on the opposite side.

These “EH” ballots should be cast and counted in the usual manner, but should be separated and held apart from the other ballots when stored. In the unlikely event extended hours are ordered, but a court later determines that people should not have been allowed to vote during extended hours, a court can order these ballots retrieved from storage, counted, and the votes cast removed from the totals for that election. RSA 659:26-a.

## **CLOSING THE POLLS**

The moderator shall close the polls to further voting at the hour stated in the warrant or notice, unless the hours have been extended. All voters who are standing in line or waiting in a line of cars to get parking or into the parking lot who plan to vote or to register to vote must be allowed to register and/or vote if they are in either line when the polls close. The moderator should oversee the determination of who is at the end of the line, if one exists. If a voter is crossing a room or a parking lot to join the line at the moment the poll is closed, the moderator should use common sense and a sense of fairness and treat the voter as being in line. If the polling place parking lot is full and a line of cars is backed up waiting to gain access to parking, it is necessary to determine the last voter waiting in the line of cars at the moment when the polls close and to allow that voter to get parked and get into the polls to vote. Moderators should enlist the assistance of law enforcement to try to prevent waiting lines of cars and if necessary to identify the final voter in line when the polls close. If the moderator feels it is necessary, notify the Attorney General's Office and Secretary of State in advance of the closing of the polls as soon as you anticipate that there will be a line of cars waiting to gain access to the polling place parking at the end of voting.

The public has a right to observe both voting and counting of ballots. Therefore, do not lock the doors to the polling place as a means of notifying those people who arrived after the polls have been officially closed to voting that they cannot join the line of those who were at the polls before closing and are waiting to register and vote. Moderators should plan to have election officers and/or law enforcement officers available to prevent late arrivals from joining the line of those waiting to

vote after the official hour for closing the polls has passed.

## **RETURN OF MATERIALS FROM ADDITIONAL POLLING PLACE**

If the moderator does not order that the ballots be counted at the additional polling place as provided in RSA 659:59, the assistant moderator at the closing of the polls shall seal the ballot box. The sealing will be done in the presence of the inspectors of the election and certified by the assistant town clerk at such polling place.

## **CERTIFICATION OF CHECKLIST**

After closing the polls at a state election, the moderator and town or ward clerk shall certify on the checklist that it is the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. RSA 659:56. This certification is important should it be necessary to use the checklist as evidence in a court case.

The checklist printed from ElectionNet includes, at the end, a page with statistics on the number of voters as of the printing of the checklist and places for the certification before the election by the supervisors of the checklist and certification by the moderator and clerk after the polls close.

The election night certification by the moderator and clerk is a separate and different certification from the certification by the supervisors of the checklist, which is required before the election. After making the final pre-election additions and removals from the checklist, the supervisors are required to certify two copies of the checklist and file them with the clerk. The clerk then brings those two certified copies to the polling

place to be used at the election. RSA 654:29.

## **COUNTING OF VOTES**

The moderator shall oversee the counting of votes by other election officers, including the selectmen and town clerk, and may discharge any other duties relating to the counting of votes. The moderator sets up the voting area for the counting process. No ballot shall be placed within 4 feet of the guard rail during the counting of votes. RSA 659:63. Each moderator should devise a system for counting ballots which will expedite the process. RSA 659:60. New Hampshire Constitution, Part 2, Article 32.

If absentee ballot processing was not previously completed, all absentee ballots must be processed before ballot counting starts. RSA 659:61.

The moderator may select volunteers to assist election officers in counting ballots. These volunteers must be voters in the town or ward or 17-year-olds who would be qualified as a voter were they 18 years old. RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. Swear in these non-election official volunteers as election officials (inspectors of election pro tempore). As election officials, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3. Written oaths must be completed and filed with the clerk. RSA 42:1; RSA 42:7; RSA 42:8; RSA 658:4.

Errors occasionally occur during the calculation of vote totals. Sometimes errors are made when votes from different counting tables are added together, when

totals of hand counted ballots are added to totals of device counted ballots, or when results from tally sheets are transcribed to the Return of Votes. Counting is often completed by election officers who have been on duty for 10-12 hours prior to the start of counting. Adding checks and balances to the counting process will require additional time and/or personnel, but it will be easier and cheaper than conducting a recount. The legitimacy of the election process and the public trust in elections is negatively affected when recounts reveal counting or totaling errors. Moderators are encouraged to consider using one or more techniques for avoiding counting and tabulation errors which are currently used in various towns and cities. See Moderator's Worksheet on page 255 and the Votes in Contests - Examination of Individual Races spreadsheet on the following pages.

In towns using ballot counting devices in party primaries, moderators must order and print out the "long report" tape so that "ballots cast" totals can be obtained for each party. RSA 659:73.

To minimize the chance of inadvertent mistakes, moderators are encouraged to use the services of bookkeepers, accountants, math teachers, the town treasurer, or others who work daily with numbers to reconcile the results on election night, providing the forms to them in advance. Ideally, a person with these skills who does not otherwise work the polls or participate in the counting would join the process at the end. This person should compare the **votes** in each contested race with the tallies of **voters** and **ballots** cast.

Ideally the total of the **votes** for all candidates and write-ins, plus the total number of overvotes (choices in a contest

which are given up by a voter when they mark more choices than instructed in the “Vote For Not More Than” instructions on the ballot) and undervotes (choices not made by the voter in a contest on the ballot) should equal the number of **ballots** used and **voters** voting. (Overvotes and undervotes are combined and reported as “blanks” on the Accuvote results tape.) Your results are facially invalid if the number of votes cast for candidates (including blanks) or the total number of yes plus no votes (plus blanks) for a question is greater than the total number of ballots used or the total number of voters checked off as voting. A few extra minutes of checking on election night can easily identify a tallying mistake and avoid both a loss of public confidence in the ballot counting process and the time and expense of a recount.

## **DECLARING THE RESULTS**

The moderator must publicly declare the results of the election. Each write-in vote, even votes for fictitious or historical figures, should be announced in some manner. Some voters will test the ballot counting process by writing in a name they believe no one else would write in, and then check to see if that vote was counted. Posting a copy of the worksheet where scattered write-in votes were documented is sufficient if the number of write-ins with few votes are too many to orally announce. New Hampshire Constitution, Part 2, Article 32; RSA 659:70.

If a town or ward comprises an entire Representative district, the moderator shall declare the state representative(s)-elect. RSA 659:82. Multi-ward or multi-town districts are declared by the Secretary of State.

Across the United States, one area of election administration that is subject to

public scrutiny and criticism is the process by which numbers are transmitted from polling place officials to the state officials who determine the official results of regional and statewide contests. One way to reassure suspicious voters is to make the results from each polling place easily accessible at the polling place and locally, so that the voters can compare what local election officials say the results are with the numbers used by the Secretary of State to determine the winner of the regional and statewide races. Therefore, it is recommended that the moderator post a copy of the written results at the polling place on election night and that the clerk keep them available at his or her office following the election.

## **REPORTING THE RESULTS**

After all state election ballots have been counted, the moderator must provide the clerk the election results, and the town or ward clerk must report the results on the Return of Votes forms provided by the Secretary of State by 8 AM on the day following the state election. Subject to rules established by the city clerk, the ward clerk should send copies to the city clerk. Subject to the request of the Secretary of State, Names on Checklist and Moderators Worksheet(s) (page 255) must be completed with 48 hours after the closing of the polls. The city or town clerk retains a copy of the Return of Votes, Names on Checklist, Moderator’s Certificate, Moderator’s Worksheet, as well as any tally sheets and reconciliation worksheets that may have been used for the election. Moderators should keep copies of these documents to answer any questions following the election. RSA 652:14-c; RSA 659:73; RSA 659:75.

At polling places that use a ballot counting device, both the zero tape run before the polls open to voting and the results “long report” tape printed after the polls close

to voting, must be kept with the moderator's work sheets, by the clerk. The zero and long report results tape should **not** be sealed into the boxes with the ballots. The results tape need not be sent to Concord with the return of votes, however, a copy is welcome if you print an additional copy.

The marked checklist is certified by the supervisors, clerk and moderator, and submitted to the clerk, who shall allow the supervisors of the checklist/registrars to scan barcodes of those who voted, return voters to undeclared after a primary, enter new voter registrations, record challenged voter affidavits, absentee ballots, etc. RSA 654:29; RSA 659:56; RSA 659:57; RSA 659:73; RSA 659:74; RSA 659:102.

## **SEALING AND CERTIFYING BALLOTS**

Ballots must be sealed immediately after the votes at a state election have been tabulated, the results have been announced, and the return prepared. The moderator or his or her designee, in the presence of the selectmen or their designee, shall place the:

- Cast ballots;
- Cancelled ballots;
- Uncast ballots;
- Ballots from any additional polling places; and
- Successfully challenged absentee ballots

in containers supplied by the Secretary of State. RSA 659:97.

The moderator or his or her designee shall enter the following information on the label for resealing ballots in the appropriate place: the number of ballots cast, canceled and uncast, and the moderator and selectmen, or their

designees, shall endorse the sealer. RSA 659:95; RSA 659:97.

The container shall be sealed in public by the moderator. Use the following steps to seal a cardboard box of ballots for storage:

1. Seal the flaps closed and secure all sides of the box with filament tape. When the bottom or some sides are only secured by the original glue, they sometimes break open during transport and storage.
2. Complete the information on the "Label for Resealing Ballots." See page 233 for an example of this label. Affix this label onto the box over the flaps.
3. Using red tamper-evident tape, wrap one strip of this red tape completely around the box, covering an edge of the resealing label. This security tape changes appearance if it is pulled loose after being sealed, creating evidence that the box has been tampered with.
4. Stick a short strip of the red tamper evident tape over each edge of the "Label for Resealing Ballots."

Do **NOT** seal the copy of the Return of Votes, worksheets, tally sheets, and Challenged Voter Affidavits in the secured ballot boxes, as these documents may be necessary to resolve tabulation questions following election night and investigations of voters who did not present voter IDs. Sealing tally sheets and working papers from the ballot count in the box of ballots prevents a review of the count of votes, since the ballot box cannot be accessed without:

- (a) a recount,
- (b) a court order, or

(c) a request of the Secretary of State and the presence of a state election official when the box is opened. RSA 659:75.

Apparent errors in the Return of Votes and Ballots Cast figures discovered by the Secretary of State following the election can often be quickly resolved with a high degree of confidence if the moderator and clerk can review their tally sheets and working papers used to reach the numbers reported on the Return of Votes.

### **DELIVERY OF BALLOTS TO CLERK**

The moderator, or his or her designee, and the selectmen, or their designee, having publicly sealed and certified the state election ballots shall deliver the sealed containers to the town or city clerk, or his or her designee. The clerk shall, in their presence, enter the time and his or her signature on the sealer. RSA 659:98.

The moderator, or his or her designee, shall deliver the Challenged Voter Affidavits and Asserting a Challenge forms to the town or city clerk, or his or her designee. RSA 659:13; RSA 659:103; HAVA Section 703.

### **REPORTING WRONGFUL VOTING & ELECTION VIOLATIONS**

The moderator has the responsibility to report any violations of RSA 659:34 through RSA 659:49 to the Attorney General's Office. RSA 659:45. Phone calls should be placed to 1-866-868-3703 (toll free). A written statement or report will usually be requested and the report should be mailed to Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301-6397. At State elections the Attorney General's Office generally has several attorneys and investigators working around the State

who are available to respond on short notice to a polling place. It is often much easier to address concerns with voting procedures or questions about a voter's qualifications on election day while the polls are open than to address the issue after election day.

### **OPTIONAL COUNTING AT ADDITIONAL POLLING PLACE**

The moderator may, in writing, order the assistant moderator to process absentee ballots and to count votes cast at the additional polling place in the presence of and with the assistance of the assistant town clerk and election officers assigned to that polling place, in the same manner as at the central polling place. After absentee ballots are processed and counting is complete, the assistant moderator shall place the:

- Counted ballots;
- Duplicate checklists used at the additional polling place;
- Absentee envelopes;
- Spoiled ballots; and
- Unused ballots

in the ballot box and shall seal it, and the assistant town clerk shall certify the same. The assistant moderator with the assistant town clerk shall immediately deliver the ballot box with its contents and a written report of the count signed by both to the moderator at the central polling place. RSA 659:59.

Polling places that use ballot counting devices should be directed by the elected moderator to produce the tape reporting the totals cast at that polling place and then "end" the process before moving the device, ballots, and the tape to the central polling place. The results at the additional polling places should be reported. The sealing and transportation should be done

by more than one election officer. At partisan elections, at least one election officer affiliated with each party should be allowed to witness the sealing and transportation.

At the central polling place, the elected moderator will oversee tallying of the votes from all polling places and will announce the results.

## **LOCAL RECOUNTS**

### **RECOUNT (TOWN ELECTION)**

Requests for recounts are filed with the clerk, who will schedule the recount. The moderator along with the town clerk and board of selectmen constitute the board of recount and shall recount the ballots. If one of the board of recount is a candidate for the office being recounted, the moderator shall appoint an assistant to serve in the same capacity. RSA 669:32. The statute does not explicitly authorize the moderator to appoint other election officers to assist the board of recount, however, it is common practice for moderators to do so.

### **RECOUNT (SCHOOL ELECTION)**

The board of recount in a school district election is made up of the school district clerk, the school district moderator, and the members of the school board. RSA 671:32, II. As with town recounts it is common for the moderator to appoint election officials to assist the board of recount.

### **RECOUNT PROCEDURES**

The process to be used in conducting the recount is left to the discretion of the Board of Recount. The Secretary of State has adopted rules of procedure for recounts. Boards of recount may wish to consider adopting those rules.

### **ADVANCE WRITTEN NOTICE TO CANDIDATES OF RECOUNT**

Every candidate for the office(s) that is going to be recounted and each of the persons who have requested the recount of a question shall be sent a written notice.

The clerk, ideally in coordination with the board of recount, sets the date, time, and location for the recount.

The notice should include a written description of the process the board of recount plans to use to conduct the recount. If the process is going to involve the use of more than one team of officials counting, the notice should state the maximum number of teams anticipated. It should advise that the candidates or persons requesting the recount must have a sufficient number of assistant observers present to observe each counting team. If they fail to have an observer for each team, they waive the opportunity to do so. The notice should state that each observer will be afforded an opportunity to see, but not touch or handle, each ballot. That will be the one opportunity the observer will have to protest how that ballot is being counted. If the observer wishes to protest how the recount team is counting a particular ballot he or she needs to do so at the moment in time when that ballot is being counted by the team.

A system should be adopted to identify each ballot that any observer protests. Typically these ballots are segregated into a separate pile at each counting location.

At some point, typically after all ballots have been examined and counted by the team(s), but before the team tallies are totaled, all the protested ballots should be ruled on by the board of recount. By ruling on protested ballots before the team tallies are totaled the decision on each protested ballot is made before it is

known whether the decision will affect the outcome of the election. This reinforces the neutrality of the counting process.

The intent of the voter for each protested ballot is determined by a majority vote of the members of the board of recount. RSA 659:64. If the majority of the board of recount determines that a ballot should be counted as a vote for a particular candidate, that vote, even if the ballot is further protested, must be added to that candidate's total votes.

The candidates or the persons requesting the recount of a question must then be given an opportunity to protest the decision of the board of recount. When the board's decision is protested, the board of recount should adopt some system to document how it ruled on each ballot. Even though the ballot will be flagged as protested, the vote from that ballot as determined by the board of recount must be included in the total of votes credited to the candidate. Typically, only the ballots protested at this second step will be examined by a court hearing an appeal of the recount. The system used to document the board's decision and to identify the ballot as a protested ballot should not add marks to the ballot or alter the ballot in any way that might affect the ability of a court on appeal to examine the marks made on the ballot by the voter.

One approach is to staple a sequentially numbered piece of paper to each protested ballot, writing on the paper the board's decision. Write on the paper either the name of the candidate(s) who is credited with a vote from the ballot or the word "yes" if the ballot is to be credited as a yes vote on a question or the word "no" if the ballot is to be credited as a no vote on a question.

Appeals from decisions made by a board of recount typically should be limited to disputing the Board's decision on how particular ballots were counted. Preserve protested ballots in the same manner as the other ballots from the election, but segregated in a separate sealed container so that the clerk can produce specific protested ballots for review by the court hearing the appeal. Parties to the appeal will likely want to obtain copies of the protested ballots in advance of the hearing on the appeal. The clerk should have at least one witness present whenever the segregated sealed container of protested ballots is opened to make copies for the parties. Best practice is to give the parties notice of a date and time when this will occur, allowing all interested parties to observe the process. Once copies have been made, the protested ballots must be re-sealed into the segregated container and preserved.

## **RULES OF ORDER**

Moderators control election and meeting day activities. Some moderators find it helpful to adopt rules of order.

Established systems of rules such as Robert's Rules of Order generally are too complex and afford too much opportunity for individuals with extensive knowledge of the rules to gain unfair advantage. A simple set of rules may be more helpful. Some moderators announce the rules and post them at the meeting place. The rules should always include notice to the voters that they may by motion seek to overturn decisions made by the moderator.

Voters who believe the moderator has made a procedural error, is cutting off debate prematurely, or has made a mistake in declaring a result should have notice that they need to immediately put the moderator on notice through a motion to

### *Duties of Moderators*

overrule the moderator or in the case of the declaration of a vote, a motion for a paper ballot vote.

When complaints of procedural errors by a moderator are reviewed by the Attorney General's Office, additional deference to

the moderator is shown when the record of the meeting establishes that the complaining party had notice of his or her right to move to overrule the moderator or for a paper ballot vote on a question.

## **IX. DUTIES OF SUPERVISORS OF THE CHECKLIST**

A major responsibility faced by local election officers is conducting elections in a manner that encourages voting – making the process quick, easy, and fair to all – while at the same time ensuring that the outcome of elections are not illegally influenced by unqualified persons voting.

Procedures that make voting easy inherently also make voting fraud easier. Procedures that detect and deter voting fraud by their nature make it more complex and time consuming to register and vote. Local election officials must strive to attain the proper balance between these competing interests.

The term “supervisors of the checklist” shall include any city board of registrars or similar body performing the functions of registering voters and correcting the checklist in cities. RSA 652:15.

### **VOTER REGISTRATION FORMS**

New Hampshire has two versions of the voter registration form:

- Form A – A one-sided form used more than 30 days before an election (page 218; and
- Form B - A two-sided form used starting 30 days before an election and at the polling place on election day (pages 219 - 220).

RSA 654:7.

Both voter registration forms have a section in the upper right hand corner to document the circumstance for use of the form:

\_\_\_\_ *NEW REGISTRATION I am not registered to vote in New Hampshire.*

\_\_\_\_ *TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.*

\_\_\_\_ *NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have changed my name/address.*

There is public and legislative interest in the number of new voters being registered. Distinguishing new voter registrations from circumstances where a voter is already registered in New Hampshire but has moved from one town/ward to another or is using the form to document a name or address change helps provide accurate information on new registrations, in particular election day registrations. RSA 654:7.

When supervisors receive an applicant’s voter registration form in person, it creates an opportunity for a dialogue with the voter. You can assist the voter in correctly and completely providing the information needed to maintain accurate records of who is registered in your town/ward.

It is very beneficial to obtain a voter’s complete middle name and to enter the full name into *Electionet*. The full middle name makes it easier to confirm whether this voter is the same voter who previously registered in another jurisdiction.

The voter registration form requires an applicant to identify the place where the person was last registered to vote. This information is helpful in determining whether the voter is the same person as or a different person than a voter registered in another town/ward/state who has the same name.

Obtaining the place last registered to vote also allows a notice to be sent to the town/ward where the person was last

registered, so the voter can be removed from that jurisdiction's checklist. Routinely exchanging notices of transfer with other jurisdictions keeps your checklist more accurate and minimizes the amount of work required for the statutorily mandated ten-year purge.

Refer to sample voter registration forms on pages 218 - 220, with an oval showing where the new questions appear.

*Supervisor reminder:* Always check Inquiries in *ElectionNet* before entering a new voter, whether an existing New Hampshire voter transferring his or her registration or an out-of-state voter, who may be a new voter in New Hampshire or who may be someone previously registered here who is moving back into New Hampshire. It is quicker and less work to take this step than to merge two records if it is later determined the person was previously entered into *ElectionNet*.

A copy of the voter registration form needs to be made and sent to election officials from the jurisdiction where a new voter was most recently previously registered. RSA 654:13 requires that a notice of transfer be sent if the voter was last registered in another New England state. *ElectionNet*, also known as the Statewide Voter Registration System, currently will notify the New Hampshire municipality where the voter was previously registered, so there is no need to send a copy of the form to New Hampshire municipalities.

## STANDARD OF PROOF

The supervisors of the checklist determine whether an applicant is qualified to register to vote. The supervisors of the checklist act in a quasi-judicial\* capacity and are obliged by law to act impartially based on the evidence before them and facts known to them.

The decisions made by the supervisors of the checklist are subject to review by the Superior courts.

\*The term "quasi-judicial" in this context means having a partly judicial character. The supervisors possess the right to hold meetings and conduct investigations as to the qualifications of an applicant for registration as a voter. An applicant may file a complaint with the superior court stating that his name has been illegally kept from the checklist and asking to have his or her name added thereto. RSA 654:14; RSA 654:42.

Any decision to reject an applicant must be appropriately documented. The rejected applicant must receive proper notice of the decision within 7 days. RSA 654:13; RSA 654:23.

RSA 654:11 establishes the standard of proof or test to be used by the supervisors when deciding if an applicant is qualified to vote. The standard of proof is the standard of proof that will be applied by the courts if the supervisors' decision is appealed.

If there is contradictory evidence or questionably sufficient evidence before the supervisors regarding any particular candidate's identity, age, citizenship or domicile qualifications, RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is **more likely than not** that the applicant is not qualified.

Stated in other terms, if the evidence that the person is not who he or she claims to be, will not be age 18 on election day, is not a United States citizen, or is not domiciled in the town or city ward where he or she seeks to register is of greater

weight than the evidence that he or she is qualified, then it is proper to deny the application.

This standard is also sometimes referred to as a preponderance of the evidence standard of proof. Stated a third way, supervisors should reject an application if the evidence as a whole shows that it is more probable than not that the applicant is not who he or she claims to be, will not be 18 by election day, is not a United States citizen, or is not domiciled in the town or city ward where he or she seeks to register and vote. Decisions must be made by a majority vote of the supervisors.

**Application to Supervisors.** When the supervisors of the checklist receive a registration form from the town or city clerk or when an applicant submits the form to said supervisors in person at a session for the correction of the checklist, the supervisors of the checklist shall cause his or her name to be added to the checklist, unless it is established that it is more likely than not that the applicant is not qualified to vote in the city or town under RSA 654:1 through RSA 654:6. All decisions of the supervisors of the checklist shall be made by majority vote thereof.” RSA 654:11.

A chart on page 217 summarizes the types of documentation authorized for voter registration.

## **PROOF OF IDENTITY**

The applicant must prove his or her identity during the application process. If a person has any one of the following forms of photo identification in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver’s license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

These forms of identification are considered presumptive evidence of the identity of an applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo ID that they deem to be reasonable. RSA 654:12, II and III.

A person who does not have one of the approved photo identifications described above may establish identity through the completion of a Qualified Voter Affidavit. Up until 30 days prior to an election, the applicant may use the separate Qualified Voter Affidavit form (page 199). Starting 30 days before an election and on election day the applicant may use the qualified voter affidavit section on the bottom of the back side of the Voter Registration Form B (found in *ElectionNet* under Help/Instructions). RSA 654:12.

A driver’s license from another state is presumptive proof of identity, but not of domicile in New Hampshire. Unless you have evidence that contradicts the proof of identity offered by the out-of-state driver’s license, you must accept it as proof of identity. This means the person can then swear or affirm the qualified voter affidavit used until 30 days prior to an election, or the domicile or qualified voter affidavit sections on the second side of Voter Registration Form B, used starting 30 days prior to an election and on election day. Generally, you must accept a properly executed affidavit. RSA 654:12.

## **NURSING HOME RESIDENTS**

Residents of a nursing home or similar facility who no longer possess the usual forms of identification, may prove their identity through verification by the administrator of the facility or his or her designee. If an applicant for voter registration proves his or her identity by having it verified by a nursing home administrator, that registration will be treated in the same manner as would a registration where the applicant proved his or her identity with qualified photo identification. RSA 654:12, III

## **PROOF OF DOMICILE**

The New Hampshire and United States Constitutions establish that every United States citizen who is at least 18 years old on election day who is not disqualified from voting has a right to vote somewhere. A person can be disqualified due to being under age, being a convicted felon who is currently incarcerated for that conviction, being a person who has been convicted of a willful election law violation, or not being a citizen of the United States. Otherwise, the person has a right to vote somewhere. Domicile analysis should be about where the person votes, not if the person votes.

The determination of whether a person is domiciled in the town or ward where he or she seeks to vote is a challenging but critical part of conducting lawful, fair elections that encourage voting.

RSA 654:1, I. The law on domicile provides:

**RSA 654:1 Voter; Office Holder.**

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of

New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

I-a. A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.

II. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law.

**RSA 654:2 Temporary Absence or Presence. –**

I. A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. Domicile for purposes of voting is a

question of fact and intention coupled with a verifiable act or acts carrying out that intent.

A voter can have only one domicile for voting purposes.

No person shall be deemed to have lost a domicile by reason of his or her presence or absence while:

- the voter or his or her spouse is employed in the service of the United States;
- nor while engaged in the navigation of the waters of the United States or of the high seas;
- nor while a teacher in or student of any seminary of learning;
- nor while confined in any public prison or other penal institution;
- nor while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.

II. (a) A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire.

(b) A person who has been present and residing in one town or ward in New Hampshire for 30 or fewer days is presumed to be present for temporary purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.

(c) For the purposes of this chapter, temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism, visiting family or friends, performing short-term work, or volunteering or working to influence voters in an upcoming election.

(d) For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall demonstrate an intent to make a place his or her domicile by providing documentation showing that the applicant has a domicile at the address provided on the voter registration form. Such documentation may include, but is not limited to:

(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;

(2) Evidence of renting or leasing an abode at that place for a period of more than 30 days, to include time directly prior to an election day;

(3) Evidence of purchasing an abode at that place;

(4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;

(5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-

issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

(e) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.

III. An individual applying for registration as a voter 30 or fewer days before an election shall use the election day registration form required by RSA 654:7, IV(c) which shall require the applicant to provide the date he or she established his or her voting domicile in New Hampshire. The registration form shall require the voter to identify and provide evidence of a verifiable action he or she has taken carrying out his or her intent to make the place claimed on the voter registration form his or her domicile.

IV. A person may register on election day through use of an acknowledgment of domicile evidence obligation on the registration form and vote if he or she does not have any document in his or her possession at the polls providing evidence of an action carrying out his or her intent to make the address claimed as his or her voting domicile. A person relying on an acknowledgment of domicile evidence obligation to register must mail or present evidence of an action taken before registering to vote to carry out his or her intent to make the address claimed his or her domicile to the town or city clerk within 10 days following the election, or within 30 days in towns where the clerk's office is open fewer than 20 hours weekly.

V. The supervisors of the checklist, as soon as practical following an election, shall determine which registrants of that election acknowledged there was no evidence of intent to be domiciled at their address or relied solely on an acknowledgment of domicile evidence obligation to register and vote, and, of those registrants, those who failed to mail or present evidence of having taken some action to carry out their intent to establish domicile at the address listed on their voter registration applications to the clerk by the deadline. The supervisors shall attempt to verify that each such person was domiciled at the address claimed on election day by means including, but not limited to:

(a) Examining public records held by the town or city clerk, municipal assessing and planning offices, tax collector, or other municipal office that may house public records containing domicile confirmation; or

(b) Requesting 2 or more municipal officers or their agents or state election officers or their agents to visit the address

and verify that the individual was domiciled there on election day. In unincorporated places that have not organized for the purposes of conducting elections, county officers may be asked to perform this function; or

(c) Referring the registrant's information to the secretary of state, who shall cause such further investigation as is warranted.

VI. Any case where supervisors are unable to verify the applicant's domicile or where evidence exists of voting fraud shall be promptly reported to the Secretary of State and to the attorney general, who shall cause such further investigation as is warranted. After receiving confirmation from the Secretary of State that an individual is not domiciled at the address provided, the supervisors shall also initiate removal of the person from the checklist by sending the person the notice required by RSA 654:44.

A person can only have one domicile for voting purposes and it is the one place, more than any other, where the individual has established a physical presence and acted to carry out an intent to make that place his or her domicile.

The supervisors are to look at the applicant's manifestations of intent, the verifiable act or acts taken that carry out the intent, to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. Acts taken to carry out the intent to make a place one's domicile include, but are not limited to any **one** of the following:

(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning in that place;

(2) Evidence of renting or leasing an abode at that place for a period of more

than 30 days, to include time directly prior to an election day;

(3) Evidence of purchasing an abode at that place;

(4) A New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his or her residence;

(5) Evidence of enrolling the person's dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of that place, using the address where the registrant resides;

(6) Identifying that place as the person's physical residence address on state or federal tax forms, other government-issued identification, or other government forms that show the domicile address;

(7) Evidence of providing the address of that place to the United States Post Office as the person's permanent address, provided it is not a postal service or commercial post office box;

(8) Evidence of obtaining public utility services for an indefinite period at that place; or

(9) Evidence of arranging for a homeless shelter or similar service provider located in the town or ward to receive United States mail on behalf of the individual using that facility's address as the individual's domicile address for voting purposes.

An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is

listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided. The written statement need not be on the state form, but the statement must include the same information. A “Confirmation of Domicile” form is available in *ElectionNet* Instructions listed as “Domicile Confirmation Statement.” See also in forms at page 223. It is **not mandatory** that a person prove that he or she took any one or more of these actions carrying out his or her intent to establish domicile in a particular town or ward to be qualified to vote there. Each, however, is evidence of where a person’s one voting domicile is located.

New Hampshire does not impose a requirement that a person have lived at his or her new domicile for any period of time before being eligible to register and vote. The domicile provision does not prevent a person from moving to a New Hampshire town or ward and voting on the same day he or she moves into the new town or ward.

New Hampshire law does create a rebuttable presumption that a person who has been present and residing in New Hampshire for 30 or fewer days is present for temporary purposes. The person can rebut or overcome this presumption by asserting he or she has the intention of making the place where he or she is residing his or her voting domicile and has acted to carry out that intent. RSA 654:2, II (b).

Temporary purposes include, but are not limited to, being in New Hampshire for tourism, visiting family or friends,

performing short-term work, or volunteering or working to influence voters in an upcoming election. RSA 654:2, II(c).

To provide guidance for the determination of domicile and to make the process of registering to vote easy and quick for most applicants, the law establishes certain documents as **presumptive** proof of being qualified as a voter.

RSA 654:12 - Determining Qualifications of Applicant.

“II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

- (a) Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:
- (1) New Hampshire driver's license.
  - (2) New Hampshire vehicle registration.
  - (3) Armed services identification, or other photo identification issued by the United States government.”

These documents are presumptive only. The ultimate decision to accept or reject the application lies with the supervisors of the checklist or, in cities, with the registrars. (References to the supervisors apply equally to registrars who serve the same role in the cities.) Provided the supervisors possess evidence that, in their judgment, makes it more likely than not that the applicant is not domiciled where shown on one of these presumptive documents, the supervisors may vote to

reject the applicant. RSA 654:12, II(c). It is expected, however, that most applicants will possess one of these documents and will be able to register quickly and conveniently.

The law requires that the supervisors of the checklist, or the clerk acting as their agent, **shall** require the applicant to present proof of identity, citizenship, age, and domicile. However, the law continues to give the supervisors broad discretion as to what, in addition to the presumptive documents, they choose to accept. The supervisors may accept, and by inference may not reject, any reasonable documentation to prove identity, age, citizenship, and domicile.

**RSA 654:12 - Determining Qualifications of Applicant.**

“I. When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, **shall** require the applicant to present proof of citizenship, age, and domicile, as provided in the following categories.”

In the event an applicant cannot produce the proof necessary to qualify as a voter, the law also sets forth the forms of an affidavit that the person can use in lieu of other proof of his or her identity, or citizenship. See an example of the Qualified Voter Affidavit on page 199. If an applicant for registration more than 30 days before an election has no proof of domicile with him or her, the applicant should be given the Verifiable Action of Domicile Form A. This is a list of statutorily recognized forms of proof of domicile, in effect instructions on what to bring when applying for voter registration. The applicant should be advised to retrieve proof of domicile and return to complete the registration. The applicant can also register without proof of domicile starting 30 days before an election and on

election day if he or she is not aware of possessing documentary evidence of having acted to carry out his or her intent to establish domicile. Using the second side of Voter Registration Form B, the applicant can initial the lower domicile option and sign that side of form B swearing or affirming that he or she is qualified as a voter.

In an effort to deter voting fraud and to make prosecution of voting fraud more feasible, the affidavits explicitly require the applicant to swear or affirm the truth of his or her written statements in front of an election officer or other official qualified to take oaths. (moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisors of the checklist, registrar, deputy registrar, notary public or justice of the peace.)

## **HOMELESS APPLICANTS**

“All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.” New Hampshire Constitution, Part 1, Article 11. Both the New Hampshire and United States Constitutions establish that a homeless person has the same right to vote as a person who owns, leases, or rents a home. The same requirements for domicile apply to all. A homeless person has a right to register and vote in that town or ward where he or she, “more than any other place, has established a physical presence and manifests an intent [has acted to carry out an intent] to maintain” his or her domicile. RSA 654:1. This may be the street or parking lot where a person living in a car parks/sleeps, more than any other place. This may be the home of another where, more often than any other, the homeless person sleeps on a couch. This can even be the park or area under a

bridge where, more than any other place, the homeless person sleeps. A person who is otherwise qualified to vote, cannot be denied voter registration because he or she is homeless. Request the applicant to provide the best available mailing address, which may be the address of a homeless shelter, church, social service organization, relative, etc. who would receive and pass along mail sent to the applicant.

## STUDENT VOTERS

Treat students like any other person applying for registration or, if already registered, seeking to vote.

## PROOF OF IDENTITY

RSA 654:12, II(b) establishes a list of documents which are presumptive proof of identity. These documents need not be currently valid, may show an address in another town/city or even state, but are adequate to establish identity for the purposes of swearing or affirming an affidavit.

RSA 654:12, II - Determining Qualifications of Applicant.

“(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a qualified voter, domicile, or election day (registration form) affidavit or a sworn statement on the voter registration form used starting 30 days before an election and on election day:

- (1) Photo driver's license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.”

As was the case with the documents established as presumptive proof of domicile, these documents can be rejected as proof of identity if the election official has evidence that contradicts them. It is necessary that the contradictory evidence make it more likely than not that the person is not who he or she claims to be.

Supervisors may accept any other form of photo ID that they deem reasonable as proof of identity. RSA 654:12, II. The purpose of the statute is to require an applicant who arrives to register to vote without proof of his or her qualifications to register and vote provided he or she can establish his or her identity and is willing to sign affidavit(s) under penalty of law.

The process is made more formal in order to ensure the applicant understands the importance of the process and to provide a record of who took the affidavit oath to aid in prosecution should it later be established that the affidavit was not true.

The affidavit forms each require the affiant, the applicant, to swear to an election official, notary or justice of the peace who must then himself or herself sign the form attesting to having taken the oath. See Qualified Voter Affidavit on page 199 and Voter Registration Form B, second side on page 220. The forms are also available in *ElectionNet* under Help/Instructions.

As a general practice, supervisors should **only accept** voter registration affidavits if they have been signed **in their presence at the supervisor's request**. This will help the state avoid mailing follow-up letters to those voters whose affidavits were not requested by a supervisor of the checklist.

If supervisors find themselves receiving affidavit forms they have not asked for and do not require for voter registration,

it is recommended that they communicate with those individuals who are generating them. The purpose is to obtain and record in *ElectionNet* forms that are needed for voter registration, nothing more nor less.

If voters submit unnecessary affidavits during voter registration, supervisors are encouraged to note this fact in the “For Official Use” box on the front page of the voter registration form, and to subsequently enter in *ElectionNet* only those affidavits that they deemed necessary for voter registration.

### **APPLICANTS MUST PROVIDE PROOF OF QUALIFICATIONS**

RSA 654:12 requires all applicants to provide proof of their qualifications as voters to the supervisors or the clerk.

### **DETERMINING QUALIFICATIONS OF APPLICANT**

When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile.

Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place on election day. The voter may then vote at that election. The applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12.

While it is mandatory that some proof of qualifications be produced, the supervisors and the clerks, acting in accordance with the supervisor’s guidelines, can approve reasonable documentation to establish the voter’s qualifications with respect to identity, age, citizenship and domicile. RSA 654:8. The identity, age, citizenship, and domicile

requirements in RSA 654:12 includes the term “reasonable” to describe the proof or documentation required. Furthermore, the state and federal constitutions still require that anyone not disqualified as a voter (under age, incarcerated felon, etc.) must be allowed to vote somewhere. It is inherent in this requirement that an individual whose circumstances do not allow or anyone who chooses not to have a driver’s license, not to register a vehicle, not to purchase utility services, etc., must have some method available by which to prove his or her domicile. The Voter Registration Form B, used starting 30 days before an election and on election day, allows an applicant who does not have documentary evidence of his or her qualifications to register and vote by using the second side to swear or affirm his or her identity, age, citizenship, and domicile. Completing the necessary components of the second side and swearing/affirming to his or her qualifications fulfills the applicant’s duty to prove his or her qualifications.

The statute that establishes the requirement that a person must be domiciled in the state to hold elected office provides that “Registration to vote or voting in another state during the relevant time period shall create a presumption that a person does not have a domicile in this state.” RSA 655:2.

### **INCARCERATED FELONS**

A person sentenced to serve time in prison for a felony, from the time of imposition of his sentence until his final discharge, may not vote unless the sentence is suspended or the individual is paroled. A person sentenced for a felony to a suspended sentence and/or probation, who never is incarcerated in prison does not lose his or her right to vote. An individual sentenced for a felony forfeits any office held at the time of

sentencing and may not become a candidate for, seek party nomination for, or hold public office until the sentence is finally discharged. RSA 607-A:2; RSA 654:5.

People confined in a penal institution in pre-trial detention or as a result of a conviction for a misdemeanor retain the right to vote. Most people sentenced to County Corrections fall in this category. Their domicile for voting purposes is the town or city where they had their domicile immediately prior to being confined. Persons confined in a penal institution must vote by absentee ballot. RSA 654:2-a.

The Secretary of State forwards communications from different official sources to local jurisdictions that contain evidence of incarcerations for felonies. Some of these persons' terms of incarceration have already been served. When notified of a voter's current felony incarceration, supervisors of the checklist should remove the individual from the checklist. Supervisors should take time to identify the period of incarceration and use it to assess whether a person has served time for a felony and is again eligible to register and vote.

It is necessary to make a separate determination of whether the person is eligible to hold/seek office at any particular moment in time. In some cases it may be necessary to consult with the County Attorney or to examine court records to determine when a person's sentence has been finally discharged. Final discharge requires fulfilling all requirements of the sentence, so in cases requiring restitution, community service, etc., the felon's return to the community and regaining the right to vote, does not necessarily mean that the sentence has been finally discharged and that the

individual can seek or hold office. The Attorney General's office is available to assist supervisors in determining whether a person who has been convicted of a felony is eligible to vote or eligible to seek/hold office.

## **LIFETIME DISQUALIFICATION**

Any person convicted of bribery or intimidation relating to elections or any willful violation of the election law is forever disqualified from voting, seeking or holding public office. New Hampshire Constitution, Part I, Article 11; RSA 654:6. This means a person purposely voting twice in one election, otherwise purposely committing voter fraud, purposely committing voter intimidate crimes, or purposely engaging in unlawful voter suppression may, in addition to paying a fine and/or going to prison, lose his or her right to vote for life. The right to vote can only be reinstated by the Supreme Court.

## **VOTING TWICE IN THE SAME ELECTION PROHIBITED**

To become registered the applicant will have to sign, under penalty of voting fraud, the registration form that includes the phrase "and if registering on election day, that I have not voted and will not vote at any other polling place this election." RSA 654:7. If an election official, another voter qualified to vote in the polling place, or a challenger appointed in writing by the state political party has evidence that a person has already voted in the election, by absentee ballot or otherwise, they may make a voter challenge with the moderator. After the election any evidence that a person voted in one town by absentee ballot and in a second town in person should be reported to the Attorney General's Office. It is a felony to vote in the same election in New Hampshire and in some other state.

The Legislature has authorized New Hampshire to participate in data exchanges with other states, in part for the purpose of identifying individuals who may have unlawfully voted in two states in the same election. In 2017, New Hampshire first participated in the Interstate Voter Registration Crosscheck Program. Twenty-eight states exchanged data on registered voters and their history of voting in the November 8, 2016 general election. An interim report to the Ballot Law Commission on the initial findings of that data exchange are available at: <http://sos.nh.gov/2017-18BLC.aspx>

While it is yet to be determined whether unlawful voting in two states occurred at the November 8, 2016 election, a systematic process of comparing the history of who voted at a particular general election in participating states is in use.

### **ABSENTEE REGISTRATION FOR NON-UOCAVA VOTERS**

A person desiring to register to vote who has a disability or is temporarily absent may register using a special Absentee Voter Affidavit Form and a Voter Registration Form, A.. This includes a person who is present following the last session for correcting the checklist, but who plans to be absent on election day. RSA 654:16. RSA 654:17.

An applicant for an absentee ballot who is not registered to vote shall be provided with the forms and instructions for absentee registration. RSA 657:16. This statute does not impose a deadline for providing absentee voter registration forms to applicants. Therefore, issue absentee voter registration applications until the day before an election.

RSA 654:8, II prohibits a clerk from accepting an in-person application for voter registration “after the last meeting

of the supervisors of the checklist before an election.” However, RSA 657:16 provides that for completed absentee voter registration applications, “All documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a.” Considered together, these statutes permit a person qualified to register to vote to request both an absentee ballot and an absentee voter registration form and supporting documents up until the day before an election. Both can be returned in person to the clerk’s office by the day before an election or by mail provided it is received by the clerk by 5:00 PM on election day.

An individual who is qualified to vote, who may have planned to register and vote in person on election day, but whose plans now will require the person to be absent on election day, may apply for registration using the absentee voter registration process either by mail or in person at the clerk’s office.

The clerk may not make final determinations regarding whether the proof of qualifications offered satisfy the requirements for voter registration. The applicant must provide copies of the proof offered. The clerk will provide the supervisors with the application and supporting documents on election day. The supervisors will review the application and copies of proof offered on election day and determine then whether the person qualifies to be added to the checklist.

All applicants for absentee registration are required to send copies of the documents that they rely on as proof of their qualifications as a voter. Therefore, use Voter Registration Form A, the one-sided form used for all other purposes

only more than 30 days before an election for absentee registration. Because the absentee applicant is required by law to provide copies of documentary evidence of qualifications, the second side of Voter Registration Form B, which allows proof by swearing or affirming qualifications, is not available.

RSA 654:17 - Absentee Registration Affidavit

“That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows the name and address of the voter; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved;”

Persons seeking to register absentee are not permitted to sign Qualified Voter Affidavits, they must provide copies of documentary evidence of their qualifications. Absentee applicants must sign affidavits affirming absence or disability in order to register absentee. RSA 654:17.

## ABSENTEE REGISTRATION UNIFORMED AND OVERSEAS CITIZENS

There are three general categories of Uniformed and Overseas (UOCAVA) voters in State law: Refer to FPCA (page

210). Section 1 (Classification) and images below.

- (a) Uniformed services voters (members of all the active-service military branches, including the Merchant Marine and National Guard), and the spouses or dependents of any of the above. A uniformed services voter, **regardless of whether he or she has a domestic or foreign address**, has the right to vote in any election in the town or city **in which he or she had his or her domicile immediately prior to his or her entry into service**. RSA 654:3. See Federal Post Card Application form on page 210.

This “military service” category includes the 1<sup>st</sup> and 2<sup>nd</sup> lines on the FPCA form. The 2<sup>nd</sup> line applies to “activated National Guard member on state orders”.

The image shows a "Voter Registration and Absentee Ballot Request" form, also known as a Federal Post Card Application (FPCA). A red box at the top right states: "This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov." The form has a section titled "1. Who are you? Pick one." with several checkboxes. A red arrow points to the checkbox "I am an eligible spouse or dependent." which is marked with a red 'X'. Another red arrow points to the checkbox "I am an activated National Guard member on State orders." which is also marked with a red 'X'. The form includes instructions to "Print clearly in blue or black ink." and "I request an absentee ballot for all elections in which I am eligible to vote AND:".

- (b) Absent voters residing outside the United States. Any absent voter residing outside the U.S. borders and intending to return shall have the right to vote absentee in any election in the town or city in which he or she had his or her domicile immediately prior to his or her departure. RSA 654:3. See Federal Post Card Application form on page 210.

This “intend to return” category applies to the 3<sup>rd</sup> choice on the FPCA.

## Duties of Supervisors of the Checklist

### Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

Print clearly in blue or black ink.

#### 1. Who are you? Pick one.

- ☐ I am on active duty in the Uniformed Services or Merchant Marine -OR- ☐ I am an eligible spouse or dependent.  
☐ I am an activated National Guard member on State orders.  
☐ I am a U.S. citizen living outside the country, and I intend to return.  
☐ I am a U.S. citizen living outside the country, and my return is uncertain.  
☐ I am a U.S. citizen living outside the country, and I have never lived in the United States.

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov.

envelope from an unregistered UOCAVA individual, the clerk shall open and retain the envelope and copy and deliver the affidavit envelope and any other registration materials to the supervisors of the checklist. RSA 657:21. See FPCA form on page 210. Recommended procedure:

- If not registered, the clerk or supervisors should enter the voter record in *ElectionNet* as “Pending” approval.
- If registered, update any voter information in *ElectionNet* found on the FPCA form.

- (c) Federal Office Only (FOO) voters: Any United States citizen residing outside the United States who does not intend to return. These voters, if they are otherwise qualified to vote, have a right to register absentee and vote absentee only in federal elections and only for federal offices (President, Senator, Member of Congress) in the town or city in New Hampshire in which they, or a parent or legal guardian (if they have never lived in the United States), had their domicile immediately prior to departing the United States. RSA 654:3. See Federal Post Card Application form on page 210.

This FOO category encompasses the 4<sup>th</sup> and 5<sup>th</sup> choice in the FPCA form.

### Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

Print clearly in blue or black ink.

#### 1. Who are you? Pick one.

- ☐ I am on active duty in the Uniformed Services or Merchant Marine -OR- ☐ I am an eligible spouse or dependent.  
☐ I am an activated National Guard member on State orders.  
☐ I am a U.S. citizen living outside the country, and I intend to return.  
☐ I am a U.S. citizen living outside the country, and my return is uncertain.  
☐ I am a U.S. citizen living outside the country, and I have never lived in the United States.

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov.

Supervisors are required to indicate on the checklist if a Federal Office Only voter [voter residing outside the United States and does not intend to return] is entitled to vote for federal offices only. RSA 654:23. This is accomplished by entering the domicile address as “Overseas Citizen Federal Office Only.” Refer to *ElectionNet* FAQs.

### MILITARY TERM - “HOME OF RECORD”

For voting purposes, the home of record is the town in which the person was domiciled when the person entered the armed services. Military documents may refer to the “home of record.” Such documents are good evidence that the town/ward listed is a valid voting domicile if the individual remains in military service.

### BORN OUTSIDE THE U.S.

Any U.S. citizen who is 18 years of age, is domiciled outside the United States, has the right to vote for federal offices in the town or city in New Hampshire in which he or she, or a parent or legal guardian of said voter, had his or her domicile immediately prior to his or her departure from the U.S. RSA 654:3, III.

The Federal Post Card Application (FPCA), when signed, is a voter registration application form, and identifies the UOCAVA category of the voter. RSA 654:20. The town or city clerk shall forward a copy of all FPCA forms to the supervisors of the checklist. RSA 657:19-a. Upon receipt of a return

Hence, clerks may receive voter registration applications (often FPCAs) from individuals (whose parents or legal guardians once lived in their town) who themselves have never lived in the town or elsewhere in the United States and yet deserve to vote somewhere because they are U.S. Citizens. If a clerk can confirm their parents or legal guardians had their domicile in town immediately prior to their departure and the applicant has not lived elsewhere in the United States, they should be registered to vote.

The image shows a sample of a "Voter Registration and Absentee Ballot Request" form, also known as a Federal Post Card Application (FPCA). The form is titled "Voter Registration and Absentee Ballot Request" and "Federal Post Card Application (FPCA)". It includes instructions to print clearly in blue or black ink. A red box on the right side of the form states: "This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at FVAP.gov." Below this, there is a section titled "1. Who are you? Pick one." with several checkboxes. The first checkbox is "I request an absentee ballot for all elections in which I am eligible to vote AND:" followed by a list of options: "I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent", "I am an activated National Guard member on State orders", "I am a U.S. citizen living outside the country, and I intend to return", "I am a U.S. citizen living outside the country, and my return is uncertain", and "I am a U.S. citizen living outside the country, and I have never lived in the United States." The first checkbox is marked with a red 'X'.

## UOCAVA ABSENTEE BALLOT APPLICATIONS

FPCAs are honored as absentee ballot applications applying to all elections held during the full calendar year in which they are received, except that FPCAs received in the calendar year prior to the year of the presidential election shall be honored through the presidential primary. RSA 657:19-a.

## ABSENTEE BALLOT REQUEST – PERSON NOT REGISTERED

Upon receiving an absentee ballot request from an unregistered voter, a clerk is authorized by law to send the unregistered person a ballot, a written notice of what he or she needs to do to get registered and the forms necessary for the applicant to get registered. The instructions should clearly indicate that the voter registration form and any supporting documents should be put in the outer envelope, not in the affidavit envelope, when returned to the clerk.

The clerk needs to mark the absentee ballot affidavit envelope, the outer envelope the voter will use, and the absentee ballot application with the words “Not Registered” to ensure that, if the person returns the envelope, a determination can be made whether the person has submitted the documents necessary to become registered as a voter. RSA 657:16.

At the polls on election day, if an outer envelope is returned without the forms and documents necessary to complete the voter’s registration, the inner affidavit envelope should be opened to determine if it contains the documents necessary for registration. The ballot should not be removed from the envelope and should remain folded. If the envelope does not contain the missing registration forms or documents, the envelope should be immediately sealed with staples or tape, with the unexamined ballot still inside. The clerk should write a short explanation on the envelope. The envelope is then treated in the same manner as a rejected absentee ballot envelope. RSA 654:13; RSA 657:26. .

## INFORMATION TO CLERK

While the clerk will, in most cases, use *ElectionNet*, the supervisors of the checklist shall furnish the town or city clerk, upon his or her request, the information the clerk needs to determine the proper ballot to be sent to an absentee voter. RSA 657:14. Retain all voter registration forms and other records relating to voter registration securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. File any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place at the office of the town or city clerk within 10 days of the

meeting or election at which it was submitted. RSA 654:13-a

## **CHECKLIST STANDARDS**

Supervisors must main completed registration forms and checklists in alphabetical order, both of which must be updated after each election. Senate Bill 320 (2018), effective July 24, 2018, amended RSA 654:25, authorizing the Secretary of State's checklist guidelines to include the content of the checklist and providing that the elements of the checklist set forth in the statute are a minimum. .

## **TIMELY ENTRY OF NEW VOTERS AND CHANGES**

To avoid confusion, supervisors of the checklist are responsible to ensure that new voters are entered into *ElectionNet* in a timely manner, and to approve pending removals and pending approvals before providing copies of the checklist to the public. If it is necessary to provide an uncorrected checklist to satisfy the requirement of the Right-to-Know law that a public record that is immediately available must be provided immediately, the recipient should be advised in writing that there are pending corrections to the checklist. RSA 91-A:4.

## **CONFIDENTIAL VOTERS**

The name and address of a voter shall not appear on the checklist at the request of the voter if he or she presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B:4, or if he or she is a confidential voter under RSA 7:46. The name, domicile address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be non-public and not subject to the Right-to-Know law, RSA Chapter 91-A. If it is necessary to establish such a non-public

list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the non-public list. RSA 654:25.

Clerks must send confidential voters an absentee ballot automatically. "The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15." RSA 7:46.

## **REMOVAL OF VOTERS**

The supervisors have a legal duty to keep the checklist as accurate as is practical. RSA 654:28; RSA 654:43. In fulfilling this duty, supervisors must be mindful that in the United States there are in some cases two or more people who have the same name and date-of-birth. When no middle name or only a middle initial is available, identical names and dates-of-birth are even more common, where in fact the records relate to two different people. The law generally requires supervisors send a 30-day letter to a voter and that either the voter affirms that he or she has permanently moved his or her domicile or that the voter fails to respond to the letter before the voter can be removed. The exceptions, Notices of Transfer, notices of a permanent change of address with the United States Postal Service or the Division of Motor Vehicles, or death notices permit removal without a 30-day letter because each exception has additional information that ties the event to your voter.

## **NOTICE OF TRANSFER**

A Notice of Transfer is a communication received from an election official that seeks to inform the supervisors of the checklist in a New Hampshire municipality that a person currently registered in their town or ward has

registered to vote in a new jurisdiction. In effect, the voter transfers his or her registration to a different jurisdiction. The purpose of a Notice of Transfer is to notify the town or ward where the person previously registered that the person should be removed from the checklist.

Notices of Transfer come in many forms. Ideally, they include a photocopy of the voter's handwritten application to register in the new jurisdiction showing that the voter wrote in their previous New Hampshire address as the place where he or she was previously registered to vote. However, often we will receive only a summary list with just names and dates of birth of people who have registered in a new state. This qualifies as a Notice of Transfer only if the list or a cover letter explicitly states that the New Hampshire address was provided by the voter or it is otherwise established that the voter provided their prior New Hampshire address.

To qualify as a Notice of Transfer which authorizes removal of a voter's name from the checklist, without first sending a 30-day letter, a communication must contain:

1. The full name of the voter;
  - a. Middle initial data should be consistent, any of the following are OK:
    - i. Middle name/initial listed is an exact match;
    - ii. No middle name on either the notice or our record;
    - iii. Full middle name in one record, matching initial in the other;
  - b. If middle name data is inconsistent, do not treat the document as a Notice of Transfer;
2. The voter's date-of-birth;

3. The voter's address where previously registered in your town or ward:

- a. The address need not be a precise match, but must be close enough to the address in the voter's most recent New Hampshire registration that no doubt exists that the NH voter and the person who is the subject of the notice are the same person;

4. The person/office that sent the notice must be a clearly identified election official/office:

- a. Typically, the list, cover letter, or e-mail will contain the title, office, and contact information of an out-of-state election official.
- b. A list of voters with no cover letter or clearly identified election official who sent the information does not qualify as a Notice of Transfer.

5. A clear statement that the address where the voter was previously registered was obtained from the voter. The following satisfy this requirement:

- a. A copy of a voter registration form signed by the voter where the voter filled in the address on the line for place last registered/voting;
- b. A copy of a document signed by the voter verifying his or her voting domicile in the town/ward where he or she currently is domiciled, that also lists your New Hampshire town/ward as a previous voting domicile. Some jurisdictions send such documents to voters who appear on the interstate cross-check and if the voter signs and returns the letter, the out-of-state election officials send New Hampshire a copy;

c. An explicit statement that the out-of-state election office was provided the New Hampshire address by the voter;

d. A record of contacting the out-of-state election official who sent the communication confirming that the voter's domicile address in New Hampshire came from the voter. This can be either voter specific or a general representation by that office that any notice sent listing a voter's previous NH address contains only addresses provided by the voter.

e. It is evidence supporting the conclusion that a communication is a Notice of Transfer when it is received from a state that did not participate in the Interstate Crosscheck program in 2017.

Once the supervisors receive a valid Notice of Transfer, RSA 654:36 provides: "If the supervisors of the checklist have received a notice of transfer from any other state or from another board of supervisors of the checklist in the state of New Hampshire through the statewide centralized voter registration database that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist. They shall retain the notice in accordance with RSA 33-A:3-a as proof of their reasoning in striking the name from the checklist." RSA 654:36; RSA 654:37; RSA 654:44.

A Report of Change of Address is a report communicated to the supervisors of the checklist from one of three entities: the United States Postal Service, the New Hampshire Department of Safety, Division of Motor Vehicles, or the New Hampshire Secretary of State (generally for the USPS or DMV as communicated

through the centralized voter registration database). Once the supervisors receive a Report of Change of Address in which the "voter has permanently changed his or her address to another town, city, or state they shall strike that name from the checklist at the next session for the correction of the checklist." RSA 654:36-b. "As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice as set forth in RSA 654:44." RSA 654:36-b.

A United States Postal Service temporary mail forwarding order is not cause for removal from the checklist. A domicile for voting purposes, is not lost because a voter is temporarily absent from his or her home. RSA 654:2. Prior to removing a voter from the checklist, the supervisors, with the limited exceptions discussed in this section, must send written notice by mail at least 30 days in advance of the meeting where removal will be decided. RSA 654:44. The decision to send a voter a 30-day letter itself must be made by a majority vote of the supervisors of the checklist in a properly noticed public meeting. This requirement does not prevent individual supervisors or support staff from preparing *ElectioNet* for a letter to be sent, nor from that work being done in non-public work sessions. It is only the evaluation of the evidence in hand that supports sending a 30-day letter and the vote by the supervisors that must occur at a formal meeting of the board.

Mail sent to a voter at the mailing address the voter last provided which is returned by the United States Postal Service indicating that the person has moved should trigger removal of the person's name from the checklist. If the supervisors have reason to believe the notice is in error, then a 30-day letter

should be sent to the voter before removal of the voter's name from the checklist.

### REMOVAL OF DECEASED VOTERS

The supervisors should remove the name of any person for whom they have received an official notice of death. While RSA 654:37 does not define "an official notice of death," supervisors should consider such an **official notice** to be:

- a) copy of a death certificate,
- b) burial permit, or
- c) NHVRIN Matched Death Records in *ElectionNet*.

While the following are not official notices, supervisors should treat them as follow-up triggers:

- obituary
- word of mouth

When supervisors notice these triggers, they should follow up with these questions to the clerk:

- Have you seen a burial permit?
- Have you seen a death certificate?

Supervisors should routinely review their *ElectionNet* reminders screen. If the "NHVRIN Matched Death Records" reminder is bold and states that there are matched death records needing examination, these records should be reviewed. A single supervisor or assigned support staff may conduct the initial review. Use *ElectionNet* to compare the NHVRIN record with the SVRS (*ElectionNet*) record. If it is more likely than not that the two records pertain to the same person, use the "match" button to move the voter to pending removal. If it is more likely than not that these are two different people, use the "Not a Match"

button to remove the voter from the match list.

As with all decisions regarding removing a voter from the checklist, exercise caution to ensure the individual who died is the same person as the voter. Extra caution is warranted when your checklist has two voters with the same name. A common example with be a father and son.

A vote of a majority of the board of supervisors at a properly noticed public session is required to approve the pending removal and actually remove the voter from the checklist. Death removals should be carefully reviewed at the session as the supervisors who did not make the initial review may have knowledge that either confirms that the voter is the person who died or that removal is an error as the deceased is a different person.

### DEATH RECORDS REVIEW

A NHVRIN Matched Death Records review should be done on the day before every election. If the review results in the pending removal due to death of any voter, the pending removal list should be printed and brought to the polling place for review and action by the full board of supervisors.

Upon reviewing and acting to remove a deceased voter on the day of an election, the supervisors should note on all copies of the official checklist that the voter is "deceased" and then place the supervisor's initials next to the voter's name.

"Whenever there is filed in the office of the clerk an official notice of the death of any person or persons of the age 18 years or over or the clerk receives notice of a death record of such person or persons under RSA 5-C:4, V, the town or city clerk

shall notify the supervisors of the checklist of said deaths....” RSA 654:37.

“The Secretary of State shall compare information contained on each death record received by the division of vital records with information contained in the statewide centralized voter registration database and submit to the state registrar a list of every city or town that has a registered voter matching the decedent’s information.

V. Upon receipt of a death record, the state registrar shall transmit notice of the death to the clerk of the city or town of residence of the decedent and to each city or town listed by the Secretary of State for the decedent pursuant to paragraph IV.” RSA 5-C:4.

There is sometimes a lag between a voter’s death and the town’s receipt of an official notice of death. Therefore, immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If a voter is identified as having passed away, the supervisors should work with the moderator to flag that voter’s name on the checklist with “notify moderator.” The moderator should instruct the ballot clerks to notify the moderator if anyone checks in using that voter’s name seeking to obtain a ballot. If someone seeks to vote using that name the moderator should sort out whether the unofficial information on death was in error or if impersonation voter fraud is being attempted. This practice does not substitute for the requirement that you must have an official notice to formally remove the voter from the checklist.

The supervisors should remove the name of any person who relinquished his or her

U.S. citizenship. Relinquishment of citizenship is very rare.

## **PARTY AFFILIATION CHANGES**

A voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a primary up to the day of the primary election. The board of supervisors must hold at least one meeting prior to the filing period for the change of registration of legal voters. RSA 654:34.

A voter may also apply to the clerk, during the clerk’s usual office hours, to change party affiliation. Any application for party change submitted between the first Wednesday in June and the day before the state primary election shall be delivered to the supervisors, who shall hold the application and make the change following primary election day. RSA 654:34-a. An application to change party submitted to the clerk on or after the first Wednesday in June will **not** change the voter’s party affiliation at the primary held in September. The same restriction on changing party affiliation applies between the start of the filing period and the presidential primary.

## **CHECKLIST CHANGE OF ADDRESS**

If a voter has changed their address on the checklist indicating they have moved within their community, the supervisors of the checklist must note the change of address on the person’s voter registration form and enter it in *ElectionNet*. RSA 659:13.

## **SESSIONS OF SUPERVISORS**

### **ELECTION DAY REGISTRATION**

Any person may register to vote with the supervisors of the checklist at any election (i.e., primary and general elections, town, city, school district and village district elections). Applicants must meet all the

qualifications required by RSA 654:12, as judged by the supervisors. RSA 654:7-a. Best practice is to provide an opportunity for voters to register in advance of or at an annual village district meeting that elects officers by unofficial ballot or from the floor.

For the purposes of this section "election" refers to any voting at which absentee ballots are provided. "Meeting" refers to the deliberative session of the town, school, or village district.

### **STATE ELECTIONS**

The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election). The session must be held 6 - 13 days before the election. This session must be held for no less than 30 minutes and, at the discretion of the supervisors, may be extended for additional hours. Except for the provisions relative to election day registration, no additions or corrections may be made to the checklist after that session is over. RSA 654:27.

### **PRESIDENTIAL PRIMARY ELECTIONS**

In addition to election day registration and the session required above, the supervisors must also hold one session for additions and corrections to the checklist prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m. The Secretary of State determines and will announce the dates of the filing period for the Presidential Primary. RSA 653:9; RSA 655:47.

### **STATE PRIMARY ELECTIONS**

Before the state primary election, the session must be on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00 p.m. and 7:30 p.m. At any session the supervisors may extend the session to end at a later time. RSA 654:32; RSA 655:47, II.

### **LOCAL ELECTIONS**

For all town, city, village district and school district elections, supervisors must hold a session on Saturday 6 – 13 days prior to the election and shall also hold one session on the day immediately prior to the first day of the filing period. In towns operating under RSA 40:13, known as the SB2 form of annual meeting, the supervisors' session shall be held on the Saturday 6 - 13 days prior to the deliberative session. Supervisors must register voters on election day of local elections. RSA 669:5; RSA 44:5; RSA 670:3.

### **NO RESTRICTIONS ON OTHER SESSIONS**

Supervisors should hold as many meetings as necessary to allow citizens in the community an opportunity to register or change party affiliation. In addition to the required sessions, supervisors may meet at any time prior to the final pre-election session required by law, as long as they post or publish notice of the meeting. RSA 91-A; RSA 654:27; RSA 654:32. No additions, removals, or corrections to the checklist shall be made after the closure of your city or town's final session for correction of the checklist. RSA 654:27; RSA 654:28; RSA 659:12; RSA 669:5. Qualified individuals may register on election day.

Supervisors should meet and resolve pending additions and pending removals – which appear in System Reminders of Election*Net*.

The board of supervisors of the Checklist are a public body subject to New Hampshire's Right-to-Know law. RSA Chapter 91-A. Whenever a quorum convenes for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters, these actions must be taken in a properly noticed public meeting. A quorum is two or more members of a three person Board. RSA 91-A:2 Minutes of the meeting must be taken and made available to the public on request. HB 1347 (2018), effective January 1, 2019, amends RSA 91-A:2, II, to require that minutes contain "The names of the members who made or seconded each motion." RSA 91-A:2, II. ElectionNet provides a report that to use for this purpose. The Attorney General's Memorandum on the Right-to-Know law is an excellent guide. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf> The document is also available on ElectionNet.

### **CONSOLIDATING SESSIONS**

Whenever there is more than one required session within a 21-day period, the first required session may serve to fulfill the requirements of the remaining sessions. *Example:* Multiple state and municipal elections within a short period. RSA 654:27.

### **POSTING CHECKLISTS**

No later than the 4th Tuesday before any state election, the supervisors shall post a current checklist at the town or city clerk's office or at town hall. At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist at the clerk's office or at town hall. To save paper and ink, this list may be in the form of an "Alpha List" from ElectionNet with a separate certification page signed and attached. Each posted checklist shall state the date, hour, and place of the

upcoming session for checklist additions or corrections. RSA 654:26; RSA 654:27; RSA 654:33. On each posted checklist, the board of supervisors shall subscribe an oath as required by RSA 654:29.

The official checklist used at any election shall contain the full name, domicile address, mailing address, and party affiliation, if any, of each voter on the checklist. Senate Bill 320 (2018), effective July 24, 2018, amended RSA 654:25, authorizing the Secretary of State's checklist guidelines to include the content of the checklist and providing that the elements of the checklist set forth in the statute are a minimum. RSA 654:25.

### **ADDITIONS TO POSTED CHECKLISTS**

Except for the additions made on election day, any changes shall be made to the previously posted checklist on or before midnight on the succeeding Friday (following Friday – see the New Hampshire Political Calendar). Notice shall also be given to the town or city clerk. RSA 654:28; RSA 654:29. Supervisors may also print, certify, and post an updated checklist to fulfill this requirement.

### **THE VOTER REGISTRATION FORM**

The supervisors should make sure they have a sufficient supply of Voter Registration Forms for themselves and the city or town clerk.

For applicants applying more than 30 days before an election, use Voter Registration Form A, which is one side of one page.

For applicants applying starting 30 days before an election and on election day, use Voter Registration Form B, which is two sided. For applicants who do not have proof of a qualification with them, the second side of Form B has a top section

for proof of domicile and a bottom section for proof of identity, citizenship, and age. If the applicant uses either the top domicile section and/or the bottom qualified voter (identity, citizenship, or age) section, the election official receiving the applicant's oath or affirmation must sign the "sworn before" section on the lower right of the second side. Form A, Form B, and the Verifiable Action of Domicile Form A and Form B may be found in *ElectioNet* under Help/Instructions. The forms are also included in this manual at pages 218 to 220. RSA 654:7.

### **CERTIFYING NOMINATION PAPERS**

Individuals seeking to be placed on the general election ballot as a candidate who is not nominated by a political party may use nomination papers. Completed nomination papers for third party candidates must be submitted for certification to the supervisors in the community in which the voter is registered no later than 5 p.m. on the Wednesday 5 weeks prior to the State Primary Election. Nomination papers shall be signed and dated in the year of the election. RSA 655:40; RSA 655:40-a; RSA 655:41.

The supervisors are required to verify that the person signing the nomination is a registered voter in their town/ward. The supervisors must have the certified nomination papers available for the candidate no later than 5 p.m. on the Wednesday 2 weeks prior to the primary. RSA 655:41-3. They should provide notice of such meetings in a manner consistent with RSA 91-A, which requires that at least two public notices be placed 24 hours prior to the meeting. City clerks may perform the responsibilities of the supervisors of the checklist relating to certification of petitions. RSA 655:41, II.

### **CHECKLISTS FOR ADDITIONAL POLLING PLACES**

The supervisors must prepare a list of the voters entitled to vote in the additional polling place and no later than 14 days prior to the election they must post a copy at the town or city clerk's office or at the town hall. They must also give the town clerk 2 copies of that checklist. RSA 658:12. Supervisors can assign voting districts in *ElectioNet* and print the required checklists using the system.

### **PROVIDING THE CHECKLIST TO THE PUBLIC**

The supervisors are required to provide copies of the checklist to those who request it. Supervisors are urged to address all pending items that appear in System Reminders of *ElectioNet* prior to providing copies of the checklist. However, the Right-to-Know law requires that a public record that is immediately available be provided immediately. A person making a request for a copy of the checklist in person should not be denied because there are pending changes, but they should be informed that the checklist they are receiving is not current. A request received by mail should not be unreasonably delayed while corrections are made.

The supervisors may only provide checklist information for their own town or city. The supervisors shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs.

The information on the checklist that supervisors of the checklist may provide upon payment, includes the voter's name, street address, mailing address, town or

city, voter history for an election (including whether or not they voted absentee), and party affiliation, if any, of every registered voter in the town or city ward. Date (or any date range) of a voter's registration is not public information. New Hampshire Constitution, Part 1, Article 8; RSA 654:25; RSA 654:31; RSA 654:31-a; RSA 654:45; RSA 659:13; RSA 659:102.

The supervisors of the checklist may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form. RSA 654:31, II. Refer to *ElectioNet* under Help/Instructions/Voter Information - Public or Private. Generally, provide public records in the form the person requests, when doing so is reasonably practical. *Green v. School Administrative Unit #55*, 168 N.H. 796, (N.H. 2016).

Upon request, the Secretary of State shall provide a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the state to a political party, political committee, or candidate for county, state, or federal office. In addition, upon request, the Secretary of State shall provide a candidate for county, state, or federal office a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the candidate's district. The Secretary of State shall charge a fee of \$25 plus \$.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges. The Secretary of State must charge and collect on behalf of the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist been purchased from them. The Secretary of State shall remit to the city or town the

amount collected on its behalf. RSA 654:31, IV.

It is a crime to knowingly use the checklist information for commercial purposes such as selling or offering for sale any property or service unrelated to an election or political campaign. RSA 654:31. Copies of the checklist should be sold to charitable non-profit corporations that request them.

Except for fees collected on behalf of a city or town, any fees the Secretary of State receives are to be deposited into the election fund that is used for election related purposes such as voter and election official education. RSA 654:31, VI.

The non-public checklist, that is the list of voters who are under protective orders pursuant to RSA 173-B:4 or who are confidential voters under RSA 7:46, may not be provided to anyone, other than law enforcement, without a court order.

## **ELECTION DAY DUTIES**

### **ATTENDANCE AT ELECTION**

Supervisors shall be present at the opening of each election at which a checklist is to be used and shall remain in attendance until the close of the election. RSA 659:10.

### **REMOVE DECEASED VOTERS PRIOR TO OPENING POLLS TO VOTING**

Supervisors are in public session on election day. Prior to the opening of the polls, they should review and, at the opening of the polls, act on any NHVRIN death notices appearing on the reminders screen, manually noting on all copies of the checklist that a voter has been removed and placing their initials next to the voter's name.

Immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If a voter is identified as having passed away, the supervisors should work with the moderator to flag that voter's name on the checklist with "notify moderator." The moderator should instruct the ballot clerks to notify the moderator if anyone checks in seeking to obtain a ballot using that voter's name. If someone seeks to vote using that name the moderator should sort out whether the unofficial information on death was in error or if impersonation voter fraud is being attempted.

#### **PRIMARY ELECTION DAY PARTY CHANGES**

Undeclared voters may, after declaring a party and voting in a primary, sign the list of undeclared voters created in *ElectionNet* which is provided at the polls to return to undeclared status on election day. If a voter registered undeclared on election day, he or she can sign the Return to Undeclared form or list (pages 266 & 267.) The Return to Undeclared list shall be retained by the board of supervisors. RSA 654:34, II.

No person who is already registered to vote, whether his or her party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in June and the day before the state primary election. RSA 654:34, IV.

Voters who have declared an affiliation must change their affiliation before the first Wednesday in June or they are limited to voting in the primary of the party with whom they are affiliated on primary day. A declared voter may change his or her affiliation on primary day, but then he or

she may not vote in that primary. RSA 654:34.

#### **ELECTRONIC POLL BOOKS TRIALS**

New Law – RSA 652:27. Cities and towns may conduct a trial of electronic poll books for voter registration and check in at a local election. The trial must follow the requirements issued by the Secretary of State. See further information at: <http://sos.nh.gov/epoll.aspx>

#### **ELECTION DAY REGISTRATION**

Any person qualified as a voter may register to vote with the supervisors on election day at any election. RSA 654:12

Any unregistered person who wishes to vote in any election shall proceed directly to the supervisors of the checklist to register in the polling place. Individuals must be 18 years of age or older and must present proof of identity, age, domicile, and citizenship or complete the pertinent sections of the second side of Voter Registration Form B, used starting 30 days before election day and on election day.

#### **PROCEDURE**

(1) Applicant for registration goes to the supervisors of the checklist. Supervisors check to ensure the individual is not already registered and on the checklist.

(2) If the individual is already registered to vote, but is not in the correct voting place, the supervisor will direct the individual to the correct town or ward.

(3) Applicant presents proof of qualification as a voter for that polling place

(4) Either the individual or supervisor fills out a voter registration form by printing legibly, with the voter signing the bottom of the registration form. RSA 654:12. Use

the Voter Registration Form B, used starting 30 days before an election and on election day.

(5) If the applicant does not have proof of identity, age, citizenship, or domicile with them, he or she may satisfy proof of one or more of these qualifications by swearing to or affirming the qualification using the second side of form B.

The top section of Form B is used to prove domicile only if the applicant does not bring proof with them. The applicant initials the top option if he or she has documentary evidence of having acted to carry out an intent to establish domicile and will mail or deliver the proof to the clerk following the election. Give these applicants the Verifiable Action of Domicile form B. This form is in effect instructions on getting proof to the clerk after the election.

Applicants who are not aware of possessing any documentary evidence of having acted to carry out his or her intent to establish domicile initial the bottom domicile option. Do not give these applicants the Verifiable Action of Domicile Form B; these applicants have no duty to provide proof after the election.

The applicant must then sign and date the form. If the applicant does not have documentary evidence of identity, age, or citizenship with them, he or she must complete the qualified voter affidavit section on the bottom section on the second side of form B.

For an applicant who does not have photo identification, register the applicant based on the affidavit. If the moderator, clerk or a supervisor do not verify the person's identity, the applicant will complete a challenged voter affidavit and have a

photo taken after registering and before obtaining a ballot.

If the applicant uses any part of the second side of form B, the supervisor must witness the voter's swearing or affirming their qualifications by signing the "sworn before" section on the lower right side of the second side of form B. (found in ElectionNet under Help/Instructions).

As a general practice, supervisors should **only accept** voter registration affidavits if they have been signed **in their presence at their request**. This will help the state avoid mailing follow-up letters to those voters whose affidavits were not necessary for voter registration.

(6) Once the registration form is completed, the supervisor directs the voter to the ballot clerk, ensures the name, address, and party affiliation of the voter gets written on the checklist, and notifies the ballot clerks that the individual is now a registered voter. Larger towns and cities may want to adopt a form to be signed by the supervisor that the newly registered voter can carry to the ballot clerk as evidence that he or she is registered. See sample New Voter Authorization Form on page 215.

(7) If, while registering, the voter did not present a photo ID acceptable for obtaining a ballot, the supervisors may direct the voter to the appropriate station to complete a Challenged Voter Affidavit and have their photo taken prior to getting in the voter check-in line.

## **CHALLENGES OF VOTERS**

Challenges to a voter's eligibility cannot be made at the voter registration table or directly to the supervisors. A challenge to the identity, age, citizenship, or domicile of a voter is made to the moderator. The moderator will bring challenges based on age, citizenship, or domicile regarding an in person or absentee voter to the supervisors. The supervisors of the checklist must, using an "Asserting a Challenge" form, rule whether the challenged voter is qualified or not qualified. RSA 659:27; RSA 659:27-a; RSA 659:30; RSA 659:31; RSA 659:32.

The moderator decides challenges on other grounds, such as a claim that the voter has already voted in the election.

If the election officials decide that the challenge is valid, that the voter is not qualified, they should educate the voter as to where he or she should be voting or why he or she is not eligible to vote in New Hampshire. A voter whose name is on the checklist may, nonetheless, vote if the voter completes the Challenged Voter Affidavit.

If election officials believe that a voter who is challenged and signs a Challenged Voter Affidavit is nonetheless voting wrongfully, this should be reported to the Attorney General's Office.

## **CERTIFYING THE CHECKLIST**

Before the election, the supervisors must certify that the corrected checklist according to their best knowledge contains (*fill in number*) of names of those persons, "who are by actual domicile legal voters" in the town or ward. RSA 654:29. Provide two certified copies to the clerk. The clerk and moderator must use those certified copies as the checklist for the election. Only one certified checklist is

used at polling places where a ballot counting device is used.

After closing of the polls to voting the moderator and the clerk must certify the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

## **POST-ELECTION DAY DUTIES**

### **PRESERVATION OF CHECKLIST AFTER THE ELECTION**

Within 90 days after the closing of the polls for each regular state general election and each presidential primary election, one marked copy of the check-in checklist used at the election must be forwarded by the supervisors to the State Archives in Concord: State Archives, 9 Ratification Way, Concord, New Hampshire 03301-2410. Please note that this law does not apply to the state primary. RSA 659:102.

After every election, a marked copy of the checklist must be preserved by the town or city clerk as a public record, for a period of at least 7 years. RSA 33-A:3-a; RSA 659:102.

### **CORRECTING DATA FILES AND ENTERING INFORMATION FOR STATE FOLLOW-UP LETTERS**

After each state election the supervisors shall use the checklist from such election to correct the data in the records of registered voters in *ElectionNet*. Supervisors must start by entering voters who registered on election day into *ElectionNet* first, indicating if they:

- Used the second side of Voter Registration Form B to prove their domicile (found in ElectionNet under Help/Instructions). and/or;
- Used a Qualified Voter Affidavit (page 199) for purposes of identity under “Form of ID – Proof of Identity”.

Supervisors should begin the barcode scanning process by scanning in the voter history of those who voted after signing a Challenged Voter Affidavit (page 200). The clerk should make available to the supervisors the completed Challenged Voter Affidavits from election day to enable the supervisors to verify that if a challenged voter affidavit was used the “CVA” box on the checklist has been marked. After this work has been completed, the supervisors should finish scanning the barcodes of all other voters who received a ballot on election day. The Challenged Voter Affidavits must then be returned to the clerk. RSA 654:12; RSA 654:30.

#### **POST-ELECTION REVIEW OF VOTERS WHO SIGN A CHALLENGED VOTER AFFIDAVIT**

The law which requires the Secretary of State to send a letter to certain voters who use a challenged voter affidavit because the voter did not have photo identification was amended to add additional responsibilities.

New Law – RSA 659:13, IV(b). “The secretary of state shall conduct an inquiry regarding any letters mailed pursuant to subparagraph (a) that are returned as undeliverable by the United States Post Office and of voters who were mailed letters under subparagraph (a) and have not responded to the Secretary of State. The inquiry may include consulting with, and examining public records held by, municipal officials, which contain

information relevant to a person’s qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the letters. After such inquiry, the Secretary of State shall prepare and forward to the attorney general for investigation a list of those people whose identity or eligibility to vote could not be confirmed. The attorney general shall cause an investigation to be made to determine whether fraudulent voting occurred.”

The Secretary of State will provide the supervisors of the checklist with a list of voters who signed challenged voter affidavits (CVAs) in order to obtain a ballot and did not respond to the Secretary of State’s follow-up letter. The Secretary of State will ask the supervisors of the checklist to provide any relevant input regarding the identity of voters listed as signing a CVA. In some cases, the Secretary of State will request a copy of the voter’s voter registration form and any affidavits the voter signed. These documents, in particular the voter’s signature, are helpful to the Secretary of State and Attorney General in resolving the validity of the voter.

#### **RETENTION OF VOTER REGISTRATION FORMS**

*New Law* – RSA 654:13-a. All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. THOSE forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted.

## INTERSTATE CROSS-CHECK

Laws 2016. 175:2. "Pursuant to the authority in RSA 654:45, VIII, the Secretary of State may enter into the agreements necessary for the state of New Hampshire to participate in the Interstate Voter Registration Crosscheck Program. The Secretary of State shall review the data resulting from its participation in the Interstate Voter Registration Crosscheck Program and forward any voter irregularities identified to the attorney general."

When matching names and dates of birth are found as a result of this program, and other information is obtained that makes it reasonably certain the two matched voters are the same person, the HAVA staff will follow-up with local election officials so that they can send 30-day letters.

A voter's date-of-birth and full middle name are valuable in any effort to compare voter registration records in two different jurisdictions. Cases exist where two different people in the United States have the same name and date-of-birth. Supervisors should use legal means to obtain and enter voters' missing dates of birth and full middle names, either from existing voter registration files or by asking the voter to provide the information voluntarily.

## RECORDING USE OF OUT-OF-STATE ID

When a voter obtains a ballot with either an out-of-state driver's license or identification card, the ballot clerk shall record the state of issuance on the checklist. Within 30 days of the election, a supervisor of the checklist, or someone designated by the supervisors, shall record the state of issuance of a voter's driver's

license or identification card in *ElectionNet*. RSA 659:13, I(b).

## YEAR-ROUND REMOVAL OF NAMES FROM THE CHECKLIST

The supervisors shall send notices by mail to the last known addresses of the persons whose names are being considered for removal, stating the reason for removal. Such notices shall also state the time and place at which the board of supervisors shall meet to consider the removal of that person's name. The date shall be at least 30 days after the supervisors send notice. RSA 654:38; RSA 654:39.

Supervisors of the checklist are obligated to identify the physical address of each voter and ensure that it is in the jurisdiction in which the voter is registered.

When supervisors have reason to believe a voter has moved out of the jurisdiction, the following represent justifiable reasons for sending a 30-day letter:

- (a) A voter appears to be living in a single family home which others have moved into and registered to vote.
- (b) Supervisors have heard from a reliable source that the voter has moved out of town.
- (c) Supervisors cannot identify a physical address for the voter.
- (d) Mail has been sent by the town/city, the clerk, or the supervisors to the voter at the mailing address in the voter's voter registration record and it has been returned by the United States Post Office as undeliverable.
- (e) A notice of transfer, notice of address change, or USPS national change of address permanent address change has been received in circumstances where it is more

likely than not about the voter, but not reasonably certain that the notice pertains to the voter.

The person whose name is being considered for removal shall have a chance, either in person or in writing by mail or messenger, to give the reasons why his or her name should be left on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of such person's written or oral statement, if they elect to make one. The supervisors shall keep records as proof of compliance with the notice requirement. RSA 654:44.

#### **REPORTS OF TRANSFER**

If the supervisors receive notice of a transfer from another board of supervisors, they shall remove that name from the checklist at the next session for the correction of the checklist. The notice shall be retained for at least one year as proof of removal of that name. When the voter registers in another New Hampshire town or ward, this information is maintained automatically in *ElectionNet*. RSA 654:36. It is helpful for clerks in larger towns and cities that have multiple wards if the clerk of the new residence indicates the voter's previous street address on the voter registration form. See further guidance on notices of transfer at page 133

#### **NOTICE OF PERMANENT CHANGE OF ADDRESS**

Supervisors shall also either remove a person's name from the checklist or send the person a 30 day notice letter if notice is received from the United States Post Office, the Department of Safety, directly or through *ElectionNet* that the person has permanently moved from the town or ward where he or she is registered to vote. RSA 654:36-b provides:

"If the supervisors of the checklist receive a report from the United States Postal Service or the (N.H.) department of safety directly or as communicated by the Secretary of State through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist... As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice,.."

#### **NATIONAL VOTER REGISTRATION ACT**

With the implementation of the National Voter Registration Act (motor voter law), town and city clerks are receiving notices of transfer from several states. If a person is a resident of another State has signed a voter application in that State, and the report of transfer is received, the supervisors are authorized to remove that name from the checklist.

If the individual did not intend to have his or her name removed from the New Hampshire checklist, he or she may reapply and sign a new voter application upon his or her return to New Hampshire. A person may have only one voting domicile and therefore should only be registered to vote in one town or ward. However, as the law does not require a voter to notify election officials when he or she permanently moves, it is not a violation by the voter when his or her name is found on the checklist in two different towns, cities, or states. It is the responsibility of election officials to work together to sort out where it is more likely than not that the voter is currently domiciled. In many cases federal and state law require election officials to confirm

the permanent move with the voter before removing him or her from the checklist.

## **VERIFICATION OF CHECKLIST**

The supervisors of the checklist shall verify the checklist:

- On petition of 50 registered voters or 5% of the registered voters, whichever is less, subject to approval after a public hearing by the Ballot Law Commission.
- On petition of a majority of the board of supervisors filed with the Secretary of State no later than the eighth Friday after a state election, subject to approval after a public hearing by the Ballot Law Commission.
- In 2021 and once every ten years thereafter.

The procedure for verification of the checklist is further described in RSA 654:38. RSA 654:39.

## **REQUEST TO CORRECT THE CHECKLIST**

Any person can at any time submit an application for correction of the checklist to the supervisors for their consideration at their next meeting. This, in effect, allows anyone who believes another person who is not qualified as a voter in the town or ward is on the checklist to report this to the supervisors. The supervisors should investigate and if they determine it is warranted, send a 30-day letter, notice of removal to the person. This will require the person to affirm his or her qualifications as a voter. RSA 654:36-a; RSA 654:28.

RSA 654:36-a establishes the following procedure for processing a request to correct the checklist:

“I. A supervisor of the checklist, the town or city clerk, or any other person, may

submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person’s qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person’s qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person’s name shall be removed from the checklist.” RSA 654:36-a.

This law requires that a request to remove a person from the checklist must be based on evidence. The supervisors of the checklist must evaluate whether, if true, the information provided in the request would make the person listed in the request disqualified as a voter in the town or ward.

The supervisors must determine if the evidence provided constitutes reasonable evidence. For example, a letter stating “please remove the following people from the checklist” and listing one or more names does not constitute evidence that these people are no longer qualified as voters. Similarly a letter stating “please remove John Doe from the checklist because I think he might have moved,” does not constitute evidence, it merely

states an unsupported suspicion. But, a letter stating, “Please remove John Doe from the checklist, as he used to be my neighbor and he moved to Florida in June” does state evidence.

If a reasonable person reading the request for correction of the checklist would conclude that, if found true, the evidence in the request would prove the person was no longer qualified as a voter, the 30-day notice letter must be sent.

### **DECISIONS SUBJECT TO CHALLENGE IN SUPERIOR COURT**

Any citizen may bring a complaint before the Superior Court if they believe his or her name or the name of some other citizen is illegally placed on the checklist or is illegally being kept off the checklist. RSA 654:42.

### **NO PHYSICAL (DOMICILE) ADDRESS INFORMATION ON FILE**

Supervisors of the checklist have a legal obligation to ensure that every voter has a residence in the town or city ward in which the voter is registered to vote. Each voter must have a physical (domicile) address.

RSA 659:13, requires that ballot clerks should “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address information in voter registration files. Supervisors should re-check the checklists for address updates since active voters should have provided ballot clerks with such information on every election day. In addition to having the ballot clerks write the new address on the checklist as required by law, supervisors may also implement a local policy of asking these

voters to come to the supervisors’ table after the person votes, to complete an updated Voter Registration Form.

### **NOTICE OF DUPLICATE VOTER**

The creation of a statewide voter registration system ensures that voters who have moved will sometimes appear twice in the system. Supervisors of the checklist have a legal obligation to resolve duplicates before an election.

If the supervisors of the checklist receive a notice of a duplicate voter from the State or other jurisdiction, they should check their records, looking for information that would help identify whether it is the same voter.

Once they have identified that it is likely to be the same voter, they should refer to the registration date in *ElectionNet* and the paper record to attempt to determine in which town the voter is most likely to have registered most recently. It is reasonable to conclude that the most recent registration is the valid registration. Then, the supervisors or their staff should contact the supervisors or town clerk in the other jurisdiction where the voter is registered and resolve in which jurisdiction the voter should be registered. The supervisor or designee of the jurisdiction that should have the registered voter should log into *ElectionNet*, select Duplicate Voter, and use the “merge voter” function to merge both records.

### **AVOID ENTRY OF DUPLICATE VOTERS**

Supervisors of the checklist should always check Inquiries/Voter Registration in *ElectionNet* before entering new registrants. Over 50% of new registrants are already registered voters in New Hampshire. They have an assigned ID number and voter history that is an

### *Duties of Supervisors of the Checklist*

important record. If an election official enters a new registrant without checking in *ElectionNet* for the name in Inquiries/Registration, there is at least a 50% chance that they will create a duplicate unnecessarily. This costs the town unnecessarily to merge the voter at a later time, eliminates an incentive to remove the voter from the town in New Hampshire where he or she was last

registered, reduces the credibility of the election process, and increases the potential for fraud.

*Hint:* To readily find a New Hampshire registered voter in *ElectionNet*, it may be useful to search “Statewide” in Inquiries/Registration by entering a partial first and last name.

## **X. DUTIES OF CLERKS**

### **PRE-ELECTION DAY**

#### **E-MAIL ADDRESS, STREET ADDRESS, POLLING HOURS & LOCATION**

Clerks shall establish and maintain an official e-mail address and street address, which shall be in *ElectionNet* and publicly available to voters. Clerks shall maintain up-to-date polling place locations for each election, including street addresses and polling hours, and shall keep such information in *ElectionNet*. RSA 654:45, VII; RSA 657:19-c.

#### **ACCEPTING APPLICATIONS FOR REGISTRATION AS A VOTER**

Town and city clerks are required, during regular office hours, to accept applications for registration as a voter and, subject to guidelines issued by the supervisors of the checklist, to take evidence of the applicant's qualifications as a voter. RSA 654:8.

RSA 654:7 (b) The secretary of state shall prescribe the form of the voter registration form to be used for voter registrations, transfers, or updates other than those at the polling place on the date of a state general election, which shall be in substantially the following form:

\_\_\_\_ *NEW REGISTRATION* I am not registered to vote in New Hampshire.

\_\_\_\_ *TRANSFER* I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.

\_\_\_\_ *NAME CHANGE/ADDRESS UPDATE* I am registered to vote in this town/ward and have changed my name/address.

When clerks receive applications in person, determine whether the application is for a new voter, a transfer, or a name/address change., Refer to sample

voter registration forms on pages 218 to 220. Form A is used more than 30 days before an election and for all absentee voter registrations. Form B is used starting 30 days before an election and on election day. Form B has a second side which includes sections allowing an applicant to swear or affirm their domicile, identity, age, and/or United States citizenship.

The supervisors of the checklist make the ultimate determination of whether the applicant is placed on the checklist.

In cities, the city clerk receives evidence of change of domicile from one ward to another from any person already registered to vote and the clerk notifies the registrar of which polling place the voter is to be permitted to vote. RSA 654:8-a.

Clerks must also accept applications for change of party affiliation. The clerk shall require an applicant to give an oath or affirmation affirming his or her affiliation. The clerk must present such applications for change of party affiliation to the supervisors of the checklist who shall cause the party affiliation to be changed on the checklist as soon as permitted by law. Applications submitted between the start of the filing period for the state primary and state primary election day will not be acted on by the supervisors and will not be effective until after the primary. RSA 654:34-a. A change in party affiliation must be documented in *ElectionNet*.

#### **STUDENT VOTERS**

Treat students like any other person applying for registration or, if already registered, seeking to vote.

**NOTICE OF FILING PERIOD - STATE  
PRIMARY ELECTION**

Before the opening of the filing period for a state primary election, the Secretary of State will send the “Notice to Voters of the State Primary Election” to all city and town clerks. City clerks are to forward these notices to ward clerks. Within 10 days of his or her receipt of this notice, the town or ward clerk shall fill in the information and post them in two public places within the town or ward. These notices serve as the warrant for the State Primary. RSA 655:11; RSA 655:12.

**DECLARATION OF CANDIDACY AND  
PRIMARY PETITIONS**

Prior to the opening of the filing period for a State primary, the Secretary of State will provide each town and city clerk with a supply of Declarations of Candidacy forms and primary petitions. Only candidates for nomination by their party for state representative or delegate to the Republican state convention shall file with the town or city clerk. RSA 655:15.

Declarations of candidacy and primary petitions must be mailed by the town or city clerk to the Secretary of State on the same day they are filed. RSA 655:18.

**VERIFYING PRIMARY PETITIONS**

It is the duty of the town or city clerk to examine the primary petitions filed by a candidate for State Representative or Delegate to the Republican State Convention. If a petition is found to be in conflict with the law, the clerk shall note the reason it is not acceptable on the petition and return it within 24 hours to the candidate. For each petition that is rejected, the candidate may file a supplementary petition with the clerk no later than the last day of the filing period for declarations of candidacy. RSA 655:26.

**POSTING OF SAMPLE  
BALLOTS - STATE AND PRESIDENTIAL  
PRIMARY ELECTIONS**

The package of primary election ballots will include 10 sample ballots for each political party. The clerks must post 2 sets of sample ballots in public places in the town or ward within 1 day after he or she receives them. The remainder of the sample ballots are to be posted in the polling area on election day. RSA 656:28. Post one of each party’s sample ballot at a height of 48” so as to be conveniently read by voters in wheelchairs.

**POSTING OF SAMPLE  
BALLOTS - STATE GENERAL  
ELECTION**

Ten sample ballots are printed and sent to the town or ward clerk to be posted in 2 public places within the community. The remainder of the sample ballots are to be posted outside the guardrail in the room in which the voting is to be held. RSA 656:18; RSA 658:26. Post one sample ballot at a height of 48 inches so as to be conveniently read by voters in wheelchairs.

**PRINTING OF LOCAL ELECTION  
MATERIALS**

The town or city clerk must prepare regular ballots, instructions to voters, and provide for absentee ballot envelopes for local elections. The other forms provided by the Secretary of State may be used for local elections. RSA 658:29; RSA 666:1.

**ABSENTEE BALLOT  
APPLICATIONS**

An individual desiring to obtain an absentee ballot must apply to the town or city clerk. RSA 657:4; RSA 657:6. The application for absentee ballots has been updated to allow the applicant to provide as optional information: the applicant’s phone number or the applicant’s email address, or both.

An absentee voter who requires assistance can use the assistance of a person of their choosing. The person assisting an applicant who is blind or has a disability, must sign a statement acknowledging the assistance. Both the application for an absentee ballot and the absentee ballot affidavit have spaces for the person assisting the voter to print and sign his or her name. RSA 657:4, I, II(b).

### **SIGNATURE REQUIREMENT EXCEPTION FOR VOTERS WITH DISABILITIES**

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by a voter. A voter may receive assistance from any person. "Any person who assists a voter with a disability in executing" the application for an absentee ballot or the affidavit on the absentee ballot envelope "shall make a statement acknowledging the assistance on the application form [and on the affidavit] envelope." RSA 657:4; RSA 657:7, II(b), RSA 657:17.

RSA 657:4, I; RSA 657:12, RSA 657:13, and RSA 657:19.-b provide that a signed application for an absentee ballot may be transmitted in person, by facsimile or e-mail attachment to a town or city clerk.

### **RECEIPT OF APPLICATION AND VERIFICATION**

Upon the receipt of an application for an absentee ballot, the clerk shall check to

ensure that the applicant's name is on the checklist.

The law does not require a voters to provide photo identification when applying for an absentee ballot in person at the clerk's office. RSA 657:13; RSA 657:15.

Effective January 1, 2019, Senate Bill 527 enacts a new statute, RSA 657:17-a, Verification of In-Person Absentee Voter. This statute provides that if a voter returns a completed absentee ballot to the clerk's office in person and either:

- Voluntarily shows the clerk a photo identification that meets the requirements of RSA 659:13 (the requirements for photo identification at the polling place); or
- Voluntarily completes a challenged voter affidavit in the same manner as is required for an election day voter without photo identification

the clerk will mark the envelope and the clerk's list of absentee voters: "voter verified."

The United States District Court for the District of New Hampshire has ruled that RSA 659:50, III, which required a comparison of the signature on the absentee ballot application with the signature on the absentee ballot affidavit to determine if the same person signed both, is unconstitutional. Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III. See: Notice Regarding the Processing of Absentee Ballots on Election Day. ElectionNet > Help>Instructions or [http://sos.nh.gov/\(Elections Division > Election Officials > Moderators > Absentee Ballot Processing on Election Day – Do not compare signatures\)](http://sos.nh.gov/(Elections%20Division%20Election%20Officials%20Moderators%20Absentee%20Ballot%20Processing%20on%20Election%20Day%20Do%20not%20compare%20signatures)).

If the absentee ballot applicant's name is not on the checklist, the clerk shall provide the applicant with written notice of what he or she needs to do to get registered and the forms necessary to register, enclose an absentee ballot, and mark both the outer envelope and the affidavit envelope provided for return of the absentee ballot with the words "not registered." RSA 657:16.

#### **MAILING OR DELIVERY OF ABSENTEE BALLOTS**

The clerk must mail or personally deliver the absentee ballot, making certain that the appropriate ballot, affidavit, and instructions are enclosed. The clerk may designate an assistant to deliver an absentee ballot provided that the assistant is not a candidate for office or working for a candidate. The clerk shall send absentee ballots in response to verified absentee ballot requests until 5:00 PM on the day before the election. RSA 657:15. Upon request from a UOCAVA voter that the absentee ballot be e-mailed, the clerk shall e-mail the absentee ballot, affidavit, and instructions to the UOCAVA voter and update the voter's record in *ElectionNet*. RSA 657:19; RSA 657:26.

Upon receipt of an absentee ballot application from a UOCAVA voter up to 45 days prior to a presidential primary, state primary, or state general election, clerks must enter the absentee ballot request in *ElectionNet*. Pursuant to a request from a UOCAVA voter, the clerk will mail or e-mail the voter an absentee ballot, affidavit (oath), and instructions no later than 45 days prior to a presidential primary, state primary, or general election. Following this date, the clerk will continue to respond to UOCAVA requests, without delay, until the 5:00 PM on the day before the election. RSA 657:19.

The town or city clerk shall forward a copy of all Federal Post Card Applications ("FPCAs") to the supervisors of the checklist. RSA 657:19-a.

FPCAs are honored as absentee ballot applications applying to all elections held during the full calendar year in which they are received, except that FPCAs received in the calendar year prior to the year of a presidential election shall be honored for the presidential primary. Clerks may treat receipt of a Federal Write-in Absentee Ballot (FWAB) as a request for an official absentee ballot, particularly when they do not have a signature of the voter on file. RSA 657:10-b; RSA 657:19-a.

#### **LIST OF ABSENTEE VOTERS**

The clerk shall use *ElectionNet* to maintain an up-to-date list, arranged by voting place, of all (regular and UOCAVA) applicants to whom absentee ballots have been sent, and shall identify on the list those absentee ballot envelopes which have been returned by the voter. RSA 657:15.

A copy of the list of absentee ballot applicants shall be provided to a candidate, at cost, upon receipt of a direct request from the candidate or to a person presenting an original or a copy of a notarized request from a candidate. The list is otherwise a non-public document. Because of the non-public nature of this list, emailing such lists is not permissible. RSA 657:15; RSA 654:31-a.

This list shall exclude voters who have presented to the supervisors of the checklist valid protective orders pursuant to RSA 173-B:4 or who are confidential voters under RSA 7:46; RSA 657:15.

The Secretary of State maintains a public website that enables an absentee voter to enter his or her name, town, and date of

birth and determine whether his or her absentee ballot request was received by the clerk, when an absentee ballot was sent, and whether an envelope purporting to contain the ballot was received from the absentee voter, and if the absentee ballot is rejected on election day and not counted, the reason for rejection. To ensure that voters know what happened to their absentee ballot request and their returned absentee ballot, it is important to keep data entry into Election*Net* up to date and this feedback current. The system provides transparency of the absentee ballot process for the voter. This will help absentee voters recognize past rejections and correct their mistakes in the future. RSA 657:26.

#### **HOW A VOTER CAN TRACK HIS OR HER ABSENTEE BALLOT**

The city or town clerk shall provide instructions to absentee voter applicants describing how to access the Secretary of State's "Voter Information Look-up" at: <http://sos.nh.gov/VoteInforLook.aspx>. This may be accomplished with a link from their website to the Secretary of State's "Voter Information Lookup." RSA 657:26. See bottom of page 207.

#### **VOTER DELIVERY OF MARKED ABSENTEE BALLOTS TO CLERK**

A voter who has received an official absentee ballot must either mail or personally deliver it to the town or city clerk. Alternately, a voter's spouse, parent, sibling or child may deliver a voter's absentee ballot in person to the town, city or ward clerk, best practice is to ask the person to provide identification and signs an Absentee Ballot Return Form. Use of the form is mandatory when on election day. RSA 657:17.

Clerks are not authorized by law to receive completed absentee ballot return envelopes from anyone other than the

voter, spouse, parent, sibling, child; or the U.S. Mail (including UPS, Fed-Ex, and other commercial delivery services).

On election day, if a family member hand delivers an absentee ballot, the family member must deliver the absentee ballot to the town, city or ward clerk at the polling place, present identification and sign an Absentee Ballot Return Form. The absentee ballot must be delivered before 5 PM. RSA 657:17; RSA 657:22.

The law creates an effective deadline of the day before the election for a voter to personally return an absentee ballot. Clerks or a designee are required to be available between the hours of 3 p.m. and 5 p.m. on any day that is a deadline for an election law filing, including the Monday before an election to receive absentee ballots. RSA 652:20. Effective on January 1, 2019, Senate Bill 527 amends RSA 657:1 explicitly requiring the clerk's office to be open to receive absentee ballots:

New Law, effective January 1, 2019:

(c) As required by RSA 652:20, the clerk's office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.

Absentee ballots delivered by mail shall be accepted by the town or city clerk no later than 5:00 p.m. on election day. RSA 657:22.

If a voter appears in person at the polls to deliver an absentee ballot, the voter should be directed to vote in person using an election day ballot. The voter may keep the absentee ballot/envelope or it may be marked as “voted in person” and added to the challenged absentee ballots that are not opened and which are preserved with other ballots.

#### **CLERK RECEIPT OF MARKED ABSENTEE BALLOTS**

Upon receipt of an outer envelope purporting to contain an official absentee ballot, the clerk shall attach the voter's absentee ballot application form to the return envelope, and record the information in *ElectionNet*. All such envelopes shall be preserved unopened until election day. RSA 657:18.

Any absentee ballots received in the mail prior to 5:00 p.m. on election day must be considered valid if the affidavit envelope is properly filled out, the voter is qualified, and has not already voted in person. RSA 657:22.

No UOCAVA voter's ballot shall be rejected for lack of an attached application provided a signature is available for examination on a voter registration document. RSA 657:23.

#### **VOTING TWICE IN THE SAME ELECTION**

To become registered the applicant will have to sign, under penalty of voting fraud, the registration form that includes the phrase “and if registering on election day, that I have not voted and will not vote at any other polling place this election.” RSA 654:7. If an election official, another voter qualified to vote in the polling place, or a challenger appointed in writing by the state political party has evidence that a person has already voted in the election, by absentee

ballot or otherwise, they may make a voter challenge with the moderator. After the election any evidence that a person voted in one town by absentee ballot and in a second in person should be reported to the Attorney General's Office. It is a felony to vote in the same election in New Hampshire and in some other state.

The Legislature has authorized New Hampshire to participate in data exchanges with other states, in part for the purpose of identifying individuals who may have unlawfully voted in two states in the same election. In 2017, New Hampshire first participated in the Interstate Voter Registration Crosscheck Program. Twenty-eight states exchanged data on registered voters and their history of voting in the November 8, 2016 general election. An interim report to the Ballot Law Commission on the initial findings of that data exchange are available at: <http://sos.nh.gov/2017-18BLC.aspx>

While it is yet to be determined whether unlawful voting in two states occurred at the November 8, 2016 election, a systematic process of comparing the history of who voted at a particular general election in participating states is in use.

#### **SUPPLYING POLLING PLACE BALLOTS, CHECKLISTS, FORMS**

The clerk must bring the ballots, absentee ballots, checklist and election forms supplied by the Secretary of State for election day.

#### **INSPECT BALLOTS UPON RECEIPT**

The town or city clerk must open all boxes of ballots received from the Secretary of State for a state election in the presence of at least one other voter as soon as possible after those boxes are received. The clerk must verify that the ballots are the proper

ones for that town or city and then reseal the boxes using the sealing labels provided in the box. RSA 656:20; RSA 656:22; RSA 656:29.

### **MANDATORY CLERK OFFICE HOURS**

Whenever the election laws require a filing with or an action by an official, such filing or action shall be performed before 5 o'clock in the afternoon of the stipulated day. The clerk's office shall be open between the hours of 3 p.m. and 5 p.m. RSA 652:20.

### **NURSING HOME ABSENTEE REGISTRATION & VOTING**

Residents of Nursing Homes and similar facilities, while encouraged to vote in person on election day if they are able to do so, are frequent absentee voters. Over the years several municipalities have reported incidents causing concern for whether nursing home residents were being unduly influenced when marking their absentee ballots. While not required by law, it is best practice for clerks to arrange an absentee registration and voting event at the nursing homes and similar facilities within their municipality. Either in person or through a designee, the clerk has the nursing home recreation/activities director plan, publicize, and organize a voting event for some day close to but prior to the election. The clerk, a deputy clerk, supervisors, or some trusted non-partisan designee of the clerk goes to the home and assists those residents who will be unable to travel to the polls on election day with registering absentee, if needed, and voting absentee. If the clerk uses a designee, it is important that the person is non-partisan and not a member of the facility staff. If it is necessary to use facility staff, provide training and obtain a commitment to provide the service in a non-partisan manner. This process ensures that no one

is able to unduly influence the residents as they make their voting choices. The Secretary of State and the Attorney General's staff are available to assist in training designees or otherwise organizing this type of registration/voting event.

### **PHYSICAL DISABILITIES PREVENT SIGNING NAME**

Some accommodation must be made to allow a person, who is qualified as a voter, with this type of disability to vote. It is best practice for the clerk to appoint someone neutral to take the absentee ballot to the voter and to verify that the stamped name is legitimate as the voter's signature. The clerk's appointee should countersign both the application and the affidavit envelope next to the stamped signature or submit a written and notarized statement to accompany the sealed affidavit envelope verifying that the voter himself or herself caused the ballot to be marked and the affidavit to be stamped with the voter's signature. New Hampshire Constitution, Part 1, Article 11.

The absentee ballot application and affidavit envelope have a section for a person assisting an absentee voter to sign and print their name.

An absentee voter who receives assistance in voting is exempt from the requirement that the application or affidavit be signed by a voter. A voter may receive assistance from any person. "Any person who assists a voter with a disability in executing" the application for an absentee ballot or the affidavit on the absentee ballot envelope "shall make a statement acknowledging the assistance on the application form [and on the affidavit] envelope." RSA 657:4; RSA 657:7, II(b), RSA 657:17.

RSA 657:4; RSA 657:7; RSA 657:4, I.

## **ASSISTANCE TO PERSONS WHO ARE UNABLE TO COMMUNICATE**

Persons with Alzheimer's disease or persons with other disabilities, who are otherwise qualified as voters, should be allowed to vote as long as they are able to vote without assistance. If the voter needs assistance, he or she must be allowed to vote if able to communicate his or her choice on how their ballot should be marked. Any means of communication that could be understood by a stranger should be considered acceptable. This might include communication such as blinking their eyelids once for yes and twice for no, or tapping a finger once or twice, as the person assisting them reads off the choices. A family member or friend should not be allowed to mark the ballot based on how the family member or friend believes the voter would have voted had the voter been able to communicate a choice.

A person with a power of attorney is not allowed to vote for the person for whom he or she holds power of attorney in any circumstance.

When a voter has assistance at the polls marking his or her ballot, both the voter and the person assisting the voter must take the oath required by law. The voter must be afforded the opportunity to take the oath orally, in writing, or by any other means of communication. If the voter lacks the capacity to take the oath they are not allowed to vote. RSA 659:20.

## **ELECTION DAY DUTIES – TOWN CLERK**

### **PROCEDURE FOR ACCEPTING VOTERS**

In towns that do not use a ballot counting device, when the voter has completed marking the ballot, he or she checks out with the clerk by approaching the

checkout table and stating his or her name (name and party, if a primary) to the town or ward clerk. The clerk places a mark beside the voter's name on the checklist. The voter then proceeds to the ballot box and hands the ballot to the moderator for deposit into the ballot box. Towns and cities using ballot counting devices are not required to have a checkout table. RSA 659:23.

### **DELIVERY OF ABSENTEE BALLOTS TO MODERATOR**

On election day, prior to the time set for processing absentee ballots, the clerk shall deliver the absentee ballot envelopes received from absentee voters, with the applications attached, to the moderator. RSA 657:23.

Because the deadline for receipt of absentee ballots is 5:00 p.m. on election day, clerks should arrange to retrieve all U.S. mail delivered on election day by 5:00 p.m. Any absentee ballot return envelopes received by 5:00 p.m. that day must be processed by the moderator and counted if the affidavit is in order, the voter qualified, and if the voter has not already voted in person. The clerk shall record absentee ballots received after such time in *ElectionNet* with the return date and shall mark the ballot as rejected due to receipt after election day. RSA 657:17; RSA 657:22. See also RSA 657:21-a.

### **ABSENTEE BALLOT RECORD KEEPING**

On election day, the moderator must record the reason that any absentee ballot has been rejected by the moderator on the clerk's absentee ballot list created under RSA 657:15. RSA 657:26; HAVA Section 703; RSA 659:53. Promptly following the election, the clerk must enter this information into *ElectionNet*. The information then becomes available to the voter through the Secretary of State's "Voter Information Look-up" at: <http://sos.nh.gov/VoteInforLook.aspx>.

## **OUT OF BALLOTS**

The clerk should set aside at least one of each page/type of official ballots in use at an election for use to make copies.

If the supply of official ballots is exhausted the clerk should first use leftover absentee ballots. The clerk should cross out the word “absentee” and initial the absentee ballot prior to being used by the voter.

If the supply of official ballots and absentee ballots is exhausted the town or city clerk shall prepare additional unofficial ballots as provided in RSA 659:24 and RSA 658:35. Photocopies should be made of an unused official ballot. Each photocopy ballot should be authenticated by the clerk or designee signing his or her name or initials prior to being issued to the voter, to distinguish any such unofficial ballots from fraudulently created ballots. RSA 659:24. Keep an accurate record of the number of unofficial ballots created and the number put into use as election day ballots.

Generally, at least ten such ballots should be used. If fewer than ten unofficial ballots will be needed, avoid any procedure that would make the ballot(s) used by the last few voters identifiable.

Clerks should monitor the voter turnout and anticipate the need for additional ballots so that they can be prepared before the official supply is exhausted. RSA 659:24.

## **ABSENTEE BALLOT DELIVERY TO VOTERS INCAPACITATED ON THE DAY OF THE ELECTION**

Technically, there is no state law which establishes a deadline for applying for an absentee ballot other than the deadline that absentee ballots must be received by 5:00 p.m. on election day. The exception

is that absentee ballots from emergency services workers are counted until the polls close. RSA 657:21-a; RSA 657:22.

If a voter, for example someone who planned to vote in person but was unexpectedly hospitalized on election day, requests delivery of an absentee ballot the town or city clerk may deputize someone from his or her office, or take an absentee ballot with the application and affidavit envelope to the person and then accept receipt of the completed absentee ballot package in person. The constitutional right to equal protection may require that if a clerk extends this service to one person but not to a similarly situated person, the clerk must have at least a rational basis for treating the two people differently. Generally, it is recommended that clerks adopt a uniform practice, treating all similarly situated persons equally.

## **UNFORESEEN INABILITY TO ACCESS THE POLLING PLACE**

RSA 659:20-a. “Any voter, after appearing at the polling place location prior to the closing of the polls to vote in person, who declares to the moderator under oath that said voter is unable to access a polling place due to disability shall, upon the voter’s request, have the required documents delivered to the voter outside the guardrail by the town or ward clerk or one of his or her assistants. The absentee ballot delivered by the town or ward clerk shall be processed using the same procedures as any other absentee ballot except that the cutoff time listed in RSA 657:22 shall not apply.”

RSA 659:20-a provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was

unable to do so. This law cannot be used in lieu of maintaining an accessible polling place, and it should not be used for a voter's convenience in place of voting absentee when a voter can anticipate difficulty getting into an accessible polling place. This provision was not created for the convenience of a voter who otherwise has the ability to enter the building or vote absentee.

To achieve equal treatment under the law, the U.S. Department of Justice recommends this stop-gap approach in "rare circumstance(s)" - as when the polling place is an inaccessible building (which is illegal in New Hampshire.) See United States Department of Justice treatment of the matter at: <https://www.justice.gov/file/69411/download>

### **COUNTING THE BALLOTS**

The moderator is responsible for supervising the counting of ballots.

The town clerk, selectmen, and other election officers should participate in the ballot counting process as directed by the moderator. RSA 659:60.

### **REPORTING THE ELECTION RESULTS**

After all state election ballots have been counted, the town or ward clerk must report the results on the Return of Votes forms provided by the Secretary of State by 8 AM on the day following the state election. Clerks will receive instructions on where to deliver the "Return of Votes" and the one4all tablets, which typically will be a law enforcement agency in your region. The State Police collect the "Return of Votes" forms and one4all tablets from across the state overnight and deliver them to the Secretary of State.

The ward clerk should send copies to the city clerk. Subject to the request of the Secretary of State, Names on Checklist

forms and Moderators Worksheets (page 255) should be completed within 48 hours (or sooner if requested) after the closing of the polls. The city or town clerk must keep a copy of the Return of Votes, Ballots Cast Form, Names on Checklist, Moderators Certificate, Moderator's Worksheet, and should retain tally sheets and reconciliation worksheets. RSA 659:73; RSA 659:75.

### **DELIVERY OF BALLOTS TO THE CLERK**

The election officers designated to deliver the ballots to the clerk should deliver the cast and counted ballots in a sealed container. In the presence of these officials, the clerk shall subscribe upon the label the time when the ballots are received and sign his or her name in the appropriate blank on the sealer. RSA 659:98.

### **SPOILED AND UNUSED BALLOTS**

Preserve the cancelled and unused ballots in suitable containers with the cast ballots. RSA 659:95.

### **TALLY SHEETS NOT TO BE SEALED IN BALLOT BOX**

To permit review of tabulation results after the election, election-night tally sheets should not be sealed in the ballot box.

### **CERTIFYING THE CHECKLIST**

Before the election, the supervisors must certify that the corrected checklist according to their best knowledge contains (fill in number) of names of those persons, "who are by actual domicile legal voters" in the town or ward. RSA 654:29. Provide two certified copies to the clerk. The clerk and moderator must use those certified copies as the checklist for the election.

After closing of the polls to voting the moderator and the clerk must certify the

checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

## **POST ELECTION DUTIES – TOWN CLERK**

### **SEALING BALLOTS FOR STORAGE**

Ballots must be sealed into containers at the end of counting on election day and must be preserved in those sealed containers until opened by order of the Secretary of State or in local elections by the Board of Recount. Even then the sealed containers must be opened under conditions that preserve the integrity of the ballots and upon completion of the recount, the ballots must be resealed. Upon order of the Ballot Law Commission or a court hearing an appeal from a recount, protested ballots should be made available to the Commission or the Court, but even then under the control of the Secretary of State or the clerk, except when in actual possession of the court.

### **KEEP ELECTION OFFICIAL/POLLING PLACE INFORMATION CURRENT IN ElectionNet**

The clerk shall enter, maintain, and keep up to date election official contact and polling place location/hours in ElectionNet. RSA 654:45, VII.

## **RIGHT TO KNOW LAW**

### **BALLOTS**

Ballots are explicitly exempted from the Right-to-Know law, RSA 91-A, by RSA

659:95, II; RSA 660:16, II; and RSA 669:33, II.

### **VOTER REGISTRATION RECORDS**

All information is non-public except the voter's name, the ElectionNet ID number, physical street address, mailing address, town, city, party affiliation, if any, and voter history. RSA 654:31-a.

Election officials and law enforcement personnel, in the performance of their official duties, may access and disclose information from voter forms identified in RSA 654:31-a below if necessary to resolve a challenge to an individual registering to vote or voting or by law enforcement for a specific voter when investigating any crime.

Right to Know Exemption. “The information contained on the checklist of a town or city, specifically, the name, street address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter and domicile affidavits, affidavit of religious exemption, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter or domicile affidavit. Election

officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, qualified voter and domicile affidavits, affidavits of religious exemption, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of specific individuals who are the subject of the investigation or prosecution.” RSA 654:31-a.

#### **ELECTION~~NET~~– RIGHT TO KNOW LAW**

The federal Help America Vote Act of 2002 required the establishment of a statewide database of registered voters. All jurisdictions must use the database, entitled *Election~~Net~~*, in the federal-state primary and general elections and at municipal elections. All information in the statewide database will be exempt from the Right-to-Know law, except for the public information identified above. Individuals wanting to obtain checklists have to pay a fee to the towns and cities and obtain the copy of the checklist from the supervisors or the supervisor’s designee. In limited circumstances, the public information in the statewide database can be purchased from the Secretary of State.

RSA 654:45, VI provides:

“The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31, nor shall it or any of the information contained therein be disclosed pursuant to a subpoena or civil litigation discovery request. The voter checklist for a town or city shall be

available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.”

#### **RETENTION OF VOTER REGISTRATION FORMS**

New Law – RSA 654:13-a. Retain all voter registration forms and other records relating to voter registration securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. File any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted.

#### **PRESERVATION OF BALLOTS**

State primary, presidential primary, and general election ballots, because they are also used for federal offices, are required by federal law to be preserved until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer. 52 U.S.C. §20701 RSA 33-A:3-a.

If a recount is requested for a state election, the ballots will be collected by the Secretary of State. If a recount is conducted for a local election, the ballots must be retained until the contest is settled and all appeals have expired, or at least 60 days after the election, whichever is longer. If legal action regarding those ballots is pending, the ballots must be preserved until destruction is authorized by the court. RSA 669:33; RSA 33-A:3-a.

Absentee ballot return envelopes received after election day shall be preserved unopened in the same manner as ballots used at the election and shall be destroyed,

unopened and unexamined, when the other ballots used in that election are destroyed. RSA 657:22. These late absentee envelopes must be recorded in *ElectionNet*. RSA 657:15; RSA 657:26; HAVA Section 703.

#### **PRESERVATION OF CHECKLIST**

After every election, state or local, a marked copy of the checklist must be preserved by the town or city clerk as a public record for a period of at least 7 years. RSA 33-A:3-a.; RSA 659:102.

Before disclosing a marked checklist from a prior election, review the checklist to ensure that non-public information has not been added to the document. If dates-of-birth or other non-public information has been written onto the copy of the marked checklist, it must be redacted prior to disclosure to the public. Contact your municipal legal counsel or the Attorney General's Office if you have questions.

#### **PRESERVATION OF AFFIDAVITS AND ABSENTEE VOTING MATERIALS**

All Challenged Voter Affidavits (including all attached affidavits of religious exemption) shall be retained by the clerk and are subject to the retention requirements in RSA 33-A:3-a, XXXVIII.

RSA 33-A:3-a,XXXVIII.

“Elections-challenge affidavits by the town clerk: (a) Until the contest is settled and all appeals have expired or 22 months after the election, whichever is longer.”

The moderator should save all the rejected (unopened) and any challenged (opened or unopened) absentee ballot envelopes and provide them to the clerk to preserve in accordance with the laws governing the retention, preservation and destruction of ballots. RSA 33-A:3-a; RSA 659:101 . The remaining opened (empty) absentee ballot

envelopes shall be preserved with the cast, uncast and cancelled ballots for the applicable retention period.

In the event of a recount, the opened (empty) absentee ballot envelopes should be sent to the Secretary of State along with the ballots.

#### **RECORD KEEPING ON USE OF OUT-OF-STATE ID**

When a voter obtains a ballot with either an out-of-state driver's license or identification card, that information needs to be recorded on the checklist and following the election entered in the statewide centralized voter registration database. Within 30 days of the election, the supervisor of the checklist, or someone designated by her or him, shall record the state of issuance of a voter's driver's license or identification card in the statewide centralized voter registration database. RSA 659:13, I(b).

#### **SECRETARY OF STATE VERIFICATION**

New Law – RSA 654:12, V(c), (e)-(f); RSA 659:13, IV(b). The Secretary of State shall send a letter to applicants who register without providing documentary evidence of domicile or identity and to voters who voted without evidence of identity. The Secretary of State shall conduct an inquiry regarding any letters which are undeliverable or where there is no response from the voter. The Secretary of State may contact local officials for assistance with verifying information and/or to request copies of Voter Registration Forms and/or Affidavits to fulfill these responsibilities.

## **TOWN ELECTIONS TOWN CLERK DUTIES**

### **FILING FOR OFFICE – TOWN ELECTIONS**

If the town uses non-partisan official ballots, candidates who desire a certain office must file a declaration of candidacy with the town clerk during the 10-day filing period. RSA 669:10 through RSA 669:21.

### **WITHDRAWAL OF CANDIDACY PROHIBITED – TOWN ELECTIONS**

After a filing period for a non-partisan town election, or after a caucus has certified a nominee for a partisan election, the town clerk may not accept withdrawals of candidacy unless the candidate dies or makes oath that he or she does not qualify because of age, domicile or incapacitating physical disability acquired subsequent to his or her filing. RSA 669:22.

### **ABSENTEE VOTING – TOWN ELECTIONS**

Towns using official ballots must provide for absentee voting whenever official ballots are used.

The general court shall provide by law for voting by qualified voters who at the time of the biennial or state elections, or of the primary elections therefor, or of city elections, or **of town elections by official ballot**, are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to vote in person, in the choice of any officer or officers to be elected or upon any question submitted at such election.  
New Hampshire Constitution, Part 1, Article 11. (emphasis added).

Absentee ballots must be printed on the same color paper as regular ballots and similarly endorsed. The words "Absentee

Ballot" shall be printed on them. Absentee ballots and other absentee voting materials must be prepared and sent out by the town clerk. RSA 669:26 through RSA 669:29.

Signed requests for an absentee ballot may be sent by facsimile or e-mail attachment to the clerk. RSA 657:12; RSA 657:13.

Upon request for an e-mailed absentee ballot from a UOCAVA voter, the clerk shall send the absentee ballot, affidavit, and instructions via e-mail. RSA 657:19; RSA 669:25.

### **SAMPLE BALLOTS – TOWN ELECTIONS**

The town or city clerk shall print at least ten sample ballots for each town or ward. RSA 656:18; RSA 656:28.

### **PRINTING OFFICIAL BALLOTS – TOWN ELECTIONS**

The order of offices on an official ballot is left to the discretion of the town clerk for local elections. Most town clerks print the offices which a town is required to elect first on the ballot - moderator, selectmen, town clerk, board of supervisors of the checklist. Optional offices such as auditor, sewer commissioners, constable, etc. are usually printed further down the ballot. Following the names printed on the ballot under the title of each office, there shall be as many blank lines as there are persons to be elected to that office for the purpose of write-in votes. Names must be printed pursuant to RSA 656:5-a. See candidate rotation chart on page 77, and page 263.

A candidate should specify the form of his or her name to be placed on the ballot. For State offices, a candidate must use his or her legal name in any combination provided the name designated is not deceptive. RSA 655:14-b. Nicknames are permitted in limited circumstances.

Questions to voters to be printed on an official ballot may be printed beneath the offices to be filled or on a separate ballot at the discretion of the town clerk. Questions should be followed by the words “yes” and “no” with boxes for the voter to indicate his or her preference. RSA 669:23.

### **TIE VOTES**

In the case of a tie vote at any town election, the winner shall be determined by lot by the town clerk in the presence of the candidates who are tied, if upon notice from the clerk, they choose to be present. RSA 669:36

## **TOWN ELECTION RECOUNTS**

### **REQUEST FOR RECOUNT IN TOWN ELECTIONS**

A candidate for town office may request a recount of the ballots cast. The application must be in writing and submitted to the town clerk with the appropriate fee. The last day to apply for a recount is 5 PM on Friday following the election. The deadline for requesting a recount of a question that appeared on the official ballot of the Town, on a question that affects only the Town, is 7 days after the meeting or special meeting. RSA 669:30; RSA 669:31; RSA 669:32; RSA 669:33; RSA 669:34; RSA 669:35; RSA 40:4-c; RSA 40:4-d.

### **RECOUNT FEES**

Recount fees that must be paid go up based on the percentage difference in votes received by the winner and the person requesting the recount, as determined at the election night count.

If the person requesting the recount wins the recount, the fee must be refunded. Also, if the recount results in a difference of less than one percent, any charge made beyond the statutory fee must be refunded.

RSA 669:31: “I. The clerk shall notify each of the candidates for the office for which there is to be a recount at least 3 days prior to the day appointed for the recount of ballots. No other notice shall be required.

II. The applicant shall pay to the town clerk, for the use of the town, the following fee:

(a) If the difference between the vote cast for the applying candidate and a candidate declared elected is less than one percent of the total votes cast, the fee shall be \$10.

(b) If the difference between the vote cast for the applying candidate and a candidate declared elected is between one percent and 2 percent of the total votes cast, the fee shall be \$20.

(c) If the difference between the vote cast for the applying candidate and a candidate declared elected is between 2 percent and 3 percent of the total votes cast, the fee shall be \$40.

(d) If the difference between the vote cast for the applying candidate and a candidate declared elected is greater than 3 percent of the total votes cast, the candidate shall pay the fee as provided in RSA 669:31, II(c) and shall agree in writing with the town clerk to pay any additional costs of the recount.

III. If any person who has applied for a recount is declared elected by reason of the recount, the town clerk shall return to the person within 10 days of the recount all fees paid at the time of applying.

IV. If any person who has applied for a recount loses the recount by a margin of less than one percent of the total votes cast, the town clerk shall return to the person within 10 days of the recount any fees that were paid in excess of those required by subparagraph II(a).”

### **SCHEDULED TIME FOR THE RECOUNT**

The clerk then appoints a time for the recount that is not earlier than 5 days, nor

later than 10 days after receipt of the application. This period allows all recounts requested for an election to be held at one time if the clerk so wishes. The clerk must notify each candidate of the scheduled date of the recount at least 3 days prior to the recount. RSA 669:30; RSA 669:31. It is recommended that the clerk consult with the other members of the Board of Recount (moderator and selectman for towns; School District moderator and School Board for School Districts) when scheduling the recount.

#### **BOARD OF RECOUNT**

The recount is conducted by a board of recount composed of the town clerk, moderator and selectmen. An election officer whose election is being recounted must disqualify himself or herself from the recount. The moderator would then appoint a replacement.

Candidates or their representatives ought to be given an opportunity to view, but not handle, the ballots at the recount and to record any protests he or she may have to how a particular ballot is counted. RSA 669:32.

#### **RECOUNT ON BALLOT QUESTION**

Any 10 voters may request a recount of a question voted on by the town by the Australian or nonpartisan ballot, by applying to the town clerk before the expiration of 7 days from the date of the election. The fee is \$10. The clerk shall set the time for the recount not earlier than 5 days nor later than 10 days after the receipt of the application. RSA 40:4-c.

#### **RESEALING OF BALLOTS**

Following the recount, the ballots are resealed and preserved by the town clerk until the contest is settled and all appeals have expired or at least 60 days, whichever is longer. RSA 669:33; RSA 33-A:3-a.

#### **RECORD – OATH OF OFFICE**

The town clerk shall make a record of every oath of a town officer taken in open town meeting at the time of the election, and of every such oath taken before him or her at any other time and place. The town clerk shall record and keep on file every certificate of an officer being sworn in before a selectman or justice of the peace. RSA 42:8. See oath of office at Page 196.

#### **ASSUMING THE OFFICE**

No person shall assume a town office until after the time period for requesting a recount is over. If a recount is requested for a town office, no person shall assume that office until the recount is completed. RSA 669:10; RSA 669:34. Once a recount is completed, the outcome determines when the candidate assumes office.

If the candidate who was declared the winner at the original count on election day is also declared the winner at the recount, the law makes no provision for delaying the declaration or certification of the results or the assuming of office. The candidate may take the oath of office, and assume office at any time following declaration of the results of the recount, provided the oath is taken by the deadline established in RSA 42:6; RSA 669:34.

If a candidate other than the candidate originally declared the winner by the moderator on election day is found to be the winner after the recount, and no appeal to the superior court is taken from the recount, the candidate may assume office on the sixth day following the date of the completion of the recount, provided the oath is taken prior to the deadline established in RSA 42:6. If an appeal is taken, the person may not assume office until the superior court has issued a final ruling on the appeal. RSA 669:34.

### *Duties of Clerks*

Because the term of office continues until the election and qualification of the office holder's successor, the person holding the office prior to the election would continue to hold the office until either the certification on the sixth day or if the recount is appealed, until the Superior Court issues an order, and the person declared elected takes the oath of office. RSA 41:3; RSA 669:10, I; RSA 669:34.

Any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office, may be sworn in after the results are declared from the election and the annual business meeting has

ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. RSA 42:3.

### **CITY CLERK – CHIEF ELECTION OFFICER**

The city clerk is the chief election officer for the city and has the duty to establish uniform practices and procedures for all elections conducted by the city. The practices and procedures must conform to state and federal law. RSA 652:14-a. While the moderator of each ward remains in charge of that ward's polling place, the moderator must follow uniform practices or procedures established by the city clerk. RSA 659:9-a.

## **XI. DUTIES OF SELECTMEN**

### **RESPONSIBILITIES**

Selectmen are responsible for budgeting for elections and selecting an accessible polling place, with adequate parking. The selectmen must also provide sufficient staff to avoid long lines. The selectmen also must work with the moderator, clerk, and other officials to plan for emergencies, establish polling hours, set up the polls before the opening of the polls. Best practice is to have a written continuity of operations plan (COOP) which anticipates common emergencies and effective local responses.

New Hampshire's Constitution requires the selectmen, or their designees, to be present at the polls on election day. New Hampshire Constitution, Part 2, Article 32. Duties include helping on election day, participating in ballot counting under the supervision of the moderator, and signing the ballot box seal after counting is completed at the end of the day. (See seal on page 233.) Selectmen should review new election laws herein to determine resources required for elections.

### **PRE-ELECTION DAY**

#### **APPOINTING INSPECTORS OF ELECTION (BALLOT CLERKS)**

If the two major political parties fail to make appointments before July 15, the selectmen shall appoint 2 inspectors of election from the two political parties. The moderator will designate chosen inspectors of election as ballot clerks.

If the number of voters qualified to vote at a polling place exceeds 2000, one additional inspector from each political party may be made for each 1500 qualified voters. Moderators may also require additional inspectors of election if needed

to effectively manage the election. Moderators report that it is beneficial, particularly at high-volume polling places and high turnout elections, to have two or more shifts of ballot clerks. People are more willing to serve in this role when it requires only half of the day. The quality of record keeping is improved. Ballot clerks who have only worked 5 or 6 hours can more conveniently and accurately assist with ballot counting after the polls close to voting.

An inspector of election shall be registered to vote at the polling place where he or she serves and shall be affiliated with one of the two major political parties. Each inspector shall be sworn to the faithful performance of his or her duties and shall hold office for 2 years from November 1 in the year in which he or she is appointed or until a successor is appointed and qualified. RSA 658:2; RSA 658:4.

In making appointments of inspectors of elections, the selectmen, in consultation with the moderator, may designate a list of alternates, who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the principal appointees fails to accept the appointment or is otherwise unavailable to perform his or her duties. RSA 658:5.

If an inspector of election is absent from any election, the selectmen shall appoint replacement inspectors using the list of alternate inspectors. RSA 658:22.

#### **SELECTING THE POLLING PLACE**

Selectmen are responsible for selecting a proper site within the town or ward for the polling place, ensuring it is accessible, providing a proper number of voting

booths, establishing a rail and providing the necessary supplies. RSA 658:9. The polling place must be:

- Equipped with sufficient parking spaces to accommodate the expected voter turnout;
- Located where roads/streets can safely accommodate the volume of traffic expected;
- Have sufficient space to accommodate the required areas for voter registration, check in, the required number of voting booths/screens, and some public space outside the guard rail to allow observation of the election;
- Warmed;
- Lighted – It is strongly recommended that where room lighting does not provide sufficient illumination inside the voting booth for comfortable reading, that supplemental lighting be provided. Towns and cities are encouraged to equip voting booths with inexpensive lamps equipped with a magnifying lens. New Hampshire law requires that booths be “well lighted;”
- Furnished with proper supplies (see list starting at page 227);
- Easily accessible to the elderly and to persons with disabilities;
- Equipped with a United States flag inside the building and weather permitting flown outside the building during election day;
- Equipped with a guardrail constructed and placed so that only persons inside the rail can approach within 6 feet of the ballot box and any voting booth (This requirement for a rail can be satisfied with a rope or ribbon, but it is important to the proper layout of a polling place.);
- Organized with the guardrail positioned so that the voting booths can be reached only by passing within

the guardrail. The guardrail should be positioned in relation to the check-in and check-out tables such that once a voter has checked in and received a ballot it will be awkward to leave the railed in area with a ballot. Ballots should be marked only within the voting booth or voting screen. Proper positioning of the rail can be used by the selectmen and the moderator to discourage these improper voting practices.);

- Arranged so that the voting booths and voting screens are in plain view of the election officers;
- Arranged so that the ballot box or ballot counting machine is in plain view of the election officers and to the public area outside the guardrail;
- Equipped with no less than one voting booth for every 100 voters qualified to vote at the polling place at a presidential election, one for every 125 voters at state general elections, and one for every 150 voters at other elections. Table top voting screens may be used to accommodate up to 50% of the total requirements for voting booths. RSA 658:9, V. Jurisdictions that have adopted Senate Bill 2 should analyze the length of their warrant/ballot for warrant articles and voting trends and consider adding additional voting booths to avoid excessive delays to voters seeking to cast their ballots. (The Attorney General’s Office reports that a common complaint, especially in Senate Bill 2 towns, is an excessive delay resulting from an insufficient number of voting booths to accommodate the turnout of voters and the extended time required to mark ballots with a large number of questions. RSA 658:9 provides that “the number of booths erected at the polling place shall be the number estimated by the selectmen to be

necessary for the efficient conduct of the election plus any additional number requested by the moderator.” Therefore, the selectmen should consult the moderator when determining the number of booths and voting screens that will be provided);

- RSA 658:9, V also provides specifically that each polling place shall have no less than two standard voting booths, one specialized voting booth easily accessible to the elderly and to persons with disabilities, and two table-top voting screens;
- Portable booths set up in pods of up to 4 voting stations may be used in lieu of booths described in RSA 658:9, II and screens described in RSA 658:9, IV. Each voting station in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep and the edge of the table facing the voter no less than 25 inches in width. The third open side of the voting station shall be enclosed by a curtain large enough, and designed in a way to give the voter privacy (RSA 658:9, VI);
- Equipped with at least one voting booth specially designed in conformance with RSA 658:9, III, to be easily accessible to persons with disabilities and the elderly. The Secretary of State has provided every polling place in the state with a large voting booth that satisfies this requirement. This booth must be used at all elections. Each polling place must also have at least two table-top voting screens for use at an election. The formula for determining the number of specialized voting booths and table top screens necessary

for an election is set forth in RSA 658:9, V;

- The selectmen should be prepared, or have town employees prepared, to deal with any facility-related problems, including emergencies such as fires and power outages, including minor problems such as burn-outs of light bulbs illuminating the polling booths, that might develop during voting.

### **BALLOT COUNTING DEVICES**

Selectmen (or the governing body of a city) may elect to use electronic ballot counting devices. If a decision is made to do so, the town or city must notify the Secretary of State. RSA 656:40.

Only manufacturers and models of ballot counting devices approved by the Ballot Law Commission may be used. RSA 656:41.

Each ballot counting device must be tested prior to each election. RSA 656:42, II. See page 229 for security measures and testing procedures. Any person who knowingly violates the testing procedures established for ballot counting devices shall be guilty of a misdemeanor if a natural person, or a felony if a corporation. RSA 656:42, VI.

The statute making it a felony crime to tamper with a vote casting or ballot counting device also makes it a felony to tamper with software used in the casting or counting of ballots or to design such software so as to cause incorrect tabulation of the ballots. RSA 659:42.

### **POSTING OF WARRANT**

Selectmen are responsible for posting the warrant at least 14 days before the election. The warrant states the date of the election or town meeting, the location of the polling place, offices to be elected,

the questions that will be on the ballot and the polling hours. RSA 658:1; RSA 669:2.

### **EQUIPPING ADDITIONAL POLLING PLACE.**

Selectmen are responsible for equipping any additional polling place.

### **SPECIAL ELECTIONS**

If a vacancy exists in the office of State Representative, the selectmen must determine whether a special election will be requested from the governor and executive council. If the representative district encompasses two or more towns, the selectmen from the towns should consult and seek to reach consensus regarding whether a special election shall be requested. See additional details in: RSA 655:81, I.

### **ACCESSIBILITY OF THE POLLING PLACE**

The New Hampshire Constitution, Part 1, Article 11, provides in pertinent part:

“Voting registration and polling places shall be easily accessible to all persons including disabled and elderly persons who are otherwise qualified to vote in the choice of any officer or officer to be elected or upon any question submitted at such election.”

The New Hampshire Constitution, State statutes, and federal statutes further establish that for every election the polling place and the voting process must be easily accessible. In order for a polling place to be considered easily accessible, the following conditions must be met:

- 1) Where parking is provided for the polling place, there shall be at least one van-accessible parking place designated with the international symbol of accessibility. The dimensions and requirements of the parking space are outlined in RSA 658:9-a, I. The provisions of this

paragraph may be adopted by each municipality on an optional basis.

- 2) The paths to and from the polling place shall comply with accessible route requirements set forth in RSA 658:9-a.
- 3) If there is a curb in a path of travel to the accessible entrance, there shall be a curb ramp that complies with the NH building code, RSA 155-A, and the ADA.
- 4) Where a ramp is provided it shall comply with the NH building code, RSA 155-A, and the ADA.
- 5) Entrances, doors, and doorways must comply with the NH building code, RSA 155-A, and the ADA. There must be at least one primary entrance to the polling place that is accessible to elderly persons and persons with disabilities that is clearly marked with the international symbol of accessibility. If there are entrances that are not accessible, they must have signs posted directing voters to the accessible entrance.
- 6) The path of travel inside the polling place must comply with the accessible route requirements of the NH building code, RSA 155-A, and the ADA.

See RSA 658:9-a.

The Help America Vote Act of 2002 places great emphasis on ensuring the accessibility of the voting process. HAVA funds the purchase of devices that assist persons with disabilities and the elderly to vote privately and independently. The Secretary of State can provide more information and has staff available to consult with local election officials. See further discussion of accessibility starting at page 174.

Information on polling place accessibility is also available from the United States Department of Justice at:

<http://www.usdoj.gov/crt/ada/votingck.htm>

## **ELECTION DAY DUTIES - SELECTMEN**

### **POLLING HOURS**

The selectmen or the governing body of a town or the governing body of a city sets the polling hours.

At all state elections in towns and cities the polls shall open not later than 11:00 AM and shall close not earlier than 7:00 PM. In cities, the city council shall determine the polling hours no later than 30 days prior to a state election.

An exception to the 11:00 AM to 7:00 PM time frame is found in those communities which voted to open the polls at 8:00 AM. The polling hours in those communities would be 8:00 AM to 7:00 PM. Once these hours have been set by a vote of town meeting, however, they may be altered only by a vote of town meeting. RSA 659:4-a.

As an alternative to the procedures established in RSA 659:4-a, I-III and described above, the governing body of a town may extend the hours of polling in the town. Any extension of hours adopted by a town may not take effect sooner than 60 days after its adoption.

Municipalities are encouraged to establish a uniform polling place and polling hours for all elections. It helps a voter to know when and where to vote if the polling location and times are kept constant.

The Attorney General's Office reports that the failure to open the polls at the advertised time is a common problem. In some cases, voters assert that the effect of

failing to open on time is to deny them the opportunity to vote as work or travel commitments preclude their waiting extended periods of time or returning later in the day. Every effort should be made to ensure the polls open at the pre-determined and advertised time. Research also indicates that at many polling places the longest lines of the day occur as a result of voters queuing up prior to the opening of the polls. For polling places and elections where this has occurred in the past, consider adding staff and additional checklist check-in stations for the first hours of polling. RSA 659:3; RSA 659:4; RSA 659:4-a; RSA 659:6; RSA 659:8; RSA 669:25; RSA 669:45.

### **ATTENDANCE AT ELECTION**

For state primaries and general elections, the New Hampshire Constitution requires the attendance of the selectmen. New Hampshire Constitution, Part 2, Article 32.

RSA 658:21-a: "If a selectman is absent or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties..."

### **ASSIST MODERATOR AS REQUESTED**

Selectmen are election officers. RSA 658:23; RSA 658:24; RSA 659:9. Moderators may suggest that selectmen assist with setting up and assisting voters in using the accessible voting system, greeting and directing voters to the correct intake lines, staffing the "No Photo ID" table to assure proper voter throughput, counting, tallying, and reconciling ballots, voters and votes, and checking the voting booths regularly to ensure that a writing instrument and the instructions to voters signs are present and that any electioneering materials are removed. Selectmen are authorized to accept the oaths for those who must

complete Challenged Voter Affidavits, Qualified Voter Affidavits, or Affidavits.

#### **ONE4ALL ACCESSIBLE VOTING SYSTEM**

The Accessible Voting System, named “one4all” is a tablet-based system which is provided by the Secretary of State and which must be available for use by voters. The one4all must be placed in the accessible voting booth provided by the Secretary of State for that purpose. This booth is ideally set up near the moderator’s post by the ballot box/ballot counting device, to permit the moderator to readily receive the ballot by hand in a privacy sleeve. It shall be turned on and tested before the polls open. The one4all system should be checked regularly throughout the day. If the screen is dark during an election, the system has not been turned on as required. HAVA Section 301.

#### **COUNTING OF BALLOTS**

Selectmen shall participate in the counting process as directed by the moderator, unless a selectman is a candidate for a non-election official office. RSA 659:60; RSA 658:24; New Hampshire Constitution, Part 2, Article 32.

#### **SECURING THE BALLOTS**

After the ballot counting is completed and the results announced, selectmen or their designee(s) shall sign the label for resealing the ballots on the container indicating the number of cast, canceled, and unused ballots in the container.

Selectmen should check the Moderator’s Worksheet, and compare the figures for ballots cast, voters, and votes. RSA 659:95; RSA 659:97; RSA 659:98. Selectmen should ensure that election night tally sheets are not sealed in the ballot box.

#### **DELIVERY OF BALLOTS TO CLERK**

The selectmen or their designees and the moderator or his or her designee shall deliver the sealed containers to the town or city clerk who shall in their presence enter in the time of day and shall sign his or her name on the sealer. RSA 659:98

#### **WARRANT ARTICLES**

Upon petition of 25 or more voters or 2 percent of the registered voters, whichever is less, but in no event less than 10 voters, presented to at least one selectman no later than the fifth Tuesday before town meeting, the selectmen shall insert onto the warrant for that meeting the petitioned article. RSA 39:3. Senate Bill 506 (2018), effective August 24, 2018, amends RSA 39:3 to provide that corrections by the selectmen to petitioned warrant articles “shall not in any way change the intended effect of the article . . .”

Every article included in a warrant for a town meeting shall be acted upon before final adjournment of the town meeting. RSA 40:11.

## PART 3 – EXPANDED GUIDANCE: ACCESSIBILITY, CHALLENGES, ELECTIONEERING, WRONGFUL VOTING

### XII. ACCESSIBILITY

The New Hampshire State Constitution and state and federal laws require every polling place to be easily accessible to all persons, including persons with disabilities and elderly persons who are otherwise qualified to vote. In order for a polling place to be deemed accessible, a number of specific conditions must be met. These conditions address the parking; the path of travel (to, from and within the polling place); the ramps (where provided); the entrance(s); the doors; the floor surfaces; and the voting booth(s). New Hampshire Constitution, Part 1, Article 11; RSA 658:9-a.

In 2007, the Legislature amended RSA 658:9-a, which sets forth the conditions for accessibility at polling places, to make clear that the statutory accessibility conditions must comply with the New Hampshire building code, RSA 155-A, and the Americans with Disabilities Act of 1990, 28 C.F.R., part 36.

**Our best advice on what constitutes an accessible polling place is discussed below by category.**

**RSA 658:9-a – Accessibility:** “Every polling place in which state elections are held shall be easily accessible to all persons, including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. In order for a polling place to be considered accessible to elderly persons and to persons with physical disabilities, the following conditions shall be met;

provided, however, that the provisions of paragraph I may be adopted by each municipality on an optional basis.”

#### **PARKING**

**RSA 658:9-a, I:** “Where parking is provided for the polling place, there shall be at least one van-accessible parking space that is in compliance with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36 and designated with the international symbol of accessibility. The van-accessible parking space shall be at least 8 feet wide with an adjacent and parallel access aisle that is at least 8 feet wide and located on a level surface as close as possible to the accessible entrance. There shall be a clear path of travel without curbs or steps to the accessible entrance of the polling place from the van-accessible parking.” (Emphasis added)

**NOTE:** The requirements for accessible parking apply only to those polling places that have parking lots.

An accessible parking space must be at least 8 feet (96 inches) wide, 20 feet long and have a parallel and adjoining access aisle that is 20 feet long. The access aisle should be marked by diagonal stripes and have a “No Parking” sign so that all vehicles are prohibited from parking in the access aisle. The stripes are preferably, but not necessarily, yellow in color.

- Accessible parking spaces must be located on level surfaces.

- There must be at least 1 accessible parking space in parking lots of 1 to 25 total parking spaces; 2 accessible parking spaces in parking lots of 26 to 50 total parking spaces; 3 accessible parking spaces in parking lots of 51 to 75 total parking spaces; 4 accessible parking spaces in parking lots of 76 to 100 total parking spaces; 5 accessible parking spaces in parking lots of 101 to 150 total parking spaces; 6 accessible parking spaces in parking lots of 151 to 200 total parking spaces; 7 accessible parking spaces in parking lots of 201 to 300 total parking spaces.
- At least 1 designated accessible parking space must be Van Accessible, that is, the parking space and an adjoining access aisle must each be 8 feet (96 inches) wide and be located as close to the main entrance as possible. **See figure 1.**
- Additional accessible parking spaces must be 96 inches wide but the adjoining access aisles need only be 60 inches wide and 20 feet in length. Adjoining access aisles may be shared by accessible parking spaces. **See figure 2.**
- All accessible parking spaces must be marked with an upright sign displaying the international symbol of accessibility that is mounted on a post or wall directly in front of the accessible space(s) at a minimum height of 60 inches (measured vertically from the parking surface to the bottom of the sign). Signs should be mounted so that they can be viewed from the driver's seat of a vehicle and in such a way that they cannot be obscured by a vehicle parked in the accessible space. **See figure 3.**

**NOTE:** Marked pavement may be helpful but **it is not required** and **does not satisfy** the requirement that

accessible parking spaces be clearly marked.

## **ROUTE**

RSA 658:9-a, II: "The paths of travel to and from the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36."

- There must be a completely clear path of travel from the accessible parking to the entrance of the polling place.
- The accessible route to and from the polling place must be at least 36 inches wide.
- The slope of the walks to and from the polling place shall be less than 5 percent or 1:20.
- If the accessible route to and from the polling place has a cross slope (side to side tilt) it cannot exceed a 2 percent grade or 1:50.
- The route, or path of travel, must have a continuous common surface that is not interrupted by curbing, bricks, steps and other such features, or by damaged or eroded pavement. Note: There is an exception to this requirement when a change in surface is used to indicate a curb ramp surface.
- The continuous common surface cannot have a change in level that exceeds  $\frac{1}{4}$  inch. A change in level of between  $\frac{1}{4}$  and  $\frac{1}{2}$  inch must be beveled with a slope no greater than 1:12. If there is a change in level of  $\frac{1}{2}$  inch or more, then a curb ramp must be provided. See figures 4&5. Note: This addresses bumps or raised pavement, not slope.
- The accessible route surface must be stable, firm and slip resistant. (crushed stone, soft sand or mud is unacceptable).

- The accessible route must be kept clear of snow and ice.

## **CURBS**

RSA 658:9-a, III: “If there is a curb in a path of travel to the accessible entrance to the polling place, there shall be a curb ramp that complies with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.”

- Curb ramps must be provided whenever an accessible route crosses a curb.
- Curb ramps must be at least 36 inches wide, exclusive of flared sides.
- The maximum slope of a curb ramp shall be 1:12.
- The maximum slope of the side flares shall be 1:10. **See figure 6.**
- There must be a detectable warning, i.e., a change in the texture of the surface, extending the full width and depth of the ramp so that a blind or visually impaired person may know by touch that they are entering a ramp.
- There can be no protruding objects such as trees, shrubs, awnings, signs, benches, or buckets that interfere with the 36 inch minimum clear width of an accessible route.
- Objects like phones and fire extinguishers may not protrude more than 4 inches from a wall into the accessible route. Objects that do protrude more than 4 inches into the accessible route must be mounted no higher than 27 inches from the surface so that they are detectable by a person using a cane. Objects hanging or mounted overhead must be higher than 80 inches to provide clear head room.

Note: If an object such as a fire extinguisher or trophy case protrudes more than 4 inches into the route of travel and is mounted higher than 27 inches, place an object (potted plant, waste paper basket) beneath it so that it can be detected by a person using a cane.

## **RAMPS**

RSA 658:9-a, IV: “Where a ramp is provided, the ramp shall comply with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.”

- Any part of an accessible route that has a slope greater than 1:20 is considered to be a ramp.
- The least possible slope must be used for any ramp. The maximum slope is 1:12, i.e., 1 inch of rise for every 12 inches of run.
- A ramp cannot exceed 30 feet in length (run) and 30 inches in rise. If a ramp must be longer than 30 feet in length or changes direction, then there must be a 60 inch long level platform between the inclined sections of the ramp.
- The clear width of a ramp shall be a minimum of 36 inches.
- There must be level landings that measure a minimum of 60 inches by 60 inches at the top and bottom of every ramp and at every change in direction in the ramp run (sloped portion).
- The cross slope (tilt) of a ramp cannot exceed 1:50.
- Ramp surfaces must be stable, firm and slip-resistant.
- Ramps and landings with drop-offs must have curbs, walls, railings or projecting surfaces that prevent a person from slipping off the ramp.

Curbs must be a minimum of 2 inches high.

- Ramps are required to have handrails on both sides that must.
  1. Be mounted between 34 and 38 inches above the ramp or ground surface measured from the top of the rail.
  2. Have a clear space of 1½ inches between the rail and any wall.
  3. Have gripping surfaces that are continuous and that do not rotate within their fittings.
  4. Extend a minimum of 12 inches beyond the top and bottom ends of the ramp and be parallel with the ramp or ground surface.
  5. Be rounded at the ends or returned smoothly to the floor, wall or post. **See figure 7.**

## ENTRANCES

RSA 658:9-a, V: “Entrances, doors, and doorways shall comply with the New Hampshire building code, RSA 155-A, with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36, and with the following requirements:

(a) There shall be at least one primary entrance to the polling place accessible to elderly persons and persons with disabilities and clearly marked with the international symbol of accessibility.

(b) If there are entrances that are not accessible, they shall have signs posted directing voters to the accessible entrance.”

- There must be at least 1 primary accessible entrance to the polling place

which is clearly marked with the international symbol of accessibility. Note: It is strongly recommended that the main entrance also be the accessible entrance.

- Doorways must have a minimum clear opening of 32 inches with the door open 90 degrees measured from the face of the door to the opposite stop. See figure 8.
- Two hinged or pivoted doors in a series must have between them a minimum space of 48 inches plus the width of any door swinging into the space between them. See figure 9.
- Doors in series must either both swing in the same direction or both swing away from the space between the doors. See figure 9.
- A door that requires a pull motion to open must have enough space (18 inches minimum) on the pull side of the door to allow for the safe maneuvering of a wheelchair. See figure 10.
- The pressure required to open an inside door must be 5 pounds or less. Note: There is no ADA standard for an outside door.
- Door hardware must be operable with a closed fist. See figure 11.
- Door hardware must be located between 34 to 48 inches above the ground.
- The floor inside and outside of each doorway of a polling place must be level for a distance of 48 inches plus the width of any door swinging in to the space.
- Automatic or power doors must operate in a manner and direction that is not hazardous. Note: automatic or power assisted doors are not required.
- The thresholds to the polling place must have changes in level of ¼ inch or less, or ½ inch or less if beveled.

- Floors in polling places must be level with no thick mats or carpets that could trip a person or block a wheelchair. Note: the ADA establishes the maximum thickness of an accessible mat or carpet at ½ inch.

## INTERIOR ROUTE

RSA 658:9-a, V: “The path of travel in the interior of the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.”

- There must be a completely clear path of travel from the accessible entrance of the polling place to the registration tables, check-in tables, voting booths, ballot box, and the polling place exit.
- The accessible route within the polling place must be at least 36 inches wide.
- The accessible path of travel must have a smooth and continuous common surface that is firm, stable and slip-resistant.
- Thresholds or other changes in elevation between ¼ and ½ inch must be beveled with a slope no greater than 1:12. If there is a change in level of ½ inch or more, then a ramp must be provided. **See figures 4&5.**
- Carpets or mats are to be no thicker than ½ inch and secured.
- Objects that protrude more than 4 inches into the path of travel must be lower than 27 inches or higher than 80 inches above the floor.
- Every accessible voting booth must have 3 sides enclosed and be well-lighted.
- Every accessible voting booth must have a front enclosed by a curtain or a door that swings outward. The door or curtain must extend to within 2 feet of the floor.
- The minimum dimensions are:
  - Not less than 80 inches high;
  - Not less than 60 inches wide at its front and back; and
  - Not less than 60 inches deep.
- Every accessible voting booth must contain a shelf or a table that is the width of the booth, is 30 to 32 inches high at the writing surface, and has at least 28 inches of unobstructed space from the floor to the shelf bottom for leg clearance. See figure 12.

## TABLE TOP VOTING SCREENS

Each polling place shall have table-top voting screens available for use in an election. These screens can fulfill up to 50% of the minimum requirement for standard voting booths. Elderly and disabled voters may find voting screens convenient, since they enable voters to sit down to complete their ballot. RSA 658:9, IV.

- Each voting screen shall consist of 3 panels, to be positioned on a table or similar surface so that when a voter is marking a ballot, he or she is provided privacy.
- Each screen panel shall be at least 17 inches high and 15 inches wide.

## ACCESSIBLE VOTING BOOTH

Each polling place must have at least 1 accessible voting booth which is easily accessible to elderly persons and to persons with physical disabilities. RSA 658:9, III; New Hampshire Constitution, Part 1, Article 11.

## UNFORESEEN ACCESSIBILITY EVENTS

RSA 659:20-a (see page 159) provides an emergency stop-gap option in the event

that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was unable to do so. This law cannot be used in lieu of maintaining an accessible polling place, and it should not be used for a voter's convenience in place of voting absentee when a voter can anticipate difficulty getting into the polling place. This provision was not created for the convenience of a voter who otherwise has the means to enter the building or vote absentee.

The U.S. Department of Justice has published a helpful guide to federal polling place accessibility requirements. The guide is available online at: <http://www.usdoj.gov/crt/ada/votingck.htm>.

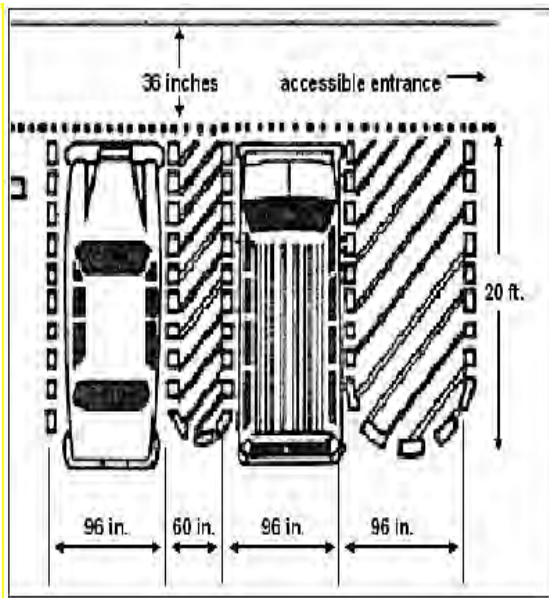


Figure 1

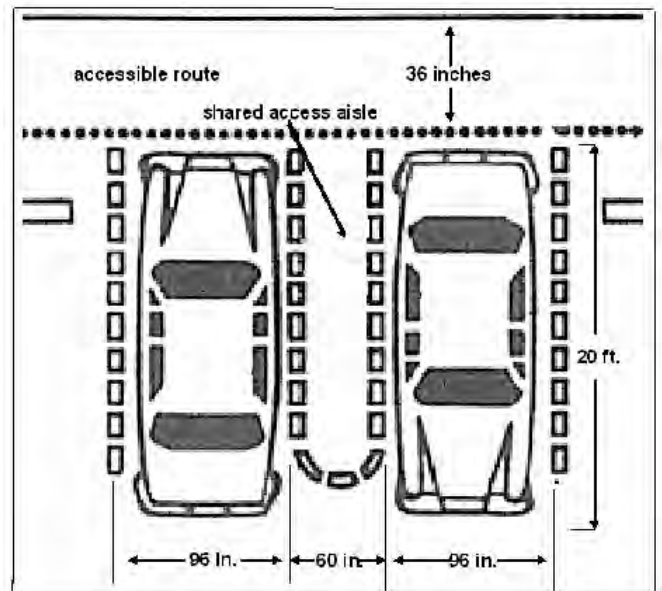


Figure 2

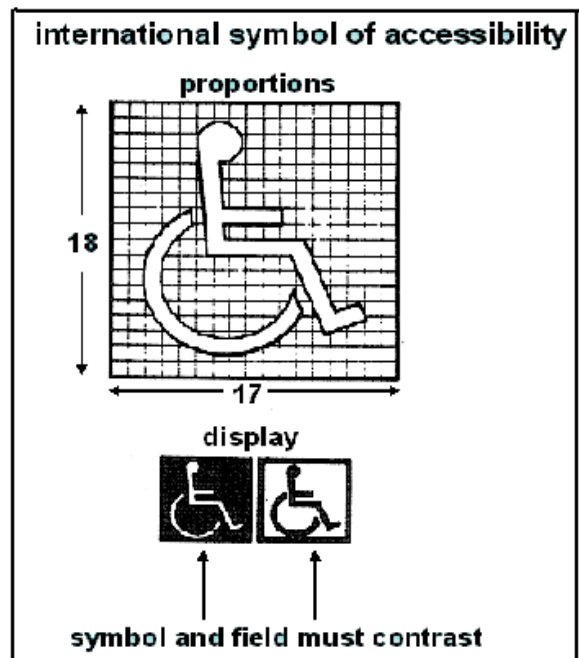


Figure 3

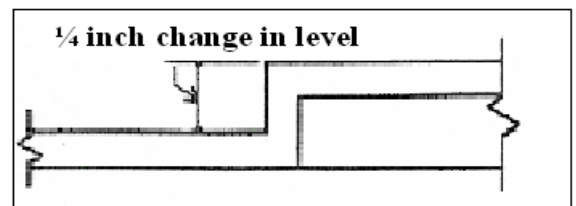


Figure 4

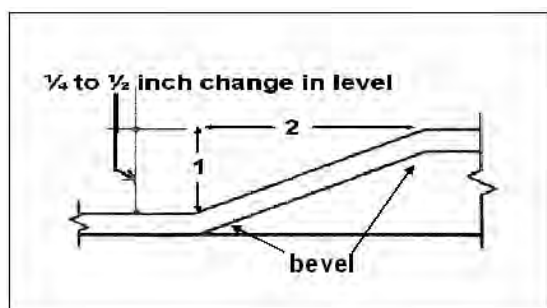


Figure 5

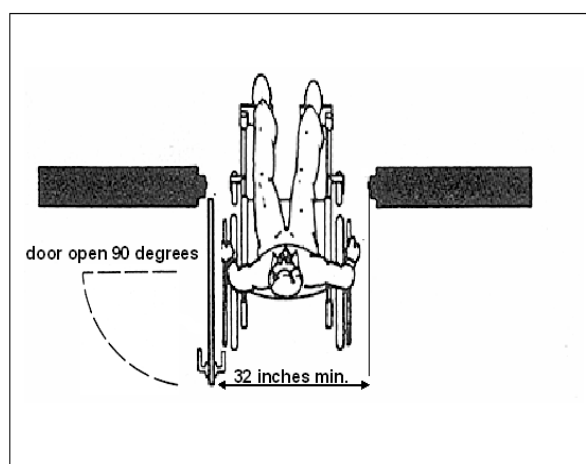


Figure 8

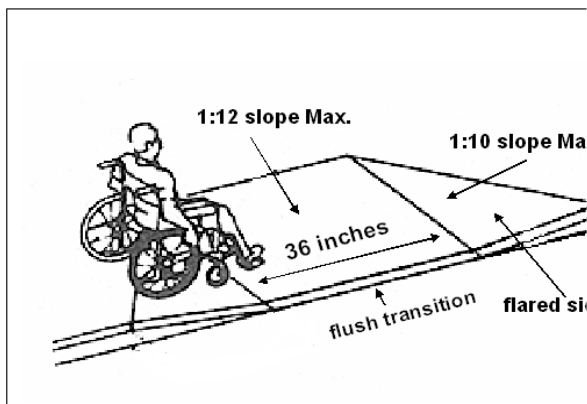


Figure 6

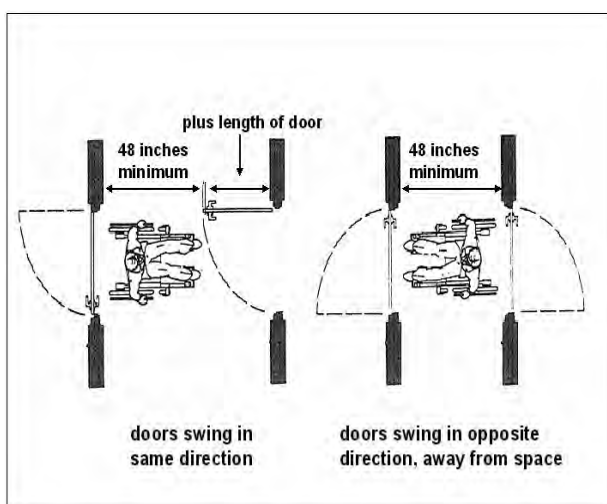


Figure 9

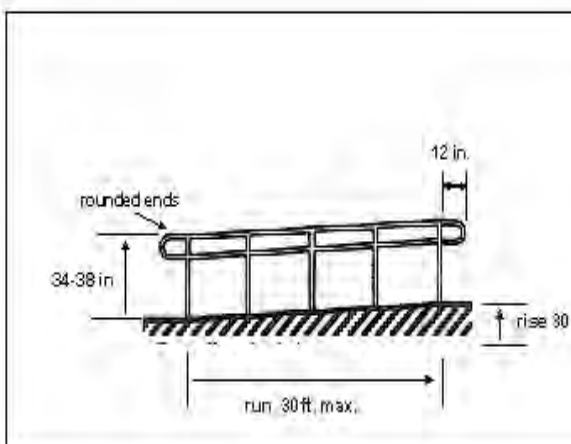


Figure 7

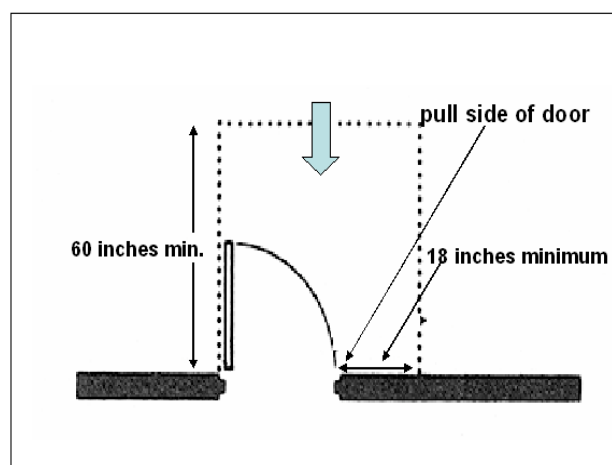


Figure 10

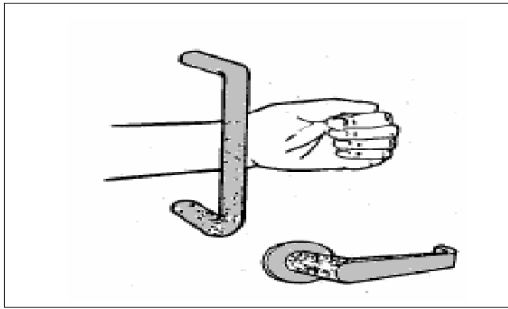


Figure 11

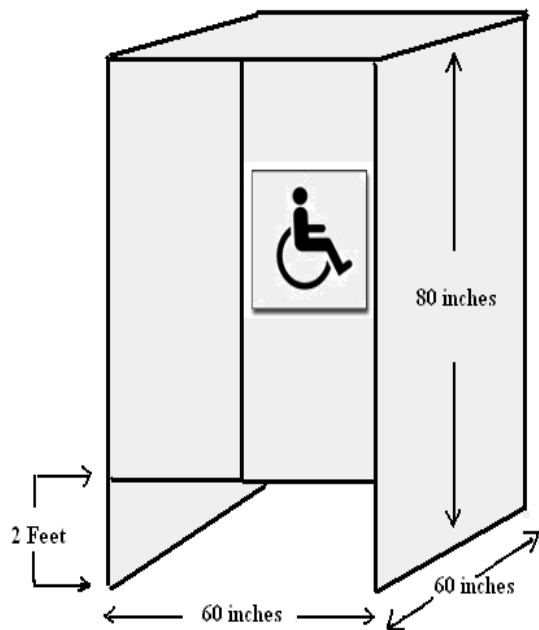


Figure 12

### **XIII. CHALLENGES**

#### **WHO HAS THE RIGHT TO CHALLENGE A VOTER?**

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials and challengers appointed in writing by the political party committees, or the Attorney General may also challenge a voter. RSA 659:27; 659:27-a; RSA 666:4; RSA 666:5.

#### **WHEN CAN CHALLENGES OCCUR?**

Usually challenges occur at the time the voter is at the check-in table before being given his or her ballot. A moderator or clerk may challenge an absentee voter who appears on the checklist, so long as they complete an “Asserting a Challenge” form and enable the supervisors of the checklist to rule on it. No voter or appointed challenger shall challenge a person’s qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, occur at any point up until the ballot is deposited in the ballot box.

#### **HOW DOES A CHALLENGE OCCUR?**

A challenge must be made for a specific reason. No challenge may be made unless an “Asserting a Challenge” form is filled out and signed under oath. See “Asserting a Challenge” form at page 202.

#### **CHALLENGERS AT THE POLLING PLACE**

Any member of the public has a right to observe the conduct of an election from outside the rail. The public trust in elections, sometimes referred to as the legitimacy of elections, relies in part on elections being conducted in the open. These observers do not have any special

legal status. In contrast, challengers appointed by a state political party or the Attorney General do have a special legal status.

Moderators should ensure that the poll and rail are set up in such a manner that party challengers and any other interested member of the public can see and hear people check in to vote. RSA 666:4. The moderator may ask a challenger to present the appropriate signed statement if he or she is from a political party committee or the Attorney General’s Office.

#### **TRACKING AND REPORTING OF WHO VOTED**

The statutes recognize challengers for the purpose of allowing the political parties to designate a person to challenge persons seeking to vote who they believe should not be allowed to vote. The public nature of the election process, however, allows anyone who so desires to monitor people checking in to vote, keeping track on his or her own who has voted, and using this information in any legal manner.

Campaigns will identify voters who are likely to vote for their candidate(s) and will use the process described above to learn who actually showed up at the polls so that they can contact those who do not show up and encourage them to do so.

Individuals conducting this type of activity may seek more direct access to the checklist, to read off who has voted, or may ask to have names repeated more than once after a person announces his or her name for the ballot clerks. Moderators should establish and enforce a uniform policy regarding such requests. While appointed challengers have a right to stand where they can see and hear each voter check in, they do not have a right to

disrupt the polling place. Generally, challengers have no right to stop voters by making a challenge until the voter is in line to get a ballot or after they have checked in. Challengers have a right to have the voter announce his or her name aloud and for the ballot clerks to repeat the name two times, but otherwise they have no right to further announcement of the voter's identity.

### **WHO IS A PARTY POLL WATCHER?**

Challengers appointed by a party to work at a polling place are sometimes, incorrectly, referred to as poll watchers.

### **BASIS FOR A CHALLENGE**

All challenges, including those made by election officials, must be asserted using reasons set forth in the "Asserting a Challenge" form on page 202. A challenge may be asserted only upon personal knowledge or documentary evidence that the challenged voter is ineligible to vote.

### **CHALLENGE PROCEDURE**

A voter or appointed challenger seeking to make a challenge must notify the moderator. The voter or challenger must identify the voter he or she seeks to challenge. The moderator must afford the challenger a reasonable opportunity to complete the "Asserting a Challenge" form, but may want to discuss the basis for the challenge first. Both the challenger and the voter should be instructed to address the moderator, not each other. In some cases explaining the law may make a formal challenge unnecessary as either the voter may learn that he or she should be voting at a different polling place or the challenger may learn that their basis for challenging is not sufficient or accurate. To the extent necessary, the moderator may ask the voter and the challenger to

step aside, to allow those in line to proceed with checking in and voting. To proceed with a formal challenge, the challenger must complete the form and swear or affirm, under penalties of perjury, the grounds cited as the basis of the challenge.

If the ground for the challenge (including challenges to absentee voters) is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified.

The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. If the voter is found to be qualified (the challenge is not well-grounded), the person must be allowed to vote without any further action. RSA 659:27-a.

Challenged Voter Affidavits must be sworn before any election officer, notary public, justice of the peace or any person authorized by law to administer oaths. If the affidavit is properly signed and sworn to, then the moderator should allow the individual to vote. RSA 659:30.

The ballot of a voter challenged in person is not marked. The ballot of a challenged absentee voter is marked with a sequential number. See discussion of challenges to absentee voters below.

The clerk must keep a record of all challenges with the name and address of voters completing the affidavits, the name of the person making the challenge, which is the person who signed the "Asserting the Challenge" form, the outcome of the challenge, and the reason for the challenge. RSA 657:26; RSA 659:27; RSA

## *Challenges*

659:27-a; RSA 659:32. For successfully challenged absentee ballots, the clerk shall enter this information in the *ElectionNet* Absentee Ballot module, by selecting the reasons from the appropriate dropdown. RSA 657:26.

The moderator has a duty to report violations of the election laws to the Attorney General's Office. RSA 659:45. If it is determined that the challenge is well-grounded, that is a determination that the person who was seeking to vote violated the wrongful voting statute, therefore, the matter should be reported to the Attorney General's Office. Violations discovered on election day should be reported immediately to 866-868-3703. A written report on all violations will be required. Reports should be mailed to: Office of the Attorney General, 33 Capitol Street, Concord, NH 03301.

### **PRESERVATION OF CHALLENGES**

The moderator at the end of the election will turn all Challenged Voter Affidavits over to the town or city clerk who shall preserve the information until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer. RSA 33-A:3-a.

### **CHALLENGED ABSENTEE BALLOTS**

Absentee ballots are subject to challenge after the moderator publicly announces the absentee voter's name, but not after the ballot is removed from the envelope.

The challenger (including election officials) must complete an "Asserting a Challenge" form.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the

challenged voter either is qualified or not qualified.

The moderator rules on challenges based on all other grounds. The moderator shall write on the affidavit envelope containing the ballot the word "Challenged" and the name and address of the person making the challenge and the reason. RSA 659:27-a.

The moderator shall number each challenged envelope sequentially, i.e. challenge #1, etc.

If YES ('well-grounded' or 'not qualified as a voter') - the moderator does not open the envelope, but shall preserve it with the other ballots cast at the election.

If NO ('not well-grounded' or 'qualified as a voter') - the moderator shall open the envelope containing the ballot, so that the affidavit is not destroyed and proceed first to mark on the reverse side of the folded ballot the corresponding challenge number as marked on the envelope. Then the moderator will process the ballot like all the other ballots. RSA 659:51.

The moderator shall record next to the name of the absentee voter on the clerk's list of absentee voters the word "Challenged" the name of the person challenging, who signed the Asserting the Challenge" form, the outcome of the challenge and the reason for the challenge. The clerk shall record the applicable information in *ElectionNet*. RSA 657:26.

## **XIV. ELECTIONEERING**

### **MODERATOR RESPONSIBILITIES**

The moderator is responsible for acting to deter illegal electioneering at the polling place. RSA 659:43; RSA 659:44.

The moderator is responsible for establishing a ten-foot-wide, at a minimum, no-electioneering zone from the entrance door(s) of the polling place as far into the driveway/parking area as he or she determines appropriate to provide voters with a clear path to the polls. The free exercise of First Amendment political speech outside the no-electioneering zone is not restricted. People electioneering may encourage voters to speak with them.

People electioneering outside of the ten-foot-wide no-electioneering zone may also distribute campaign materials. Best practice is to have convenient trash containers inside the entrance to the polling place and outside the exit from the rail, to allow voters to dispose of these materials.

Some voters make use of campaign material that recommends how to vote when marking their ballot. Voters cannot be prohibited from bringing campaign materials with them to the voting booth, provided the voter does not display, distribute, or wear the material.

RSA 659:43: “No person shall distribute, wear, or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture, *pin, sticker, circular, or article of clothing* which is intended to influence the action of the voter within the building where the election is being held.”

### **CAMPAIGN MATERIAL INSIDE THE POLLING PLACE**

In a recent case, the United States Supreme Court has recognized that a state may regulate speech inside the polling place “as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view.” *Minnesota Voters Alliance v. Mansky*, (June 14, 2018) Slip op. at 7-8. In that decision the court struck down, as violating the First Amendment, Minnesota’s law, but advised “that if a State wishes to set its polling places apart as areas free of partisan discord, it must employ a more discernible approach than the one Minnesota” used. *Id.* at 18-19. States must be “guided by objective, workable standards.” *Id.* at 18. New Hampshire’s law is more narrowly defined than the one held unconstitutional in Minnesota. The prohibition in our State applies only to campaign material which is intended to influence how a voter marks his or her ballot at that election. In light of this decision it will be important that New Hampshire’s law be applied using the objective and workable standards described below.

New Hampshire’s prohibition on distributing, wearing or posting campaign materials in the polling place is a limited prohibition. To be subject to the prohibition, the poster, card, handbill, placard, picture, pin, sticker, circular, or article of clothing must be:

- Campaign material;
- Intended to influence the action of a voter;
- Within the polling place.

## WHAT IS CAMPAIGN MATERIAL?

“Campaign” in this context means communication or action “energetically pursued to accomplish a purpose” or “certain goal.” American Heritage Dictionary, 2000 at pg. 268. Campaign material is that material which unambiguously communicates a purpose or goal of instructing a voter how to vote at that polling place at that election. While the typical item will be a campaign button or sticker published by a candidate, the material need not be commercially printed nor be something that appears to have been produced in quantity.

To be prohibited the material must also have the “intent” of influencing an action by the voter within the polling place.

Intent may reasonably and objectively be discerned from the communication itself. Explicit advocacy related to voting on a candidate or question on the ballot being voted at the polling place unambiguously conveys intent and constitutes material that is part of a campaign regarding that office or question. Prohibited campaign material includes the following:

- “Vote for *candidate name (or party)*”
- “Vote against *candidate name (or party)*,”
- “Vote yes on 1;”
- “Vote no on 2;”
- A picture of a candidate;
- A candidate’s name; or
- An uncommon logo associated with a candidate

This prohibition applies only to those candidates, issues, or parties that appear on the ballot for that election. In this context, each of these examples can reasonably and objectively be construed as part of a campaign and having an intent to influence a voter in that polling place.

Another potential means to determine intent is to ask the person why he or she is distributing, wearing, or posting the material. You can also observe other expressive conduct which communicates intent. For example were the voter to wave his or her arms drawing attention and then point at a campaign sticker bearing a candidate’s name that he or she is wearing and give a thumb’s up, it is objectively observable the person intends to influence other voters. If the person’s answer or expressive conduct communicates a purpose or goal of influencing how other voters in the polling place vote, a violation of the law may be established.

An element of the limitation on electioneering is that the campaign material be intended to influence the action of a voter in the polling place on election day. Therefore, wearing a cap or button bearing the name of a candidate at a prior or future election, but who is not on the ballot that day, would be prohibited only if it objectively constitutes campaign material intended to influence a voter’s choice that day.

In the absence of extrinsic evidence that the material is communication supporting a campaign which has the intent of influencing voters in the polling place, ambiguous material will most often not be prohibited by RSA 659:43.

Upon observing a voter enter the polling place to vote wearing campaign material, where the nature of the material and the individual’s attire make doing so appropriate, it is reasonable to ask the voter to remove or cover up campaign material being worn which is intended to influence voters in the polling place. The Attorney General’s Office has recommended, but the law does not mandate, that local election officials keep

spare shirts or inexpensive rain ponchos on hand to offer voters to cover unlawful attire. However, should the voter refuse, he or she must be allowed to vote. The proper response if the person is unwilling to cease the improper conduct is to refer the voter to the Attorney General's office for investigation.

However, once the person has voted, if he or she persists with improper electioneering conduct, it is appropriate to direct the voter to leave the polling place. If necessary, summon the assistance of the Attorney General or law enforcement to have the person removed.

### **MISLEADING INFORMATION ON VOTING**

The *Minnesota Voters Alliance* decision also indicates that a state “may prohibit messages intended to mislead voters about voting requirements and procedures.” *Id.* at 15, Footnote 4. New Hampshire's prohibition on voter intimidation and suppression, RSA 659:40, specifically prohibits “knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information.”

### **TOWN ORDINANCES**

Towns may enact local electioneering bylaws that impose additional restrictions. RSA 31:41-c. Such bylaws must be posted at the polling place at least 72 hours in advance of any town election.

### **ELECTIONEERING FREE PATHWAY**

The moderator also is made responsible for areas leading from the building entrance door to the room where voting occurs and that room itself.

The New Hampshire Constitution, Part II, Article 32, RSA 659:9, and RSA 659:43 make the moderator responsible for ensuring that voting is conducted in accordance with the law and grants the moderator substantial authority and discretion for that purpose.

### **SOCIAL AND CIVIC ACTIVITIES**

The Attorney General's Office reports that a common complaint is that activities, other than voting, occurring within the building where voting is taking place constitute illegal electioneering. It is strongly recommended that voters have a path starting in the parking lot and leading to and from the railed-in voting area which they can pass through without having to go around or avoid other activities. This path should be free from both electioneering activities and civic or social activities.

There is a longstanding practice in New Hampshire of allowing civic and social activities to occur within the building and room where voting is conducted. Many moderators allow bake sales, meals for election workers, public displays by 4-H or scouts, and/or public information displays on issues not before the voters at the election, to be conducted in the room where voting occurs.

Townspeople, town officials, the media and others often congregate in the public area outside the rail to observe the voting process, discuss current events, and socialize.

Particularly during elections that occur during the cold season or on days with inclement weather, moderators often will allow even those people actively involved in electioneering outside the building to come into the room where voting is occurring to warm up in the public areas outside the rail. Moderators must require

that signs and other electioneering displays be left outside.

These practices are not prohibited by law, but the moderator has a responsibility to ensure that these activities do not have the effect of electioneering or of discouraging voting.

The moderator shall not allow such activities in the path into and out of the railed voting area. A voter must be able to come to the polling place, cast his or her vote, and leave without having to avoid or turn away from those involved in these activities.

Ideally, all such activities would be located away from the primary path in and out of the voting area such that a voter has a choice of going to the bake sale or Girl Scout cookie table or of joining the discussion around the coffee table, but also can exit the polling place without doing so.

Moderators should exercise caution when allowing any kind of activity that involves public education or displays of information on issues of public interest/concern. Particular caution must be exercised if a moderator allows petition or letter signing drives to occur in the room where voting occurs. The best practice is not to allow such activities. Exceptions might exist, but most such activities are properly prohibited pursuant to the electioneering statutes. RSA 659:43; RSA 659:44.

Even where activities such as those described above are not explicitly prohibited, often the participants are local residents who are politically active in the community and who are therefore associated with particular candidates or issues coming before the voters. The association between these individuals,

particularly if they are candidates on the ballot, and the issues they are advocating for often will create the appearance of electioneering. All such activities should be allowed to occur only in the zone outside the building where electioneering is permitted or in a room separate from the room used for voting or walking to and from the building entrance. The best practice is not to allow any form of activity that is political in nature inside the building.

## **NOISE**

Moderators must ensure that the noise level is kept low in the polling place. Voters must announce their names to the poll workers who staff the in and out tables, voters registering on election day must be able to communicate with the supervisors, and voters in the booths should not be distracted.

## **TOWN BUSINESS**

It is commonplace for a voter, upon spotting a selectman or other town official working at the polling place, to want to discuss town business. Public officials who are not performing election officer duties should be encouraged to move to the public areas outside the rail. Public officials who are performing election officer duties have an obligation to avoid discussions that address the pros or cons of any candidate or question before the voters. The appearance of impropriety can be avoided by promptly moving even the most innocent conversations away from the railed in voting area.

## **ELECTIONEERING BY PUBLIC EMPLOYEES**

RSA 659:44-a: "Electioneering by Public Employees.

I. No public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties.

II. No public employee shall use government property or equipment, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering.

III. For the purposes of this section, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office.

IV. Any person who violates this section shall be guilty of a misdemeanor."

RSA 273-A:1, XI defines public employee as "any person employed by a public employer except: (a) Persons elected by popular vote; (b) Persons appointed to office by the chief executive or legislative body of the public employer; (c) Persons whose duties imply a confidential relationship to the public employer; or (d) Persons in a probationary or temporary status or employed seasonably, irregularly, or on call. . . ."

RSA 273-A:1, X defines a public employer to include the State and any political subdivision thereof.

Local election officials who are responsible for the use of government property and who do not fall within the listed exceptions or who have employees who do not fall within an exception should educate their staff regarding these limitations. It may be appropriate to include a reference to this statute in employee manuals or handbooks.

## **XV. NEGLECT, WRONGFUL VOTING AND FRAUD**

### **WRONGFUL VOTING**

RSA 659:34 sets forth the consequences of fraud or lying on the voter registration form or on affidavits used to become registered to vote or to vote. The registration and affidavit forms contain a short restatement of the penalties for wrongful voting. This statute authorizes the Attorney General to issue civil penalties under certain circumstances where there is evidence of voter fraud. A person convicted of criminal voting fraud can be fined up to \$2,000 and be sent to jail for up to one year by a court. The Attorney General can impose a civil penalty up to \$5,000 on anyone who commits voter fraud.

RSA 659:34 - Wrongful Voting; Penalties for Voter Fraud:

“I. A person is subject to a civil penalty not to exceed \$5,000 if such person:

(a) When registering to vote; when obtaining an official ballot; or when casting a vote by official ballot, or when applying for a photo identification card for voting purposes, purposely or knowingly, makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, a qualified voter affidavit, a challenged voter affidavit, an affidavit of religious exemption, an identification card voucher, or an absentee registration affidavit containing false material information regarding his or her qualifications as a voter;

(b) Votes more than once for any office or measure;

(c) Applies for a ballot in a name other than his or her own;

(d) Applies for a ballot in his or her own name after he or she has voted once;

(e) Votes for any office or measure at an election if such person is not qualified to vote as provided in RSA 654;

(f) Gives a false name or answer if under examination as to his or her qualifications as a voter before the board of supervisors of the checklist or moderator; or

(g) Presents falsified proof of identity, domicile, or verifiable action of domicile at any election;

(h) Registers to vote on election day using an affidavit to satisfy proof of being qualified, represents on the affidavit that the person possesses proof that he or she does not have in his or her possession at the polling place, and purposely and knowingly fails to provide a copy of the document by mail or present the document in person to the town or city clerk by the deadline established in [RSA 654:12](#); or

(i) Purposely and knowingly provides false information in a written and signed statement or other documentation that another person is domiciled at an address that is owned, leased, rented, or managed by the individual providing the statement for the purposes of voter registration and that statement is used for voter registration purposes.

II. A person is guilty of a class B felony if, at any election, such person purposely or

knowingly commits any of the acts listed in paragraph I(b) or I(e). A person is guilty of a class A misdemeanor if, at any elections, such person purposely or knowingly commits any of the other acts listed in paragraph I, and, if the act involved the use of false proof of identity or voting using the name of another person, the person shall be sentenced to a mandatory sentence in the county correctional facility of not less than 30 days for a first offense under this section, 90 days for a second offense under this section, and 180 days for a third or subsequent offense under this section.

III. The attorney general is authorized to impose a civil penalty under paragraph I.

(a) The attorney general may impose a civil penalty by providing written notice to the person:

(1) Setting forth the date, facts, and nature of each act or omission which makes the person liable to pay a civil penalty;

(2) Specifically identifying the particular provision or provisions of the law involved in each violation; and

(3) Advising the person of each penalty that the attorney general imposes and its amount.

(b) The written notice shall be served in hand or sent by registered or certified mail to the last known address of such person. The person shall have 30 days to pay any civil penalty assessed under this section to the Secretary of State for deposit into the general fund.

IV. The decision of the attorney general to impose a civil penalty may be appealed to superior court. An appeal must be filed within 30 days of the date on which the person received it.

V. The attorney general is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The attorney general shall have the exclusive power to compromise, mitigate, or remit such civil penalties.”

RSA 659:34-a establishes the offense of voting in more than one state:

“A person is guilty of a class B felony if, at any election, such person knowingly checks in at the checklist and casts a New Hampshire ballot on which one or more federal or statewide offices or statewide questions are listed if the person also casts a ballot in the same election year in any other election held in any other state or territory of the United States where one or more federal or statewide offices or statewide questions are listed. For federal or statewide offices and statewide questions, neither the candidates nor the questions need be the same in both jurisdictions for a violation to occur. . .”  
RSA 659:34-a.

## **OTHER MISCONDUCT**

RSA 659:40 prohibits the bribing or intimidation of another person in an effort to prevent that person from registering to vote or voting, or to compel him or her to vote in a particular way. A person convicted of bribing, intimidation, or suppression of the vote of another person shall be guilty of a class B felony.

New Hampshire law prevents interfering with communications equipment, in essence making it a misdemeanor to block telephone lines or internet sites. The law also prohibits certain work time and workplace electioneering activities by certain public employees.

RSA 659:40-a - Interference With Communications: “Any person who, on the day of any election, knowingly blocks, or solicits another person to block, the access of any candidate or committee to the candidate's or the committee's communications equipment or services with the intent of interfering with campaign activity shall be guilty of a class A misdemeanor.”

A person shall be guilty of a Class B felony if he or she makes telephone calls with no legitimate communicative purpose or without disclosing his or her identity and with a purpose to annoy, abuse, threaten, or alarm another to a telephone number that they know is being used at the time of the calls to facilitate the transportation of voters to polling places or otherwise to support voting or registering to vote. RSA 644:4.

RSA 666:7-a makes it a misdemeanor to place a telephone call during which the person placing the phone call falsely represents himself or herself as a candidate for office.

### **CRIMINAL CONSEQUENCES FOR ELECTION OFFICIAL MISCONDUCT**

Election officials who knowingly engage in any of the following misconduct may be convicted of a misdemeanor:

- Receiving and counting any illegal vote;
- Omitting to receive or count a legal vote;
- Illegally removing or adding votes to vote totals;
- Otherwise knowingly fail to perform a duty imposed by the election laws;
- Knowingly perform such duty in a way as to hinder the objects thereof; or
- Disclose private information from ElectionNet, the central voter registration system.

RSA 666:2; RSA 666:3. Other consequences are set forth in particular statutes. Misconduct by election officials in some cases is a felony. Any person guilty of an offense against any provision of the laws relating to elections for which no penalty is specified shall be guilty of a violation. RSA 666:1. A violation is

punishable by a fine of up to \$1,000. RSA 652:1.

If any moderator shall intentionally neglect to cause an accurate count to be made of the votes cast as required by law, which no other penalty is provided, he or she shall be guilty of a violation. If any town or ward clerk shall intentionally neglect to make any return of votes required by law, for which no other penalty is provided, he or she shall be guilty of a violation.

If a return of votes is not timely submitted or is submitted with significant defects, if a recount discloses that the election night vote count was significantly inaccurate, or if other significant deficiencies in the conduct of an election are documented, the Secretary of State shall report this to the Attorney General, and an election monitor shall be appointed. RSA 659:77.

### **ADMINISTRATIVE COMPLAINT PROCEDURES**

The Attorney General's Office is responsible for enforcing the election laws. RSA 7:6-c; RSA 664:18; RSA 666:8. The Help America Vote Act (HAVA) requires formal administrative complaint procedures.

File a HAVA administrative complaint with the Attorney General. The Attorney General's Office is the authority for the resolution of complaints of federal voting law violations. The Attorney General may adopt administrative rules under RSA 541-A to implement the complaint resolution procedures. The ballot law commission is hereby designated as the body providing alternative dispute resolution as required by HAVA Section 402(a)(2)(1). RSA 666:14.

Election officials and voters are welcome to contact the Attorney General's Office

by telephone or e-mail. On or immediately before election day, concerns will be addressed promptly on the basis of these informal communications. In most cases a person wishing to make a formal complaint must file a written complaint. A complaint form is available from the Attorney General and can be downloaded from the Attorney General's web site at:

<http://www.doj.nh.gov/election-law/complaints.htm>

# PART 4 – FORMS AND APPENDICES

## CYBER SECURITY TERMS

1. Adversary (Attacker)
  - A party who acts with malicious intent to compromise a system.
2. Advanced Persistent Threat
  - An adversary that possesses sophisticated levels of expertise and resources to mount multiple attacks.
3. Air Gap
  - An interface between two systems that are not connected physically.
4. Authentication
  - Verifying the identity of a user, process or device.
5. Attack Surface
  - The sum of the different points in a software/hardware environment where an unauthorized user can try to enter and change or extract data.
6. Attack Vectors
  - The route by which an attack is carried out. Attack vectors together make up an attack surface. They include user input fields, interfaces, and the Internet. A pdf email attachment or ports open to the Internet can be attack vectors.
7. Breach
  - A compromise of security.
8. Blacklisting
  - Causing a list of entities to be blocked or denied privileges or access.
9. Backups
  - A copy of files and programs made to facilitate recovery if necessary.
10. Distributed Denial of Service (DDOS) Attack
  - The prevention of authorized access to computer resources.
11. Firewall
  - The process integrated with your computer system that detects undesirable applications and prevents remote users from accessing your computer.
12. Incident Handling
  - The reporting of and responses to attacks on your computer.
13. Malware
  - A program that is inserted to covertly compromise the victim's operating system or software.
14. Multifactor Authentication
  - Authentication using two or more factors to achieve authentication using factors you know. Such as: password, pin number, or something you are sent via a text or email.
15. Resilience
  - The ability to continue to operate under adverse conditions, e.g. relying on paper processes.
16. Whitelisting
  - Causing a list of entities to be given access or privilege.

## **XVI. OATHS AND AFFIDAVITS**

### **INDIVIDUALS REQUIRING AND PROVIDING ASSISTANCE**

Immediately before each event when a person assists another requiring assistance in voting, the voter requiring assistance should first swear an oath that he or she needs assistance, and the person providing assistance should secondly swear an oath not to influence the voter.

#### **Oath of Individual Registered Voter Requiring Assistance in Voting Pursuant to RSA 659:20.**

I, \_\_\_\_\_, do solemnly swear (or affirm)  
that I am  
unable to mark a ballot and require assistance in voting.

See RSA 659:20.

#### **Oath of Individual Providing Assistance to a Voter Pursuant to RSA 659:20.**

I, \_\_\_\_\_, do solemnly swear (or affirm) that in providing  
assistance to \_\_\_\_\_(voter), I shall mark the ballot as  
directed by him/her and will not unduly influence his/her decision with respect to  
selecting any candidate or issue presented on the ballot and that I shall thereafter give  
no information regarding same.

See RSA 659:20.

## OATH OF OFFICE

*Town/City of \_\_\_\_\_*

*I \_\_\_\_\_ do solemnly and sincerely swear and affirm that I will bear faith and true allegiance to the United States of America and the State of New Hampshire, and will support the constitutions thereof. So help me God.*

*I \_\_\_\_\_ do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent upon me as (write in POSITION/TITLE) \_\_\_\_\_, for a term of \_\_\_\_ years, (for temporary election officials: for a term ending upon finalization of this election), according to the best of my abilities, agreeably to the rules and regulations of this Constitution and the Laws of the State of New Hampshire. So help me God.*

(Any person who is scrupulous of swearing may omit the word "swear" and likewise the words, "So help me God," adding instead, "This I do under the pains and penalties of perjury.")

\_\_\_\_\_  
(Election Official/Appointee Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Sworn Before: Moderator, Town/City Clerk, Selectman or Justice of the Peace-Signature  
RSA 42:2

\_\_\_\_\_  
Sworn Before: Print Name

-----  
All individuals appointed to fill vacant elected positions serve until the following election, except when the law provides that they serve for the remainder of the vacant term.

Elected ☐ Appointed ☐ (If appointed: Need election official title and signature below)  
(Please check one)

Term Expires: \_\_\_\_/\_\_\_\_/\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_ W C H (Circle One)      Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_ W C H  
(Circle One)

Address: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Appointed by: \_\_\_\_\_

Appointed by: \_\_\_\_\_

Appointed by: \_\_\_\_\_

Date Appointed: \_\_\_\_/\_\_\_\_/\_\_\_\_

2018 v2

## OATHS OF OFFICE BASICS

### Who needs an Oath?

**RSA 42:1 Oath Required.** “Every town officer shall make and subscribe the oath or declaration as prescribed by Part 2, Article 84 of the Constitution of New Hampshire and any such person who violates said oath after taking the same shall be forthwith dismissed from the office involved.”

**RSA 658:4 –Oath; Term.** Each inspector of election shall be sworn to the faithful performance of his duties and shall hold office for 2 years from August 1 in the year in which he is appointed or until a successor is appointed and qualified.

**RSA 669:9 Oaths of Town Officers.** – All town officers elected as provided in this chapter shall take an oath of office as provided in RSA 42 before qualifying for office.

**RSA 669:10 Term of Office.** – I. Except as otherwise provided, the term of office of any officer elected under this chapter shall begin upon his election and qualification for office and shall end upon the election and qualification of his successor.

### When should an oath be taken?

Each time the position is being filled, whether it is full term, partial term, appointment to elected position or re-election.

### Who may issue an oath of office?

**RSA 42:2 Before Whom.** – The moderator, town clerk, one of the selectmen or a justice of the peace is authorized to administer the oath required. The person administering the oath signs it as well as the person taking the oath. A term length and/or expiration should be noted. An oath template may be found in *ElectionNet* / Help / Instructions. **RSA 42:7** requires that if the oath is taken before someone other than the clerk, one of the selectmen or a justice of the peace, a certificate of the oath taking must be filed with the clerk within 6 days.

### Does a town clerk deputy need to be sworn in?

Yes. The deputy town clerk must take the oath of office when appointed. Also, each time the town clerk takes a new oath the deputy also needs to be sworn in. Whether the clerk is new or an incumbent, the deputy needs to take the oath also. **RSA 41:18, RSA 92:2**

### Who needs an oath for ElectionNet purposes?

Town clerks, deputies, and supervisors of the checklist need to have a *current oath* on file with the HAVA office. These need to be updated and sent to the HAVA office each time the *ElectionNet* user swears to a new term of office or is a new appointee. A good practice would be to send them immediately after an election.

### Where are the oaths maintained and retained?

**RSA 42:8 Record.** – “The town clerk shall make a record of every oath of a town officer taken in open town meeting at the time of the election, and of every such oath taken before him at any other time and place, the import of which record may be that the officer took the oath of office prescribed by law; and he shall record and keep on file every certificate filed with him pursuant to **RSA 42:7.**”

## OATHS OF OFFICE BASICS (CONTINUED)

### Maintain City/Town Data

Election official's information must also be maintained by the town clerk. This information is required by **RSA 654:45 VII**. The city and town clerk shall enter, maintain, and keep up to date election official contact information and polling place information as determined by the secretary of state in the statewide centralized voter registration database..."      *ElectionNet: Activities / Maintain City/Town Data / Election Officials.*

### How long do you have before an oath should be taken?

**42:3 Swearing in of Officers.** – Any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office, may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by **RSA 42:6**.

**669:10 Term of Office.** –II. No person shall assume a town office until after the time period for requesting a recount is over. The State's timeline for requesting a recount is set forth in **RSA 669:30**. If a recount is requested for a town office, no person shall assume that office until after the recount is completed.

**42:6 Penalty for Neglect to Appear.** – "...but in no case later than 30 days after the person's election, to appear before the town clerk and take the oath, shall be guilty of a violation, and any fines shall be appropriated as in **RSA 42:5**.

**Note:** Best practice would be any time after the election if **RSA 42:3** applies; otherwise, if no recount is requested, as soon as practical after the deadline for requesting a recount has expired.

A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount.

When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount.

If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office. **RSA 669:34**.

See **RSA 669:34** if the circumstance involves a multi-seat office.

Your town should set a specific date and time when the candidates should appear to take their oath; no later than 30 days after the election.

**669:34 Declaration of Results.** – I. Upon completion of the recount, the board of recount shall publicly declare the results and certify such declaration to the town clerk. See **RSA 669:34, II – VI** for further details.

**QUALIFIED VOTER AFFIDAVIT**  
(Identity, Citizenship, Age)  
(RSA 654:12)



*Please Print:*

Date: \_\_\_\_\_

Full Name: \_\_\_\_\_

Name at birth if different: \_\_\_\_\_

Place of birth: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Place of Naturalization: \_\_\_\_\_

Date of Naturalization: \_\_\_\_\_

Domicile Address: \_\_\_\_\_  
(Street & House (Apt. Number) (Town or City) (Ward) (State) (Zip Code)

Mailing Address (if different) \_\_\_\_\_

Telephone number (*requested but optional*) \_\_\_\_\_

Email address (*requested but optional*) \_\_\_\_\_

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

\_\_\_\_\_  
Signature of Applicant

*In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.*

On the date shown above, before me, \_\_\_\_\_ appeared \_\_\_\_\_  
(print name of person sworn before as indicated below) (print name of person whose signature is being notarized/witnessed)

[known to me or satisfactorily proven (circle one)] to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

This affidavit was executed for purposes of proving (check all that apply):

☐ Identity ☐ Citizenship ☐ Age

\_\_\_\_\_  
(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace)

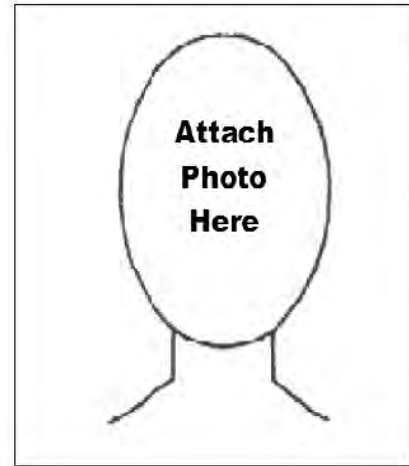
10/17

**QUALIFIED VOTER AFFIDAVIT**



## CHALLENGED VOTER AFFIDAVIT

(RSA 659:27, 28-32; RSA 652:14)



I, \_\_\_\_\_, do solemnly swear (or affirm) under  
(Print name of voter)  
penalties of voter fraud, that I am the identical person whom I represent myself to be, that I am a  
duly qualified voter of this town (or ward), and have a legal domicile therein.  
My telephone number (*requested but optional*) is \_\_\_\_\_ and my  
Email address (*requested but optional*) is \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Voter)

**Check one election:** ☐ Town/ City Election Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
☐ State Special Election Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
☐ State Primary Election Date: 9/11/2018  
☐ State General Election Date: 11/6/2018

the said \_\_\_\_\_  
took and subscribed the above oath before the below-named officer.

\_\_\_\_\_  
(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar)

**NOTE TO VOTER:** RSA 659:13,IV(a). The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter who executed a challenged voter affidavit or affidavit of religious exemption.....

2017

**CHALLENGED VOTER AFFIDAVIT**



State of New Hampshire  
Affidavit of Religious Exemption  
(RSA 659:13-b)

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Domicile Address: \_\_\_\_\_

Date of birth: \_\_\_\_\_

I hereby swear or affirm that because of my religious beliefs, I object to having my photograph taken and that I do not possess a form of identification that meets the requirements of the election laws of this state showing my photograph.

I hereby swear or affirm, under the penalties for voting fraud set forth below, that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

\_\_\_\_\_  
(Signature of affiant)

*In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.*

This affidavit was executed before us on the date shown above and the person who subscribed his or her name to the foregoing affidavit swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

\_\_\_\_\_  
Signature of Election Official

Name and Title of Election Official: \_\_\_\_\_  
(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar)

July 2015 v3

**AFFIDAVIT OF RELIGIOUS EXEMPTION**



# STATE OF NEW HAMPSHIRE

## ASSERTING A CHALLENGE

(RSA 659:27-a)

No challenge may be asserted except in the form of a signed affidavit, under oath administered by an election official, in the following form:

Name of Person Making the Challenge (Please Print):

\_\_\_\_\_  
Last Name First Name Middle Name (Jr., Sr., II,III)

Party affiliation: \_\_\_\_\_

The Challenger's qualifications to assert the challenge:

If person making the challenge is a voter in this polling place: Physical Address

\_\_\_\_\_  
Street Number Street Name Apt/Unit City/Town Ward Zip Code

If person is a political party or Attorney General appointee: Mailing Address & Phone Number:

\_\_\_\_\_  
Mailing Address Phone Number

### INFORMATION ON THE VOTER BEING CHALLENGED

The person making the challenge shall complete the following:

Name being used by the voter who you wish to challenge (Please Print):

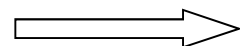
\_\_\_\_\_  
Last Name First Name Middle Name

### GROUND FOR THE CHALLENGE:

The person making the challenge shall indicate the ground on which the challenge is made  
(check all grounds that apply)

- \_\_\_\_ The person seeking to vote is not the individual whose name he or she has given.  
\_\_\_\_ The person seeking to vote has already voted in the election at (name the polling place) \_\_\_\_\_ at approximately (state the time if known) \_\_\_\_\_.  
\_\_\_\_ The person seeking to vote is disqualified as a voter by conviction of a willful violation of the election laws (state offense, court, and date of conviction) \_\_\_\_\_.  
\_\_\_\_ The person seeking to vote is under 18 years of age.  
\_\_\_\_ The person seeking to vote is not a United States Citizen.  
\_\_\_\_ The person seeking to vote is not domiciled in the town/ward where he/she is seeking to vote (state person's true domicile - town/city) \_\_\_\_\_.  
\_\_\_\_ The person seeking to vote does not reside at the address listed for that person on the checklist.  
\_\_\_\_ The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration (state the name of the institution person is in) \_\_\_\_\_.  
\_\_\_\_ This is a primary and the person seeking to vote in the (state political party name) \_\_\_\_\_ primary is not a declared member of the party he/she claims to be affiliated with.  
\_\_\_\_ The person seeking to vote is ineligible to vote pursuant to the following state or federal statute or constitutional provision: \_\_\_\_\_.

Page 1 of 2 TURN OVER TO CONTINUE



**BASIS FOR THE CHALLENGE:** The person making the challenge shall state the specific source of the information or personal knowledge upon which the challenge of the particular individual is based:

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**OATH:** The person making the challenge shall complete the following:

I hereby swear and affirm, under the penalties of perjury, that to the best of my knowledge and belief the information above is true and correct. \_\_\_\_\_

\_\_\_\_\_

(Signature of Challenger)

(Date)

On the date shown above, before me \_\_\_\_\_  
print name of election officer, notary public, or justice of the peace))

appeared \_\_\_\_\_, known to me or satisfactorily proven  
(print name of person whose signature is being notarized)

(circle one) to be the person whose name appears above, and he/she subscribes his/her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his/her knowledge and belief.

\_\_\_\_\_  
(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace)

\_\_\_\_\_  
Date

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### TO BE COMPLETED BY THE MODERATOR

**Ruling on the challenge:** If the ground at issue is age, citizenship, or domicile: The supervisors of the checklist have ruled that the challenged voter is **(check one)**:

\_\_\_\_\_ qualified as a voter                      \_\_\_\_\_ not qualified as a voter


The moderator rules on challenges based on other grounds. The moderator rules that the challenge is **(check one)**:

\_\_\_\_\_ well-grounded                      \_\_\_\_\_ not well-grounded

If it is ruled that the voter is not qualified or that the challenge is well-grounded, the challenged person may vote only if he or she completes and swears to a challenged voter affidavit.

## XVII. ABSENTEE VOTING

# Absentee Ballot Request Form



## STATE OF NEW HAMPSHIRE

### Application for State Election Absentee Ballot-RSA 657:4

*Absence (Excluding Absence Due to Residence Outside the United States),  
Religious Observance, and Disability*

**For  
Official  
Use  
Only**

☐ Voter Not  
registered

☐ Voter ID # \_\_\_\_\_

☐ Date Returned: \_\_\_\_\_

☐ Date Mailed: \_\_\_\_\_

☐ Date Requested: \_\_\_\_\_

**I. I hereby declare that (check one):**

☐ I am a duly qualified voter who is currently registered to vote in this town/ward.

☐ I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

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**II. New Hampshire law requires that you vote in person at the polling place for your town or ward unless you declare one of the following absences:**

**I will be entitled to vote by absentee ballot because (check one):**

☐ I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.

☐ I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced. I understand that I may only make such a request 14 days after the filing period for candidates has closed, and that if I will not be absent on the date of the election I am not eligible to vote by absentee ballot.

☐ I cannot appear in public on election day because of observance of a religious commitment.

☐ I am unable to vote in person due to a disability.

☐ I cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term "employment" shall include the care of children and infirm adults, with or without compensation.

**Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24**

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**III. I am requesting an official absentee ballot for the following election (check only one):**

☐ State Primary Election to be held on September 11, 2018.\*

\*Required for Primary Elections: I am a member of, or I am now declaring my affiliation with a party and I am requesting a ballot for that party's primary (check only one):

☐ Democratic Party ☐ Libertarian Party ☐ Republican Party

☐ State General Election to be held on November 6, 2018

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**IV. Applicant's Name (Please Print):**

Last Name _____	First Name _____	Middle Name _____	(Jr., Sr., II, III) _____
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Applicant's Voting Domicile (home) Address: \_\_\_\_\_

Street Number _____	Street Name _____	Ap't/Unit _____	City/Town _____	Ward _____	Zip Code _____
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Mail the ballot to me at this address (if different than the above home address): \_\_\_\_\_

Street or PO Box # _____	Street Name _____	City/Town _____	State _____	Zip Code _____
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Applicant's Phone Number (optional) \_\_\_\_\_ Applicant's Email Address (Optional) \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

*The applicant must sign this form to receive an absentee ballot. The signature on this form must match the signature on the affidavit envelope in which the absentee ballot is returned, or the ballot may be rejected. **Any person who assists a voter with a disability in executing this form shall make a statement acknowledging the assistance on the application form to assist the moderator when comparing signatures on election day.***

I attest that I assisted the applicant in executing this form because he/she has a disability. \_\_\_\_\_

Signature \_\_\_\_\_ Print Name \_\_\_\_\_

Mail/fax/or hand deliver this completed form to your local City/Town Clerk. Visit our website for local clerk addresses and fax numbers: <https://sos.nh.gov> Track Your Ballot: <https://ann.sos.nh.gov> 1/18

*This is a model notice to be sent to persons requesting absentee ballots who are not yet registered to vote, including those who have submitted forms requesting to be registered, but those forms were inadequate or incomplete. This is a model form, not a mandatory form, therefore clerks should feel free to make any changes they feel are helpful.*

<b>ABSENTEE - NOT REGISTERED TO VOTE NOTICE (RSA 654:16)</b>		
<p style="text-align: center;"><b>TOWN/CITY OF:</b> _____</p> <p><b>You are not yet registered to vote.</b> If you return your absentee ballot without submitting the additional forms or information described below, <b>your ballot will not be counted!</b></p> <p>To register to vote without appearing before the Supervisors of the Checklist or the Town/City Clerk you must submit the following forms and <b>return them in the outer envelope.</b> I have checked the proof needed below.</p> <p>You must submit proof of:      <input type="checkbox"/> <b>Identity</b>                      <input type="checkbox"/> <b>Evidence of Domicile</b></p>		
	<b>Form or Proof Required</b>	<b>Form Enclosed:</b>
	Voter Registration <b>Form A</b>	
	Affidavit <b>Form</b> (Absence from Town); or	
	Affidavit <b>Form</b> (Physical Disability)	
<b>Examples of Proof for:</b>	<b>Identity &amp; Evidence of Domicile</b>	A copy of a New Hampshire "Real ID" license showing address claimed as domicile on the Voter Registration form
	<b>Identity &amp; Evidence of Domicile</b>	A copy of a valid New Hampshire Driver's License showing address claimed as domicile on the Voter Registration Form
	<b>Identity</b>	A copy of a passport or passcard
	<b>Identity</b>	A copy of an armed services identification
	<b>Identity</b>	A copy of other photo identification issued by the United States government
	<b>Identity</b>	A copy of a photo identification issued by local or state government
	<b>Identity</b>	A copy of a photo driver's license issued by any state or the federal government
	<b>Evidence of Domicile</b>	A copy of a "Verifiable Action of Domicile" as listed on the enclosed Form Domicile-A
<p>To become registered as a voter and to submit an absentee ballot that will be counted you must:</p> <ol style="list-style-type: none"> <li>1. Properly complete the <b>forms</b> indicated above;</li> <li>2. Ensure that you have signed the <b>forms</b>;</li> <li>3. If you have to submit an <b>Affidavit Form</b>, ensure that a <u>witness</u> has signed the Affidavit;</li> <li>4. Ensure that you have submitted a readable copy of one of the forms of <b>proof of identity or evidence of domicile</b> listed above;</li> <li>5. Place the <b>forms and proofs of identity or evidence of domicile</b> in the <u>outer envelope</u>, not in the inner affidavit envelope, and return them with your marked ballot which should be sealed in the inner affidavit envelope;</li> <li style="background-color: yellow;">6. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit on the envelope shall make and sign a statement on the envelope acknowledging the assistance.</li> <li>7. Before sealing the outer envelope, make sure you properly complete and sign the affidavit envelope.</li> </ol> <p style="margin-top: 20px;">Clerk's phone number/email _____</p> <p>September, 2018</p>		

## ABSENTEE – NOT REGISTERED TO VOTE NOTICE

**ABSENTEE BALLOT REQUIREMENTS AND INSTRUCTIONS**  
**PLEASE READ TO MAKE SURE YOUR VOTE COUNTS**

**You may vote by absentee ballot ONLY IF, on the day of the election, one of the following is true:**

- You will be absent from the town or city where you are registered to vote;
- You cannot appear in public because of observance of a religious commitment;
- You are unable to vote in person by reason of a physical disability;
- You cannot appear at any time during polling hours at my polling place because of an employment obligation. For the purposes of this application, the term “employment” shall include the care of children and infirm adults, with or without compensation.
- For elections occurring after January 1, 2019, if the National Weather Service issues a winter storm warning, blizzard warning, or ice storm warning for election day, then you may vote by absentee ballot on the Monday immediately before the election if you meet any of the following criteria:
  - You are elderly, infirm, or have a physical disability, and you have concerns for your safety traveling in the storm; or
  - You care for children or infirm adults and you reasonably anticipate that school, child care, or adult care will be canceled due to the storm, and you will be deterred from voting by the need to care for children or infirm adults.
- You are a victim of domestic violence, have an active protective order, **or** are participating in the Attorney General’s address confidentiality program; or
- You are an emergency services worker called into service under the circumstances set forth in RSA 657:21-a.

**IF ANY OF THE ABOVE CIRCUMSTANCES APPLIES TO YOU, PLEASE CAREFULLY READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.** If you do not meet one of the requirements listed above, then you may not vote by absentee ballot. Please vote in person on election day.

**Page 1 of 2, Turn Over to Continue**  
**Page 2 of 2**



## Absentee Ballot Requirements and Instructions

**For your absentee ballot vote to be counted, please follow these steps:**

STEP 1: You must be qualified to vote by absentee ballot for one of the reasons listed on Page 1 of these instructions.

STEP 2: Fill out your ballot. Follow the instructions on the ballot. If you require assistance due to a disability, you may have someone else assist you. The person who assists a voter who is blind or has a disability must sign a statement acknowledging the assistance on either the absentee ballot application form and/or affidavit envelope (See Step 4 below).

Important: When filling out your ballot, completely fill in the oval to the right of your choice on the ballot. If the instructions indicate you may vote more than once for a particular office, do not vote more than the number of candidates stated in the instructions. If you vote for more than the stated number of candidates, your vote for that office will not be counted.

STEP 3: Once finished marking the ballot, the voter or the person assisting the voter must place the ballot inside the inner affidavit envelope sent to the voter with the ballot, then seal that inner affidavit envelope. RSA 657:17

**STEP 4: Next, you must sign the affidavit printed on the outside of the envelope certifying under penalty of voting fraud that you meet one of the requirements to vote absentee. RSA 657:7. Unless you received assistance due to blindness or disability, your absentee ballot will be counted ONLY if the voter signed both the absentee ballot request form and the affidavit envelope. RSA 659:50 - 52. If you received assistance due to blindness or a disability (see Step 2 above), the person assisting the voter must complete the section of the application and affidavit that reads "I attest that I assisted the applicant in executing this form because he/she has a disability." Signature \_\_\_\_\_ Date \_\_\_\_\_." RSA 657:17.**

STEP 5: Place the completed affidavit envelope, containing the marked ballot, inside the outer envelope. If you are returning absentee voter registration forms and proof of qualifications, place those documents inside the outer envelope and seal the outer envelope.

STEP 6: In the upper left corner of the outer envelope, print the voter's name, address, and voting place. RSA 657:17. Place postage on the outer envelope and mail it to the clerk. As an alternative, the voter, the voter's spouse, parent, sibling or child may personally deliver the envelope to the clerk. If delivered to the polls on election day by a spouse, parent sibling or child he or she will be required to present government issued photo identification or have his or her identity verified by the clerk and complete a form provided there by the clerk. RSA 657:17. **The envelopes containing your absentee ballot must be received by the clerk no later than 5:00 PM on election day. RSA 657:21-a, V; 657:22.**

**Visit the Voter Look-up website: <https://app.sos.nh.gov>** to track your ballot. You may verify receipt of your absentee application, the date when your absentee ballot was mailed to you, the date the clerk received your completed absentee ballot, and after the election learn if your absentee ballot was rejected/not counted and why. Contact your clerk if you have questions regarding the information on the Voter Look-up web site. RSA 657:26. 2018 v.1

## ABSENTEE VOTER REGISTRATION FORM – PHYSICALLY DISABLED

STATE OF NEW HAMPSHIRE  
ABSENTEE VOTER REGISTRATION FORM  
(RSA 654:17)



Enabling Residents Who are Physically Disabled from Town (City) to Register of Vote

### AFFIDAVIT

I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on \_\_\_\_\_, 20\_\_\_\_, except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;

4) That I acknowledge that if I do not provide a copy of proof of identity and domicile (as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

### AFFIRMATION

I, \_\_\_\_\_, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_, the above-named \_\_\_\_\_ having satisfied me as to his or her identity signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

*In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.*

This form and the Voter Registration Form, when completed, are to be sent directly to the Town or City Clerk of your domicile.

## ABSENTEE VOTER REGISTRATION FORM – PERSONS WITH DISABILITIES

## ABSENTEE VOTER REGISTRATION FORM – TEMPORARILY ABSENT

STATE OF NEW HAMPSHIRE  
ABSENTEE VOTER REGISTRATION FORM  
(RSA 654:17)



Enabling Residents Temporarily Absent from Town (City) to Register to Vote

### AFFIDAVIT

I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

- 1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on \_\_\_\_\_, 20 \_\_\_\_, except for the fact that my name does not appear on the checklist to be used in said town at such election;
- 2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;
- 3) That I am temporarily residing in \_\_\_\_\_ (city and state) or (city, province and country) (zip code)
- 4) That I hereby enclose one of the following as proof of identity and domicile:
  - (a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or
  - (b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;
- 5) That I acknowledge that if I do not provide a copy of proof of identity and domicile (as required by section 4) above, this application may not be approved; and
- 6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

### AFFIRMATION

I, \_\_\_\_\_, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the \_\_\_\_\_, day of \_\_\_\_\_, 20 \_\_\_\_, the above-named \_\_\_\_\_ having satisfied me as to his or her identity signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Date

*In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.*

This form and the Voter Registration Form, when completed, are to be sent directly to the Town or City Clerk of your domicile.

# Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

Print clearly in blue or black ink.

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your State's instructions at [FVAP.gov](http://FVAP.gov).

## 1. Who are you? Pick one.

I request an absentee ballot for all elections in which I am eligible to vote AND:

☐ I am on active duty in the Uniformed Services or Merchant Marine -OR- ☐ I am an eligible spouse or dependent.  
☐ I am an activated National Guard member on State orders.  
☐ I am a U.S. citizen living outside the country, and I intend to return.  
☐ I am a U.S. citizen living outside the country, and my return is uncertain.  
☐ I am a U.S. citizen living outside the country, and I have never lived in the United States.

Last name		Suffix (Jr., II)		Sex	<input type="checkbox"/> Female <input type="checkbox"/> Male
First name			Previous names (if applicable)		
Middle name			Birth date (MM/DD/YYYY)	/ /	
Social Security Number	-	-	Driver's license or State ID #		

## 2. What is your address in the U.S. State or territory where you are registering to vote and requesting an absentee ballot?

Your voting materials will not be sent to this address. See instructions on other side of form.

Street address		Apt #	
City, town, village		State	
County		ZIP	

## 3. Where are you now? You must give your CURRENT address to receive your voting materials.

Your mailing address. (Different from above)

Your mail forwarding address. (If applicable)


## 4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email:		Phone:	
Alternate email:		Fax:	

## 5. What is your voting preference? Select One.

How do you want to receive voting materials from your election office?

☐ Mail  
☐ Email or online  
☐ Fax

What is your political party for primary elections?

## 6. What additional information must you provide?

The following need more information: Alaska, Arizona, Puerto Rico, Vermont, and Virginia. (Ex. Proof of residency, employer, etc.) You may also use this space to clarify your voter information. See the *Voting Assistance Guide* at [FVAP.gov](http://FVAP.gov).


## 7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.

Sign here X

Today's date  
(MM/DD/YYYY)

/ /

## You can vote wherever you are.

### 1. Fill out your form completely and accurately.

- Your U.S. address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your State of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. DO NOT write a PO Box # in section 2.
- Most States allow you to provide a Driver's License number or the last 4 digits of your SSN. Some States require a full SSN. See your State's guidelines at FVAP.gov.
- Most States require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- We recommend that you complete this form every year while you are an absentee voter.

### 2. Remember to sign this form!

### 3. Remove the adhesive liner from the top and sides. Fold and seal tightly.

- You can find the address for your election office at FVAP.gov.
- All States accept this form by mail, but they vary on email and fax. See your State's rules in the *Voting Assistance Guide* at FVAP.gov.

### Agency Disclosure Statement

The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to: Department of Defense, Washington Headquarters Services, Executive Services Directorate, Information Management Division, 4800 Mark Center Dr., East Tower, Suite 03F09, Alexandria, VA 22350-3100. [OMB Control #0704-0503]. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. DO NOT RETURN YOUR FORM TO THE ADDRESS ABOVE.

### Privacy Act Statement

**Authority:** The authority to collect your personal information on this form comes from 52 U.S.C. § 20301, "Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)."

**Principal purpose:** This form serves as an application for registration and/or request for an absentee ballot for all persons covered by UOCAVA.

**Routine use(s):** There is no retention of this information by the Federal government. Completed forms are sent by you to an appropriate State election official.

**Disclosure:** Your disclosure of personal information is voluntary. However, failure to provide the requested personal information may keep the pertinent jurisdiction from processing this request and may prevent you from voting absentee.

## Questions? Email [vote@fvap.gov](mailto:vote@fvap.gov)

From  
(Your name and mailing address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

International airmail postage is required if not mailed using the U.S. Postal Service, APO/FPO/DPO system, or diplomatic pouch.



U.S. Postage Paid  
39 USC 3406

PAR AVION



OFFICIAL ABSENTEE BALLOTING MATERIAL – FIRST CLASS MAIL

NO POSTAGE NECESSARY IN THE U.S. MAIL – DMM 703.8.0

To  
(Fill in the address of your election office.  
The address can be found online at FVAP.gov.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Voter Information

## Federal Write-In Absentee Ballot (FWAB)

Print clearly in blue or black ink.

**Have you already registered and requested an absentee ballot?**

☐ Yes

☐ No

Some States allow you to use this form to register and request ballots for future elections. Visit [FVAP.gov](http://FVAP.gov) for more details.

### 1. Who are you? Pick one.

For absent Uniformed Service members, their families, and citizens residing outside the United States.

- ☐ I am on active duty in the Uniformed Services or Merchant Marine -OR- ☐ I am an eligible spouse or dependent.  
☐ I am an activated National Guard member on State orders.  
☐ I am a U.S. citizen living outside the country, and I intend to return.  
☐ I am a U.S. citizen living outside the country, and my return is uncertain.  
☐ I am a U.S. citizen living outside the country, and I have never lived in the United States.

Last name		Suffix (Jr., II)		Sex	<input type="checkbox"/> Female <input type="checkbox"/> Male
First name			Previous names (if applicable)		
Middle name			Birth date (MM/DD/YYYY)	/ /	
Social Security Number	-	-	Driver's license or State ID #		

### 2. What is your U.S. voting residence address?

Your voting materials will not be sent to this address. See instructions on other side of form.

Street address		Apt #	
City, town, village		State	
County		ZIP	

### 3. Where are you now? You must give your CURRENT contact information.

Your mailing address. (Different from above)

Your mail forwarding address. (If applicable)


### 4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email:		Phone:	
Alternate email:		Fax:	

### 5. What is your voting preference for future elections?

Do you want to register and request a ballot for all elections you are eligible to vote in?	<input type="checkbox"/> Yes <input type="checkbox"/> No	How do you want to receive voting materials from your election office?	<input type="checkbox"/> Mail <input type="checkbox"/> Email or online <input type="checkbox"/> Fax	What is your political party for primary elections?	
---	---	--	---	---	--

### 6. What additional information must you provide?

The following need more information: Alabama, Alaska, Arizona, Puerto Rico, Virginia, and Wisconsin. (Ex. Witness signature, etc.)  
You may also use this space to clarify your voter information. See the Voting Assistance Guide online at [FVAP.gov](http://FVAP.gov).


### 7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.
- In voting, I have marked and sealed this ballot in private and have not allowed any person to observe the marking of this ballot, except those authorized to assist voters under State and Federal law.

**Sign here** X

**Today's date**  
(MM/DD/YYYY)

/ /

This information is for official use only. Any unauthorized release may be punishable by law.

Previous editions are obsolete.

Standard Form 186 (Rev.09-2017), OMB No. 0704-0502

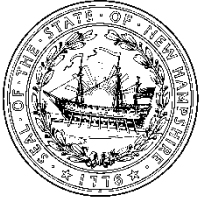
### Federal Write-In Absentee Ballot (FWAB)

**Vote by writing the NAME or PARTY of the candidates you choose. To find out about specific candidates and races go to [FVAP.gov](http://FVAP.gov).**

- This ballot can be used to vote for federal offices.
- DO NOT write your name or any identifying number (SSN, driver's license) on this ballot.
- Photocopy this page if you require additional room for candidates or ballot initiatives.
- If you are voting in American Samoa, Guam, Puerto Rico, or the U.S. Virgin Islands, you may vote for Delegate or Resident Commissioner, and in presidential primaries. State laws vary about using the FWAB for other offices like Governor or Mayor. Learn more online at [FVAP.gov](https://www.fvap.gov).

[illegible]

Standard Form 186 (Rev. 09-2017), OMB No. 0704-0502



# STATE OF NEW HAMPSHIRE

## ABSENTEE BALLOT RETURN FORM (RSA 657:17)

To be completed by the person who is returning an Absentee Ballot for someone *other than themselves* due to Absence, Religious Observance, or Disability

For  
Official  
Use Only

Voter  
registered ☐

Voter ID # \_\_\_\_\_

Date Returned: \_\_\_\_/\_\_\_\_/\_\_\_\_

### I. I hereby declare that I am the voter's (check one):

Spouse      Parent      Sibling      Child

**Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24**

### II. Absentee Ballot Voter's Name (Please Print):

Last Name      First Name      Middle Name      (Jr., Sr., II, III)

Absentee Ballot Voter's Domicile (home) Address:

Street Number      Street Name      Apt/Unit      City/Town      Ward      Zip Code

### III. Name of family member who delivered the absentee ballot (Please Print):

Last Name      First Name      Middle Name      (Jr., Sr., II, III)

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

### IV. Election Name (check only one and enter date):

City or Town Election      \_\_/\_\_/\_\_\_\_

State Special Primary Election      \_\_/\_\_/\_\_\_\_

State Special General Election      \_\_/\_\_/\_\_\_\_

State Presidential Primary Election      \_\_/\_\_/\_\_\_\_

State Primary Election      09/11/2018

State General Election      11/06/2018

### V. Proof of Identification (check only one):

Government-issued Photo ID

Identity verified by city or town clerk

### VI. City or Town Clerk signature:

Printed Name of Clerk: \_\_\_\_\_

Clerk's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

July 2017

## **XVIII. VOTER REGISTRATION**

### **NEW VOTER AUTHORIZATION CARD**

City/Town of \_\_\_\_\_

**Instructions:** Applicants for registration as a voter on election day must complete this form. Once your application to be registered as a voter has been approved, a Supervisor of the Checklist will sign this form. Take this form to the Voter Check-In table. A Ballot Clerk will add your name to the checklist and will issue you a ballot(s).

**(For hand count towns only).** The ballot clerk will hand this card back to you with the ballot. Keep it with you when you go to the voting booth to mark your ballot(s). When you are finished marking your ballots, fold the ballot so that your votes cannot be seen and go to the check-out table. Hand this form to the town clerk or a ballot clerk who will add your name to the checklist used to check voters out. Then take your ballot to the moderator who will be positioned by the ballot box. Hand the ballot to the moderator, who will drop it in the ballot box.

This card authorizes the addition of the person named herein to the checklist as a new voter who has registered on election day:

Date: \_\_\_\_\_

Print your name here:

\_\_\_\_\_

Print the physical address of your voting domicile:

\_\_\_\_\_

\_\_\_\_\_

If this is a Primary Election:

Print the name of the party you affiliate with:

\_\_\_\_\_

Sign the form:

\_\_\_\_\_

\_\_\_\_\_

#### **FOR OFFICIAL USE ONLY:**

The person named above has been approved by the Supervisors of the Checklist as a new voter.

Signed \_\_\_\_\_  
(Supervisor of the Checklist)

(To be appended at the end of letters of the alphabet on the election day checklist)

## New Registered Voters List

Letter: \_\_\_\_\_

**Town/City of \_\_\_\_\_ Ward# \_\_\_\_\_**

Page #: \_\_\_\_\_

**Election Date:** \_\_\_\_\_

[illegible]

## NEW REGISTERED VOTERS LIST

## Types of Documentation Authorized by New Hampshire Law for Voter Registration and Election Day Check-In

Documentation	Identity	Age	Citi-zen-ship	Domicile	Election Day Check-In (2018)
Photo driver's license or non-driver's license issued by any state		(if deemed reasonable by supervisors)			(valid for 5 years beyond expiration date)
Photo driver's license or non-driver's license issued by the federal government		(if deemed reasonable by supervisors)			
Valid New Hampshire driver's license issued to or in the name of the applicant		(if deemed reasonable by supervisors)		(must show the address the applicant claims as domicile)	(valid for 5 years after expiration date)
United States passport (or passport card)		(if deemed reasonable by supervisors)			(valid for 5 years after expiration date)
Valid United States armed services identification				(must show the address the applicant claims as domicile)	
Naturalization papers if the applicant is a naturalized citizen					
Valid New Hampshire vehicle registration issued to or in the name of the applicant				(must show the address the applicant claims as domicile)	
Birth certificate		(if deemed reasonable by supervisors)			
Qualified Voter Affidavit, or applicable portion (identity, age, or citizenship) of Page 2 of Voter Registration Form B, received 30 days or less before an election or on Election Day					
Sworn Statement of Domicile, or domicile portion of Page 2 of Voter Registration Form B, received 30 days or less before an election or on Election Day					
Challenged Voter Affidavit					
Any reasonable documentation to establish that he or she will be 18 years of age or older on the day of the next election					
Photo identification deemed reasonable by supervisors of the checklist, moderator, or clerk (RSA 659:13, II)					(if deemed legitimate by the supervisors, moderator or clerk)
Any documentation deemed reasonable by the supervisors of the checklist					
Valid photo identification issued by the United States government				(must show the address the applicant claims as domicile)	
Photo identification card "for voting purposes only" issued by the NH DMV					
Valid photo identification issued by state, county or municipal government					
Valid student identification card	(if deemed reasonable by supervisors)				(if school is on list provided by the N.H. Dept. of Education)
Identity verified by supervisor of the checklist, moderator or town, city or ward clerk					

## VOTER REGISTRATION AND VOTER CHECK-IN DOCUMENTS

PLEASE PRINT OR TYPE

NEW HAMPSHIRE VOTER REGISTRATION FORM

RSA 654:7

1. LAST NAME (including suffix if any)		FIRST NAME		FULL MIDDLE NAME		<b>NEW REGISTRATION</b> – I am NOT registered to vote in NH  <b>TRANSFER</b> – I am registered to vote in NH and have moved my voting domicile to a new town or ward in NH.  <b>NAME CHANGE or ADDRESS UPDATE</b> – I am registered to vote in this town/ward and have changed my name or address.
2. DOMICILE ADDRESS (Street & House (Apt.) Number)		TOWN OR CITY		City Ward	ZIP CODE	
3. MAILING ADDRESS (If different from domicile address)		TOWN OR CITY		STATE	ZIP CODE	
4. PLACE OF BIRTH (Town/City and State)		COUNTRY (If not USA)		DATE OF BIRTH		
5. a. ARE YOU A CITIZEN OF THE UNITED STATES? YES _____ NO _____ b. IF NATURALIZED CITIZEN, GIVE NAME OF COURT WHERE NATURALIZED (Town/City and State)				DATE NATURALIZED		
6. PLACE LAST REGISTERED TO VOTE						
(Street & House (Apt.) Number)		(Town or City & Ward)		(State and Zip Code)		
I am NOT currently registered to vote elsewhere (initial here _____).						
I request that my name be removed as a registered voter in the town/ward where I was previously registered to vote (initial here _____).						
7. NAME UNDER WHICH PREVIOUSLY REGISTERED, IF DIFFERENT				8. PARTY AFFILIATION (if any)		
9. DRIVER'S LICENSE NUMBER		IF NO VALID DRIVER'S LICENSE, PROVIDE THE LAST FOUR DIGITS OF YOUR SOCIAL SECURITY NUMBER _____				

<p align="center"><b>AFFIDAVIT</b></p> <p>My name is _____. I am today registering to vote in the city/town of _____, New Hampshire. If a city, ward number _____.</p> <p>I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.</p> <p>I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.</p> <p>In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.</p> <p>If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.</p>		<p>I acknowledge <b><u>that I have read and understand the qualifications on this form</u></b> for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.</p> <p>Signature of Applicant _____ Date _____</p> <p>Received by _____</p> <p>Approved by _____ SUPERVISOR OF CHECKLIST/REGISTRAR OF VOTERS</p> <p><i>In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.</i></p> <p align="right">July 2017 Form A</p>	
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VOTER REGISTRATION FORM A

PLEASE PRINT OR TYPE

NEW HAMPSHIRE VOTER REGISTRATION FORM

RSA 654:7

FOR USE STARTING 30 DAYS BEFORE AN ELECTION AND AT THE POLLING PLACE ON ELECTION DAY

1. LAST NAME (including suffix if any)		FIRST NAME		FULL MIDDLE NAME		<b>NEW REGISTRATION</b> – I am NOT registered to vote in NH  <b>TRANSFER</b> – I am registered to vote in NH and have moved my voting domicile to a new town or ward in NH.  <b>NAME CHANGE or ADDRESS UPDATE</b> – I am registered to vote in this town/ward and have changed my name or address
2. DOMICILE ADDRESS (Street & House (Apt.) Number )		TOWN OR CITY		City Ward	ZIP CODE	
3. MAILING ADDRESS (If different from domicile address)		TOWN OR CITY		STATE	ZIP CODE	
4. PLACE OF BIRTH (Town/City and State)		COUNTRY (If not USA)		DATE OF BIRTH		<b>FOR OFFICIAL USE ONLY</b>  Date registration form is submitted _____  Date applicant moved to the address listed as the voter's domicile _____  Domicile proof submitted by voter <input type="checkbox"/>
5. a. ARE YOU A CITIZEN OF THE UNITED STATES? YES _____ NO _____				DATE NATURALIZED		
b. IF NATURALIZED CITIZEN, GIVE NAME OF COURT WHERE NATURALIZED (Town/City and State)						
6. PLACE LAST REGISTERED TO VOTE						
( Street & House (Apt.) Number )		(Town or City & Ward		( State and Zip Code)		
I am NOT currently registered to vote elsewhere (initial here _____). I request that my name be removed as a registered voter in the town/ward where I was previously registered to vote (initial here _____).						
7. NAME UNDER WHICH PREVIOUSLY REGISTERED, IF DIFFERENT				8. PARTY AFFILIATION (if any)		
9. DRIVER'S LICENSE NUMBER		IF NO VALID DRIVER'S LICENSE, PROVIDE THE LAST FOUR DIGITS OF YOUR SOCIAL SECURITY NUMBER				

AFFIDAVIT

My name is \_\_\_\_\_. I am today registering to vote in the city/town of \_\_\_\_\_, New Hampshire. If a city, ward number \_\_\_\_\_.

I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

I acknowledge **that I have read and understand the qualifications on this form** for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.

\_\_\_\_\_  
Signature of Applicant Date: \_\_\_\_\_

Received by \_\_\_\_\_

Approved by \_\_\_\_\_  
SUPERVISOR OF CHECKLIST/REGISTRAR OF VOTERS



*In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000*

July 2017 Form B Any applicant NOT in possession of the required forms of Identity, Age, Domicile and/or Citizenship MUST complete Page 2

## NEW HAMPSHIRE VOTER REGISTRATION FORM

-page 2-

I understand that to make the address I have entered above my **domicile** for voting I must have an intent to make this the one place from which I participate in democratic self-government and must have acted to carry out that intent. I understand that if I have documentary evidence of my intent to be domiciled at this address when registering to vote, I must either present it at the time of registration or I must place my initials next to the following paragraph and mail a copy or present the document at the town or city clerk's office within 10 days following the election (30 days in towns where the clerk's office is open fewer than 20 hours weekly).

By placing my initials next to this paragraph, I am acknowledging that I have not presented evidence of actions carrying out my intent to be domiciled at this address, that I understand that I must mail or personally present to the clerk's office evidence of actions carrying out my intent within 10 days following the election (or 30 days in towns where the clerk's office is open fewer than 20 hours weekly), and that I have received the document produced by the secretary of state that describes the items that may be used as evidence of a verifiable action that establishes domicile.

Failing to report and provide evidence of a verifiable action will prompt official mail to be sent to your domicile address by the secretary of state to verify the validity of your claim to a voting domicile at this address.

I understand that if I do not have any documentary evidence of my intent to be domiciled at this address, I must place my initials next to the following paragraph:

By placing my initials next to this paragraph, I am acknowledging that I am aware of no documentary evidence of actions carrying out my intent to be domiciled at this address, that I will not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be sending mail to the address on this form or taking other actions to verify my domicile at this address.

I acknowledge **that I have read and understand the above qualifications** for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any polling place in the election.

Signature of Applicant

If this form is used in place of proof of identity, age, or citizenship, I hereby swear that such information is true and accurate to the best of my knowledge.

This form was executed for purposes of proving (applicant shall check yes or no and initial each item):

Identity	Yes/No	(initials)
Citizenship	Yes/No	(initials)
Age	Yes/No	(initials)

Sworn before:

Officials who may receive the sworn affidavit: moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace.

PRINT name of Applicant

Signature of Applicant

*In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one-year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000. In accordance with RSA 659:34-a voting in more than one state in the same election is a class B felony with a maximum sentence of imprisonment not to exceed 7 years and a fine not to exceed \$4,000.*



**Verifiable Action of Domicile**  
**RSA 654:7, V**

The following checklist shall be used as a guide for what you may use as evidence and shall be submitted to the town or city clerk along with documentation that you are required to provide. Only one item on the list is required to demonstrate a verifiable act.

To establish that you have engaged in a verifiable act establishing domicile, provide evidence that you have done at least one of the following:

- ☐ established residency, as set forth in RSA 654:1, I-a, at an institution of learning at the address on the voter registration form.
- ☐ rented or leased an abode, for a period of more than 30 days to include time directly prior to an election day at the address listed on the voter registration form.
- ☐ purchased an abode at the address listed on the voter registration form.
- ☐ obtained a New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, 21-a or 21-b listing the address on the voter registration form.
- ☐ enrolled a dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of the address where the registrant resides, as listed on the voter registration form.
- Identified the address on the voter registration form as your physical address on:
  - ☐ state or federal tax forms
  - ☐ other government-issued forms or identification – describe form of identification: \_\_\_\_\_
  - ☐ provided the address on the voter registration form to the United States Post Office as your permanent address, provided it is not a postal service or commercial post office box, where mail is delivered to your home. This can be by listing the address on the voter registration form as your new address on a Postal Service permanent change of address form and providing a copy of the receipt, or an online emailed receipt.
  - ☐ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the address on the voter registration form, list services obtained: \_\_\_\_\_.
  - ☐ arranged for a homeless shelter or similar service provider to receive United States mail on your behalf. Enter name of the shelter or provider: \_\_\_\_\_.
  - ☐ describe what other verifiable action or actions you have taken to make the address listed on your voter registration form your one voting domicile: \_\_\_\_\_.

If you have no other proof of a verifiable act establishing domicile, and your domicile is at an abode rented, leased, or purchased by another and your name is not listed on the rental agreement, lease, or deed, you are required to provide a written statement, signed under penalty of voting fraud if false information is provided, from a person who is listed on such document, or other reasonable proof of ownership or control of the property, attesting that you reside at that address, signed by that person or his or her agent who manages the property.

This verifiable action of domicile form, along with your written statement or other documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in person, within 10 days after the election, or within 30 days if the clerk's office is open fewer than 20 hours weekly.

August 2017 Form Domicile-A

**VERIFIABLE ACTION OF DOMICILE, FORM A**

**Verifiable Action of Domicile**  
**RSA 654:7, V**



As a newly registered voter, you have received this document because you did not provide proof of domicile when you registered to vote. RSA 654:2, IV requires you to provide evidence that you have taken a verifiable act to establish domicile.

The following checklist shall be used as a guide for what you may use as evidence and shall be submitted to the town or city clerk along with documentation that you are required to provide. Only one item on the list is required to demonstrate a verifiable act.

To establish that you have engaged in a verifiable act establishing domicile, provide evidence that you have done at least one of the following:

- ☐ established residency, as set forth in RSA 654:1, I-a, at an institution of learning at the address on the voter registration form.
- ☐ rented or leased an abode, for a period of more than 30 days, to include time directly prior to an election day at the address listed on the voter registration form.
- ☐ purchased an abode at the address listed on the voter registration form.
- ☐ obtained a New Hampshire resident motor vehicle registration, driver's license, or identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing the address on the voter registration form.
- ☐ enrolled a dependent minor child in a publicly funded elementary or secondary school which serves the town or ward of the address where the registrant resides, as listed on the voter registration form.

Identified the address on the voter registration form as your physical residence address on:

- ☐ state or federal tax forms
- ☐ other government-issued forms or identification. Describe form of identification: \_\_\_\_\_
- ☐ provided the address on the voter registration form to the United States Post Office as your permanent address, provided it is not a postal service or commercial post office box, where mail is delivered to your home. This can be by listing the address on the voter registration form as your new address on a Postal Service permanent change of address form and providing a copy of the receipt, or an online emailed receipt.
- ☐ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the address on the voter registration form. List services obtained: \_\_\_\_\_
- ☐ arranged for a homeless shelter or similar service provider to receive United States mail on your behalf. Enter name of the shelter or provider: \_\_\_\_\_
- ☐ describe what other verifiable action or actions you have taken to make the address listed on your voter registration form your one voting domicile: \_\_\_\_\_

If you have no other proof of a verifiable act establishing domicile, and your domicile is at an abode rented, leased, or purchased by another and your name is not listed on the rental agreement, lease, or deed, you are required to provide a written statement, signed under penalty of voting fraud if false information is provided, from a person who is listed on such document, or other reasonable proof of ownership or control of the property, attesting that you reside at that address, signed by that person or his or her agent who manages the property.

This verifiable action of domicile form, along with your written statement or other documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in person, with 10 days, or within 30 days if the clerk's office is open fewer than 20 hours weekly.

Name: \_\_\_\_\_  
Last (suffix) First Full Middle Name

Domicile Address \_\_\_\_\_  
Street and House (Apt) Number Town/City/Ward

Date: \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

-----  
This document was received by the clerk, who examined and returned it to the applicant after making a copy of the evidence of verifiable action, said copy to be attached to the verifiable action of domicile form.

Date: \_\_\_\_\_ Signature of Clerk \_\_\_\_\_

-----  
The clerk shall forward the completed form and attachment or attachments to the supervisors of the checklist as soon as possible, but not later than their next meeting. The supervisors of the checklist shall attach the form and attachments to the voter registration form.

Date Received: \_\_\_\_\_ Signature of Supervisor/Registrar: \_\_\_\_\_

**VERIFIABLE ACTION OF DOMICILE, FORM B**

*August 2017 Form Domicile-B*

## CONFIRMATION OF DOMICILE

### STATE OF NEW HAMPSHIRE Confirmation of Domicile



An applicant whose domicile is at an abode rented, leased, or owned by another whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.

The law does not prescribe a form, any document containing the information below is sufficient.

#### Department of State Confirmation of Domicile RSA 654:2, II(e)

I, \_\_\_\_\_ (print the name of the property owner, property manager, property agent, person leasing or renting property – tenant) hereby certify that

\_\_\_\_\_ (print name of person who is registering as a voter) is domiciled at this address (insert full address below):

\_\_\_\_\_

\_\_\_\_\_  
Signature of property owner/  
manager/ agent/tenant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print name of property owner/  
Manager/person leasing-tenant/agent

\_\_\_\_\_  
Address if different from above

\_\_\_\_\_  
(Phone number or email – OPTIONAL)

Providing false information is a violation of New Hampshire law under penalty of voting fraud.

## **CITIZENSHIP – DOCUMENTS THAT ARE PROOF OF CITIZENSHIP**

Proof of U.S. Citizenship (based on United States Citizenship and Immigration Service web publication: - <https://www.uscis.gov/us-citizenship/proof-us-citizenship-and-identification-when-applying-job>):

- A U.S. passport or passport card is proof of U.S. citizenship. Many people born outside the United States who are United States Citizens by having a parent who was a United States Citizen at the time of birth, by derived citizenship, or naturalization will have a United States passport or passport card. This document is proof of citizenship regardless of the basis for the person now being a US Citizen.
- For a citizen born in the United States, a birth certificate provides proof of citizenship.
- For a citizen born outside of the United States, as the child of a U.S. citizen parent, citizenship can vary depending on the law in effect when the birth took place. In most cases citizens born outside the U.S. requires a combination of evidence showing at least one parent being a U.S. citizen when the child was born and having lived in the United States or its possessions for a period of time.
  - A Consular Report of Birth Abroad, or FS-240, provides proof of citizenship if the birth was registered at the nearest U.S. consulate when the person was born.
  - A person already in the United States, can obtain a Certificate of Citizenship.
- A Naturalization Certificate or Certificate of Citizenship is proof of citizenship.

See samples below.

Birth Certificate – The design of birth certificates in New Hampshire and in other states has changed over time. There is no one standard form. Supervisors and Clerks should accept as valid any form presented that on its face appears to be a legitimate birth certificate. The sample below shows only the current form of a New Hampshire Birth Certificate.

Naturalization Documents – The design of naturalization documents has changed over time. The sample below shows only the form of some current documents. Valid forms may have a different appearance, particularly those that were issued years ago.

If you suspect that the document is a forgery or falsified, unless you have sufficient evidence to immediately call in law enforcement to investigate, register the voter based on their claim that the document is valid. Send a copy or scan of the document to the HAVA Office or e-mail to [nhvotes@sos.nh.gov](mailto:nhvotes@sos.nh.gov). We will seek to assist you with validating the document or with your making a referral to the Attorney General.

Sample of current version of New Hampshire Birth Certificate



United States Passport



United States Passport Card



United States Department of State – Consular Report of Birth Abroad – current form



United States Department of State – Consular Report of Birth Abroad – old form- still valid proof of US Citizenship



United States Department of State Certification of Birth Abroad of a Citizen of the United States of America (Form FS-545)



United States Department of State Certification of Birth Abroad of a Citizen of the United States of America (Form FS-1350)



## Examples of a United States Certificate of Naturalization



## Example of a United States Certificate of Citizenship



## CITIZENSHIP – DOCUMENTS THAT ARE NOT PROOF OF CITIZENSHIP

A Permanent Resident Alien, green card holder, is not a United States Citizen. A Permanent Resident Alien must become a naturalized United States Citizen before he or she is eligible to register and vote.



New Hampshire "Real ID" Driver's License or non-driver ID – A non-citizen, for example a permanent resident alien may obtain a "Real ID" compliant New Hampshire Driver's License. REAL ID Compliant New Hampshire Driver License.



## **XIX. ELECTION DAY FORMS, SUPPLIES, EQUIPMENT & SEALS**

### **ELECTION SUPPLIES – SAMPLE LIST**

#### **For each town or ward:**

Ballot Box (1) (Legitimate-appearing box with “Official Ballot Box” sign recommended as contingency to avoid long lines developing. See page 103 “Plan for Contingencies”)

Stapler

Staple Remover

Pencil Sharpener

Black Pens (8)

Note Pad

Red Pens (4)

Fasteners

Regular Pencils (10)

Lights for ballot (1 each booth)

Magnifying devices (1 each booth)

Rulers (4)

Scissors

Rubber Fingers

Padlock & Keys (1)

Alphabet Tabs

Masking Tape

String

Paper Clips

Manila Folders (5)

Filament Sealing Tape

Refer to Moderator’s list on page 94

Thumb Tacks

Electrical Strip

Extension Cord

Rubber Bands for Ballot Separation

Organizer Box

Letter Opener

Magic Markers

Guardrail – Rope/Ribbon to establish a divider around the voting area

Scotch Tape

Ward Map

Printing Calculator

Privacy Folders for Ballots (where ballot counting devices are in use)

Sticky Notes for Ballot Piles Identification

Red Security Tape (Sealing Ballots)

Signs – (Starting on page 234)

Flag

Clip boards (10)

White paper (20 and colored paper for party ballots (20) as needed for Accessible Voting System

Blank white sheets of heavy paper for letters of alphabet (26), and for signs (10), as needed

Boxes (6) to help supervisors organize new voter registration forms (front side only completed), new voter registration forms (front and back sides completed), name changes, address changes, and other

## ELECTION FORMS, DOCUMENTS, & EQUIPMENT CHECKLIST

Certified Checklists in (and out) lists (signed by supervisors)	Camera and Film for CVAs
Checklist (1) Posting	Types of Documentation Authorized by N.H. Law for Voter Registration and Election Day Check-In, page 217
Sealed Box(es) of Official Ballots	Challenged Voter Affidavits, page 200
Absentee Ballot List from <i>ElectionNet</i>	Asserting a Challenge forms, page 202
Absentee Ballots	Affidavits of Religious Exemption, page 201
Absentee Ballot Applications and Envelopes	Verifiable Actions of Domicile, Form B page 222
Absentee Ballot Return Forms (for delivery by family members), page 214	Return of Votes Form
All alphabet letters printed separately on 8 ½” X 11” paper, so letters may be moved quickly to avoid long lines	Moderator Certificate
Attorney General Checklist (Polling Place Compliance) <a href="http://sos.nh.gov/ElecOff.aspx">http://sos.nh.gov/ElecOff.aspx</a>	Tally Sheets
Notice to Voters	Moderator’s Worksheet, page 255
Sample Ballots	Votes in Contests - Examination of Individual Races, pages 257 to 261
Voter Instructions	Label for Resealing Ballots, page 233
Purity of Election Laws	Payroll Forms & W-4 Forms
Voter Registration Form B	Oath of Office Forms
Ballot Clerk Procedure, starting at page 244	Evidence of having tested Accuvote device (for towns with counting devices)
Voter ID Explanatory Document (version September, 2017) from <a href="http://sos.nh.gov/ElecOff.aspx">http://sos.nh.gov/ElecOff.aspx</a>	See Moderator’s list on page 94
List of schools and colleges which provide valid student identification for voting purposes, from <a href="http://sos.nh.gov/ElecOff.aspx">http://sos.nh.gov/ElecOff.aspx</a>	
Accessible Voting System	



# **State of New Hampshire – Secretary of State**

## **ELECTRONIC BALLOT COUNTING DEVICE PROCEDURES**

### **For Testing and Security Seals (RSA 656:42)**

**Version 2.0 6-29-2018**

#### **Seal Types:**

- Wire Wind-Up Security Seal
- Tamper Evident Labels (Tape Seals)

#### **Seal Locations:**

- One wire seal must be fully tightened attaching the 2 zippers on the closed canvas cover storing the counting device.
- One wire seal must be fully tightened on the metal bar in front of the memory card slot.
- Tamper Evident Label seals must be placed in the following three locations:
  1. One seal affixed on the seam connecting the two hard shell covers on the front of the counting device.
  2. One seal affixed on the seam connecting the two hard shell covers on the rear of the counting device.
  3. One seal affixed over the 3 communications ports in the rear of the counting device.

#### **SOS Activity Log and One Access Log:**

- Canvas Bag SOS Activity Log
- Counting Device SOS Activity Log
- Memory Card SOS Activity Log
- SOS Access Log
  - A list of all individuals who have access to the safe where the memory cards are stored.
  - A list of all individuals who have access to the secure area where the counting devices are stored.

#### **Procedures:**

- The city or town clerk shall update a SOS Activity Log supplied by the Secretary of State to keep a record each time a seal is broken, a new one installed and the reason for which the seal was broken or installed. The SOS Activity Logs shall be kept in the outside pocket of the canvas bag which contains the counting device.
- No person shall break or install a seal without the presence of 2 witnesses. Upon breaking or installing such seal, the person responsible shall update the appropriate SOS Activity Log, obtain the signatures of two witnesses, record the reason for breaking or installing such seal, properly record the seal number in the SOS Activity Log, and replace the SOS Activity Log in the front pocket of the canvas bag for the counting device.
  - NH SOS Security Upgrade Form confirms:

- Accuvote-OS Precinct Count firmware chip has been upgraded to the 1.96.13 firmware chip
- Whether the counting device uses visible light read heads
- Disconnection of modem, if present
- Cutting of the two telephone cables
- Disconnection of the communication port ribbon cable
- Removal of all pins from the external communication port
- The canvas bag of each counting device must have a tag that indicates the serial number of the counting device inside.
- The counting device, the Security Upgrade Form, SOS Access Log, SOS Activity Log, and test results shall be subject to review by the moderator, Attorney General or Secretary of State at any time.

## **Memory Card (Installing):**

Whenever the town or city clerk receives a memory card from the memory card programmer, the clerk shall record on the SOS Activity Log the:

- Breaking of the canvas bag seal
- Breaking of the metal bar seal in front of the memory card slot
- The memory card number on the back of the memory card
- Insertion of the memory card into the memory card slot
- Installation of a new seal on the metal bar in front of the memory card slot
- Installation of a new seal on the canvas bag

The clerk shall store any memory card not inserted into a counting device in a safe and record the names of individuals that have access to such safe on the SOS Activity Access Log

## **Memory Card (Removing):**

Whenever the town or city clerk removes the memory card from the counting device, the clerk shall record on the SOS Activity Log the:

- Breaking of the canvas bag seal
- Breaking of the metal bar seal in front of the memory card slot
- Removal of the memory card
- Installation of a new seal on the metal bar in front of the memory card slot
- Installation of a new seal on the canvas bag
- Immediately return the memory card to the memory card programmer

## **Maintenance, Storage & Replacement of Counting Devices and Memory Cards:**

- The vendor shall follow the SOS Activity Log seal procedure when performing routine maintenance on the counting device.
- Confirm that the canvas bag of each counting device has a tag that indicates the serial number of the counting device inside.
- While in secure storage, the metal bar in front of the memory card slot and the canvas bag shall be sealed at all times.

- If a counting device is replaced, the clerk shall retain and store the SOS Activity Log from that device.
- If a counting device or memory card is replaced by the vendor, the clerk shall first test the replacement counting device or memory card using the SOS testing instructions and affix the appropriate seals.
- The clerk shall maintain an up-to-date SOS Access Log for the secure storage area and record the names of individuals that have access to the secure storage area.

## Back-up Counting Devices:

- Seals shall be affixed in the appropriate locations on all back-up counting devices. All cases shall contain the SOS Activity Log.

## Testing Instructions:

- Upon receipt of the official ballots from the Secretary of State, the clerk shall remove the number of ballots needed (the Secretary of State recommends fifty ballots per election) from among the official ballots for testing the electronic ballot counting device and keep those test ballots separate and secure from the remaining official ballots thereafter.
- The clerk shall mark the word “TEST” in red on every ballot used for testing.
- The clerk shall give public notice of the date and time of a pre-election test of the electronic ballot counting device and test ballots.
- Memory cards shall be tested with the test ballots from a jurisdiction before the memory card and official ballots are used in that jurisdiction.
- The clerk shall mark the test ballots in such a way as to demonstrate a vote for each candidate on at least one test ballot, votes for less than (undervote) and more than (overvote) the number of candidates that may be voted for an office, write-ins, and multiple votes for a candidate who appears in more than one party column for the same office on a general election ballot. Leave one entire test ballot blank. The clerk shall mark as many as possible of the combinations of choices that a voter may indicate on the ballot.
- The clerk shall run each of the test ballots through the counting device in the following orientations:
  - Top First with side one face up
  - Bottom First with side one face up
  - Top first with side one face down
  - Bottom first with side one face down
- The clerk shall hand count the votes marked on the test ballots run through the electronic ballot counting device and multiply the results by 4 to account for the 4 different orientations, and check these results against the tally from the electronic ballot counting device.
- If your test results do not match your hand count results, contact the Secretary of State’s Office and LHS immediately.
- If there has been a replacement or repair of hardware or software on a device, it shall be subject to a full cycle of testing and the device shall not be used at an election unless the results match the hand count of the clerk.
- If the electronic ballot counting device’s tally does not match the hand count of the clerk, the clerk shall notify the moderator, who shall order that the electronic ballot counting device not be used at the election.
- The pre-election test shall be completed no later than the Wednesday immediately prior to the election.

- The clerk shall document and preserve the pre-election test results in the device bag, which shall be accessible to the moderator, Attorney General, and Secretary of State for inspection. The test results shall include:
  - The test ballots.
  - The hand count of votes on the test ballots signed by the clerk.
  - The tape results from the electronic ballot counting device signed by the clerk.
- The clerk shall test all electronic ballot counting devices and memory cards in the possession of the town or city to be used in said election, including back-up devices and cards.

## **Election Day - Moderator:**

- Prior to placing the electronic ballot counting device or any memory card into service in an election, the moderator shall certify that there is evidence at the polling place that pre-election testing was conducted on each electronic ballot counting device and each memory card in the clerk's possession, and that these devices and cards have passed the test.
- Upon receiving possession of a counting device on election day, the moderator shall verify all counting device seals have remained intact and shall verify that the seal numbers on the counting device match the seal numbers recorded on the appropriate SOS Activity Log. Any seals which may have been broken inadvertently should be properly investigated, and if appropriate, re-sealed, recorded and signed in the SOS Activity Log according to the correct procedure.
- At the opening of the polls, the moderator shall print the zero tape from the electronic ballot counting device, show the tape to the other election officers (who shall check and confirm the zero value) and, on request, to any members of the public present, and provide the zero tape to the clerk, who shall maintain it with other materials documenting the election. RSA 658:36.
- During election day, if the moderator notices that any seal on the counting device appears tampered with or broken, without an adequate record in the SOS Activity Log, the moderator shall refrain from using the counting device in that election and shall report the apparent tampering to the Attorney General, the Secretary of State, the town or city clerk, and the selectmen.
- After the close of the polls, the moderator shall print the long report tape from the electronic ballot counting device, one tape to be provided to the clerk, and (optionally) one tape that can be provided to the Secretary of State.

SEAL ON BOX CONTAINING CAST BALLOTS



**This Package Contains**

NUMBER OF 1358 CAST BALLOTS  
NUMBER OF 2 CANCELLED BALLOTS  
NUMBER OF 82 UNCAST BALLOTS

- ☐ All absentee ballot applications and envelopes are enclosed in this ballot box – including all challenged and rejected absentee ballots still contained in their envelopes.  
RSA 659:53; RSA 657:15, 23 & 26

BOX 1 OF 2 .

Enclosed are the ballots  
from the state election  
held in the town of

\_\_\_\_\_  
(or, ward \_\_\_\_\_ in the city  
of \_\_\_\_\_  
held on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_  
required by the law to be preserved.

\_\_\_\_\_  
Moderator or Designee

\_\_\_\_\_  
Selectman or Designee

\_\_\_\_\_  
Selectman or Designee

\_\_\_\_\_  
Selectman or Designee

\_\_\_\_\_  
Selectman or Designee

\_\_\_\_\_  
Selectman or Designee

RECEIVED \_\_\_\_\_  
(date)

at \_\_\_\_\_  
(minute of the day and hour)

\_\_\_\_\_  
TOWN CLERK or CITY CLERK or Designee  
(New Hampshire RSA Sections 659:95, 98.)

XX. ELECTION DAY SIGNS & PROCEDURES

**The office of the  
Town Clerk  
will be closed on  
Election Day.**

**Voters  
Register  
Here**

# **Voter Check-In**

**No Photo  
ID?  
Start Here**

**You must  
announce your  
name and  
address to the  
Ballot Clerk  
RSA 659:13**

**(To be used for a General Election)**

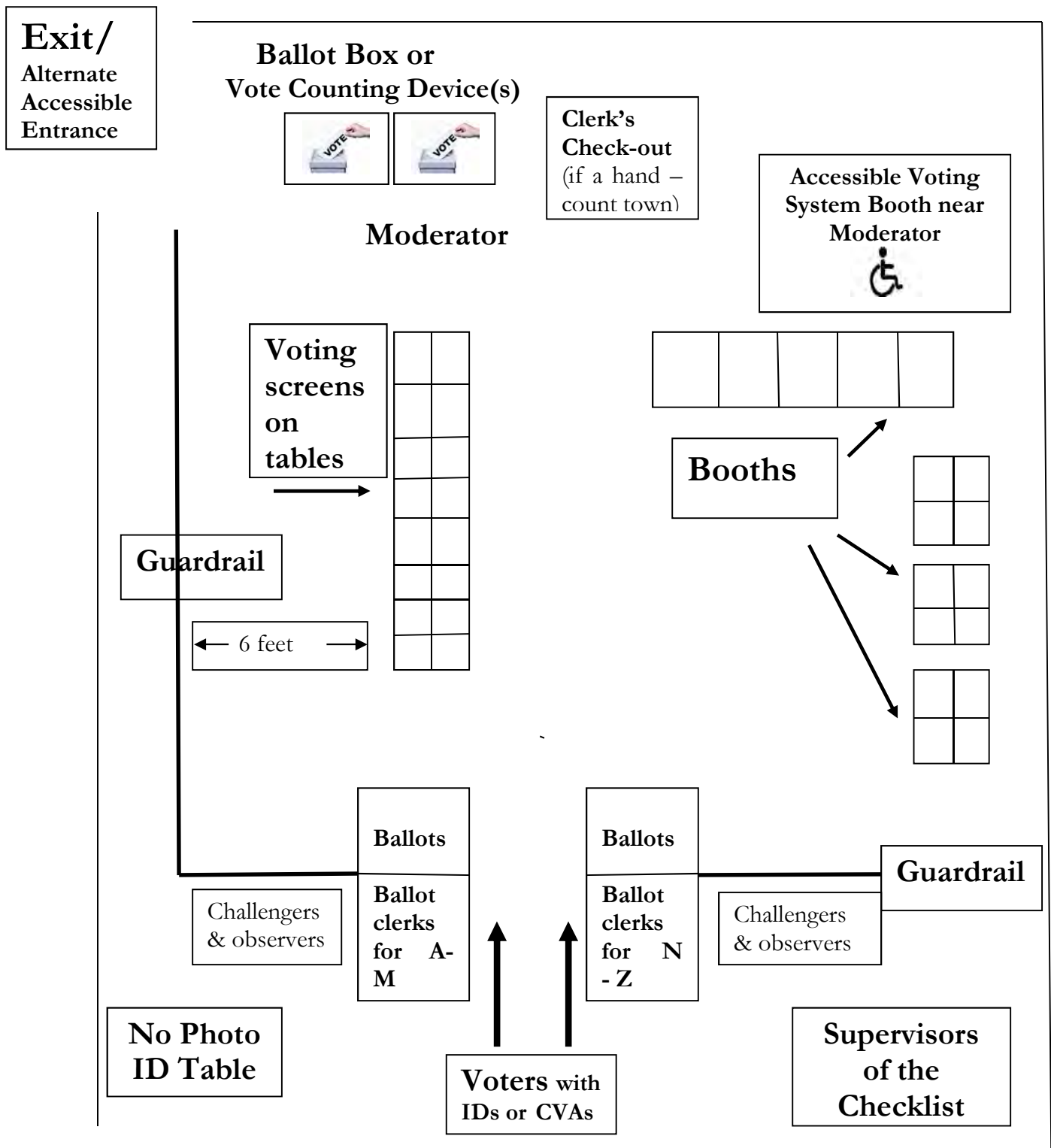
**You must  
announce your  
name, address,  
and party  
affiliation to the  
Ballot Clerk  
RSA 659:13 & 659:14**

**(To be used for a Primary Election)**

**Previously  
undeclared voters  
who wish to  
return to undeclared**

**If you wish to use the  
Accessible Voting  
System,  
ask an election  
official.**

## POLLING PLACE LAYOUT EXAMPLE



Must be 6 feet between guardrail and voting activities in all directions. Alternate entrance for persons with disabilities must be clearly signed, with clear path to check-in table. Challengers must be stationed within sight and sound of ballot clerks but outside guardrail.

## RECOMMENDED DISTRIBUTION OF LETTERS FOR MULTIPLE CHECK-IN STATIONS

This distribution of letters is based on the first letter of the last name of all New Hampshire Voters in 2018. It distributes the voters to the number of check-in stations in the top row in numbers that are as equal as possible.

	Number of Voter Check-in Stations													
	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Distribution of Letters of the Alphabet	A-K	A-F	A-C	A-C	A-B	A-B	A-B	A-B	A-B	A-B	A	A	A	A
	L-Z	G-M	D-J	D-G	C-E	C-D	C-D	C	C	C	B	B	B	B
		N-Z	K-P	H-L	F-I	E-G	E-G	D-F	D-E	D-E	C	C	C	C
			Q-Z	M-Q	J-M	H-K	H-K	G-H	G-H	F-G	D-E	D-E	D-E	D-E
				R-Z	N-R	L-M	L-M	I-L	I-L	H-J	F-G	F-G	F-G	F
					S-Z	N-R	N-Q	M	M	K-L	H-J	H-J	H-J	G
						S-Z	R-S	N-Q	N-Q	M	K-L	K-L	K	H-J
							T-Z	R-S	Q-R	N-P	M	M	L	K
								T-Z	S-T	Q-R	N-P	N-P	M	L
									U-Z	S	Q-R	Q-R	N-P	M
										T-Z	S	S	Q-R	N-P
											T-Z	T-U	S	Q-R
												V-Z	T-U	S
													V-Z	T-V
														W-Z

An Excel Version of this chart which shows the number and % of voters for each letter of the alphabet and the distribution for each check-in station is available in *ElectionNet: Help/Instructions*. This excel chart can help moderators fine-tune the above distribution if they choose.

## BALLOT CLERK PROCEDURE - Primary

*Before Voters are allowed in the Voter Check-in (Ballot Clerk) line, a greeter should ask them if they are a registered voter, inform them of the Voter ID law and direct them to the correct line or table: Registered to Vote (Voter Check-in), Not Yet Registered (Voters Register Here), or No Photo ID, Start Here.*

*Before a Voter is allowed into the area within the guardrail to vote:*

1. The Voter shall announce to the Ballot Clerk his or her name, domicile address, AND the name of the party to which he or she belongs.
  - a. Any undeclared Voter desiring to vote in a party primary shall announce the name of the party whose primary they wish to vote at the time of announcing his or her name and address. (RSA 659:14)
2. The Ballot Clerk shall search the checklist, find the Voter's name and address, and read aloud the Voter's name, domicile, mailing address (if any), and party affiliation as they appear on the checklist.
  - a. If the Voter's name is NOT found on the checklist, or is a name change, the Ballot Clerk shall direct the Voter to the Supervisors of the Checklist/Registrars.
  - b. If the Voter's name is found on the checklist, the Ballot Clerk shall place a ruler under the Voter's name/address and then put a check mark ✓ beside the name and repeat the name again.
3. The Ballot Clerk shall then ask the Voter if the domicile and mailing address (if any) are correct.
  - a. If the domicile or mailing address is NOT correct, and the Voter's current domicile address is within the same town or ward, the Ballot Clerk shall correct the address(es) in **RED** on the paper checklist to reflect the correction. (RSA 659:13)
  - b. If the domicile address is NOT correct, and the Voter's current address is NOT within the same town or ward, the Ballot Clerk should inform the Voter that he or she is not at the correct polling place and that he or she can only vote where they are domiciled. Encourage the Voter to use election day registration and vote at his or her correct polling place. If directions are needed, direct the Voter to the Moderator.
4. The Ballot Clerk shall mark the party choice of an undeclared Voter on the checklist using the first three letters of the name of the party, DEM, LIB or REP. (RSA 654:15) A person registered as affiliated with a party may not change party on primary day.
5. The Ballot Clerk shall request the Voter present a valid photo ID in the form of:
  - a. A driver's license issued by any state or the federal government;
  - b. A non-driver ID issued by any state;
  - c. An ID card issued by any state DMV for voting purposes only;
  - d. A United States Armed Services ID card;
  - e. A United States Passport or passcard;
  - f. A NH Student ID card;
  - A. An acceptable student photo ID card issued by: (The Department of Education list is available on the Secretary of State's website - [www.sos.nh.gov](http://www.sos.nh.gov))
    1. A college, university or career school approved to operate or licensed to operate in New Hampshire;
    2. A public high school in New Hampshire;
    3. A nonpublic high school in New Hampshire accredited by a private school accrediting agency that is recognized by the NH Department of Education;
    4. Dartmouth College;
    5. A college or university operated by the university system of New Hampshire or the community college system of New Hampshire.
  - B. The card has an expiration date or an issuance date that has not been exceeded by more than 5 years;

2018 v1

## BALLOT CLERK PROCEDURE - PRIMARY

## BALLOT CLERK PROCEDURE - Primary

- g. A Challenged Voter Affidavit (“CVA”). (See #8 – 11.)
  - h. A photo ID not mentioned above, but determined to be legitimate by the Moderator, Supervisors of the Checklist or Clerk of a town, ward or city.
  - i. Verification of the person’s identity by the Moderator, a Supervisor of the Checklist or Clerk of a town, ward or city. (Not a Ballot Clerk)
6. A valid photo identification shall show:
- a. Name and photo of the individual.
    - A. The name shall substantially conform to the name of the individual on their voter registration record.
  - b. The photo identification shall not have been expired for more than 5 years.
    - A. Exception: a voter 65 years or older may use an acceptable ID even if it is expired.
7. If the Voter presents an Out-of-State driver’s license or non-driver ID, the Ballot Clerk shall record the two-letter state abbreviation (e.g. VT, MA, ME, NY) to the right of the “CVA” box on the checklist in **RED INK**.
8. If there is a line waiting to check in, a registered voter without a photo ID should be directed to the “No Photo ID, Start Here” table. If there is no line, the Ballot Clerk may ask the voter if he or she personally knows the Moderator, Clerk or any Supervisor. If the person is known by any of those officials, arrange for the official to verify the voter’s identity.
9. If the Voter presents a signed “CVA” with an attached photo or a signed “CVA” with an attached “Religious Affidavit” to the Ballot Clerk, the Ballot Clerk shall put a check mark ✓ in the “CVA” box on the checklist. (RSA 659:13)
10. The Ballot Clerk shall take the signed “CVA” with an attached photo or the signed “CVA” with an attached “Religious Affidavit” from the Voter and place it in a folder or container marked for this purpose.
11. The Voter, if still qualified to vote in the town or ward and having presented an acceptable photo ID or completed a “CVA”, and unless challenged as provided for in RSA 659:27 through 659:33, shall then be allowed to enter the space enclosed by the guardrail.
12. The Ballot Clerk gives the Voter the ballot(s) reflecting the Voter’s party on the checklist. (RSA 659:15; 659:38)
13. The Ballot Clerk uses a ruler or straight edge to mark the checklist to indicate that the Voter has obtained his or her ballot. We recommend marking a single thin line through the last name of the voter on the checklist, which requires a second look at the voter’s name and the use of the ruler, for example, ~~Jones~~, John. (This line should not be so thick you cannot read the voter’s last name.)
14. In addition to the check mark and the thin line through the last name, absentee Voters shall be marked in **RED INK** with the letters **A.V.** to the left of the check box (RSA 659:52)



15. After the Moderator and Clerk no longer require access to the checklist for

Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID	Barcode
Ward 00	<del>DEM Jones</del>	CVA		PO Box 95			
<input checked="" type="checkbox"/> UNO	AARON, CLAUDIA ANN	<input checked="" type="checkbox"/>	54 MAIN ST	ANYTOWN, NH 03555	00		
<input type="checkbox"/> DEM	AARON, JAMES H	<input type="checkbox"/>	54 MAIN ST		00		
<b>A.V.</b> <input checked="" type="checkbox"/> REP	ABDE, LYNDIA D	<input type="checkbox"/>	1 BEAN RD		00		
<input checked="" type="checkbox"/> UNO	ABLE, CONSTANCE DEE	<input type="checkbox"/> MA	21 THOMPSON HILL RD		00		
<input checked="" type="checkbox"/> UNO	ABRAHAM, GEORGE	<input checked="" type="checkbox"/>	22 Main St		00		

election reporting purposes, the Supervisors of the Checklist should scan the bar codes of those Voters marked on the checklist as having checked in, picked up a ballot **and** whether the Voter signed a CVA. Using both a check mark and single thin line through the last name confirms that the voter both checked in and picked up a ballot. This helps ensure the record of who voted will be accurate.

## BALLOT CLERK PROCEDURE - General

*Before Voters are allowed in the Voter Check-in (Ballot Clerk) line, a greeter should ask them if they are a registered voter, inform them of the Voter ID law and direct them to the correct line or table: Registered to Vote (Voter Check-in), Not Yet Registered (Voters Register Here) or No Photo ID, Start Here.*

### *Before a Voter is allowed into the area within the guardrail to vote:*

1. The Voter shall announce to the Ballot Clerk his or her name and address.
2. The Ballot Clerk shall search the checklist, find the Voter's name and address, and read aloud the Voter's name, domicile, and mailing address (if any) as they appear on the checklist.
  - a. If the Voter's name is NOT found on the checklist, or is a name change, the Ballot Clerk shall direct the Voter to the Supervisors of the Checklist/Registrars.
  - b. If the Voter's name is found on the checklist, the Ballot Clerk shall place a ruler under the voter's name/address and then put a check mark ✓ beside the name and repeat the name again.
3. The Ballot Clerk shall then ask the Voter if the domicile and mailing address (if any) are correct.
  - a. If the domicile or mailing address is NOT correct, and the Voter's current domicile address is within the same town or ward, the Ballot Clerk shall correct the address(es) in **RED** on the paper checklist to reflect the correction.(RSA 659:13)
  - b. If the domicile address is NOT correct, and the Voter's current address is NOT within the same town or ward, the Ballot Clerk should inform the Voter that he or she is not at the correct polling place and that he or she can only vote where they are domiciled. Encourage the voter to use election day registration and vote at his or her correct polling place. If directions are needed, direct the voter to the Moderator.
4. The Ballot Clerk shall request the Voter present a valid photo ID in the form of:
  - a. A driver's license issued by any state or the federal government;
  - b. A non-driver ID issued by any state;
  - c. An ID card issued by any state DMV for voting purposes only;
  - d. A United States Armed Services ID card;
  - e. A United States Passport or passcard;
  - f. A NH Student ID card;
    - A. An acceptable student photo ID card issued by: (The Department of Education list is available on the Secretary of State's website - [www.sos.nh.gov](http://www.sos.nh.gov))
      1. A college, university or career school approved to operate or licensed to operate in New Hampshire;
      2. A public high school in New Hampshire;
      3. A nonpublic high school in New Hampshire accredited by a private school accrediting agency that is recognized by the NH Department of Education;
      4. Dartmouth College;
      5. A college or university operated by the university system of New Hampshire or the community college system of New Hampshire.
    - B. The card has an expiration date or an issuance date that has not been exceeded by more than 5 years;
  - g. A Challenged Voter Affidavit ("CVA"). (See #8)
  - h. A photo ID not mentioned above, but determined to be legitimate by the Moderator, Supervisors of the Checklist or Clerk of a town, ward or city.

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## BALLOT CLERK PROCEDURE - GENERAL

## BALLOT CLERK PROCEDURE - General

- i. Verification of the person's identity by the Moderator, a Supervisor of the Checklist or Clerk of a town, ward or city. (Not a Ballot Clerk)
5. A valid photo identification shall show:
  - a. Name and photo of the individual.
    - A. The name shall substantially conform to the name of the individual on their voter registration record.
  - b. The photo identification shall not have been expired for more than 5 years.
    - A. Exception: a voter 65 years or older may use an acceptable ID even if it is expired.
6. If the Voter presents an Out-of-State driver's license or non-driver ID, the Ballot Clerk shall record the two-letter state abbreviation (e.g. VT, MA, ME, NY) to the right of the "CVA" box on the checklist in **RED INK**.
7. If there is a line waiting to check in, a registered voter without a photo ID should be directed to the "No Photo ID, Start Here" table. If there is no line, the Ballot Clerk may ask the voter if he or she personally knows the Moderator, Clerk, or any Supervisor. If the person is known by any of those officials, arrange for the official to verify the voter's identity.
8. If the Voter presents a signed "CVA" with an attached photo or a signed "CVA" with an attached "Religious Affidavit" to the Ballot Clerk, the Ballot Clerk shall put a check mark ✓ in the "CVA" box on the checklist. (RSA 659:13)
9. The Ballot Clerk shall take the signed "CVA" with an attached photo or the signed "CVA" with an attached "Religious Affidavit" from the Voter and place it in a folder or container marked for this purpose.
10. The Voter, if still qualified to vote in the town or ward and having presented an acceptable photo ID or completed a "CVA", and unless challenged as provided for in RSA 659:27 through 659:33, shall then be allowed to enter the space enclosed by the guardrail.
11. The Ballot Clerk gives the Voter the appropriate ballot(s). (RSA 659:15 & 659:38)
12. The Ballot Clerk uses a ruler or straight edge to mark the checklist to indicate that the Voter has obtained his or her ballot. We recommend marking a single thin line through the last name of the voter on the checklist, which requires a second look at the voter's name and the use of the ruler, for example, Jones, John. (This line should not be so thick you cannot read the voter's last name.)
13. In addition to the check mark and the thin line through the last name, Absentee Voters shall be marked in **RED INK** with the letters **A.V.** to the left of the check box. (RSA 659:52)



Town of Exeter, NH Official Checklist					
Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward Voter ID Barcode
Ward 00	<b>Zonas</b>	CVA			
<input checked="" type="checkbox"/> LIB	<del>ABRAHAM</del> CLAUDIA ANN	<input checked="" type="checkbox"/>	54 MAIN ST	<del>PO BOX 95</del> ANYTOWN, NH 03555	00 300348366
<input type="checkbox"/> DEM	AARON, JAMES H	<input type="checkbox"/>	54 MAIN ST		00 300348367
<b>A.V.</b> <input checked="" type="checkbox"/> REP	ABBE, LYNDIA D	<input type="checkbox"/>	1 BEAN RD		00 300348362
<input checked="" type="checkbox"/> UND	ABLE, CONSTANCE DEE	<input type="checkbox"/> <b>ALA</b>	21 THOMPSON HILL RD		00 300348363
<input checked="" type="checkbox"/> UND	ABRAHAM, GEORGE	<input checked="" type="checkbox"/>	<del>22 Main St</del> <del>126 STEWART RD</del>		00 300348365

14. After the Moderator and Clerk no longer require access to the checklist for election reporting purposes, the Supervisors of the Checklist should scan the bar codes of those Voters marked on the checklist as having checked in, picked up a ballot **and** whether the Voter signed a CVA. Using both a check mark and a single thin line through the last name confirms that the voter both checked in and picked up a ballot. This helps ensure the record of who voted will be accurate.

## **XXI. COUNTING AND RECOUNTS**

### **COUNTING INSTRUCTIONS – MODEL 1**

#### **Sort-and-Stack Method**

**The Secretary of State relies upon a variation of the sort-and-stack hand counting method below for recounting simple races, based on observation and performance in recounting well over 1 million ballots.**

This sort-and-stack method is considered the more accurate and easy method by the counters themselves, since each mark is often reviewed more times than other methods, staff requirements are less, and mistakes are easier to notice and avoid. The sort-and-stack method is not used by the Secretary of State in recounts for races with multiple winners. However, this process has been used effectively by some towns to count multi-member representative races.

#### **Overview of Sort and Stack Method**

- Ballots are sorted into piles before they are counted
- One pile for identical votes in that race
  - Each candidate or alternative on a question
  - Overvotes (When the voter selects more choices than allowed in a contest, the number of choices the voter has sacrificed in this race)
  - Undervotes (skipped choices)
  - Write-ins
  - Judgment calls for the moderator and election team

#### **Using the Method**

- Counters and observers are looking at only one candidate or question on the ballot at a time;
- Counters' and observers' eyes do not have to move to different locations on the ballot and on the tally sheet;
- When looking for only one mark on one precise location on the ballot, it is harder to make mistakes.

#### **Rule of Thumb: Each Ballot Checked Three Times**

- Aim for eyes checking each ballot choice 3 times;
- Using a 2-person team, that might mean that the 2 members sort ballots simultaneously into the same piles and each looks at the ballot choices as he or she counts each stack;
- The 2 members count each pile independently and record and check the sum on the tally sheet.

#### **Distributing Ballots to Teams**

- Open the ballot box in view of the public.

---

- Team members should

- One team member

- Both counters count the piles of ten, plus

\_\_\_\_\_

## Next Candidate, Same Contest

- When finished with the first candidate, members begin counting the next candidate in the same contest;
- Each of the piles is independently counted by the 2 team members, with each looking at the mark on each ballot;
- Team members agree on the number to enter on the tally sheet.

Both counters count the piles of ten, plus remainders, agree on the number and enter it in the tally sheet.

Candidates		Over	Under	Write-	Total
A	B	votes	votes	ins	
19	17				

## Same contest – 3<sup>rd</sup> candidate

- If there is another candidate in that contest, each team member counts the pile for that candidate and they agree on the number to enter on the tally sheet.

## Same Contest, Counting the Piles of Undervotes and Overvotes

- Counters independently count the piles for undervotes and overvotes and agree on the numbers to enter on the tally sheet.
- The team should add the votes for each candidate, write-ins, and the number of undervotes (skipped choices) and overvotes (sacrificed choices when the voter votes more choices than allowed) in that contest.
- Enter the total in the far right column of each row. It should equal 50, the batch size the team began with in this step.

Counters repeat the process to count separately the piles for undervotes, overvotes and write-ins and agree on the numbers to enter on the tally sheet.

Candidates		Over	Under	Write-	Total
A	B	votes	votes	ins	
19	17	9	4	1	50

## Keeping Track of Stacks

- When the count for the batch of 50 ballots is complete, contain the batch with an elastic to identify it has been counted.

## Tallying

- Tally sheets should be turned in - after the numbers equal 50 on the far right, and the aggregate of votes equals 200 on the bottom right;
- This number, e.g. 200 ballots, should match the number of ballots that the table started with;
- Tally sheets should be signed by the 2 team members before being turned in;
- The moderator should designate someone who routinely works with figures to ensure ongoing reconciliation by each table.

## Tally Sheet – single contest

	Candidate A	Candidate B	Candidate C	Undervotes	Overvotes	Write-ins	TOTAL
1 <sup>st</sup> group of 50 ballots	19	17	9	4	1	0	50
2 <sup>nd</sup> group of 50 ballots	17	22	8	3	0	0	50
3 <sup>rd</sup> group of 50 ballots	16	18	11	3	1	1	50
4 <sup>th</sup> group of 50 ballots	18	20	9	2	0	1	50
TOTALS	70	77	37	12	2	2	200

## COUNTING INSTRUCTIONS – MODEL 2

### All Offices Read-and-Mark (Ballot-by-Ballot) Method

*This is a model describing how some moderators have chosen to count ballots. State law authorizes the moderator to choose the system of hand counting to be used and to supervise the counting. RSA 659:60. This model is presented as one example of an acceptable practice, however, neither state law nor the Secretary of State require that any particular system of counting be used. Moderators should ensure that the system of counting they adopt is accurate and efficient.*

Step #1 – Close the Polls.

Step #2 – Verify that all absentee ballots have been processed.

Step #3 – Rearrange the polling place for counting. Counting tables must be at least 4 feet from the rail. All counting, however, must occur where it is visible to members of the public located outside the rail.

Step #4 – (Optional whether done election night or later) Have the supervisors count the number of registered voters (including those who registered on election day) who are checked off as having voted on the checklist.

Step #5 – Identify all the people who will be counting. Identify those people who will be counting who are not election officials and who have not taken an oath of office.

Step #6 – Swear in these non-election officials as election officials (inspectors of election pro tempore). RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. As election officials, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3.

Step #7 – Read the instructions for counting to all the election officials who will be counting.

Step # 8 – Open the ballot box(es) in view of the public. Place similar quantities of ballots on the table to be used by each counting team.

Step #- 9 – Have the counting teams count the ballots into piles of a known size (10, 25, 50 or 100 ballots).

Step #10 – Wrap each pile with a rubber band, clip it with a large binder clip, or stack them crosswise.

Step #11 – Prepare a tally sheet. (Tally sheets should be prepared ahead of time.) The sheet should be organized in the same order as the ballot, with sections for each office or question and the name of each candidate listed in the same order as they are listed on the ballot. There should be a space following each name/question for one of the counters to put a hash mark for each vote for that candidate/question.

Step #12 – Overview of the counting process: Each counting team will usually count all races and questions in one pile of 50 ballots at a time. A mark must be made on the tally sheet for each ballot for each office or question. Make a vertical line for the first four votes for any given

candidate and then cross a horizontal line over the vertical lines for the fifth vote for that candidate. If the voter wrote in a candidate, that name should be written in on the tally sheet.

If the voter skipped a race or question, that is they did not vote for any candidate or did not mark either “yes” or “no”, put a hash mark in the “undervotes” line for that office on the tally sheet. If the voter overvoted, that is they voted for more candidates than they are permitted, put a hash mark in the “overvotes” line representing the number of choices the voter gave up by overvoting.

The objective will be that when the team is done counting the 50 ballot pile, there will be a hash mark for each voter choice, even if the choice is to not choose any option. The team will then total the votes for all candidates for each office and all the “yes,” “no,” write-ins, undervotes, and overvotes for each question. The total votes for a single seat office must equal 50 votes for that office (including the votes for each candidate, write-ins, undervotes and overvotes). For offices where the voter may vote to fill two positions (for example where the race is for state Representative where voters get to choose two), the total votes counted should total up to 100. For offices where the voter may vote to fill three positions, the total votes counted should total 150, and so on. If the total does not equal 50, the team should check their hash marks for that office/question and correct any errors. The team is done counting a 50 ballot pile at the point when the office/question totals equal 50.

If there is any question from a team regarding how a ballot should be counted, teams should call the moderator to their table and seek his or her instructions on how the ballot should be counted.

If a ballot is marked for any office or question in a way that does not leave the intention of the voter clear, or if after getting basic instructions on how different marks are counted from the moderator, there is disagreement among officials who are counting a particular ballot for a particular office, a vote should be taken of the election officers present and counting votes. RSA 659:64. The moderator should call together the election officers, discuss the ballot in question and take a vote on the intent of the voter. The majority rules, and if no alternative receives a majority of the votes, the ballot shall be treated as defective and counted as an overvote for that office or question.

If there are many questioned ballots that need to be voted on, the moderator may choose to hold these ballots aside and vote on several at one time. If this is done, however, it is the best practice that all questionable ballots be voted on before the team totals are tallied up. This ensures that the election officials do not know whether the vote on a particular ballot will affect the outcome of the election. This process reinforces the neutrality and enhances the legitimacy of the counting process.

Step #13 – Starting with the first office on the ballot, one counting team member (the reader) should read off the name of the candidate (the word “yes” or “no” for questions) who received the vote on the ballot being counted. The second member of the ballot counting team (the marker) should make a hash mark beside that name on the ballot. If the moderator can staff each team with three counters, the third counting team member (the observer) should look at the ballot and ensure that the correct name was read off and should watch the hash mark being made to ensure it is made in the correct row.

Step #14 – The reader then reads off the name of the candidate in the second office who received the vote on the ballot being counted, the marker should then make a hash mark on the tally sheet in the appropriate row, which is checked by the observer. Continue this process until the entire ballot has been marked on the tally sheet. Then proceed to the next ballot.

If a voter has not voted for any candidate for a particular office, the reader should state “undervote” and the marker should mark the “undervote” row for that office on the tally sheet.

If the voter voted for two or more candidates for an office where the ballot instructs to vote for one, the reader should read off “one overvote” and the marker should mark the “overvote” row on the tally sheet. If the instructions are that a voter should vote for two and the voter voted for three or more, the reader should read off “two overvotes.”

Step #15 – When all 50 ballots have been marked on the tally sheet, the hash marks should first be totaled for each candidate including the write-ins, undervotes and overvotes and then for each office. The total votes for each office/question should equal 50. If they do not equal 50, go back through the pile and correct any counting/marking errors.

Step #16 – Bind the pile of ballots with the tally sheet on top with a rubber band or clip and notify the moderator that he or she can pick up that pile.

Step #17 – Start the process over with the next pile of 50 ballots.

Step #18 – The moderator should designate some election officer or recruit a voter who routinely works with numbers, e.g. the town treasurer, a local CPA, accountant, or math teacher, to tally the piles. Ideally a second election officer will assist and act as observer for this tallying process. Usually these individuals do not work on a counting team. As each team completes a pile of 50 ballots and has confirmed the accuracy of the count, the moderator can carry the pile to the team who will be tallying the piles.

Step #19 – When the last pile(s) have been counted and turned into the team that is tallying the piles the moderator should ensure that these officials have peace and quiet to finish the tallies. The tallying must occur in public. However, when all the election officers and counters gather at the tallying table and watch the final calculations, it puts pressure on those making the final calculations and makes errors more likely. The tallying team should tally the results for all elections. The use of a printing calculator or an Excel spreadsheet allows the team or the moderator to check the printed tape or spreadsheet as a means of ensuring the accuracy of the tally. The final tallies should be written down and presented to the moderator.

Step #20 – The moderator should stop before announcing the results and check the final tallies. If a count was done of the total number of persons checked off as having voted on the checklist the tallies for each office and question should be verified against that count. In towns or wards with thousands of ballots and thousands of voters checked off on the checklist, the moderator should be looking for any significant discrepancies between the totals. It is difficult to get a perfect count from the checklist, therefore, it is not essential that the total count for each office or question exactly match the vote totals. Provided the write-ins, undervotes and overvotes were tallied, the totals from one office to the next should be the same. If any discrepancies are found the moderator should investigate and attempt to resolve the discrepancy before declaring the results.

# MODERATOR'S WORKSHEET

## Reconciling Votes, Voters, and Ballots Cast FOR GENERAL ELECTION OR \_\_\_\_\_ PARTY PRIMARY

Moderators are required to submit this worksheet to their town or ward clerks within 48 hours of the closing of the polls (RSA 659:73). It is the moderator's job to ensure that votes are accurately counted (RSA 659:60).

Town or City: \_\_\_\_\_ Ward: \_\_\_\_\_ County: \_\_\_\_\_

Moderator: \_\_\_\_\_ Clerk: \_\_\_\_\_

### PART I.

The first part of the reconciliation process consists of **four separate tallies**: (A) Ballots Cast (Inventory), (B) Voter Participation Tallied at Check-In, (C) Voter Participation Tallied at Check-Out/Ballots Cast Tape, and (D) Hand Count of Ballots Cast. Ideally, these **four counts should result in the same number** of ballots cast and voters participating (In the end, **TOTAL A = TOTAL B = TOTAL C = TOTAL D = TOTAL Count of Votes in Contests (from Part II)**). While we recognize that errors may occur which could result in small differences in the four Part I totals, Moderators are urged to **carefully consider** these tally numbers **before finalizing results** on election night.

### A. BALLOT INVENTORY

(1) Official Election Day Ballots Received from Secretary of State, excluding ACCUVOTE device test ballots  
(You may enter this same number on the "**Moderator's Certificate**") (1) \_\_\_\_\_

(2) SUBTRACT Spoiled (cancelled) Official Election Day Ballots  
(You may enter this same number on the "**Label for Resealing Ballots**") - (2) \_\_\_\_\_

(3) SUBTRACT Uncast (not used) Official Election Day Ballots  
(You may enter this same number on the "**Label for Resealing Ballots**") - (3) \_\_\_\_\_

(4) ADD Ballots cast using AVS (Accessible Voting System) + (4) \_\_\_\_\_

(5) ADD Photocopy or absentee ballots **CAST** as Official Election Day Ballots + (5) \_\_\_\_\_  
(These are the substitute ballots used when the polling place runs out of Election Day Ballots.)

(6) **Total Number of Ballots Cast by ELECTION DAY voters** (Calculate 1 through 5) =

(7) State Absentee Ballots Cast (7) \_\_\_\_\_

(8) ADD Federal Office Only Absentee Ballots Cast + (8) \_\_\_\_\_

(9) ADD other full (UOCAVA) Absentee Ballots Cast + (9) \_\_\_\_\_

(10) **Total Number of Ballots Cast by ABSENTEE voters** (ADD 7, 8 and 9) =

(11) **Grand Total Number of Ballots Cast (Using Inventory)** (ADD boxes 6 + 10) = **TOTAL A**   
(You may enter this same number on the "**Label for Resealing Ballots**")

You may transfer numbers from the "**Ballots Cast**" form

### B. VOTER PARTICIPATION TALLIED AT CHECK-IN

Number of voters **marked as having voted** on the **CHECK-IN** checklist  
(ALL Election Day voters and ALL Absentee voters) = **TOTAL B**

### C. VOTER PARTICIPATION TALLIED AT CHECK-OUT

HAND COUNT CITIES OR TOWNS	MACHINE COUNT CITIES OR TOWNS
<b>OR</b>	
Number of <b>voters</b> marked as <b>having voted</b> on the <b>CHECK-OUT</b> checklist  <i>(ALL Election Day and ALL Absentee voters)</i>  <b>TOTAL C =</b> <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>	Total <b>Ballots</b> Cast from the ACCUVOTE election results tape <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>  ADD Number of ballots that were NOT counted by the ACCUVOTE <i>(see Note below)</i> + <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>  <b>TOTAL C =</b> <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>  <i>(Note: These ADDED ballots are ONLY those Ballots that were counted by hand and did NOT pass through the ACCUVOTE counting device. Do NOT include ballots simply because they had write-in votes.)</i>

### D. HAND COUNT OF BALLOTS CAST

You may hand count the total number of <b>ballots</b> cast. <b>TOTAL D</b> <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>
--

## PART II. VOTES IN CONTESTS IN THE GENERAL ELECTION

Compare the ballots cast (**TOTALS A, B, C, and D**) from PART I of this form) with the total **votes** cast from the “**Votes in Contests, Examination of Individual Races**”. If there are any significant discrepancies, please ask your election team to carefully review their tallies.

It is important to **resolve discrepancies on election night before announcing results** and avoid errors which, for example, may indicate more votes tallied in a particular contest than total ballots cast.

TALLY CATEGORY	TOTAL Votes, Voters, or Ballots Cast
<b>TOTAL A – <u>Ballots</u> Cast</b> (Using Inventory) <i>(from Grand Total on reverse side)</i>	
<b>TOTAL B -- <u>Voters</u> at Check-in</b> <i>(from reverse side of this form)</i>	
<b>TOTAL C -- <u>Voters</u> at Check-out/Ballots Cast Tape</b> <i>(from this side of form)</i>	
<b>TOTAL D – Hand Count of <u>Ballots</u></b> <i>(from this side of form)</i>	
<b>TOTAL COUNT OF <u>VOTES</u> in CONTESTS</b> <i>(transfer number from “<b>Votes in Contests - Examination of Individual Races</b>” that reflects the consensus “office total” for the individual contests.)</i>	

These **five** numbers above **should all be equivalent**. Significant differences may indicate a tallying error.

Attest: \_\_\_\_\_

Signature of Moderator

Date: \_\_\_\_\_

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<h1 style="text-align: center;">VOTES IN CONTESTS - PRIMARY</h1>												
Examination of Individual Races in a state primary election for <div style="text-align: center;">_____ Party</div> (Race for U.S. Senate may not apply in each state primary election.)												
Contests	Names of Candidates & Total Votes Cast for Candidates Printed on Ballot									Total Write- ins	Total Blanks *	Office Total
Governor												
Votes cast												
U.S. Senate												
Votes cast												
U.S. Congress – — District												
Votes cast												
Executive Councilor												
Votes cast												
State Senator												
Votes cast												
State Rep.												
Votes cast												
State Rep.												
Votes cast												

\* Blanks = overvotes plus undervotes. The term “blanks” appears on the counting device tape report

# VOTES IN CONTESTS – PRIMARY (Page 2)

Examination of Individual Races in a state primary election for  
\_\_\_\_\_ Party

Contests	Names of Candidates & Total Votes Cast for Candidates Printed on Ballot									Total Write-ins	Total Blanks	Office Total
State Rep. (Floterial)												
Votes cast												
Sheriff												
Votes cast												
County Attorney												
Votes cast												
County Treasurer												
Votes cast												
Register of Deeds												
Votes cast												
Register of Probate												
Votes cast												
County Commis- sioner(s)**, District ____												
Votes cast												
County Commis- sioner(s)**, District ____												
Votes cast												

\*Blanks = overvotes plus undervotes. The term “blanks” appears on the counting device tape report.

\*\* County commissioners districts and elections vary by county.

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<b>VOTES IN CONTESTS – GENERAL ELECTION</b>								
<b>Examination of Individual Races in a General Election</b> (Races for President and U.S. Senate may not apply in each general election year.)								
<b>Contests</b>	<b>Total Votes Cast for Candidate Printed on Ballot</b>					<b>Total Write-ins</b>	<b>Total Blanks *</b>	<b>Office Total</b>
	<b>REP</b>	<b>DEM</b>	<b>Other</b>	<b>Other</b>	<b>Other</b>			
<b>President of the U.S.</b>								
<b>Votes cast</b>								
<b>Governor</b>								
<b>Votes cast</b>								
<b>U.S. Senate</b>								
<b>Votes cast</b>								
<b>U.S. Congress – ___ District</b>								
<b>Votes cast</b>								
<b>Executive Councilor</b>								
<b>Votes cast</b>								
<b>State Senator</b>								
<b>Votes cast</b>								
<b>State Rep.</b>								
<b>Votes cast</b>								
<b>State Rep.</b>								
<b>Votes cast</b>								

\* Blanks = overvotes plus undervotes. The term “blanks” appears on the counting device tape report 2018 v.1

Votes in Contests – General Election								
Contests	Total Votes Cast for Candidate Printed on Ballot					Total Write-ins	Total Blanks *	Office Total
	REP	DEM	Other	Other	Other			
State Rep. (Floterial)								
Votes cast								
Sheriff								
Votes cast								
County Attorney								
Votes cast								
County Treasurer								
Votes cast								
Register of Deeds								
Votes cast								
Register of Probate								
Votes cast								
County Commissioner(s) **, District ____								
Votes cast								
County Commissioner(s) **, District ____								
Votes cast								

\* Blanks = overvotes plus undervotes. The term “blanks” appears on the counting device tape report.

\*\* County commissioners districts and elections vary by county.

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<b>VOTES IN CONTESTS - TOWN ELECTION</b>												
<b>Examination of Individual Races in a Town Election</b>												
<b>Contests</b>	<b>Names of Candidates &amp; Total Votes Cast for Candidates Printed on Ballot</b>									<b>Total Write- ins</b>	<b>Total Blanks *</b>	<b>Office Total</b>
<b>Selectman</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												
<b>Votes cast</b>												

\*Blanks = overvotes plus undervotes. The term “blanks” appears on the counting device tape report.

\*\* County commissioner districts and elections vary by county.

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## RECOUNT PROCEDURES CHART

Type of Election	Petitions	To Whom and How Initiated	Application Dead-line	Fees Minimum * (Fees increase as the vote difference between the applying candidate and candidate declared winner increases. RSA 660:2)	Who Shall Conduct
State General Election RSA 660:1-6  State Primary Election – Same RSA 660:7 – 9.	None Required	Secretary of State; Apply in Writing; In the general election, the difference between votes cast for the applying candidate and the candidate declared elected must be less than 20% of total votes in the towns which comprise the office to be recounted. RSA 660:1. In the state primary election, the difference between votes cast for the applying candidate and the candidate declared nominated must be less than 10 votes or less than 1.5 % of the total ballots cast in the primary for that party in the towns which comprise the office to be recounted. RSA 660:7. If difference in votes between candidate and winner is greater than 3%, candidate must pay the full expense of the recount. RSA 660:2, IV.	No later than the Friday ** following the State Primary Election and the Friday following the General Election	When the difference is less than 1 percent of the total votes cast in the towns which comprise the office to be recounted, fees are, by office: Governor \$500 U.S. Senator \$500 U.S. Representative \$250 Exec. Councilor \$100 State Senator \$50 County Officer \$50 State Representative \$10	Secretary of State
City Election	Consult City Charter				
Annual Town Meeting RSA 669:30-32.	None Required	Town Clerk; Apply in Writing	No later than the Friday following the election	Vote difference between winner and candidate requesting is, as a percent of the total votes cast: Less than 1% \$10 Between 1 and 2% \$20 Between 2 and 3% \$40 Greater than 3% \$40 plus costs of recount	Board of Recount (Clerk, Moderator, Selectmen) RSA 669:32.
Annual or Special Meeting – Any Referendum Question RSA 40:4-c	10 legal voters	Town Clerk; Apply in Writing	Within 7 days of meeting	\$10	Board of Recount (Clerk, Moderator, Selectmen)
School Districts – Officers by Official Ballot RSA 671:32	Not Required	School District Clerk; Apply in Writing	No later than the Friday following the election	\$10	Board of Recount (School District Moderator, Clerk, School Board)
Constitutional Amendments RSA 660:10; RSA 660:11	100 voters if question passes or fails by 1%; no provision for recount if question passes or fails more than 1%	Secretary of State by petition	No later than the 4th Friday following the election.	None	Secretary of State
County Referendum RSA 660:12	50 voters of the county	Secretary of State by petition	No later than the 2nd Friday following election	\$25 paid by person by whom petition is submitted	Secretary of State
Local Questions on state ballot. (Sweepstakes, Liquor, etc.) RSA 660:13 – 15.	5 voters of city or town	Secretary of State by petition	No later than the 2nd Friday following the election	\$10 per 1000 votes, not to exceed \$50.	Secretary of State

\* Fees increase as vote difference between the applying candidate and candidate declared winner increases. RSA 660:2

\*\* A candidate who has requested a recount after a primary may withdraw the request on the Monday after the primary. RSA 660:7

## XXII. CANDIDATES FOR OFFICE

### ORDER OF NAMES ON BALLOT

Order of Names on Ballots pursuant to RSA 656:5-a (Effective from June 20, 2018 through June 2020)		
Number of Candidates for an Office	Number Drawn for Start of Rotation of Names	Examples Provided Below
2	1	
3	1	See sample below
4	3	
5	3	
6	4	
7	4	
8	4	
9	1	
10	2	See sample below
11	8	
12	10	
13	5	
14	1	
15	7	
16	7	
17	12	
18	16	
19	11	
20	6	
21	20	
22	22	

#### EXAMPLES

***I.** If you have 3 candidates filed for an office, place your candidates in alphabetical order by surname:*

##### Alphabetical Order

- 1) Martha Jones
- 2) Larry Smith
- 3) John Zorro

Since the number 1 was drawn for the event that 3 candidates filed for an office, candidate names would be listed on the ballot with alphabetical candidate #1 listed first.

##### Order of Names on Ballot

- (1) Martha Jones
- (2) Larry Smith
- (3) John Zorro

***II.** If you have 10 candidates filed for an office, place your candidates in alphabetical order by surname.*

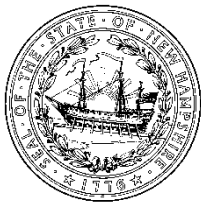
##### Alphabetical Order

- 1) Jane Adams
- 2) Bruce Brown
- 3) Joan Curtis
- 4) Alice Dean
- 5) Frank French
- 6) Candace Lozenge
- 7) Susan North
- 8) Joseph Smith
- 9) Jill Thomson
- 10) John Zorro

Since the number 2 was drawn for the event that 10 candidates filed for an office, candidate names would be listed on the ballot with alphabetical candidate #2 listed first.

##### Order of Names on Ballot

- (2) Bruce Brown
- (3) Joan Curtis
- (4) Alice Dean
- (5) Frank French
- (6) Candace Lozenge
- (7) Susan North
- (8) Joseph Smith
- (9) Jill Thomson
- (10) John Zorro
- (1) Jane Adams



# STATE OF NEW HAMPSHIRE

## NOMINATION PAPER

(For State General Election)

RSA 655:40 – 45)

**CANDIDATE SECTION:** The following candidate requests that his or her name be placed upon the official ballot to be used at the **November 6, 2018** state general election.

Candidate's Name \_\_\_\_\_

Candidate's Domicile \_\_\_\_\_  
(street) (town or city) (ward) (zip)

For the Office of \_\_\_\_\_ District No. \_\_\_\_\_

*Political Organization/Principles represented by Candidate:* \_\_\_\_\_

**VOTER SECTION:** I hereby certify that I am a registered voter in the town or city (ward) below. *RSA 655:40 states that "No voter shall sign more than one nomination paper for each office to be voted for."*

Print Voter's Name \_\_\_\_\_ Date: \_\_\_\_\_

Voter's Signature \_\_\_\_\_

Voter's Domicile \_\_\_\_\_  
(street address) (town or city) (ward)

Voter's Mailing Address \_\_\_\_\_  
(street address) (town or city) (ward)

### CERTIFICATE OF SUPERVISORS OF THE CHECKLIST

The undersigned, a **MAJORITY** of the **SUPERVISORS OF THE CHECKLIST** (or Registrars of Voters), hereby certify that the voter signing this nomination paper is a registered voter in the town/ward of

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The signer of this paper is **NOT** a registered voter in this town or ward Date \_\_\_\_\_

**RSA 655:41, II.** The city clerk may certify that the signer is a registered voter, if in a city.

### Filing Deadlines:

**August 8, 2018** – Last day to submit signed nomination papers to Supervisors of the Checklist in town or city

**August 29, 2018** – Supervisors must have nomination papers certified for candidates and organizations

**September 5, 2018** – Last day to file certified nomination papers with Secretary of State's Office

## NOMINATION BY NOMINATION PAPERS

**655:40 General Provisions.** As an alternative to nomination by party primary, a candidate may have his or her name placed on the ballot for the state general election by submitting the requisite number of nomination papers. Such papers shall contain the name and domicile of the candidate, the office for which the candidate is nominated and the political organization or principles the candidate represents. Nomination papers shall be signed by such persons only as are registered to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter shall sign an individual nomination paper. *Nomination papers shall be dated in the year of the election.*

**655:41 Certification.** I. Each nomination paper shall be submitted to the supervisors of the checklist of the town or ward in which the signer is domiciled or is registered, and a majority of the supervisors shall certify whether or not the signer is a registered voter in said town or ward. The **supervisors of the checklist** shall certify nomination papers under this section in a timely fashion, so that their certification shall be complete for each candidate, together with any objections to the nomination papers submitted, no later than 5:00 p.m. on the Wednesday 2 weeks before the primary (**August 29, 2018**). Each nomination paper shall be submitted to the supervisors of the checklist no later than 5:00 p.m. on the Wednesday 5 weeks before the primary (**August 8, 2018**)

II. The city clerk may perform the responsibilities of the supervisors of the checklist under this section.

**655:42 Number.** I. It shall require the names of 3,000 registered voters, 1,500 from each United States congressional district in the state, to nominate by nomination papers a candidate for president, United States senator or governor.

II. It shall require the names of 1,500 registered voters registered in the district to nominate by nomination papers a candidate for United States representative; 750 to nominate a candidate for councilor or state senator; and 150 to nominate a candidate for state representative or county officer.

III. It shall require the names of registered voters equaling 3 percent of the total votes cast at the previous state general election to nominate by nomination papers a political organization.

**655:43 Filing Deadline.** I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the Wednesday one week before the primary (**September 5, 2018**). Nomination papers to be filed shall be grouped by municipality. No nomination papers shall be accepted by the secretary of state unless the candidate shall have met the age and domicile qualifications for the office he or she seeks at the time of the general election and meets all the other qualifications at the time of filing; and if a candidate for the office of governor, executive councilor, state senator, or state representative, unless the candidate shall file with the nomination papers an affidavit of qualifications as provided for in RSA 655:28 and RSA 655:29; and if a candidate for United States senator or United States representative, unless the candidate shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election by means of nomination papers shall have his or her name placed on the ballot unless the candidate files a declaration of intent, as provided in RSA 655:17-a or RSA 655:17-b, within the filing deadline required by RSA 655:14-a (**June 6-15, 2018**). Any person who files on the last day of the filing period must do so in person before the secretary of state.

III. No political organization shall have the names of its candidates placed on the ballot unless the chairman of the organization files a declaration of intent, as provided in RSA 655:17-c, within the filing deadline for candidates established in RSA 655:14-a.

IV. No person who filed as a candidate in the state primary election shall be eligible to have his or her name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

**655:44 Objections.** Nomination papers made in accordance with the provisions of this chapter shall be regarded as valid and shall be received by the secretary of state unless objection thereto is made in writing no later than the Monday following the last day for the filing of such papers.

**655:45 Nomination Papers Protected.** No person shall falsely make or file or knowingly deface or destroy any nomination paper, or any part thereof, or sign any nomination paper contrary to the provisions of law knowing the same, or any part thereof, to be falsely made or suppress any nomination paper, or any part thereof, which has been duly filed. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or be guilty of a felony if any other person.

## **XXIII. UNDECLARED VOTERS**

Voters who register on election day as Undeclared may sign this form after they have declared a party and cast their ballot in the primary election. This will allow the voters party to be returned to the Undeclared status after the election has been scanned.

To print forms from **ElectionNet** go to:

**Inquiries->Help->Instructions>Return to Undeclared Template – 2017**

---

### **UNDECLARED VOTERS**

#### **ELECTION DAY PARTY AFFILIATION CHANGE FORM**

Name: \_\_\_\_\_  
(Print)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby request that my political party registration be changed as follows:

**From:** Democrat [ ☐ ]    Libertarian [ ☐ ]    or    Republican [ ☐ ]

**To:** Undeclared [ ☐ ]

Signed under the pains and penalties of perjury.

**SIGN NAME:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

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## UNDECLARED RE-REGISTRATION PRIMARY DAY

To print this report go to *ElectionNet*: Activities -> Reports -> Elections -> Return to Undeclared for Primary

A previously registered undeclared voter uses this form to change party affiliation back to undeclared after voting on primary day. A person who registers undeclared on election day and then affiliates with and votes on the primary ballot of a party may return to undeclared using the form on page 266.

Where there are a significant number of undeclared voters, the *ElectionNet* report used to create this form will list several voters on each page. The pages can be organized in a three ring binder for ease of use and to ensure the forms are kept together. If the number of undeclared voters warrants doing so, you may want to use several binders, each containing a section of the alphabet.

### Undeclared Voter Re-Registration - DIX'S GRANT

Page 1

Election Date-Name: 2018-09-11--STATE PRIMARY ELECTION

"I hereby request that my political party be changed from Party Choice to Undeclared."  
signed under the pains and penalties of perjury. (per RSA 654:34)

Ward: 00

Name	Residence Address	Circle Party Chosen	Voter ID	Barcode	Signed under the pains and penalties of perjury
LAST NAME, FIRST NAME	1 NO ADDRESS DIX'S GRANT	DEM LIB REP	300505327		

Total Voters: 1

Grand Total Voters: 1

## XXIV. RETENTION AND PRESERVATION OF ELECTION MATERIALS

### (RSA 33-A:3-a)

	Retained by	Period of Retention
<b>Elections</b>		
Federal or state elections: ballots, absentee ballot applications, affidavit envelopes, lists, and Challenged Voter Affidavits	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer
Local elections: ballots, absentee ballot applications, affidavit envelopes, and lists.	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 60 days after the election, whichever is longer
Local elections: Challenged Voter Affidavits	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer
<b>Checklist</b>		
Marked copy	by the town clerk	7 years
<b>Voter Registration</b>		
Forms, including Page 2 of the Voter Registration Form and absentee voter registration forms	by town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Same day, returned to undeclared status, form and report from statewide centralized voter registration database	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Party change form	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Forms, rejected, including absentee voter registration forms, and denial notifications	by the town/city clerk securely in a municipal office *	7 years
Qualified Voter Affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Domicile Affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Overseas absentee registration affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Absentee ballot voter application form in the federal post card application format, for voters not previously on the checklist	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Notice of removal, 30-day notice	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Report of death	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Report of transfer	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Undeliverable mail or change of address notice from the United States Postal Service	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years

\*Must be available to both clerk and supervisors of the checklist. RSA 654:13-a

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