



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter I

General Registrar/

Director of Elections

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I. General Registrar/Director of Elections

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<p>ADDITIONAL RESOURCES</p> <p>Virginia Attorney General Opinion No. 14-046</p> <p>Virginia Attorney General Opinion No. 03-068</p> <p>Virginia Attorney General Opinion No. 05-030</p> <p>Virginia Attorney General Opinion No. 23-023</p> <p>Virginia Attorney General Opinion No. 23-005</p> <p>Appropriations Act, Item 87</p> <p>Federal Jury Service qualifications</p> <p>LIBRARY OF VIRGINIA RETENTION SCHEDULE</p>	<p>REGULATIONS</p> <p>1VAC20-20-50 Fee for Non-Attendance at Annual Training</p> <p>1VAC20-20-70 Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots</p> <p>1VAC20-20-80 Complaints</p> <p>1VAC20-60-60 Provisional Votes</p> <p>1VAC20-60-90 Material omissions from officer removal petitions and petition signature qualifications</p>

I.1 CHAPTER ORGANIZATION

This chapter discusses the role of general registrar or director of elections. §1.2 outlines general registrars’ duties; discusses how local electoral boards appoint, remove, compensate, and support their general registrars; addresses the role of deputy registrars and other staff; offers suggestions on building relationships with other local government officials; and notes activities considered inappropriate for the position. §1.3 discusses requirements for the voter registration office. §1.4 briefly addresses how localities are to maintain their records and documents. §1.5 focuses on the process of reimbursement of localities for their compensation of general registrars and electoral boards. §1.6 provides guidance for using funding from grant programs established by ELECT, explaining how localities are to inventory and manage their assets. §1.7 discusses establishing a voter registration office at local Department of Motor Vehicles facilities.



I.2 THE GENERAL REGISTRAR

Virginia has 133 independent cities and counties, ranging in population from under 3,000 to over 1 million. Each independent city and county has one general registrar and a three-member electoral board.¹ These four individuals are responsible for virtually all aspects of voter registration and election administration in their respective locality. As an appointed official, the general registrar is typically the public face of the local electoral process.

I.2.1 Duties

I.2.1.1 Duties in General

The Code of Virginia describes the duties of the general registrar and the electoral board throughout the Code. The most comprehensive, though not exhaustive, list of duties can be found in §24.2-114. The responsibilities listed in the Code are summarized below, refer to Appendix A for the actual language of the Code section. General registrars are to:

- Maintain the office of the general registrar and establish and maintain additional public places for voter registration.²
- Participate in programs to educate the general public and encourage registration.³
 - However, registrars cannot actively solicit applications for registration in a selective manner or offer anything of value for an application.⁴



Law Note Regarding General Registrars and Public Speaking Engagements

Pursuant to Virginia Office of the Attorney General [Opinion 23-005](#), a general registrar may speak about voter registration and voting at a meeting of a private, non-profit, non-partisan civic organization. However, the general registrar may not solicit, accept, use, or dispose of any money, grants, property, or services of the private host or party to fund election-related expenses.

- Perform duties within the county or city they are appointed to serve.⁵
 - There are two exceptions to this: registrars may, in order to register voters of their own county or city, go into a county or city within the Commonwealth that borders their own and conduct registration jointly with the registrar of that county or city; and registrars may participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.⁶

¹ See the Code of Virginia [§§24.2-106](#) (local electoral boards) and [24.2-110](#) (general registrars).

² See the Code of Virginia [§24.2-114\(1\)](#).

³ *Id.*, at (2).

⁴ *Id.*

⁵ *Id.*, at (3).

⁶ *Id.*



- Provide voter registration forms.⁷
- Indicate, when appropriate, that the registrant has registered by mail.⁸
 - People who register by mail must be identified as such on the registration records, lists of registered voters, lists of people who voted, and pollbooks used for the election.⁹
- Accept voter registration applications and requests for a transfer or change of address from residents of any county or city in the Commonwealth. For residents of another registrar’s county or city, process in VERIS their completed applications or requests and forward them to the registrar of that county or city. For residents of registrar’s own county or city, determine applicant’s eligibility to register, including checking for felony conviction and restoration of rights. The registrar must notify the applicant of approval or denial.¹⁰ The registrar must notify an applicant of any denial within five (5) days of the denial.
- Preserve order at and in the vicinity of the place of registration. To that end, registrars may:
 - Exclude people whose presence disturbs the registration process from the place of registration.
 - Appoint special officers for the place of registration (no more than three)
 - Summon people in the vicinity to assist whenever, in the registrar’s opinion, it becomes necessary to preserve order.¹¹
- Maintain the official registration records for their county or city in the voter registration system. This includes:
 - Preserving the written applications of all people whose registrations were approved, and
 - Preserving the written applications of all people whose registrations were denied or cancelled, for a period of four years.¹²
- Within five (5) days notify, in writing, people whose applications have been denied, of the denial of their application and the reason for the denial.¹³
- Immediately notify ELECT if having trouble processing applications for voter registration or absentee ballots in a timely manner.¹⁴
- Make the pollbooks available to the precincts and provide a copy of the pollbook data to ELECT after each election for voting credit purposes.¹⁵ For more information, refer to Chapter 4 (Voting Equipment).
- Retain the pollbooks in their principal office for **two years from the date of the election.**¹⁶

⁷ *Id.*, at (4).

⁸ *Id.*, at (5).

⁹ *Id.*

¹⁰ *Id.*, at (6).

¹¹ *Id.*, at (7).

¹² *Id.*, at (8).

¹³ *Id.*, at (9).1.2.

¹⁴ See the Administrative Code of Virginia [1VAC20-20-70](#).

¹⁵ See the Code of Virginia [§24.2-114\(10\)](#).

¹⁶ *Id.*, at (11).



- Maintain accurate and current registration records and comply with all Code requirements for the transfer, inactivation, and cancellation of voter registrations.¹⁷ For more information, please refer to **Chapter 9 (Records Access and Retention)** for more information regarding the transfer, inactivation, and cancellation of voter registrations.
- Update the voter registration system to reflect changes to election districts, precincts, or polling places and notify each affected voter of these changes by mail.¹⁸
- When part of the registrars' county or city becomes part of another locality, transfer registration records of affected voters to the appropriate general registrar.
 - The general registrar of the voter's *new* locality is to notify the voter, by mail, of the change.¹⁹
- Notify the appropriate authority when a person registers, who was previously registered in another state. Electronically provide the authority in that state with the information contained in that person's registration application.²⁰
- If an individual is suspected of being registered and/or voting simultaneously in more than one state and/or territory of the United States at the same time, inquire about that individual's registration and voting history from authorities of other states. When authorities of other states conduct such inquiries, cooperate with them by providing information from the voter's registration and voting records.²¹
- Review nominating petitions at the request of political party chairs, but only if the political party is nominating a candidate for a state legislative, constitutional, or local office, through a method other than a primary. Determine whether the signatures are from registered voters with an active status.²²
- Attend annual training program provided by ELECT.
 - If a general registrar unable to attend because of a personal or family emergency, the individual may designate one staff member to attend.²³
- Make adequate advance preparations to enable prompt counting of absentee ballots returned by mail before polls close on Election Day.²⁴
- In the capacity of director of elections, carry out other such duties prescribed by the local electoral board.²⁵

¹⁷ *Id.*, at (12).

¹⁸ *Id.*, at (13).

¹⁹ *Id.*, at (14).

²⁰ *Id.*, at (15).

²¹ *Id.*, at (16).

²² *Id.*, at (17).

²³ *Id.*, at (19).

²⁴ See the Code of Virginia [§24.2-709.1](#).

²⁵ See the Code of Virginia [§24.2-114\(18\)](#). 2015 legislation added the title “director of elections” to describe the general registrar’s role in performing electoral board duties reassigned to the general registrar, particularly duties related to absentee voting and campaign finance.



1.2.1.2 Duties Delegated by Electoral Boards

The statutory responsibilities of general registrars and electoral board members are enumerated throughout the Code of Virginia.²⁶

Electoral boards have the authority to assign a range of their duties to the general registrar, yet certain core supervisory functions, such as safeguarding ballots, assessing the registrar's performance, selecting officers of election representing political parties, and certifying election results, cannot be delegated.

1.2.1.3 Delegation of Duties from the Electoral Board to the General Registrar

The number and type of administrative duties properly delegated varies greatly from locality to locality, especially in larger localities with larger staff. Electoral boards should be mindful of the many duties that the general registrar is legally required to perform and should have an awareness of the resources available to the registrar. If the general registrar needs additional staff to perform additional duties, particularly if those duties are delegated by the electoral board, the board should work with the local governing body to obtain adequate staffing. According to the Virginia Attorney General, Virginia Code §24.2-112 authorizes the general registrar, at their discretion to hire additional temporary, part time employees when necessary. The governing body of that locality **must compensate** those employees as provided for by law.²⁷

The general registrar and electoral board should meet and develop a list of duties that are delegated to the registrar. The general registrar and electoral board should review this list annually and determine if changes are needed. Any changes in the duties delegated to the registrar should be adopted at a public board meeting and included in the minutes of the meeting.

For any delegation of duties to the general registrar, the following steps shall be taken:

- 1) The delegation should be explicitly outlined in the meeting minutes or incorporated into the general registrar's job description.
- 2) The decision to delegate should only be made after a discussion with the general registrar.
- 3) The delegation should be formally adopted during an electoral board meeting, and this decision should be documented in the minutes of that meeting for transparency.

Delegation to the general registrar does not absolve the electoral board of legal responsibility for management of elections.

1.2.1.4 Duties Related to Officers of Elections²⁸

The general registrar will submit a plan to the electoral board that ensures that an adequate number of trained officers of election are available to serve in each election.²⁹

²⁶ See the Code of Virginia §§ [24.2-106](#), [24.2-106.01](#), [24.2-106.1](#), [24.2-107](#), [24.2-108](#), [24.2-109](#), [24.2-109.1](#), and [24.2-114](#) (this is a non-exhaustive list).

²⁸ For electoral board duties related to officers of elections, see GREB Handbook Chapter 2: Local Electoral Boards.

²⁸ For electoral board duties related to officers of elections, see GREB Handbook Chapter 2: Local Electoral Boards.

²⁹ See the Code of Virginia §§ [24.2-115](#) and [24.2-115.2](#).



- Pursuant to §24.2-115, the representation of officers of election at a precinct shall be equal when there are an even number of officers of election or shall not vary by more than one when there is an odd number of officers of election.³⁰
- Additionally, “[t]he electoral board may appoint additional citizens who do not represent any political party to serve as officers. If practicable, no more than one-third of the total number of officers appointed for each precinct may be citizens who do not represent any political party.”³¹
- If the electoral board appoints a chief or assistant chief officer not affiliated with a political party, the general registrar must notify political parties within 10 days to allow for additional nominations.³²
- When an electronic voting machine is taken outside the polling place to assist a voter, if the required information is not recorded or it is later proven the information recorded was intentionally falsified, the electoral board or general registrar must dismiss, at a minimum:
 - the chief officer or the assistant chief officer or both
 - any other officer of election shown to have caused the failure to record or intentional falsification³³
- The electoral board must ensure that the general registrar certifies to ELECT that training of the officers of election has been conducted consistent with training standards passed by the State Board of Elections.³⁴
- The responsibility of providing instructions to any election officer who hasn't been previously instructed on the precinct's voting equipment lies with either the electoral board or the general registrar. This instruction should take place no fewer than three and no more than 30 days before the upcoming election. Additionally, every election officer must receive training on any election laws that have changed since their last election, and this training must occur at least 3 days before the election in which the new laws are set to take effect. An electoral board member, the general registrar, or designated officer of election must give an oath to each officer of election before the polls open.³⁵
- The secretary of the electoral board or the general registrar must post a list of all appointed officers of election in the office of the general registrar. Whenever substitute or additional officers are appointed, the secretary or the general registrar must promptly add the name of the appointee to the public list.³⁶ This list is open to public inspection in the general registrar's office. The secretary of the electoral board or the general registrar must provide a copy of this list to any requesting political party or candidate, at a reasonable charge.³⁷

³⁰ See the Code of Virginia [§24.2-115](#).

³¹ *Id.*

³² See the Code of Virginia [§§24.2-115](#) and [24.2-115.2](#).

³³ See the Code of Virginia [§24.2-638](#).

³⁴ See the Code of Virginia [§§ 24.2-115.2\(C\)](#) (requiring certification), and [24.2-103\(B\)](#) (training standards).

³⁵ See the Code of Virginia [§24.2-611](#).

³⁶ See the Code of Virginia [§24.2-115](#).

³⁷ *Id.*



1.2.1.5 Duties Related to Polling Places

The local governing body is responsible for establishing and relocating polling places; this must be done by passing an ordinance. General registrars and local electoral boards should nonetheless be directly involved in the process to make sure that any proposed change or creation of a precinct adheres to state and federal law. In addition to administering the locality polling places and precincts, the general registrar must also take steps in an emergency to change the polling place. In the event of an emergency, the general registrar is obligated to promptly initiate actions to relocate the polling place. For further guidance on the management of polling places, refer to Chapter 3 "Precincts and Polling Places" and Chapter 5 "Accessibility".

If an emergency makes a normal polling place unusable or inaccessible, the electoral board or the general registrar must **request emergency approval of a replacement polling place, fully compliant with ADA guidelines**, from ELECT:



Submit a System Support ticket to complete an "Emergency Polling Place Relocation Approval Request Form SBE-310":

- Upon receipt of ELECT approval, give notice of the change to all candidates or the candidates' campaign whose name is on the ballot to be voted on in that polling place.
- Provide notice to the affected voters as is appropriate to the emergency.³⁸
- The electoral board or the general registrar must provide and have posted at each polling place signs directing voters with disabilities and elderly voters to special accessible entrances.³⁹
- The electoral board or the general registrar must provide voting booths to each polling place, to include at minimum one (1) designed for voting paper ballot. Voting booths must be well-lit and must permit a voter to cast their ballot in secret.⁴⁰

1.2.1.6 Duties Related to Candidates

The general registrar must provide ELECT, after the filing deadline for each election, a list of all offices to be filled and the names of all candidates who have filed for each office, including the names of any candidates who failed to qualify or voluntarily withdrawn.⁴¹

- The general registrar must notify each disqualified candidate and enter the reason for their disqualification into VERIS.⁴² If you have additional questions, please submit a System Support ticket.
- A general registrar must also accept Statements of Economic Interests from candidates for a **constitutional office**.

³⁸ See the Code of Virginia [§24.2-310\(D\)](#).

³⁹ See the Code of Virginia [§24.2-604.1](#).

⁴⁰ See the Code of Virginia [§24.2-609](#). See also GREB Handbook Chapter 4 (Voting Equipment).

⁴¹ See the Code of Virginia [§24.2-612](#).

⁴² *Id.*



Frequently Asked Questions

*Q: What is a **constitutional office**?*

A: Each county and city elect five constitutional offices. These offices are:

Treasurer

Sheriff

Commonwealth’s Attorney

Clerk of Court

Commissioner of Revenue

The Constitution of Virginia, Art. VII, Section 4 states that qualified voters of each county and city shall elect “a treasurer, a sheriff, an attorney for the Commonwealth, a clerk, who shall be clerk of the court in the office of which deeds are recorded, and a commissioner of revenue.”

Q: What if the date of notarization is after the signatures are dated? A: If the petition was signed before it was notarized, the entire petition is invalid; similarly, if an individual signature is dated prior to the notarization, that signature is invalid.

1.2.1.6.1 Duties Related to Removal of a Candidate

A petition to remove an officer must be reviewed by the general registrar to determine its sufficiency in accordance with the uniform standards approved by the State Board of Elections. These standards can be found here.

- The general registrar shall certify the petition within 10 business days and promptly file such certification with the clerk of court.
 - The general registrar may seek an extension of time from the circuit court for good cause shown.
- The certification shall state:
 - The number of signatures required,
 - The number of signatures in the petition,
 - The number of valid signatures, and
 - The certification will also identify the signatures found to be invalid.
 - If applicable, the certification shall also identify any material omissions in the petition.

1.2.1.6.2 Duties Related to Removal of Certain Appointed or Elected Officers

Constituents of an elected officer or an appointed office who has filled an elective office may petition for that officer’s removal from office for good reason specified under §24.2-233, using the petition form approved by the State Board of Elections.⁴³ Pursuant to §24.2-233, “Upon petition, a circuit court may remove from office any elected officer or officer who has

⁴³ See the Code of Virginia, §§[24.2-233](#) and [24.2-235](#). See the Administrative Code of Virginia, [1VAC20-60-90](#). See also ELECT, [ELECT 233 Petition for the Removal of an Officer](#).



been appointed to fill an elective office, residing within the jurisdiction of the court...”⁴⁴ However, before a circuit court can begin the process of removing an officer, the Commonwealth’s Attorney and the general registrar of the jurisdiction where the petition was filed must review the document.⁴⁵ Pursuant to §24.2-235, a petition to remove elected officers or certain officers who have been appointed to fill an elective office must be reviewed by the general registrar to determine its sufficiency in accordance with the uniform standards approved by the State Board of Elections.⁴⁶ The petition will be given to the general registrar by the clerk of the circuit court where the petition was filed.⁴⁷

The Department of Elections has provided a checklist for general registrars to use in their review of removal petitions.⁴⁸ The checklist covers all material and nonmaterial omissions as outlined in 1VAC20-60-90.⁴⁹

The general registrar shall certify the petition within 10 business days and promptly file such certification with the clerk of the circuit court.⁵⁰

- The general registrar may seek an extension of time from the circuit court for good cause.⁵¹

The certification shall state:⁵²

- The number of signatures required,⁵³
 - “The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to 10% of the total number of votes cast at the last election for the office that the officer holds.”⁵⁴
- The number of signatures on the petition, and⁵⁵
- The number of valid signatures.⁵⁶
 - The signatures found to be invalid must be identified on the certification.⁵⁷
- The certification will also identify any material omissions in the petition.⁵⁸

⁴⁴ See the Code of Virginia, [§24.2-233](#).

⁴⁵ See the Code of Virginia, [§24.2-235](#).

⁴⁶ See the Code of Virginia [§§24.2-235\(B\)](#); See the Administrative Code of Virginia [1VAC20-60-90](#)(uniform standards of review for petitions of removal).

⁴⁷ See the Code of Virginia [§24.2-235\(A\)](#).

⁴⁸ See ELECT, [Review of Officer Removal Petition Pages Checklist](#). See also the Administrative Code of Virginia [1VAC20-60-90](#).

⁴⁹ See the Administrative Code of Virginia, [1VAC20-60-90](#).

⁵⁰ See the Code of Virginia [§24.2-235\(B\)](#).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See the Code of Virginia [§24.2-233\(4\)](#).

⁵⁵ See the Code of Virginia [§24.2-235\(B\)](#).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*





Regulation Note

1VAC20-60-90 Material omissions from officer removal petitions and petition signature qualifications: The following are always material omissions for the petition itself that will render the petition invalid:

- Petition is not the double-sided document or copy of such document provided by the State Board of Elections
- Petition does not name the officer and office which they hold
- Petition fails to identify the applicable jurisdiction in which the officer serves
- Petition does not specify the reasons or grounds for removal
- The circulator has not signed the petition affidavit and given their address
- The circulator is a minor or felon whose voting rights have not been restored
- The circulator has not signed the petition in the presence of a notary
- A notary has not signed the petition
- A notary has not affixed their seal
- A notary has not provided their registration number and commission expiration date
- Any combination of the above.

The following are always material omissions related to an individual's signature and will render the signature invalid:

- The signer is not qualified to cast a ballot for the office for which the petition was circulated
- The signer is also the circulator of the petition
- The signer provided a date that is subsequent to the date upon which the notary signed the petition
- The signer did not sign the petition
- The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

Nonmaterial omissions for both the petition and individual signatures can be found under the Administrative Code of Virginia, [1VAC20-60-90](#).

1.2.1.7 Duties Related to Special Elections

The general registrar must provide public notice of each special election as soon as a copy of the writ of special election is received. The general registrar should post notice:

- On the official website for the county or city, or
- In at least 10 public places, or
- In a newspaper of general circulation in their locality, at least 10 days before the election.

If the special election is held in more than one locality, the general registrars may act jointly to provide notice.⁵⁹

⁵⁹ See the Code of Virginia [§24.2-683](#).



As with other elections, “general registrar must give notice of the date, hours, and locations for registration on the final day of registration at least 10 days before each final day.”⁶⁰ This notice is to be posted on the official county or city website and published at least once in a newspaper of general circulation in the county or city, if applicable.⁶¹ At least three days advance notice must be given for other times and locations for voter registration. This notice is to be posted on the official website of the county or city and published at least once in a newspaper of general circulation or announced at least twice on a television station serving the county or city, if applicable.⁶²

*1.2.1.8 Duties Related to Town Elections*⁶³

The electoral board, along with the general registrar, must conduct elections for any town within its county and any town whose major portion is within its county. For November elections for town offices in any town split between two counties, the electoral board of the county in which the lesser part of the town is located shall (i) include town offices on the ballot for the county, and (ii) report the results ascertained for those town offices to the electoral board of the county in which the greatest part of the town is located for inclusion in the results of that county pursuant to §24.2-671.

1.2.1.9 Duties Related to Ballots

The general registrar must order the printing of a sufficient number of ballots for each election. This number is subject to the approval of both the local electoral board and ELECT. This determination should be based on the number of active registered voters and historical election data such as past voter turnout.⁶⁴

The general registrar must send absentee ballots to requestors no later than 45 days before any election; after the 45-day deadline, the general registrar must send absentee ballots to requestors within three business days of receiving a completed absentee ballot application. In the case of a nonfederal special election, if time is insufficient to meet the deadline, the registrar must send the ballots as soon after the deadline as possible.⁶⁵

The general registrar must certify compliance with the Absentee Ballot deadline to ELECT and report the number of ballots ordered.⁶⁶ ELECT issues electronic surveys for this purpose and may direct the printing of additional ballots as per the Code of Virginia §24.2-612.

⁶⁰ See the Code of Virginia [§24.2-415\(A\)](#).

⁶¹ *Id.*

⁶² *Id.*

⁶³ See the Code of Virginia [§24.2-601](#).

⁶⁴ See the Code of Virginia [§24.2-612](#).

⁶⁵ *Id.*

⁶⁶ *Id.*





Regulation Note

1VAC20-20-70: Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots. General registrars should notify the Department of Elections if he or she is having difficulty processing applications for voter registration or absentee ballots in a timely fashion in order to maintain compliance with state and federal law (20-20-70(A)). If a registration or absentee ballot application is denied, the general registrar should provide the applicant with specific reasons why it was denied (20-20-70(B)). ELECT has automated this process through standard correspondence and the statewide voter registration system (20-20-70(B)).

The general registrar must send ELECT proofs of each ballot for verification and copies of each final ballot in the manner directed by ELECT.⁶⁷

Representative of electoral board to be present at printing. The electoral board or the general registrar must designate one person to be continuously present in the room where and when the ballots are being printed. If not an electoral board member, the designee must be paid at least \$20 per day.⁶⁸

Delivery of ballots to electoral board; checking and recording number. The electoral board or the general registrar must designate one of its members, the general registrar, or an employee, to receive the ballots after they are printed and certify the number received. The certificate must be filed with other election materials.⁶⁹

Sealing ballots. The electoral board or the general registrar must designate a person to affix the electoral board seal to each ballot and to sign a statement witnessing such. This statement must be filed with the board's minutes. If not an electoral board member, the person must be paid at least \$20 per day.⁷⁰

Dividing ballots into packages for each precinct; delivery of absentee ballots. The electoral board or the general registrar must have the printed ballots sorted into one or more packages for each precinct while at least one electoral board member or designee of the board is present. The packages must remain in the exclusive possession of the general registrar until delivered to the officers of election of each precinct.⁷¹ Any unused ballots at the close of the polls on Election Day should be sent by the general registrar to the clerk of the circuit court.

Delivery of packages to officers; opening packages. The secretary of the electoral board, a designated employee or member of the board, the general registrar, or a deputy registrar designated by the board, must deliver the packages of ballots to an officer of election of each precinct. The designee must obtain a receipt for each package and a certificate that the seals are unbroken.⁷²

⁶⁷ *Id.*

⁶⁸ See the Code of Virginia [§24.2-617](#).

⁶⁹ See the Code of Virginia [§24.2-618](#).

⁷⁰ See the Code of Virginia [§24.2-619](#).

⁷¹ See the Code of Virginia [§24.2-620](#).

⁷² See the Code of Virginia [§24.2-621](#).



1.2.1.10 Duties Related to Voting Equipment

Voting equipment custodians. The board and general registrar must employ a person or persons (called “custodians”) to program, maintain, test, calibrate, and deliver each voting machine before each election. **Custodians must be appointed and instructed at least 30 days before each election.**

A board member or a deputy registrar may be appointed by the board or general registrar to serve as custodian without pay for that service. However, whenever the law requires the presence of both a board member or registrar and a custodian, the same person cannot fulfill both roles.⁷³

With the approval of ELECT, the electoral board or general registrar may contract with the voting equipment vendor or another contractor to program, prepare, and maintain the voting machines. If this is done, the custodian’s role will be to instruct and supervise the vendor or contractor technicians and oversee the programming, testing, calibrating, and delivering of the equipment.⁷⁴ For more information, see Chapter 4, Voting Equipment.

A board member, an authorized representative of the electoral board, or the general registrar must be present at the final testing of each machine before each election. If a board member is serving as custodian, another board member must be present. The electoral board or general registrar may only authorize a representative to be present in their place if it is impracticable for a board member or general registrar to attend.⁷⁵

Notice of final testing of voting system. The general registrar must notify appropriate local party chairs (or independent candidates for a city or town election if there are no party nominees on the ballot for any office) of the time and place of the final testing and sealing of the voting equipment. The notice must be in writing and sent by mail. Each political party or candidate notified must be allowed to have one representative present to witness the testing and sealing.⁷⁶

Locking and securing after preparation. The general registrar must retain custody of all voting machine keys after the machines have been sealed.⁷⁷ The board or the general registrar must deliver the keys in sealed packages to designated officers of election in each precinct before the polls open.⁷⁸ The board or the general registrar may designate times and places for demonstrating and instructing the public on the proper use of the machines.⁷⁹ The general registrar must keep custody of all voting equipment and maintain it in proper repair.⁸⁰

⁷³ See the Code of Virginia [§24.2-632](#).

⁷⁴ *Id.*, at (A).

⁷⁵ *Id.*

⁷⁶ See the Code of Virginia [§24.2-633](#).

⁷⁷ See the Code of Virginia [§24.2-634](#).

⁷⁸ See the Code of Virginia [§24.2-639](#).

⁷⁹ See the Code of Virginia [§24.2-635](#).

⁸⁰ See the Code of Virginia [§24.2-637](#).



1.2.1.11 Duties Related to Election Day⁸¹

Materials at polling places. The local electoral board is responsible for ensuring the general registrar has all voting equipment, furniture, and materials at the polling places before the polls open.⁸² The general registrar must furnish a copy of the Virginia Election Laws to each precinct for use by the officers of election-on-Election Day.⁸³ Copies of the election law books are distributed by and additional copies can be ordered from ELECT.

Sample ballots. The board or general registrar must furnish two sample ballots to each precinct. These must be posted for public inspection at each polling place on Election Day.⁸⁴ The general registrar must provide, to each polling place, a model of or materials displaying the ballot facing portion of the voting system in use, to instruct voters on how to use the machine.⁸⁵

1.2.1.12 Duties Following the Election, Primary, or Referendum

The board or general registrar may direct the return of all materials from the precincts to the office of the general registrar instead of to the Clerk of the Circuit Court. The general registrar must secure and retain these materials in their office and must convey them to the Clerk of the Circuit Court by noon on the day following the electoral board's ascertainment of the results.⁸⁶

The general registrar must retain one copy of the statement of results for public inspection.⁸⁷

1.2.1.13 Duties Related to Absentee Balloting

The general registrar provides a ballot and other absentee materials to each registered applicant who properly submits a timely and complete application form no later than 45 days before any election; after the 45-day deadline, the general registrar must send absentee ballots to requestors within three business days of receiving a completed absentee ballot application.⁸⁸



A **five-day waiting period** is required for persons who concurrently **apply to register in-person 89*** and **apply to vote absentee**, with limited exceptions for military and overseas citizens.⁸⁹

The general registrar must certify to ELECT that absentee ballots were sent to applicants by the date required by law and must provide certain information required to ensure compliance with absentee voting deadlines.⁹⁰

⁸¹ For electoral board duties related to Election Day, see GREB Handbook Chapter 2, Local Electoral Boards.

⁸² See the Code of Virginia [§§24.2-610](#) and [24.2-637](#).

⁸³ See the Code of Virginia [§24.2-610](#).

⁸⁴ See the Code of Virginia [§24.2-641](#).

⁸⁵ See the Code of Virginia [§24.2-647](#).

⁸⁶ See the Code of Virginia [§24.2-668\(B\)](#).

⁸⁷ *Id.*

⁸⁸ See the Code of Virginia [§24.2-706](#).

⁸⁹ See the Code of Virginia [§24.2-701\(A\)](#).

⁹⁰ See the Code of Virginia [§24.2-612](#).



The general registrar must make applications for absentee ballots available and accept them electronically.⁹¹ The general registrar must send absentee ballots electronically to eligible absent military and overseas voters who request.⁹²

The general registrar must provide a voting assistance form to any voters who indicate that they need assistance due to blindness, disability, or inability to read and write.⁹³

The general registrar must rule on any request for an emergency absentee ballot from a voter where the cause of the voter's emergency is not one of the reasons specified in the Code.⁹⁴

The general registrar must note, and preserve, any absentee ballot returned unused.⁹⁵

The general registrar must provide a provisional ballot to anyone who lost, returned unused, did not receive, or accidentally spoiled his or her absentee ballot.⁹⁶

The board, or the general registrar, must mark the date of receipt of any absentee ballot and deposit it in an appropriate container.⁹⁷

On the day before the election, the general registrar must compose a list (in triplicate) of the names of everyone who applied for an absentee ballot through the third day before the election. By noon on the day before the election, the general registrar must deliver two copies of the list to the electoral board.⁹⁸ The general registrar keeps one copy for their records.

The general registrar must compose a supplementary list of everyone who voted absentee in person, and/or who applied for an emergency absentee ballot. The general registrar must deliver this list to the chief officer of election for every precinct by 5pm on the day before the election.⁹⁹

The general registrar must deliver all applications for absentee ballots, under seal, to the Clerk of the Circuit Court before noon on the day following the election.¹⁰⁰

⁹¹ See the Code of Virginia [§24.2-701](#).

⁹² See the Code of Virginia [§24.2-706](#).

⁹³ See the Code of Virginia [§24.2-704](#).

⁹⁴ See the Code of Virginia [§24.2-705](#).

⁹⁵ See the Code of Virginia [§24.2-708\(A\)](#).

⁹⁶ See the Code of Virginia [§24.2-708](#). See also the Administrative Code of Virginia [1VAC20-60-60](#).

⁹⁷ See the Code of Virginia [§24.2-710](#).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*



The general registrar must report in-person absentee ballots cast during early voting separately from absentee ballots returned by mail; both are to be reported by precinct pursuant to §24.2-667.1.¹⁰¹ The results from these absentee ballots must be submitted to ELECT no later than noon on the seventh calendar day following an election as ELECT must post these results on its website, pursuant to 2023 Acts of Assembly Chapter 152.¹⁰² For additional information on the counting and reporting of results from a Central Absentee Precinct (CAP), please reference Chapter 12 of the GREB and the State Board of Election's policy 2023-001 in the Election Law section of ELECT's website for further information.¹⁰³

Any person who fails to discharge their duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in the Code of Virginia §24.2-1001(A).

For more information on absentee voting, see Chapter 7 Absentee Voting and Chapter 12 Central Absentee Precinct (CAP).

I.2.2 Appointment

The electoral board for each county and city meets every four years (starting from the month of May or June) to appoint the general registrar. The appointment is for a four-year term to begin the first of July of the year of appointment. The electoral board fills any vacancy for the remainder of an unexpired term.¹⁰⁴ The appointment is for this specific term and is not subject to grievance procedures. Immediately after the meeting to appoint the general registrar, the secretary of the electoral board must certify the appointment to ELECT using the General Registrar Certification of Appointment form.

I.2.2.1 Job Qualifications

The general registrar should fit the following roles and have the following qualifications:

- A planner capable of assessing the current and future needs of citizens, establishing a schedule to meet those needs, and managing all phases of the registration process.
- An administrator able to manage all phases of the registration process, and the employees and volunteers responsible for its accomplishment.
- A budget analyst with the ability to determine the financing required for an effective registration program, and to obtain necessary funds by providing justification to the local governing body and working with local officials.
- A human resources officer capable of assessing the qualifications of prospective paid or volunteer deputy registrars, and clerical employees who may be needed.
- A trainer capable of training all deputy registrars, clerical employees, and, if delegated to do so, election officials, in the proper and efficient performance of their duties.

¹⁰¹ See the Code of Virginia [§24.2-667.1](#).

¹⁰² See 2023 Acts of Assembly [Chapter 152](#).

¹⁰³ See Department of Elections website, State Board of Elections Policy, [Virginia Department of Elections - Election Law](#)

¹⁰⁴ See the Code of Virginia [§24.2-110](#).



- A writer with the skills to compose press releases, legal notices, correspondence, and manuals.
- A public relations expert for (or at minimum capable of appropriate and non-partisan) dealing with citizens, the press, the local government, the state government, and the federal government.
- A public speaker willing to speak before the public about the election process.
- A person with technical ability able to understand and manage the technical aspects of the position such as creating mail merge documents (e.g., for correspondence with voters), using spreadsheets (e.g., for budget preparation) and using presentation software (e.g., for training officers of election).
- A monitor able to track and analyze federal and state legislative initiatives and voting trends to project the potential future impact on the locality, and to provide meaningful information to legislators when appropriate.
- An individual capable of quickly familiarizing herself with the locality and its citizens to establish a registration and voter education plan that best meets the needs of the locality.

The person appointed general registrar may not be all these things when appointed but must become all of them or the registration and election processes will suffer.

The general registrar is instrumental in disseminating information to the public about the voting process. Press releases, public service announcements, and informational speeches are essential tools for public education. Application displays can be arranged in highly visible locations that are frequented by citizens of the locality. In-person registration schedules can be arranged so that the registrar is available to the public at popular events and places. Visits to local high schools once or twice each year provide excellent opportunities to educate students. If general registrar staff will be accepting registration applications, the location must be open to the general public (unless it is in a school or at a naturalization ceremony), accessible to people with disabilities and the elderly, and the hours must be preannounced.¹⁰⁵ The general registrar must know the county or city and the habits of its citizens in order to establish a registration plan that is responsive to the locality.



Case Note

On June 25, 2013, the U.S. Supreme Court held invalid Section 4 of the Voting Rights Act that outlines the formula for determining what jurisdictions are covered under the Section 5 Preclearance processes. This ruling makes Section 5 dormant until such time as Congress enacts another formula for coverage that is consistent with the Constitution. The practical effect is that it is no longer necessary to preclear changes affecting voting with the Department of Justice. For more information, see *Shelby County v. Holder*, 570 U.S. 2 (2013).

¹⁰⁵ See the Code of Virginia [§24.2-412](#); see also [§24.2-413](#). But see [§24.2-412\(B\)](#) (detailing no need for public announcement if ongoing agreement in place).



I.2.3 Oath of Office

Each general registrar must, as soon as possible and not later than June 30, take and sign the oath of office prescribed in Va. Const. Art. II, § 7.¹⁰⁶ Note that the Code provides more limited options for administering the registrar's oath than for administering the oath for the registrar's staff. A local judge or the Circuit Court Clerk will normally need to be called on to administer the registrar's oath. In contrast, the registrar may administer the oath for the registrar's staff.¹⁰⁷

The general registrar must file the signed oath with the Circuit Court Clerk. This document is available from the Clerk. A copy of the signed oath also must be filed with the secretary of the electoral board.¹⁰⁸

The secretary of the electoral board must ensure that the oath is taken and filed by the general registrar appointed by the Board. Failure to take it before acting as general registrar is punishable by a fine of not less than \$100 or more than \$1,000.¹⁰⁹

I.2.4 The General Registrar and Political Activity

As per the Code of Virginia §24.2-110, "No general registrar shall serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of their locality." The statute does not define "volunteer worker," so the plain and ordinary meaning is used (i.e., a person who, of their own free will, provides services, without any financial gain).¹¹⁰ There has been some question over the years as to whether §24.2-110 prohibits contributing to candidates, placing bumper stickers on private vehicles, and the like. Being in a job involving politics, it is natural that a registrar will have political leanings and may have come from a campaign background. While the law does not require a registrar to be apolitical, registrars must perform their duties in a nonpartisan manner.¹¹¹ In particular, registrars should do nothing that might cause the public to perceive favoritism for one candidate or party over another. The Code expressly prohibits the general registrar from selectively soliciting registration or offering incentives for applications.¹¹²

I.2.5 Notary Services

Any person appointed as a member of an electoral board, or a general registrar shall be **prohibited from collecting any fee as a notary** during the time of such appointment.¹¹³

Any person appointed as a deputy registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the elections law.¹¹⁴

¹⁰⁶ See the Virginia Constitution [Art. II §7](#).

¹⁰⁷ See the Code of Virginia [§24.2-120](#).

¹⁰⁸ *Id.*

¹⁰⁹ See the Code of Virginia [§49-11](#).

¹¹⁰ See the Code of Virginia [§2.2-3601](#).

¹¹¹ See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

¹¹² See the Code of Virginia [§24.2-114\(2\)](#).

¹¹³ See the Code of Virginia [§47.1-19](#).

¹¹⁴ *Id.*



I.2.6 Removal

The local electoral board may, by a recorded majority vote and on notice, petition the circuit court where a general registrar serves for removal from office.¹¹⁵ Likewise, the State Board of Elections, by a majority vote and on notice, may petition the circuit court where a general registrar serves for removal from office.¹¹⁶

If a petition for removal has been filed against a general registrar, they may apply to the Virginia Division of Risk Management to assign counsel to their defense and any subsequent appeal.⁹⁶ The website for the Virginia Division of Risk Management can be found [the Division of Risk Management website](#).



Law Note on Reappointment or Removal of a General Registrar

The Attorney General's 2023 opinion stated, "...[A]n electoral board may choose not to reappoint an incumbent general registrar, provided the decision to not reappoint an incumbent general registrar does not rest on impermissible grounds, including political motivations, and provided the process for appointing a new general registrar is objective and apolitical." For more information, see [2023 Op. Va. Att'y Gen. 23](#).

If a vacancy occurs in the office of general registrar, or the incumbent general registrar becomes unable to perform the duties of the office for an extended period, the electoral board may appoint an acting general registrar.¹¹⁷ The electoral board and ELECT may arrange for the acting general registrar to receive the compensation designated for the general registrar. However, ELECT will only reimburse the locality for the salary of one incumbent of the position. The locality may still be liable for the salary of a temporarily incapacitated general registrar, under the normal personnel and compensation policies of the locality. The local government attorney or personnel officer should be able to advise the electoral board and the registrar of the appropriate interim compensation policies.

I.2.7 Compensation

The General Assembly sets the salary of general registrars in the annual Appropriations Act. The current plan is based on factors such as population and a cost-of-living adjustment in certain urban localities.

To determine the appropriate salary, ELECT uses the most recent official population estimate from the Weldon Cooper Center for Public Service of the University of Virginia.¹¹⁸ The annual compensation of an incumbent may not be decreased due to declining population during her term.

¹¹⁵ See the Code of Virginia [§24.2-109](#).

¹¹⁶ *Id.* (Referencing [§24.2-234](#)).

¹¹⁷ See the Code of Virginia [§24.2-110](#).

¹¹⁸ See [Appropriations Act, Item 87](#). This is determined every July 1.



The general registrar must receive the annual compensation set by the General Assembly and may not be paid less¹¹⁹ unless when taking an unpaid leave of absence brought about by extenuating circumstances. During any unpaid leave, the chief deputy or another appropriately qualified individual is appointed the acting general registrar by the electoral board.¹²⁰

Any local governing body may choose to pay the general registrar a salary supplement.¹²¹ The general registrar who believes such a supplement is warranted should approach the local governing body with a proposal and justification for the supplement.

The registrar's salary must be paid by the local governing body. The salary amount (not including any supplement) is generally reimbursed to the locality by ELECT on an annual basis.

The locality must provide the same benefits to the general and deputy registrars and staff as provided to other employees of the locality.¹²² The local governing body has discretion to determine which benefit programs it can provide (e.g., retirement, medical, dental). Costs of these programs are borne entirely by the locality and/or the registrar, with no reimbursement from the State treasury.

The local governing body shall reimburse the general registrar and electoral board member for reasonable expenses and for mileage at the rate paid to members of the General Assembly when these are incurred while on official business. In the case of a dispute, ELECT will approve or disapprove the reimbursement.¹²³ These expenses are not reimbursed from the State treasury. "Reasonable expenses" include, but are not limited to, costs for:

- Adequately training the registrar's staff. This includes the costs of training in the use of computers and other technology, and the cost of the general registrar to participate in the General Registrar Certification Program.
- Adequately training the officers of election.
- Conducting elections as required by the Code.
- Conducting voter education.¹²⁴

1.2.8 Certification

Virginia Code §24.2-103 requires the State Board of Elections to conduct a certification program for general registrars. General registrars have 12 months from their initial appointment and any subsequent reappointment to receive certification from the State Board of Elections. An electoral board may ask the Board for an extension of three (3) months if the general registrar is unable to complete the certification program within the required timeframe. The Board will consider any request for an extension on a case-by-case basis.¹²⁵

¹¹⁹ See the Code of Virginia [§24.2-111](#).

¹²⁰ See the Code of Virginia [§24.2-110](#) (electoral board fills vacancies).

¹²¹ See the Code of Virginia [§24.2-111](#).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See the Code of Virginia [§24.2-103\(C\)](#).



The electoral board is required to provide proper notice and may, by a majority vote, institute proceedings for the removal of any general registrar who fails to receive or maintain certification as required by the Board in the circuit court where the general registrar serves.¹²⁶

1.2.9 Attendance/Absences

Effective August 8, 2000, the Secretary of Administration and Attorney General's office approved the following administrative directive:

“Any general registrar who will be out of the office for any reason for *more than* two weeks should provide written or email notice to the Commissioner of Elections or Deputy Commissioner of Elections. (Emphasis added.) The Commissioner will need to know who to contact in the office during the general registrar's extended absence.”

Each locality's general registrar and electoral board secretary are individually responsible for ensuring that the Commissioner or Deputy Commissioner of Elections receives the required notification. If an electoral board member or general registrar is absent due to unforeseen circumstances, the responsible person present, or staff, must send this notification. Notification should be in advance for any foreseeable absence.

General registrars should expect to work considerable overtime (evenings and weekends) during the busy election season and at other times throughout the year. The electoral board and general registrar should discuss expectations for whether compensatory time will be granted or if the registrar has scheduling flexibility. The general registrar and electoral board may consult the locality's human resource office for guidelines on overtime.

1.2.9.1 Jury Duty Exemption

General registrars, electoral board members, and the staff of either may request exemption from jury service starting 90 days before an election through 10 days after certification or conclusion of any recount or contest.¹²⁷ Your local government attorney can assist you with communicating an exemption request to the court.

1.2.10 Deputy registrars

In localities with a population of over 15,500, the law requires at least one deputy registrar who serves at least one day a week. In localities with a population under 15,500, the law requires only one substitute registrar who can assume the duties of the general registrar in an emergency and who shall assist the general registrar upon request.¹²⁸

A specific provision for Russell County requires at least one full-time deputy registrar who shall serve in the office of the general registrar.¹²⁹

¹²⁶ See the Code of Virginia [§24.2-109\(A\)](#).

¹²⁷ See the Code of Virginia [§ 8.01-341.1\(15\)](#).

¹²⁸ See the Code of Virginia [§24.2-112](#).

¹²⁹ *Id.*



No legal requirement can guarantee the availability of a well-trained deputy able to assume the registrar's duties in the registrar's absence and assist with the daily work of the office. The locality must provide funds to enable the general registrar to obtain the authorized staffing.¹³⁰ The electoral board sets the number of deputy registrars based on the statutory formula and the local governing body must fund them in a manner consistent with federal minimum wage requirements and applicable state and local compensation standards.

The general registrar has hiring and supervisory authority over the deputy registrars and establishes their duties. The electoral board has no authority to dictate whom the general registrar hires as assistants or deputy.¹³¹ Like ELECT staff and the general registrar, the general registrar's staff must remain nonpartisan and is subject to a prohibition on volunteer campaign activity.¹³² The electoral board has ultimate responsibility for administering elections according to law and ensuring that the general registrar staff is competent and qualified to carry out their tasks.¹³³

1.2.10.1 Qualifications

Although a deputy registrar must be a registered voter of the Commonwealth, he does not have to be registered in the locality served. However, candidates who **are** residents of the locality may be given preference in hiring.¹³⁴

Localities may mutually agree to share a deputy registrar among two or more localities.¹³⁵ The localities must work out the details of when and where the deputy will work and how the deputy will be paid. This arrangement may be ongoing, or it may be used for special short-term needs, or as part of a "back up plan" for emergencies. A paid deputy registrar cannot have a family relationship with the general registrar (i.e., cannot be the spouse, parent, grandparent, sibling, child, or grandchild of the general registrar).¹³⁶

1.2.10.2 Hiring, Compensation and Benefits

Deputy registrars are normally hired as employees of the locality¹³⁷, unless they are unpaid (in which case they are not considered state or local employees).¹³⁸ As such, hiring should be conducted under the personnel policies of the locality.

¹³⁰ See [Virginia Attorney General Opinion No. 14-046](#) (Oct. 1, 2014).

¹³¹ See the Code of Virginia [§24.2-112](#).

¹³² See the Code of Virginia [§§24.2-103\(E\)](#) (Department of Elections staff requirements), [24.2-110](#) (general registrar requirements), [24.2-112](#) (general registrar staff requirements). See also [Virginia Attorney General Opinion No. 03-068](#) (Oct. 17, 2003).

¹³³ See the [Virginia Constitution Art. II, § 8](#). See also the Code of Virginia [§24.2-106](#).

¹³⁴ See the Code of Virginia [§24.2-112](#).

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ See the Code of Virginia [§24.2-122](#).



1.2.10.3 *Term of Office*

The electoral board sets the terms for deputy registrars. However, their terms may not extend beyond the term of the general registrar.¹³⁹ The general registrar should be familiar with local personnel policies that could affect their deputies, such as restrictions on termination without cause. The personnel director and/or attorney for the locality can provide information and guidance.

1.2.10.4 *Unpaid Deputy Registrar*

The general registrar may appoint deputy registrars who agree to serve without pay.¹⁴⁰ These volunteer deputies were used extensively before implementation of the National Voter Registration Act, for example, to staff registration sites at libraries and other public locations. As per §24.2-122, “deputy registrars who agree to serve without pay are not state or local employees for any purpose.” Due to the increased complexity and security required for automated processes, appointment of unpaid deputy registrars is reserved to highly qualified and experienced persons such as retired elections personnel.

1.2.11 *Other Staff and Volunteers*

The general registrar may decide to use other staff in the office on an ongoing or occasional basis.¹⁴¹ Such staff may not exercise the powers of the general or a deputy registrar.¹⁴² For example, they may not decide on whether to accept or deny a voter registration application. Localities may have restrictions on hiring or compensating family members. Please keep in mind that pursuant to §24.2-124.1, each general registrar, local electoral boards and all officers of the general registrar are prohibited from soliciting, accepting, using, or disposing of any money, grants, property, or *services*, given by a private individual or non-governmental entity for the purposes of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of an election. While the use of existing permitted volunteer activities in Code is allowed, under the well-established rules of statutory construction, any other volunteer activities that are not enumerated in Code may be construed as impermissible. Specific questions regarding compliance of §24.2-124.1 should be directed to a localities counsel to remain in compliance.¹⁴³ Consulting the local administration before adding staff can prevent potentially serious problems for the electoral board and general registrar.

1.2.12 *Typical Tasks of the General Registrar and Deputies*

A comprehensive job description for the general registrar should be on file in each county and city. Should you require assistance or clarification relating to the job description, please refer to the duties and qualifications outlined in this chapter.

¹³⁹ See the Code of Virginia [§24.2-112](#).

¹⁴⁰ See the Code of Virginia [§24.2-112](#).

¹⁴¹ See the Code of Virginia [§24.2-112](#).

¹⁴² See the Code of Virginia [§24.2-114](#) (listing the powers of the general registrar).

¹⁴³ See the Code of Virginia [§24.2-124.1](#).





A Note Regarding Duties of the General Registrar

Below is a large locality's listing of activities of its registrar and deputies. No registrar alone should be expected to perform all these functions. Some functions listed are delegations from the electoral board.

- Electoral board support:
 - Work within the community to identify proposed polling places and recommend them to the board.
 - Manage polling place, district, or precinct changes.
 - Prepare justification and make recommendations for redistricting, representing, and polling place changes.
 - Testify before the local governing body as to the reason for the request for changes in precincts or polling places.
 - Review the list of officers of election and prepare a list for approval by the electoral board.
 - Prepare the letters of appointment and oaths.
 - Complete the payroll and compensation work necessary for the officer of election and board's salaries and expenses.
 - Review training materials and write new ones as needed.
- Represent locality as part of state and national election community:
 - Serve on local, state, and federal committees and complete the work these require.
 - Review materials submitted by other registrars and ELECT.
 - Serve on work groups and committees organized by ELECT to address issues of statewide importance.

I.2.13 Prohibited Activities

Registrars are prohibited by law from engaging in certain activities (note that paid deputy registrars are subject to the same restrictions as the general registrar):¹⁴⁴

- A general registrar may not hold any other elected or appointed office while serving as general registrar. However, with the consent of the electoral board, they may undertake other duties that do not conflict with their duties as general registrar.¹⁴⁵
- A general registrar may not run for any elected office filled by the voters of their locality, either during the term of their appointment, or for six months after their term ends.¹⁴⁶
- A general registrar may not serve as an officer of election.¹⁴⁷

¹⁴⁴ See the Code of Virginia [§24.2-112](#).

¹⁴⁵ See the Code of Virginia [§24.2-110](#).

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*



A general registrar cannot collect fees from notarization during their appointment. (See 1.2.5). A general registrar may not offer legal, financial, or other advice. Applicants sometimes will ask questions that present issues outside the scope of the official responsibilities of the general registrar (e.g., the tax, financial aid, insurance, or other legal consequences of declaring a voting residence in a particular locality). Complex questions that may present nonelection issues should be referred to your county or city attorney for guidance.

The law provides that no private business enterprise may be conducted in the office of the general registrar.¹⁴⁸

The general registrar is prohibited by law from serving as the chair or other officer of any political party committee, at the state, local, or district level.¹⁴⁹ A general registrar may not serve as a worker (paid or volunteer) in the campaign of any candidate running for an office elected in whole or part by the voters the general registrar serves.¹⁵⁰ Deputy registrars also cannot serve as a paid or volunteer worker for a campaign for an office elected by the voters served, or serve as the chair or other officer of any political party. Unpaid deputies are not subject to this restriction¹⁵¹ but any campaign work cannot interfere with nonpartisan service to the public.

General registrars and staff must avoid any activity that can be construed as a conflict with the nonpartisan way the registrar's office is maintained (i.e., that might cause the public to question whether the registrar's duties are carried out in a nonpartisan, fair, and legal manner). For example, registrars and their staff should decline invitations from political parties to offer registration applications to voters at partisan events.¹⁵²

Absolutely no political campaigning, including collecting petition signatures, is allowed in the office of the registrar. Electoral board members and staff are expressly prohibited from collecting candidate petition signatures in any public building owned or leased by locality served.¹⁵³

A general registrar is often asked to express an opinion on an issue or candidate. Registrars must refrain from making any comment that can be construed as partisan.¹⁵⁴ Registrars should express the facts in an unbiased way if compelled to answer.

General registrars are protected from threats or force interfering with the discharge of their duties and should immediately call law enforcement if a concern for safety arises and report to the Commonwealth's attorney concerns about harassment.¹⁵⁵

¹⁴⁸ See the Code of Virginia [§24.2-411](#).

¹⁴⁹ See the Code of Virginia [§24.2-110](#).

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² See the Code of Virginia [§24.2-114\(4\)](#) (expressly prohibiting a registrar from selectively soliciting voter registration). See also [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#) (general registrars should perform duties in nonpartisan fashion), and [Virginia Attorney General Opinion No. 05-030 \(Apr. 5, 2005\)](#) (all public officers must avoid conduct that undermines public confidence in their ability to perform their duties impartially).

¹⁵³ See the Code of Virginia [§24.2-106.1](#).

¹⁵⁴ See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

¹⁵⁵ See the Code of Virginia [§§24.2-1002](#) and [24.2-1019](#).



In making speeches to groups or lectures to students, general registrars should never express opinions regarding candidates, officeholders, or issues.¹⁵⁶

A general registrar may not selectively solicit voter registration or offer anything of value in exchange for a voter registration application.¹⁵⁷ A registrar may only conduct voter registration in public places open to all citizens, after providing three days' notice in a public area, and at hours announced prior to holding the registration.¹⁵⁸

Registrars may provide nonpartisan education to any interested group about the need to register and vote. If a registrar addresses one party's function, that registrar must also be available to any other party, independent candidate, or organization.

The registrar's duty to educate and encourage registration generally supports a variety of activities:

- Preparing posters and fliers encouraging voter registration.
- Posting signs encouraging registration.
- Purchasing media advertisements encouraging registration.
- Placing application displays in state designated voter registration agencies and other public locations.
- Offering extended hours and additional locations for voter registration.

Registrars are prohibited from soliciting, accepting, using, or disposing of any money, grants, property, or services, given by a private individual or nongovernmental entity for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections.¹⁵⁹ However, it is important to note the prohibition does not apply to: (i) the operation of polling places or voter satellite offices in a facility furnished by a prohibited entity; or (ii) the acceptance of federal government grants that are funded in whole or part by donations from a prohibited entity.

1.2.14 Working Alongside Local Government

The general registrar must often work closely with the city or county's local governing body and other local government officials. Good relationships with local government officials are important to ensure adequate resources and support are provided to the general registrar and electoral board.



Best Practice

The general registrar and electoral board should discuss the amount of time and resources that should be directed to locality-specific activities, such as participation in leadership teams and study committees.

¹⁵⁶ See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

¹⁵⁷ See the Code of Virginia [§24.2-114\(2\)](#).

¹⁵⁸ See the Code of Virginia [§24.2-412\(B\)](#).

¹⁵⁹ See the Code of Virginia [§24.2-124.1](#).



However, the voter registration and election administration processes must remain separated from the local political structure to avoid the appearance of undue influence or bias. Expectations should be communicated to the locality to avoid misunderstandings and potential unintended consequences.

Registrars may find it helpful to identify key individuals in a locality to consult on a variety of issues, including human resource and payroll management; information technology support; budgeting and purchasing; legal and legislative support; mapping and street-file maintenance; public information dissemination; public safety and traffic management; and school division support. The general registrar should also develop a working relationship with the local Circuit Court Clerk.

1.3 THE VOTER REGISTRATION OFFICE

The local governing body is required by the Code of Virginia to provide the general registrar with clearly marked and adequately furnished public office space within the locality. The local governing body must also provide postage, stationery, equipment, office supplies, and necessary communications services (e.g. phone, fax, and internet).¹⁶⁰ In addition, the locality must provide adequate funding for computers and support, supplies, and computer training for the general registrar and the staff, as well as sufficient funding for the general registrar to participate in the Board Certification Program.¹⁶¹ The Commonwealth of Virginia does not reimburse the locality for training expenses for general registrars, deputy registrars or officers of election.¹⁶²

The general registrar and local electoral board are responsible for securing sufficient funding from the local governing body for the conduct of elections. The locality must pay the entire "cost of conducting elections,"¹⁶³ but the Commonwealth pays or reimburses some or all these expenses:

- the general registrar's base salary¹⁶⁴
- electoral board salaries¹⁶⁵
- electoral board expenses (to the extent possible)¹⁶⁶
- the VERIS system and related expenses
- registration and absentee related forms

1.3.1 Contact Information and Public Access

The general registrar must ensure that the public can easily find contact information for the voter registration office. For example, it is the general registrar's responsibility to list the office telephone number in the telephone directory under "Voter Registration" or "Elections."¹⁶⁷

¹⁶⁰ See the Code of Virginia [§24.2-411](#).

¹⁶¹ See the Code of Virginia [§24.2-111](#).

¹⁶² *Id.*

¹⁶³ See the Code of Virginia [§24.2-600](#).

¹⁶⁴ See the Code of Virginia [§24.2-111](#).

¹⁶⁵ See the Code of Virginia [§24.2-108](#).

¹⁶⁶ *Id.*

¹⁶⁷ See the Code of Virginia [§24.2-411](#).



The general registrar's office must be clearly marked.¹⁶⁸ Both exterior and interior signs should make the registration office easy for citizens to locate. All voter registration offices must be accessible to persons with disabilities and the elderly.¹⁶⁹ A statement of accessibility, a TTY number (it can be the locality's TTY number), and a number to call to request special accommodations are to be included in all advertising.

I.3.2 Operating Hours

All general registrar offices shall be open a minimum of five days each week.¹⁷⁰

For voter registration conducted outside regular office hours, the general registrar must give at least three days advance notice by posting it on the official website of the locality and publishing it at least once in a newspaper of general circulation in that locality, if one is available, or announcing it at least twice on a television station serving that locality.¹⁷¹

If the office has at least one full-time deputy, lunch hours should be staggered so that the office is open continuously during the operating hours for each locality. A person working alone who must leave the office locked and unoccupied should put a note on the door giving the time of return. For example, "Back at 1:15 P.M.," and *not* "Back in 10 minutes."

In addition to normal office hours, each office *must* be open during the following times:

- On any day that has a 7:00 P.M. filing deadline with the local election office¹⁷²
 - Closing time for the office on that day shall be 7:00 P.M.
- On the final day of registration before any election¹⁷³
 - The registration books will close to in person registration at the office's normal closing time, but no earlier than 5:00 P.M.¹⁷⁴
 - The office must be open a minimum of eight hours that day.¹⁷⁵
 - If the last day falls on an official holiday, the next day the office is open for business must be considered the final day for registration.
 - The general registrar must give notice of the date, hours, and locations for registering on this final day of registration, at least 10 days in advance.¹⁷⁶
 - Such notice must be posted on the official website of the county of city and published at least once in a newspaper of general circulation in the county or city, if one is available.¹⁷⁷
- On the first *and* second Saturdays immediately preceding all elections.



¹⁶⁸ *Id.*

¹⁶⁹ See the Code of Virginia [§24.2-413](#).

¹⁷⁰ See the Code of Virginia [§24.2-411](#) (as amended per 2018 Legislative Session SB 379.).

¹⁷¹ See the Code of Virginia [§24.2-415](#).

¹⁷² See the Code of Virginia [§§ 24.2-503](#), [24.2-507](#), and [24.2-510](#).

¹⁷³ See the Code of Virginia [§§ 24.2-416](#) (registration records close 21 days before general and primary elections, but shorter times apply for special elections), and [24.2-414](#) (requiring a final day of registration on the day before registration records close).

¹⁷⁴ See the Code of Virginia [§ 24.2-414.1](#).

¹⁷⁵ See the Code of Virginia [§ 24.2-414](#).

¹⁷⁶ See the Code of Virginia [§24.2-415\(A\)](#).

¹⁷⁷ *Id.*



- The office must be open a minimum of eight hours *between* the hours of 8:00 A.M. and 5:00 P.M. to provide in-person absentee voting; however, the office must be open until 5:00 P.M. on the last Saturday before the election.¹⁷⁸

The registrar's office is both an official registration site and a polling place with publicly advertised, authorized hours. There may be occasions when the registrar is working in the office on a day or time when the office is closed, particularly during the pre-election period. If a citizen comes to the office during this time, you cannot allow them to apply to register to vote, apply for an absentee ballot, or cast an absentee ballot,¹⁷⁹ although you may offer them an application to complete and return by mail or when the office is open. These restrictions are necessary to ensure that all voters are treated fairly.

I.3.3 Closings for Training

- The general registrar may close the office for off-site training purposes, provided that:
 - The office is closed for off-site training for no more than four days each year.
 - **Notice of the closure is posted at least 72 hours in advance and is posted on the official website of the locality and at least two public places.**¹⁸⁰
- The general registrar may close the office for training in the office, provided that:
 - This is done on no more than a quarterly basis.
 - The period of closure does not exceed four hours.
 - In this situation, no advance notice need be provided.
- The general registrar **cannot** close the office for either off-site or in-office training:
 - Within the 7 days immediately before and immediately after an election.¹⁸¹
 - During the period for in-person absentee voting.¹⁸²
 - On the final registration day.¹⁸³
 - On a deadline specified in the Campaign Finance Disclosure Act of 2006.¹⁸⁴

I.3.4 Holidays

The general registrar's office follows the same holiday schedule as that observed by the local governing body – unless that holiday schedule conflicts with one of the mandated open dates specified by law.

¹⁷⁸ See the Code of Virginia [§ 24.2-701](#).

¹⁷⁹ See the Code of Virginia [§§ 24.2-415](#) (if voter registration is to take place at times outside of regular office hours, the general registrar must give three days advance notice that this will happen, so the general registrar cannot allow a citizen to register outside of regular office hours if no advance notice has been given) and [24.2-412\(A\)](#) (voter registration can only take place at preannounced hours).

¹⁸⁰ *Id.*

¹⁸¹ See the Code of Virginia [§ 24.2-411](#).

¹⁸² *Id.* See also the Code of Virginia [§ 24.2-701](#) (specifies the periods for in-person absentee voting).

¹⁸³ *Id.* See also the Code of Virginia [§§ 24.2-414](#) and [24.2-414.1](#) (specifying the day and hours of the final registration day).

¹⁸⁴ *Id.* See also the Code of Virginia [§ 24.2-945](#) et seq. (the Campaign Finance Disclosure Act of 2006).



I.4 RECORDS RETENTION AND MAINTENANCE

Record retention is a critical step in office management. General registrars and staff must manage a multitude of records, all of which are critical to the operation of the office and the locality's elections. In all cases, localities are to maintain detailed records of all receipts, invoices, and documents related to the expenditure for a period as specified by the Library of Virginia and make them available to ELECT or to state or federal auditors when requested. The Library of Virginia (LVA) has the authority to issue regulations governing the retention and disposition of state and local public records.¹⁸⁵ LVA has developed Records Retention & Disposition Schedules outlining the disposition of public records.¹⁸⁶ Please also see Chapter 9 (Records Access and Retention) for additional information.

Consult this schedule before a major shift in record keeping procedures to guarantee that record filing and storage is in accordance with law. Following the retention schedule and record maintenance best practices as outlined by LVA provides a safeguard against records deteriorating due to environmental factors or aging. Further, following best practices assists registrars and staff in finding records quickly to fulfill FOIA requests or any other request for information.

I.5 GENERAL ASSEMBLY APPROPRIATION ACT

ELECT is required to reimburse local governments for compensation for the general registrar and the three electoral board members, as appropriated by the General Assembly.¹⁸⁷ The annual compensation for the registrars and the board members is set in the Appropriations Act.¹⁸⁸

ELECT's Business Manager¹⁸⁹ annually establishes the authorized salaries of all general registrars and local electoral board members based on the local population salary levels and criteria stated in the Appropriations Act.¹⁹⁰

At the beginning of each fiscal year, authorized salary levels for the upcoming fiscal year are communicated to local finance offices and general registrars by way of a formal letter from ELECT Business Manager. To initiate the reimbursement process, ELECT's Business Manager sends an application for reimbursement form to each county/city fiscal department. The appropriate Local Fiscal Official completes and submits the completed application to ELECT's Fiscal Office.

As funding opportunities are released, general registrars and electoral board members are encouraged to follow the instructions provided by ELECT to ensure a timely and complete application for reimbursement.

Any material variances are investigated and resolved. Once resolved, ELECT Business Manager approves the application for processing. Any funds not needed for reimbursement at the end of the year revert to the General Fund for the Commonwealth of Virginia.

¹⁸⁵ See the Code of Virginia [§ 42.1-85](#).

¹⁸⁶ See [Library of Virginia site](#).

¹⁸⁷ See the Code of Virginia [§§24.2-111](#) and [24.2-108](#).

¹⁸⁸ See [Appropriations Act, Item 87](#).

¹⁸⁹ Contact fiscal@elections.virginia.gov.

¹⁹⁰ See [Appropriations Act, Item 87](#).



I.6 GRANT EXPENDITURES AND MANAGING ASSETS

From time to time, ELECT will announce grant funded programs available to the localities to assist with improving the administration of elections. As these programs become available, ELECT will announce the funding that is available and the instructions for localities to follow to assist them in obtaining grant funds and how they can be used.

I.6.1 Expenditures Must Be for Grant Purpose

Localities must certify that assets purchased solely with grant funds are to be used exclusively for grant intended purposes. For expenditures that only partially benefit grant programs, only that portion which is allowable under grant regulations may be funded with grant funds.

I.6.2 Management of Assets

Asset inventory must be maintained by the locality:

- For the intended purposes and as long as needed, whether the grant system continues to be supported by additional grant funds.
- When no longer needed for the original project, the asset may be used according to federal and state regulations.
- When disposed of, the asset must be disposed of according to federal and state laws and regulations.

Record of inventory including controllable assets (*valued at \$4,999 or less*), e.g., laptop computers, Electronic Poll Books (EPB), flash drives, or any Information Technology asset that has a hard drive/memory as well as assets classified as equipment (*valued at \$5,000 or more*), e.g., voting machines must be maintained and must include the following information:¹⁹¹

- Description of the asset
- Serial number or other identification number
- Acquisition date
- Cost of the asset
- Percentage of federal, state, and local participation in the cost of the asset
- Location of the asset
- Use of the asset
- Condition of the asset
- Disposition/Surplus/Transfer information, including.
 - Date of disposal, and
 - Sale price of the asset
 - To whom disposed, surplus or transferred¹⁹²

A physical inventory of assets purchased with grant funds must be taken and the results reconciled with the Inventory Record for Grant Funded Assets form at least once every two years. This includes controllable I.T. assets with hard drives/memory and capital assets.

- For all other controllable I.T. assets with hard drives/memory and capital assets purchased with grant funds, please use the Inventory Record for Grant Funded Assets form.

¹⁹¹ See [Procedure for the Disposal of Grant Funded Assets](#).

¹⁹² See [Surplus and Disposal Report for Grant Funded Assets](#).



- A locality may use a separate form if all required information is present, and accompanied by a signed, original Inventory Record for Grant Funded Assets form that states, “See attached.”¹⁹³

When an asset acquired under a federal or state grant is no longer needed for federal or state grant program purposes, disposition of the equipment shall be made as follows:

- Controllable I.T. assets with hard drives/memory with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to ELECT except that the disposition of the asset must be reported to ELECT.¹⁹⁴
- Items of capital assets/equipment with a current per-unit fair market value equal to or greater than \$5,000 may be retained, sold, or otherwise disposed of by the locality and the federal government or ELECT may have a right to the proceeds resulting from the sale or the disposition of the asset. In addition, the disposition of the asset must be reported to ELECT.¹⁹⁵
- For more detailed guidance regarding the disposition of grant funded assets, especially Information Technology assets, e.g., computers, E-Poll books, flash drives, etc., see the Procedure for the Disposal of Grant Funded Assets and the Checklist for the Disposal of Grant Funded Assets.

1.7 REGISTRATION OFFICES AT THE DEPARTMENT OF MOTOR VEHICLES

Encouraged by the National Voter Registration Act (NVRA), many registrars are establishing offices within Department of Motor Vehicles (DMV) facilities.¹⁹⁶ Since most registrations now come from the DMV, these arrangements have proven advantageous both to expedite the registration process and to reduce registration problems.

1.7.1 How to Establish an Office at the DMV

The Code of Virginia gives the general registrar authorization to establish other local or state government agencies, such as the DMV, as ongoing locations for voter registration. As per §24.2-412, this arrangement is “subject to the approval of, and pursuant to an agreement with, the head of the government agency...or [its] designee.” The agreement must be in writing and approved by the local electoral board. Such an agreement must “provide for the appointment of employees of the agency...to serve as deputy registrars.” These appointed deputy registrars are not required to be residents of the locality they were appointed to serve; they need only be qualified voters of the Commonwealth and serve only within the locality they were appointed to serve.¹⁹⁷

There are two ways to establish an office at the DMV:

- Co-location: A satellite office or space within the DMV that is staffed by an employee of the general registrar’s office (i.e., a deputy registrar).

¹⁹³ See [Procedure for the Disposal of Grant Funded Assets](#).

¹⁷⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ See the Code of Virginia [§§ 24.2-114\(3\)](#) (providing that general registrars may participate in staffing for voter registration offices at facilities of the Department of Motor Vehicles) and [24.2-412\(B\)](#) (authorizing general registrars to set other local or state government agency offices as ongoing locations for voter registration).

¹⁹⁷ See the Code of Virginia [§24.2-412\(B\)](#).



- Relocation: Physically moving the registrar's main office to the area DMV facility. Although there is much overlap in issues involved in co-location and relocation, these methods are discussed separately below.

I.7.2 Co-location

Since many registrars have established satellite offices within DMV facilities, the DMV state office and ELECT have established a general framework for such activities.

Before offering voter registration, a DMV employee must ask the applicant if (s)he is a citizen of the United States. If so, the DMV clerk will ask the applicant if (s)he wishes to register to vote or change his/her residence address.¹⁹⁸ If the applicant says yes to either, (s)he is given a Print-on-Demand preprinted voter registration application and is instructed to complete the application and take it to the voter registration desk. The deputy registrar will process the application according to established voter registration procedures. There may be variations on this typical process depending on local circumstances.

A deputy registrar at a co-location may handle data entry for changes or new registrants for more than one locality.¹⁹⁹

A locality should consider the following before it establishes a co-location:

- The participating registrar(s) must staff the site all hours that the DMV is open. Since this is typically more than 40 hours per week, the registrar(s) must ensure that adequate personnel are available. The DMV will not, and should not, provide its own personnel to staff the registration desk at any time.
- The DMV will provide a computer and peripherals (e.g., printers, fax machines, scanners, etc.) for the voter registration space. ELECT and VITA will ensure access to VERIS and ELECT website.

I.7.3 Relocation

Relocation involves moving the primary registration office (and in most cases the electoral board office) within the DMV facility.²⁰⁰ Considerations include:

- Office size
 - Does the DMV facility have adequate space to establish a working office?
 - The space must be large enough for day-to-day activities as well as election preparation.
- On-site storage
 - Does the DMV facility have adequate additional space for all the materials, supplies, and equipment that were stored at the former location?
 - In some cases, storage may be available in the former location, but it should be easily accessible.
- Parking

¹⁹⁸ See the Code of Virginia [§24.2-410.1\(A\)](#).

¹⁹⁹ See the Code of Virginia [§24.2-114\(3\)](#) (allowing general registrars to conduct registration jointly with the registrar of a contiguous locality and to participate in multijurisdictional staffing for voter registration offices at facilities of the Department of Motor Vehicles)

²⁰⁰ See the Code of Virginia [§24.2-411](#) (allowing the principal office for voter registration to be located within DMV facilities).



- The DMV will need to be able to provide sufficient designated parking spaces for voter registration and absentee voters, including spaces accessible to persons with disabilities.
- Access to facilities
 - What are the provisions for the registrar and his/her employees to have access to bathrooms, lunchroom, etc.?
 - Will the office space be in a place that has full public access?
- Access during DMV off-hours
 - Although DMV offices are generally open for more hours than registration offices, the registrar will need to ensure that there will be full access, including public access, to the office(s) when the DMV is closed.
 - This is particularly important during the candidate filing and pre-election periods.
- Security
 - DMV offices have a greater risk of suffering criminal conduct such as robbery and terrorism, requiring heightened security systems.
 - Will these security systems interfere with normal operation of the registrar's office, especially during DMV off-hours?
 - Will there be adequate security for voter registration and election purposes?
- Computer system
 - Unlike a co-location, with relocation the DMV is not responsible for providing the registrar a computer; therefore, the registrar will have to plan with their locality to provide the cabling and equipment necessary for computer access at the DMV facility.
 - Making these arrangements is often a complex and time-consuming process and should be started well before the actual move.
- Furniture and Equipment
 - What is needed, and who will provide it?



1.7.3.1 *Establishing an Agreement with the DMV*

The registrar will need to develop a lease agreement with the DMV for the space. Since DMV authorities have actively encouraged registration office relocations, the cost of leasing space in their facilities is quite low. Such a lease agreement is not between the registrar and the DMV, but between the local governing body and the DMV, since the local governing body is legally responsible for providing the registrar with office space.²⁰¹ However, all the particulars in the agreement directly affect the registrar, and thus the registrar should be involved and consulted about the details before any agreement is made. Important issues include the length of lease, and provisions for renewal, termination, and access. It is best to keep hours of operation out of the lease to have the flexibility to change them without having to change the lease. The registrar is encouraged to look at leases from other localities that have relocated to make sure all relevant details have been considered and included.

²⁰¹ *Id.*



1.7.3.2 Public Notice

The registrar will need to develop a plan for notifying the public about the move. The general registrar must provide notice not more than 21 days before and not later than 7 days after the change in location using one of three permitted notice methods: (1) posting on the official website of the locality; (2) posting in at least 10 public places; or (3) placing one publication in a newspaper of general circulation in the locality.²⁰² Voter notification requirements are important to consider in planning the timeframe for the move and costs.

²⁰² See the Code of Virginia [§24.2-306](#).



Appendix A

§24.2-114. DUTIES AND POWERS OF GENERAL REGISTRAR.

In addition to the other duties required by this title, the general registrar, and the deputy registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of § 24.2-412.
2. Participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.
3. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.
4. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.
5. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and pollbooks used for the conduct of elections.
6. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant 3 of 4 has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored, and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. However, notification shall not be required when the registrar does not have an address for the applicant.
7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order.



The general registrar and any deputy registrar shall be authorized to administer oaths for purposes of this title.

8. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.
9. If a person is denied registration, notify such person in writing of the denial and the reason for denial within 14 days of the denial in accordance with § 24.2-422.
10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board provide a copy of the data from the pollbooks to the State Board after each election for voting credit purposes.
11. Retain the pollbooks in his principal office for two years from the date of the election.
12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.
13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.
14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.
15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia by providing electronically, through the Department of Elections, the information contained in that person's registration application.
16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history
17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.
18. Carry out such other duties as prescribed by the electoral board in his capacity as the director of elections for the locality in which he serves.



19. Receive and maintain certification through the certification program conducted by the State Board for general registrars pursuant to subsection C of § 24.2-103. Each general registrar shall be required to receive certification through the certification program within 12 months of his initial appointment or any subsequent reappointment, unless a waiver has been granted by the State Board pursuant to subsection C of § 24.2-103.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 2

Local Electoral Boards

September 2023

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2. Local Electoral Boards

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<p>REFERENCE Virginia Freedom of Information Act Opinion of the Virginia Attorney General (June 26, 2014) Opinion of the Virginia Attorney General (May 15, 2023) Virginia Freedom of Information Advisory Council Opinion (August 31, 2004) Virginia Freedom of Information Advisory Council Opinion (July 11, 2007) Beck v. Shelton, 267 Va. 482 (2004) Hill v. Fairfax Cty Sch Bd, 284 Va. 306 (2012) Shelby County, Ala. V. Holder, 133 S.Ct. 2612 (2013)</p>	<p>REGULATIONS 1VAC20-20-50. Fee for Nonattendance at Annual Training. 1VAC20-20-70 Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots. 1VAC20-60-30: Electronic Devices in Polling Places 1VAC20-60-40: When Ballot Cast 1VAC20-60-60: Provisional Votes</p>



2.1 CHAPTER ORGANIZATION

This chapter is written for both local electoral board members and their general registrars. Members of local electoral boards are responsible for a substantial list of duties and possess a wide range of statutorily imposed authority. Herein, we discuss what makes up a local electoral board, and describe administrative obligations regarding noticing, organizing, holding, recording, and closing a meeting. We also provide an overview, with references to the Code, of the main local electoral board responsibilities and duties regarding the conduct of elections. §2.2 presents the organization of each local electoral board, including the appointment of members, roles within the Board, terms, and required oaths of office. §2.3 distills the Virginia Freedom of Information Act (“FOIA” or “FOIA Act”) down to the key elements that apply to meetings held by local electoral boards and the State Board of Elections (hereafter “SBE”). The section discusses the three-day notice requirement applicable to all meetings held by local electoral boards or the SBE, including the Election Day exception and emergency meetings. §2.3.3 addresses meeting records, including working papers and materials, minutes (draft and final), and votes. §2.3.4 explains the circumstances and required motion which permits the SBE or a local electoral board to “close” a meeting, the requirement to certify each closed meeting, and public access to closed meetings. §2.3.5 notes that records regarding voting equipment and security plans may only be excluded from inspection and copying and meetings closed if two conditions are met.

§§2.4 and 2.5 outline administrative obligations each electoral board must observe, in addition to logistics of attending meetings and required trainings.



Please Note: Every general registrar and electoral board member should also be familiar with Chapter 9 (Records Access and Retention), which goes far beyond the general presumption that government records are open to the public upon request. Chapter 9 (Records Access and Retention) outlines the documents each general registrar is expected to provide for public inspection in the local general registrar’s office, what requests for information can be redirected to the Department of Elections, specific restrictions throughout Virginia’s election laws on providing election records and voter data, and finally, records the public does and does not have access to.

2.2 ORGANIZATION OF THE LOCAL ELECTORAL BOARD

2.2.1 Composition

Two members of the electoral board represent the political party that received the highest number of votes in the last preceding gubernatorial election. One member of the electoral board represents the party that received the next highest number of votes.¹ “[If] the Governor [is] not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of appointment.”²

¹ See the Code of Virginia [§24.2-106](#). See also [VA Const. art. II, § 8](#).

² *Id.*



The terms of incumbent members are not interrupted or shortened “to comply with the political party representation requirements” when the newly elected Governor is of a different party than the previous Governor.³ Rather, electoral board representation regularly changes as the terms of incumbent members expire and new appointments are made, or when an interim appointment is necessary for an unexpired term. The first appointment (however occurring) for a seat previously held by a member representing the previous Governor's party must be given to the new Governor's party.⁴

The Attorney General, following the SBE's reading and interpretation of §24.2-106, stated in a 2014 opinion that “an appointment to fill the vacancy of an unexpired electoral board term must reflect political party representation based on the votes for the office of Governor at the last preceding election at the time the appointment for vacancy is made. Consequently, the party of the candidate who prevailed in the most recent gubernatorial election is entitled to recommend the electoral board appointment to fill the vacancy.” Because this is the same interpretation as offered by the State Board of Elections, this interpretation receives great weight by the Virginia Supreme Court. “The Supreme Court of Virginia has a longstanding practice of according to great weight to agency interpretation of a statute” when “the practical construction given to a statute by public officials charged with its enforcement is entitled to great weight by the courts and in doubtful cases will be regarded as decisive.”⁵

2.2.2 Terms of Office

“Electoral board members [...] serve three-year terms and [are] appointed to staggered terms, one to expire at midnight on the last day of December each year.” Every year, one member of the electoral board in each county or city is appointed (or re-appointed) for a three-year term beginning on January 1 of the following year. Three years after the appointment, the term expires at midnight on the last day of December.⁶ Members can serve an unlimited number of terms.

NOTE: If, by the last day in December, the results of an election are not certified or there is an ongoing recount of an election, the board member's term does not expire until midnight on the day the results are certified, or the recount is concluded.

2.2.2.1 Court Ordered Expiration Date

Any order of appointment to the electoral board that specifies a term expiration date other than the last day of December (orders specifying January 1 are construed to mean midnight on the last day of December) has not been entered in accordance with law and should be corrected. Your local government attorney can assist with contacting the circuit court if needed.

³ *Id.*

⁴ See Op. Va. Att'y Gen. (June 26, 2014), [14-032 Opinion Letter](#) .

⁵ *Id.*

⁶ See the Code of Virginia [§24.2-106](#).



2.2.2.2 *Party Recommendations and Representation*

“The chairman [of the board] and the secretary [must] represent different political parties, unless the representative of the second-ranked political party declines in writing to accept the unfilled office.”⁷ The political party entitled to make recommendations must submit a list to the circuit court recommending at least three qualified voters of the county or city. The party must submit their recommendations for a full-term appointment by December 15. For a vacancy, recommendations must be submitted within 30 days of the date of the death or resignation of the departing member.⁸

2.2.2.3 *Appointment*

In each county or city, an appointment to the electoral board is determined by “the chief judge of the judicial circuit for the county or city or that judge’s designee.”⁹ Later, the Code provides that “the chief judge, or his designee, shall promptly make [the] appointment from the recommendations (i) after receipt of the political party’s recommendation or (ii) after December 15 for a full term or after the 30-day period expires for a vacancy appointment, whichever [is first].”

2.2.2.4 *Interim Appointment of Temporary Member*

If a member of the electoral board dies or resigns during her term, the judge must make an interim appointment for the remainder of the unexpired term. In the case of a temporary absence or disability of an electoral board member, the senior judge appoints “on a meeting-to-meeting basis.”¹⁰ This temporary member must meet all of the same qualification requirements as a regular member, “and to the extent practicable maintain representation of political parties.”¹¹ In making an appointment to fill a vacancy for an unexpired term, the court must to the extent practicable, maintain the adequate representation of political parties.¹²

2.2.2.5 *Removal From Office*

If a member of the electoral board fails to discharge the duties of their office in accordance with the law, the State Board of Elections may petition the circuit court where the member resides for their removal from the local electoral board.¹³ The State Board of Elections must approve the removal petition by a majority vote.¹⁴ Any member of a local electoral board against whom a petition for the removal has been filed may apply to the Virginia Division of Risk Management to assign counsel to their defense and subsequent appeal.¹⁵

⁷ See the Code of Virginia [§24.2-106](#).

⁸ *Id.*

⁹ See the Code of Virginia [§24.2-106](#)

¹⁰ *Id.*

¹¹ See the Code of Virginia [§24.2-106](#).

¹² See the Code of Virginia [§24.2-106](#) (relating to temporary appointments).

¹³ See the Code of Virginia, §§[24.2-103\(E\)](#) and [24.2-234.1\(A\)](#).

¹⁴ *Id.* See also ELECT, [ELECT-103\(E\) Petition for Removal of Local Electoral Board Member-SBE](#).

¹⁵ See the Code of Virginia, [§24.2-234.1\(C\)](#).



2.2.3 Oath of Office

Before entering any term or performing any duties, any newly appointed or re-appointed member of the electoral board must take and sign the oath of office.¹⁶ Any judge or the Clerk of the Circuit Court may administer the oath.¹⁷

“Each member of an electoral board and general registrar [must] file the original signed oath in the clerk’s office of the circuit court of his county or city,” and a copy of it must be placed with the secretary of the electoral board.¹⁸ The Constitution requires this oath and failure to take it before serving is punishable by a fine of not less than \$100 or more than \$1,000.¹⁹

Form. A copy of the oath each electoral member must sign, ELECT-120EB, can be found on the Forms Warehouse.

2.2.4 Required Notification of Change in Electoral Board

After the electoral board has met and elected its officers, the Secretary must immediately notify ELECT of any change in membership or officers of the electoral board and keep ELECT informed of the name, residence and mailing addresses, and telephone numbers of each electoral board member.”²⁰

Form. Submit a copy of the *Certificate of Eligibility for Appointment to Electoral Board* (ELECT-119) form to the Department of Elections. The original completed form with all information requested should be retained in the records of the electoral board with the orders appointing members. A copy may also be given to the general registrar to update the VERIS Directory each time any change is made in the electoral board’s membership. This will ensure that Department of Election’s records remain current.

2.3 Meetings

FOIA ensures public access to state and local government meetings and records. The provisions of FOIA must be “liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.”²¹ Any exemption, therefore, must be narrowly construed. This means that no meeting can be closed to the public unless specifically made exempt by FOIA or other specific law.²²

¹⁶ See [Va. Const. art. II, § 7](#). See also the Code of Virginia [§24.2-120](#).

¹⁷ See the Code of Virginia [§49-3](#).

¹⁸ See the Code of Virginia [§24.2-120](#)

¹⁹ See the Code of Virginia [§49-11](#) stating, “If any officer or person mentioned in § [49-1](#) shall act in his office or function before taking such oaths as are required by law, he shall forfeit not less than \$100 nor more than \$1,000.”

²⁰ See the Code of Virginia [§24.2-106](#).

²¹ See the Code of Virginia [§2.2-3700](#).

²² See the Code of Virginia [§2.2-3700](#).



2.3.1 Public Bodies (the SBE and every local electoral board)

The three-member SBE and each three-member local electoral board are "public bodies" under FOIA.²³ Therefore, all electoral board meetings are open to the public.²⁴ The only possible exceptions, to hold a "closed" meeting, arise in strictly limited, explicitly stated circumstances. A meeting should not be closed to the public unless the meeting is specifically made exempt by FOIA or another law.

2.3.1.1 What is a Meeting?

A "meeting" occurs any time two members gather for the purpose of considering or transacting any public business.²⁵ This includes "work sessions".²⁶ Two members of a three-member electoral board may communicate via email without violating FOIA if no simultaneous communication occurs.²⁷ But remember, all emails are public records.²⁸



Law Note

In 2004 the Virginia Supreme Court held in *Beck v. Shelton*, 267 Va. 482, that e-mail correspondence *may* constitute a meeting under FOIA, depending on "how the e-mail is used." If the e-mail is being used "as the functional equivalent of [a] letter communication by ordinary mail, courier, or facsimile transmission," it is *not* a meeting under FOIA. However, these communications are still considered public records under FOIA. The Virginia Freedom of Information Advisory Council issued an opinion in 2004 that stated that "members of a local electoral board are not violating FOIA by using e-mail to communicate with one another." However, "e-mails relating to the transaction of public business are public records subject to access under FOIA" where there is a delay between when the e-mail is sent and received and when a response is sent. It is important to note, however, that the Advisory Council suggested the implementation of a system that copies all e-mails to the registrar to keep on file for public inspection.

2.3.1.2 What isn't a Meeting?



The Code of Virginia §24.2-107 states that "the presence of two or more board members while the ballots, election materials, or voting equipment are being prepared, current or potential polling places are being inspected, or election officials are being trained, or a telephone call between two board members preparing for a meeting" does

²³ See the Code of Virginia [§2.2-3701](#).

²⁴ *Id.*

²⁵ See the Code of Virginia [§§2.2-3701 and 2.2-3708](#).

²⁶ See the Code of Virginia [§2.2-3701](#).

²⁷ See Virginia Freedom of Information Advisory Council, [Advisory Opinion 19 \(2004\)](#).

²⁸ See the Code of Virginia [§2.2-3707](#).



not constitute a meeting, as long as “no discussion or deliberation takes place that would otherwise constitute a meeting.”²⁹

Social gatherings of two or more members of an electoral board are not prohibited, if public business is neither transacted nor discussed, and if the gathering was not called for the purpose of transacting or discussing public business.³⁰



Law Note

A 2012 opinion by the Supreme Court of Virginia in *Hill v. Fairfax Cty. Sch. Bd.*, 284 Va. 306 (2012) found that emails between school board members did not constitute a meeting subject to notice and open meeting requirements. The court stressed that the determination was fact-based because the emails did not involve sufficient simultaneity and the back-and-forth exchanges were limited to two members, instead of all three. The Court held that use of e-mail did not constitute a meeting, because the definition of a "meeting" under FOIA entails a degree of simultaneity.

The Court found that e-mail was more akin to traditional forms of written correspondence, such as a letter or a facsimile, and that there may be a significant delay between the time an e-mail communication is sent and received and when a response is sent. It is important to note that the Court stopped short of saying that use of e-mail could never be a meeting under FOIA. The dispositive determination in examining e-mail under the meeting provisions of FOIA is to examine how the e-mail was used. Members of public bodies need not refrain from using e-mail in a manner that is the equivalent of sending a letter; however, members of public bodies should be cautioned against using e-mail in a manner that appears to entail simultaneity.

²⁹ See the Code of Virginia [§24.2-107](#).

³⁰ See the Code of Virginia [§2.2-3707](#).



2.3.1.3 Required Meetings

Local electoral boards are required by the Code of Virginia §24.2-107 to “meet during the first week in February” to appoint officers of election, and second, “during the month of March each year at the time set by the board.” Beyond these two required meetings, any electoral board member can call for a meeting.³¹ The electoral board must also meet to reorganize following a member’s appointment to fill a vacancy in an unexpired term.³² In the year in which the term of the general registrar expires (2007 and every fourth year thereafter), the Code directs the board to meet in May or June to appoint or reappoint a general registrar for a four-year term to begin that July 1.³³

2.3.1.3.1 First Week in February

At its regular meeting in the first week of February, each electoral board appoints officers of election.³⁴ “Their terms of office [...] begin on March 1 following their appointment and continue, for a term not to exceed three years or until their successors are appointed.”³⁵ After the electoral board has met and elected its officers, the Secretary must immediately notify the Department of Elections of any change in membership or offices of the electoral board members.

Furthermore, the general registrar is responsible for keeping the Department of Elections informed of the names, residence, mailing addresses, and home and business telephone numbers of each electoral board member.³⁶ It is also important to inform the Department of Elections of the email address, party affiliation, year the term expires, and office held for each member.

Form: The Electoral Board Information Form (SBE-106) found in the Forms Warehouse should be used to provide this updated information.

2.3.1.3.2 During March

Prior to the changes from HB 237 (2020), at its March meeting, electoral boards typically reorganized and elected a chairman, vice chairman and secretary. While that policy made sense in the past, since new members’ terms start January 1 instead of March 1, the board may reorganize at any time. Code does not say the March meeting is required to be for reorganization. The board may organize at any meeting but should do so as soon after a new member is appointed as possible. Va. Code § 24.2-107 still requires a meeting in March whether the board has already reorganized or not.³⁷

³¹ See the Code of Virginia [§24.2-107](#).

³² See the Code of Virginia [§24.2-110](#).

³³ *Id.*

³⁴ See the Code of Virginia [§24.2-107](#).

³⁵ See the Code of Virginia [§24.2-115](#).

³⁶ See the Code of Virginia [§24.2-106](#).

³⁷ See the Code of Virginia [§24.2-107](#).



2.3.1.4 *Electronic Participation (Effective September 1, 2022)*

Electoral boards cannot conduct business “through telephonic, video, electronic or other [means of communication] where the members are not physically assembled” except as provided in §§ 2.2-3708.2 and 2.2-3708.3 of the Code of Virginia.³⁸ In situations other than declared states of emergency, electoral boards may conduct meetings through electronic communication means when certain conditions are met. Individual members may request to participate in a meeting remotely or the board may decide to hold an “all-virtual public meeting”. An “all-virtual public meeting” is when *all* members of the board participate remotely rather than being assembled in one physical location and which public access to the meeting is provided electronically.³⁹

Before any electoral board can conduct a meeting through electronic communication means, there must be a policy adopted by a recorded vote that does the following:⁴⁰

- Describes the circumstances under which an all-virtual public meeting and remote participation will be allowed.
- Describes the process the board will use for making requests to use remote participation, approving, or denying such requests, and creating a record of such requests.
- Fixes the number of times remote participation can be used by an individual member for personal matters to two meetings per calendar year or 25 percent of the meetings held per calendar year to the next whole number, whichever is greater; and
- Fixes the number of times an all-virtual public meeting can be used by the board to two meetings per calendar year or 25 percent of the meetings held per calendar year to the next whole number, whichever is greater. **All-virtual public meetings cannot be held consecutively with another all-virtual public meeting.**

For individual board members, in case of a personal matter, a temporary disability or other medical condition (impacting themselves or a family member), or the member’s principal residence is more than 60 miles from the meeting location, which prevents the member’s attendance, one electoral board member may participate electronically as long as five conditions are met:⁴¹

1. The electoral board has adopted a uniform written policy governing electronic participation as stated above.
2. The member notified the board’s chair of the request to participate remotely (or vice-chair if requested by the chair).
3. A general description of the remote location the member is using is recorded in the minutes.
4. The reason the member requested to participate remotely is recorded in the minutes. *(If remote participation is disapproved, this must be recorded in the minutes.)*

³⁸ See the Code of Virginia [§2.2-3707](#).

³⁹ See the Code of Virginia [§2.2-3701](#).

⁴⁰ See the Code of Virginia [§2.2-3708.2\(D\)](#).

⁴¹ See the Code of Virginia [§2.2-3708.2\(B\)](#).



5. The other two members are physically assembled for the purpose of attaining quorum. All meetings require a quorum of two members to conduct public business.

To conduct all-virtual public meetings, the electoral board must ensure the following nine conditions are met:⁴²

1. The electoral board has adopted a uniform written policy governing electronic participation as stated above.
2. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the meeting's required notice (along with a statement that notifies the public the method shall not be changed unless new notice pursuant to §2.2-3707 is provided).
3. Public access to the all-virtual public meeting is provided via electronic communication means which allows the public to hear all members of the board, and when audio-visual technology is available, see the members of the board as well.
4. A phone number or other live contact information is provided to alert the board of any audio or video transmission issues that arise. (The board must take a recess until public access is restored if transmission fails.)
5. A copy of the proposed agenda and all materials, unless exempt, furnished to the board for a meeting is made available to the public in electronic format at the same time it is made available to the board.
6. The public is afforded the opportunity to comment through electronic communication means.
7. If a closed session is held, transmission of the meeting to the public resumes before the board votes to certify the closed meeting as required by § 2.2-3712(D).
8. Minutes are taken as required by § 2.2-3707 and include the fact that the meeting was held through electronic communication means.
9. No two members of the board are together in any one remote location unless that location is open to the public.



Best Practice

A suggested electoral board policy for electronic participation in meetings can be found online at the Forms Warehouse (Suggested Electoral Board Policy for Electronic Participation in Meetings).

2.3.1.5 *Electronic Meetings in a Declared State of Emergency*⁴³ (Effective September 1, 2022)

Electoral boards may meet by electronic communication means without a quorum of the board physically assembled at one location when the Governor has declared a state of emergency in accordance with §44-146.17, or if the locality in which the board is

⁴² See the Code of Virginia [§2.2-3708.2\(C\)](#).

⁴³ See the Code of Virginia [§2.2-3708.2](#).



located has declared a local state of emergency pursuant to §44-146.21. To meet electronically, certain conditions must be met. It must be true that:

- The nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and
- The purpose of the meeting is to provide for the continuity of operations of the board or to allow the board to discharge its lawful purposes, duties, and responsibilities.

If the electoral board holds an electronic meeting under these circumstances, the following steps must be taken:

- Give notice to the public using the best available method given the nature of the emergency. The notice must be given contemporaneously with the notice provided to members of the public body or governing board conducting the meeting.
- Plan for public access to the meeting through electronic means including, to the extent practicable, videoconferencing technology.
- Provide the public with an opportunity to comment.
- Comply with the provisions of §2.2-3708.2 of the Code of Virginia; and
- State in the minutes of the meeting the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means.

2.3.2 Notice for Meetings of Public Bodies (the SBE and every local electoral board)

2.3.2.1 Three Days' Notice

Either the secretary or the member calling the meeting must provide notice to the public and all board members at least three business days prior to the meeting. Providing notice includes posting the date, time, and location of meetings in a prominent public location (such as on the locality website or a public bulletin board) and at the general registrar's office. Notice should also be provided electronically on the locality website.⁴⁴

⁴⁴ See the Code of Virginia [§24.2-107](#). See also the Code of Virginia [§2.2-3707](#).



**Law Note****FOIA Council opinion on Three Working Days: Weekends, Holidays, Day Of:**

The three working days do not include weekends or legal holidays, and the day of the meeting should not be counted as one of the three working days. All notices of special meetings must be *reasonable under the circumstance*. Public bodies should post notice at least three working days in advance of any meeting unless the factual circumstances surrounding a special or emergency meeting necessitate some shorter time period. The second requirement of subsection D is that notice of a special meeting must always *be given contemporaneously with the notice provided members of the public body*. Therefore, public notice of this special meeting should have been posted while notice was given to the members of the Committee.

2.3.2.2 Emergency Meetings

Special or emergency meetings can be held, but notice must be given to the public contemporaneously with the notice provided to the electoral board members. An “emergency” meeting “means an unforeseen circumstance” arose requiring “immediate action,” therefore rendering the FOIA three-day notice requirement “impossible or impracticable.”⁴⁵ While emergency meetings must be public, a public body can go into closed session if there is a need to discuss a matter properly exempt under FOIA.⁴⁶

2.3.2.3 “Election Day” Exception

Under the Code of Virginia §24.2-107, electoral board members can discuss Election Day matters without formally noticing a meeting if “an effort has been made by all available means” to notify the public and board members.⁴⁷ The SBE anticipates that Election Days may require them to meet to discuss issues that arise that day, for example. Accordingly, the SBE proactively notices a meeting for each Election Day even though this exception exists.

⁴⁵ See the Code of Virginia [§2.2-3701](#).

⁴⁶ *Id.*

⁴⁷ See the Code of Virginia [§24.2-107](#).



2.3.3 Meeting Records

2.3.3.1 *Materials*

All working papers and materials furnished to the SBE, and local electoral boards must be made available for public inspection upon request at the same time these documents are provided to the board members.⁴⁸

2.3.3.2 *Minutes*



Minutes are required for all meetings and must be available for public inspection after being finalized and approved by the board. The secretary of the board should promptly prepare and deliver the draft minutes to the local general registrar's office after the meeting. Minutes must be posted on the locality's official public government website within seven working days of the final approval of the minutes.⁴⁹

2.3.3.3 *Votes*

Any public business must be transacted by public votes in open meetings. FOIA does not permit voting in secret, written ballots, or telephone polling by one board member of the others as per the Code of Virginia §2.2-3710.

2.3.3.4 *General Registrar Responsible for Providing Books, Papers, and Records to Public*

Books, papers, and records of the local electoral board shall be open to public inspection and copying whenever the general registrar's office is open for business either at the office of the board or at the office of the general registrar. The general registrar shall determine a reasonable charge, not to exceed the fee authorized pursuant to subdivision A 8 of §17.1-275, to be paid for copies made from the books, papers, and records of the board.⁵⁰ **No part of an individual's social security number on any record can be made available for inspection or copying by anyone.**

2.3.4 Closed Meetings

2.3.4.1 *Permitted for Strictly Limited Purposes*

Local electoral boards may hold closed meetings only in a few limited circumstances. Please refer to the Code of Virginia §2.2-3711(A) for a list of these reasons but note that FOIA does not *require* that these meetings must be closed: rather, FOIA permits the board to decide if, in certain circumstances, a closed meeting is warranted.⁵¹

⁴⁸ *Id.*

⁴⁹ See Code of Virginia [§2.2-3707.2](#).

⁵⁰ See Code of Virginia [§17.1-275](#).

⁵¹ See Code of Virginia [§2.2-3711](#).



2.3.4.2 *How to Close a Meeting: Member must Move (during an Open Meeting) to Close Meeting*

A member must make a motion, during an open meeting, to close the meeting. The motion must identify the subject matter, purpose “of the meeting as authorized in subsection A of §2.2-3711 or other provision of law,” and “applicable exemption from open meeting requirements provided in subsection A of §2.2-3711 or other provision of law” for discussing the subject in a closed meeting.⁵² The board must restrict the topics discussed to only those matters stated in the motion, specifically exempted from FOIA.⁵³

2.3.4.3 *The Closed Meeting Must be Certified.*

At the end of any closed meeting, the board must “immediately reconvene in an open meeting and [...] take a roll call or other recorded vote” to certify the meeting. Each member must certify that to the best of that member’s knowledge the meeting heard, discussed and considered.

- (i) only public business lawfully exempted under FOIA and
- (ii) only such business matters identified in the motion to close the meeting.

Any member who believes that there was a departure from these requirements should state this prior to the vote. This statement must be recorded in the minutes of the public body.⁵⁴

2.3.4.4 *Public Access to Closed Meetings*

The public should be informed as soon as the closed meeting ends and given sufficient time to reenter the room before the board certifies the closed meeting. A board “may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the [board] in its consideration of a topic that is a subject of the meeting.”⁵⁵

2.3.5 *Voting Equipment and Election Security Plans*

Certain electoral board meetings and records concerning voting equipment and election security may be closed. However, records may only be excluded from inspection and copying, and meetings may only be closed under both of the following conditions:



- Records or discussions in meetings describe protocols for maintaining the security of ballots or voting and counting equipment or reveal the results of risk assessments of specific local electoral procedures.
- The release of such records or discussion of such matters in an open meeting would compromise the security of an election.

The Code of Virginia §24.2-625.1(E) specifies that this section should not “be construed to prohibit the release of information concerning any breach of security in the conduct of an election.”⁵⁶

⁵² See the Code of Virginia [§2.2-3711](#).

⁵³ See the Code of Virginia [§2.2-3712](#).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See the Code of Virginia [§§24.2-625.1](#) and [2.2-3711\(34\)](#).



2.4 RESPONSIBILITIES

2.4.1 Administrative Tasks – the Secretary



It is always essential that one member of the electoral board serve as secretary to ensure that the board performs the necessary administrative duties. At any time that the secretary is incapacitated in such a way that makes it impossible for the secretary to carry out the duties of the position, the board should designate one of its other members as acting secretary. This designation must be made in an open meeting and recorded in the minutes of the board. Should the member elected as secretary die, resign, or become incapacitated in such a way that makes it impossible for that person to carry out the duties of the position, the electoral board may elect another of its members acting secretary until such time as a new member is appointed and the electoral board meets to reorganize.⁵⁷

The minutes of any board meetings held during such time and any required official documents must be signed accordingly. The annual compensation paid to any member shall not be affected by the member's temporary election as acting secretary.⁵⁸

2.4.2 Attendance, Absences and Notice to ELECT

An electoral board member who has missed more than two meetings of the electoral board during the calendar year must also provide written or email notice to the Commissioner or Deputy Commissioner of the Department of Elections.

If any board member becomes unable to serve for an extended period of time but expects to return to the board later, the remaining members may request that the Court appoint a temporary member to ensure that the work of the board can go forward in an efficient and bi-partisan manner. If necessary for a quorum (two members) due to a member's temporary absence or disability, the senior circuit judge may appoint temporary members on a meeting-to-meeting basis; the temporary appointee is subject to the same qualification requirements as a regular member and must maintain party representation if practicable.⁵⁹

2.4.3 Annual Training

Each member of each electoral board must attend ELECT's annual training program the first year of [their initial] appointment and [in] the first year of any subsequent reappointment.⁶⁰ The local governing body is required to pay or reimburse the reasonable expenses and mileage costs for at least one member incurred in attending this training.⁶¹

⁵⁷ See the Code of Virginia [§24.2-106](#).

⁵⁸ See the Code of Virginia [§24.2-108](#).

⁵⁹ See the Code of Virginia [§§24.2-106](#) and [15.2-1503](#).

⁶⁰ See the Code of Virginia [§24.2-106](#).

⁶¹ See the Code of Virginia [§24.2-108](#).





Regulation Note

1VAC 20-20-50: Fee for Non-Attendance at Annual Training. The Board has the authority to charge a fee to those who register to attend the annual training but do not cancel their registration within 3 days before the event, and do not show up. The fee must be limited to the cost incurred due to their non-cancellation.

2.4.4 Notary Services

Any person appointed as a member of an electoral board, or a general registrar shall be **prohibited from collecting any fee as a notary** during the time of such appointment.⁶² Any person appointed as a deputy registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the elections law.⁶³

2.5 DUTIES

In general, the duties outlined below are the responsibilities of the whole electoral board; in some cases, they are responsibilities specifically assigned to the electoral board secretary. Some of these duties may be delegated to the registrar. Such delegation should be in writing and recorded in the minutes of the board. The electoral board remains legally responsible for any statutory responsibility delegated to the registrar. Duties are grouped according to subject area. The core supervisory functions of the electoral board, such as protecting ballots, appointing officers, and evaluating the general registrar, cannot be delegated.

2.5.1 Duties Related to General Organization

- Electoral board members must take the oath of office.⁶⁴
- At least one member of each electoral board must attend the annual training provided by the Department of Elections.⁶⁵
- The secretary must notify the Department of Elections “of any change in the membership or officers of the electoral board.”⁶⁶
- The electoral board must provide any information requested by the Department of Elections as provided: “Electoral boards and registrars shall provide information requested by the State Board and shall follow (i) the elections laws and (ii) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law.”⁶⁷

⁶² See the Code of Virginia [§47.1-19\(C\)](#).

⁶³ *Id.*

⁶⁴ See the Code of Virginia [§24.2-120](#).

⁶⁵ See the Code of Virginia [§24.2-106](#).

⁶⁶ *Id.*

⁶⁷ See the Code of Virginia [§24.2-103](#).



2.5.2 Duties Related to Polling Places

- The electoral board is responsible for **reviewing all polling places after each election** to determine that there will be polling places for the next election that meet the requirements of the Code of Virginia §§24.2-305-310.
- The “governing body of each county, city and town [must] provide funds to enable the general registrar to provide adequate facilities at each polling place for the conduct of elections.”⁶⁸
- The **electoral board must assist** the local governing body in complying with various state and federal acts designed to **ensure the accessibility** of all polling places to persons with disabilities.⁶⁹
- “If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar [must] provide an alternate polling place.”⁷⁰
- “The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any special entrance designed for their use.”⁷¹
- The electoral board or the general registrar must provide voting booths to each polling place, including at least one designed for voting paper ballots.⁷²



Regulation Note

1VAC20-60-30: Electronic Devices in Polling Places. 1 VAC 20-60-30(A) states that individuals may use and bring electronic devices inside the polling place; party candidates and representatives, however, are prohibited from taking photos or videos within the polling place. Officers of election are authorized to monitor and restrict use of electronic devices inside the polling place if an individual’s use hinders or delays the voting process, or if this device is being used to influence, intimidate, or solicit another individual’s vote (20-60-30(B)). Those found violating 20-60-30 may be asked to stop using their electronic device, to use their electronic device outside the polling place only, or to leave the polling place entirely (20-60-30(B)). However, a voter may not be removed from the polling place for use of an electronic device until after their ballot is cast (20-60-30(C)). Any determination an officer of election makes as to the use of electronic devices in polling places is subject to immediate appeal to the local electoral board (20-60-30(D)). Electoral boards cannot enact any policy that categorically denies use of electronic devices in polling places (20-60-30(E)). Please also see an AG opinion issued in 2016 regarding the use of cameras and phones in polling places: [OAG Opinion 16-038 \(Bell\)](#).

⁶⁸See the Code of Virginia [§24.2-310](#).

⁶⁹ *Id.*

⁷⁰ See the Code of Virginia [§24.2-310](#).

⁷¹ See the Code of Virginia [§24.2-604.1](#).

⁷² See the Code of Virginia [§24.2-609](#); see also Chapter 3 (Precincts and Polling Places) (explaining how to establish polling places).



2.5.3 Duties Related to Voter Registration

- The electoral board or the general registrar may set additional hours for the voter registration office to be open.⁷³
- The electoral board must approve any agreement for ongoing registration sites at businesses or other governmental agencies, as provided: “The agreement shall provide for the appointment of employees of the agency, business, or establishment to serve as deputy registrars and shall be in writing and approved by the local electoral board prior to implementation.”⁷⁴
- The electoral board or general registrar may set additional occasional registration sites.⁷⁵
- The electoral board, along with the general registrar, should ensure that all permanent registration sites comply with various state and federal acts designed to ensure the accessibility of all polling places to persons with disabilities, such as the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act.⁷⁶
- Changes in hours and locations of official voter registration sites staffed with a government employee are subject to notice requirements.⁷⁷



Regulation Note

1VAC20-20-70: Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots. General registrars should notify the secretary of the Board of Elections if he or she is having difficulty processing applications for voter registration or absentee ballots in a timely fashion in order to maintain in compliance with state and federal law (20-20-70(A)). If a registration or absentee ballot application is denied, the general registrar should provide the applicant with specific reasons why it was denied (20-20-70(B)). The board will automate this process through standard correspondence and the statewide voter registration system (20-20-70(B)).

2.5.4 Duties Related to Candidate Qualifications

- If requested by a candidate, the electoral board must notify the candidate of any deficiencies in his declaration of candidacy or his petitions “which can be corrected prior to the filing deadline.”⁷⁸

⁷³ See the Code of Virginia [§24.2-411](#).

⁷⁴ See the Code of Virginia [§24.2-412](#).

⁷⁵ *Id.*

⁷⁶ See the Code of Virginia [§24.2-413](#).

⁷⁷ See the Code of Virginia [§24.2-415](#).

⁷⁸ See the Code of Virginia [§24.2-505\(D\)](#).



2.5.5 Duties Related to Primaries and Special Elections

- The secretary must post or publish any notice of a primary that is received from the Department of Elections or other appropriate authority.⁷⁹ “Each secretary [must] post a copy of the notice on the official website of any county or city, post copies of the notice at not less than 10 public places in the county or city, or have notice of the election published at least once in a newspaper of general circulation in the county or city.”⁸⁰
- The electoral board must notify the locality’s treasurer or director of finance if any candidate is running unopposed in a primary, so that the candidate’s filing fee may be returned.⁸¹
- “In the event two or more candidates file simultaneously, the order of filing [is] then determined by lot by the electoral board.”⁸²

2.5.6 Duties Related to Town Elections

- The electoral board, along with the general registrar, must carry out elections for any town within its county and any town whose major portion is within its county. In a November election, the electoral board in a locality containing a town whose major portion is within another county must report the results ascertained for the town offices to the county in which the greatest part of the town is located.⁸³

2.5.7 Duties Related to Ballots

- The general registrar must order the printing of the number of ballots he determines are sufficient for the proper conduct of the election. This number is “subject to the approval [of] the electoral board.”⁸⁴
- “The general registrar [must] make printed ballots available for absentee voting not later than 45 days before any election,” or as soon thereafter for a nonfederal special election.⁸⁵
- The electoral board must certify its compliance with the deadline to the Department of Elections and report to SBE the number of ballots ordered.⁸⁶ The Department of Elections issues electronic surveys for this purpose.
- The general registrar must send “proofs of each printed ballot for verification, and copies of each final ballot” to the Department of Elections.⁸⁷

⁷⁹ See the Code of Virginia [§24.2-517](#).

⁸⁰ *Id.*

⁸¹ See the Code of Virginia [§24.2-524](#).

⁸² See the Code of Virginia [§24.2-529](#).

⁸³ See the Code of Virginia [§24.2-601](#).

⁸⁴ See the Code of Virginia [§24.2-612](#).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*



- The electoral board, along with the Department of Elections, must design and layout each ballot according to instructions titled “Ballot Standards and Verification Procedures.”⁸⁸
- “The electoral board or the general registrar [must] designate one person to be continuously present in the room in which the ballots are printed.” If not an electoral board member, the person must be paid at least \$20 per day.⁸⁹
- The electoral board or the general registrar must designate one of its members, or a registrar, or an employee, to “receive the ballots after they are printed and [to] certify the number of ballots received. This certificate must be filed with other” election materials.⁹⁰
- The electoral board or the general registrar must designate a person to affix the electoral board seal to each ballot and to sign a statement witnessing such. This statement must be filed with the board’s minutes.⁹¹
- The electoral board or the general registrar must have the printed ballots sorted for each precinct with at least one electoral board member or designee of the board present.⁹²
- The electoral board must designate a member, or a registrar, or an employee, to “deliver to an officer of election of each precinct the official ballots for that precinct and obtain a receipt for the package or packages.”⁹³

2.5.8 Duties Related to Voting Equipment

- The board must keep all ballot containers to be used in the precincts.⁹⁴
- The board must furnish properly designed and printed ballots for use on all optical scan voting equipment.⁹⁵
- The board and general registrar must employ a person or persons (called “custodians”) to set up and test each voting machine before each election. “The local electoral board or general registrar may assign a board member or a deputy registrar to serve as a custodian without pay for such service.” A board member serving as the custodian may not also serve in his capacity as a board member when both the custodian and a board member are required to be present.⁹⁶
- “The final testing of the equipment prior to each election [must] be done in the presence of an electoral board member, a representative of the electoral board, or the general registrar.” Again, if a board member is serving as custodian, another board member must be present.⁹⁷

⁸⁸ See the Code of Virginia [§24.2-613](#).

⁸⁹ See the Code of Virginia [§24.2-617](#).

⁹⁰ See the Code of Virginia [§24.2-618](#).

⁹¹ See the Code of Virginia [§24.2-619](#).

⁹² See the Code of Virginia [§24.2-620](#).

⁹³ See the Code of Virginia [§24.2-621](#).

⁹⁴ See the Code of Virginia [§24.2-623](#).

⁹⁵ See the Code of Virginia [§24.2-640](#).

⁹⁶ See the Code of Virginia [§24.2-632](#).

⁹⁷ *Id.*



- The board must notify appropriate local party chairs (or independent candidates for a city or town election if there are no party nominees on the ballot for any office) of the time and place that the voting equipment will be prepared and sealed and allow the persons notified to have one representative each to witness the preparation and sealing.⁹⁸
- The general registrar must retain custody of all voting machine keys after the machines have been sealed.⁹⁹
- The board or the general registrar must deliver the keys in sealed packages to designated officers of election in each precinct before the polls open.¹⁰⁰
- The board or the general registrar may designate times and places for “the exhibition of equipment containing sample ballots, showing the title of offices to be filled, and, so far as practicable, the names of the candidates to be voted for at the next election for the purpose of informing voters who request instruction on the use of equipment.”¹⁰¹
- The board must take all necessary steps to assure the security of all voting equipment hardware, software, and firmware.¹⁰²

2.5.9 Duties Related to Election Day

- The board must “ensure that the general registrar has the voting and counting equipment and all necessary furniture and materials at the polling place” before the polls open.¹⁰³
- The board or general registrar must “provide for each precinct in which any voting or counting machines are used two sample ballots.” “Such sample ballots [must] be posted for public inspection at each polling place during the day of election.”¹⁰⁴
- The general registrar must provide to each polling place a model of a portion of the machine ballot face to use in instructing voters on how to use the machine.¹⁰⁵

2.5.10 Duties Following the Election, Primary, or Referendum

- The board or general registrar may direct the return of all materials from the precincts to the office of the general registrar instead of the Clerk of Circuit Court. These materials must be conveyed to the Clerk of the Circuit Court by noon on the day following the electoral board’s ascertainment of the results.¹⁰⁶

⁹⁸ See the Code of Virginia [§24.2-633](#).

⁹⁹ See the Code of Virginia [§24.2-634](#).

¹⁰⁰ See the Code of Virginia [§24.2-639](#).

¹⁰¹ See the Code of Virginia [§24.2-635](#).

¹⁰² See the Code of Virginia [§24.2-625](#) et. seq. See also Chapter 4 (Voting Equipment) (detailing procedures related to voting equipment).

¹⁰³ See the Code of Virginia [§§24.2-610, 24.2-637](#).

¹⁰⁴ See the Code of Virginia [§24.2-641](#). See also Chapter 11 (Election Day) (detailing Election Day procedures).

¹⁰⁵ See the Code of Virginia [§24.2-647](#).

¹⁰⁶ See the Code of Virginia [§24.2-668](#).



- The board must meet beginning on the day after the election to determine the official results. A determination of the provisional ballots must be conducted within 7 days of the election.¹⁰⁷ The board must deliver “the certification of the results of the count together with all ballots and envelopes,” to the Clerk of Circuit Court.¹⁰⁸



Regulation Note

1VAC20-60-60: Provisional Votes provides that the electoral board or general registrar may attempt to contact a person who has voted a provisional ballot and remind that person that he can provide a copy of his ID until noon on the Friday after Election Day.

- “Each electoral board [must] meet at the clerk’s or general registrar’s office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election” to ascertain the results. This meeting may be adjourned to another day as needed, within 7 days from the date of the election.¹⁰⁹
- The board must complete, certify, and sign abstracts of results for each office or question on any ballot in the locality. It must deliver copies of these abstracts to the appropriate authorities, depending on the type of election held.¹¹⁰ Provisions for referenda can also be found in Title 15.2.
- The board must inform the Clerk of Circuit Court of any officer of election who has failed to return the election materials by the time of the board’s meeting to ascertain the results.¹¹¹
- The board, along with the general registrar and the officers of election, must account for all used and unused paper ballots.¹¹²
- If a local election results in a tie, “the electoral board [must] proceed publicly to determine by lot which of the candidates shall be declared elected.”¹¹³
- The secretary must make, and deliver, certificates of election to all winners of local offices.¹¹⁴



See the Handbook Chapter 14 Canvass detailing the process for canvassing results.

¹⁰⁷ See Chapter 13 (Provisional Ballots).

¹⁰⁸ See the Code of Virginia [§24.2-653](#).

¹⁰⁹ See the Code of Virginia [§24.2-671](#).

¹¹⁰ See, e.g., the Code of Virginia [§§22.1-42](#), [24.2-532](#), [24.2-671](#), [24.2-675](#), [59.1-391](#).

¹¹¹ See the Code of Virginia [§24.2-670](#).

¹¹² See the Code of Virginia [§24.2-666](#).

¹¹³ See the Code of Virginia [§24.2-674](#). The local electoral board conducts the drawing for county, city, town, or district offices; SBE conducts the drawing for General Assembly, Congress, presidential electors.

¹¹⁴ See the Code of Virginia [§24.2-676](#).



2.5.11 Duties Related to Absentee Balloting

- “The general registrar [must] carefully preserve all ballots returned unused and deliver them, together with other returned ballots, to the officers of election on Election Day.”¹¹⁵
- The board, or the general registrar, must mark the date of receipt of any absentee ballot and deposit it in an appropriate container.¹¹⁶
- The board must deliver one attested copy of the final absentee applicants list to the chief officer of election for each precinct on the day before the election.¹¹⁷
- “Before the polls close on [Election Day], the electoral board [must] deliver the absentee ballot containers to, and obtain receipt form, the officers of election at each appropriate precinct.”¹¹⁸
- “The secretary of the electoral board [must] deliver all absentee ballots received after the election to the Clerk of Circuit Court.”¹¹⁹
- Any “member of an electoral board ...” who fails to discharge his duty as provided in this section – if “guilty of willful neglect of his [her] duty” – shall be guilty of a Class 1 misdemeanor as provided in the Code of Virginia §24.2-1001(A).



Law Note

On June 25, 2013, the U.S. Supreme Court in *Shelby County, Alabama v. Holder*, 133 S.Ct. 2612, held invalid Section 4 of the Voting Rights Act that outlines the formula for determining what jurisdictions are covered under the Section 5 Preclearance processes. This ruling makes Section 5 dormant until such time as Congress enacts another formula for coverage that is consistent with the Constitution. The practical effect is that it is no longer necessary to preclear changes affecting voting with the Department of Justice.

2.5.12 Duties Related to Recounts

Please see Chapter 15 Recounts for more information.

- The board must supervise the review of pollbooks, machine printouts, and absentee ballots during any preliminary hearing related to a recount.¹²⁰
- The board must assist and advise the court on establishing procedures for a recount.¹²¹
- Board members must serve as recount coordinators if so, requested by the court.¹²²

¹¹⁵ See the Code of Virginia [§24.2-708](#).

¹¹⁶ See the Code of Virginia [§24.2-710](#).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ See the Code of Virginia [§24.2-802](#).

¹²¹ *Id.*

¹²² See the Code of Virginia [§24.2-802](#). See also Chapter 15 (Recounts and Contests) (detailing the process for recounts and contests).



2.5.13 Duties Related to Officers of Election

- The electoral board must appoint all officers of election and designate the precinct in which each will serve.¹²³
- “The electoral board by a recorded majority vote may remove from office, on notice, any [...] officer of election who fails to discharge the duties of his office according to law.”¹²⁴
- The electoral board must designate a chief officer and assistant chief officer for each precinct. “Not less than three [officers of election must] be appointed for each precinct.” “In appointing officers of election, representation [must] be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election.” “If practicable, no more than one-third of the total number of officers appointed for each precinct may be citizens who do not represent any political party.”¹²⁵
- The electoral board or general registrar shall “dismiss at a minimum the chief officer or the assistant chief officer, or both, as appropriate,” and any other officer of election who fails to record the required information when taking voting machines to voters outside the polling place on Election Day.¹²⁶
- The Department of Elections sets the training standards for the officers of election to be fulfilled by the local electoral boards and general registrars. Department of Elections policy 2010-2 establishes the training standards.¹²⁷
- The electoral board will certify to the Department of Elections each year before the November general election that (1) they have reviewed and updated their training plan to meet training standards, including changes in laws and instructions from the Department of Elections, and (2) any officers of election trained within the last year have been trained according to these standards.¹²⁸
- The electoral board must ensure that the general registrar certify to the Department of Elections that training of the officers of election has been conducted consistent with the training standards.¹²⁹ The annual and quadrennial certifications are combined on one form and are posted in the Forms Warehouse.

¹²³ See the Code of Virginia §§[24.2-109](#) and [24.2-115](#).

¹²⁴ See the Code of Virginia §[24.2-109](#).

¹²⁵ See the Code of Virginia §[24.2-115](#).

¹²⁶ See the Code of Virginia §[24.2-638](#).

¹²⁷ See the Code of Virginia §[24.2-103](#).

¹²⁸ See the Code of Virginia §[24.2-115](#).

¹²⁹ *Id.*



- The Department of Elections recommends training all new officers before each election and all officers whenever there are major procedural changes in polling place operations. The Code of Virginia also requires that officers of election who have been previously trained must be trained on new changes to election laws at least three days prior to the first election in which the new laws take effect.¹³⁰ The Department of Elections requires training on particular issues, such as completing Statements of Results or using electronic pollbooks and requests the electoral board to conduct special workshops.¹³¹
- “The board or the general registrar [must] not permit any person to serve as an officer [of election] who is not fully trained to conduct an election properly with the equipment” used in the precinct.¹³²
- An electoral board member, the general registrar, or designated officer of election must give an oath to each officer of election before the polls open.¹³³
- “The secretary of the electoral board or the general registrar [must] prepare a list of the officers of election that [must] be available for inspection and posted in the general registrar’s office prior to March 1 each year. Whenever substitute or additional officers are appointed, the secretary of the electoral board or the general registrar [must] promptly add the names of the appointees to the public list.”¹³⁴

2.5.14 Duties Related to Registrars

2.5.14.1 *The Electoral Board Must Appoint the General Registrar*

Starting in May or June of 2007, and every four years after, the electoral board for each county and city meet to appoint the general registrar.¹³⁵ General registrars serve four-year terms beginning July 1 of the year of appointment.¹³⁶ The electoral board must fill any vacancy in the office of general registrar for the remainder of an unexpired term.¹³⁷ The electoral board may seek the assistance of the locality’s human resource personnel to draft an advertisement, screen applications, and develop an interview format. Please see Appendix A for more information.

¹³⁰ *Id.*

¹³¹ See the Code of Virginia [§24.2-103](#) (Department of Elections may petition court for removal).

¹³² See the Code of Virginia [§24.2-636](#).

¹³³ See the Code of Virginia [§24.2-611](#).

¹³⁴ See the Code of Virginia [§24.2-115](#).

¹³⁵ See the Code of Virginia [§24.2-110](#).

¹³⁶ *Id.*

¹³⁷ *Id.*



Following the expiration of the general registrar’s four-year term, the electoral board is not required to reappoint the general registrar. However, the Attorney General stated in a 2023 opinion that “the decision to replace the registrar cannot be based on political affiliation or other impermissible grounds.”¹³⁸ Additionally, the process by which an electoral board seeks to appoint a new general registrar must be objective and apolitical.

2.5.14.2 *Removal of the General Registrar*

The electoral board may institute proceedings for the removal of any general registrar who “fails to discharge the duties of their office according to law.”¹³⁹ To remove a general registrar, the State Board of Elections or the electoral board must file a petition, signed by a majority of the board, with the circuit court in their locality.¹⁴⁰ The general registrar may apply to the Virginia Division of Risk Management to assign counsel to their defense and any subsequent appeals. Each board member should become familiar with the job description and skills needed by the general registrar before making an appointment to this position.¹⁴¹

General registrars have 12 months after their appointment or reappointment to receive certification through the State Board’s Certification Program. An electoral board may ask the State Board for a three-month extension of the deadline, and the State Board will consider such request on a case-by-case basis. If the general registrar does not receive certification, the electoral board is required to remove the registrar from their position.

2.5.14.3 *Additional Duties*

The electoral board may prescribe additional duties – beyond those prescribed in the Code – to the general registrar.¹⁴² If this is done, the board should create a Delegations of Authority, which should become part of the minutes, listing those board duties that are being delegated to the general registrar to perform. The Delegations of Authority should be reviewed annually. ELECT recommends that the Secretary of each electoral board retain an updated list of delegated duties to provide to any new registrar. See Appendix C for an example of how the State Board of Elections delegates duties to the Department of Elections.

¹³⁸ See Op. Va. Att’y Gen. (May 15, 2023) [23-023 Opinion Letter](#).

¹³⁹ See the Code of Virginia [§24.2-109\(A\)](#).

¹⁴⁰ See the Code of Virginia [§24.2-234.1](#). See also ELECT, [ELECT-109\(A\) Petition for Removal of General Registrar-Local Electoral Board](#) and [ELECT-103\(E\) Petition for Removal of General Registrar -State Board of Elections](#).

¹⁴¹ See the Code of Virginia [§24.2-109](#).

¹⁴² See the Code of Virginia [§24.2-114](#).



2.5.14.4 Deputy registrars

“The electoral board [must] determine the number and set the term for deputy registrars.”¹⁴³ The terms set by the electoral board may not extend beyond the term of the general registrar in office at the time but may be set to expire sooner.¹⁴⁴ The general registrar appoints all deputy registrars and establishes their duties. Localities with populations over 15,500 must have at least one deputy registrar. Smaller localities must have at least one substitute registrar who can perform the general duties if necessary.¹⁴⁵

2.5.14.5 Performance Evaluation

The electoral board must conduct an annual performance review of the general registrar each year for the 12-month period ending June 30. The electoral board must complete the review by August 1 and a copy of the summary of the review submitted to the Department of Elections by the due date determined. The electoral board must retain a copy of the complete review document in their files.¹⁴⁶

2.5.15 Prohibited Activities in the Conduct of Elections

Electoral boards are prohibited from soliciting, accepting, using, or disposing of any money, grants, property, or services, given by a private individual or nongovernmental entity for the purpose of funding voter education and outreach programs, voter registration programs, or any other expense incurred in the conduct of elections.¹⁴⁷ The prohibition does not apply to: (i) the operation of polling places or voter satellite offices in a facility furnished by a prohibited entity; or (ii) the acceptance of federal government grants that are funded in whole or part by donations from a prohibited entity. It is important to note “services” can include volunteer efforts.

¹⁴³ See the Code of Virginia [§24.2-112](#).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ See the Code of Virginia [§24.2-109.1](#).

¹⁴⁷ See the Code of Virginia [§24.2-124.1](#).



Appendix A: Guidelines for Selecting Registrar

The appointed general registrar must be a qualified voter of the jurisdiction at the time of the appointment or a qualified voter of the Commonwealth, if the locality has a population of 50,000 or less¹⁴⁸. Someone who moves into the area may be appointed, if they are a resident at the time, they are sworn in. 2009 legislation amends §24.2-110 to permit the electoral board of a city that is wholly located within one county to appoint a qualified voter of that county to serve as general registrar of the city. This change affects only those cities that are entirely located within one county. deputy registrars in other localities may be good applicants and should be considered.

*Prohibitions from being either general registrars or paid deputy general registrars*¹⁴⁹

- The spouse of an electoral board member
- A parent, grandparent, sibling, child or grandchild of an electoral board member, or the spouse of such person
- An employee of the United States government, the Commonwealth of Virginia, or of any county, city, or town
- A person who holds a paid office or post under any of the above governmental units
- A person running for or holding an elected office.
- A chairperson of a political party, officer of a state, local, or district level political party committee
- A paid or volunteer worker in the campaign of a candidate running for any office anywhere in his/her jurisdiction

If the board selects a candidate who lacks a qualified residence at the time the decision is made, the candidate must establish a qualified residence before taking the oath of office. If the appointee fails to qualify and deliver a copy of his oath to the secretary of the electoral board within 30 days after receiving notification of his appointment, the electoral board shall declare the office vacant and fill the office.¹⁵⁰ Taking the oath as registrar automatically vacates any incompatible office or post, and the new general registrar should immediately notify the appointing authority that they have vacated their previous post. Acceptance of an incompatible office or post by an incumbent registrar automatically vacates the registrar's office.¹⁵¹ The electoral board will meet to select the final candidate. Immediately after its meeting, the secretary of the electoral board must certify to the Department of Elections the appointment of the general registrar (newly appointed or reappointed) using the General Registrar Certification of Appointment form.¹⁵²

¹⁴⁸ See the Code of Virginia [§24.2-110](#)

¹⁴⁹ See the Code of Virginia [§24.2-110](#).

¹⁵⁰ See the Code of Virginia [§24.2-110](#).

¹⁵¹ *Id.*

¹⁵² See [ELECT-110](#).



Appendix B: Electoral Board Job Description

Electoral Board Job Description

Summary:

The Electoral Board of each County and City in Virginia is composed of three members who serve three-year staggered terms. Two members are members of the political party of the most recently elected governor. The chair and secretary must represent different political parties unless the position is declined. Although the bipartisan board is appointed by the Circuit Court based upon local party recommendations, each member must carry out official duties in a nonpartisan manner. The authority for the administration of all aspects of elections for the locality remains with the Electoral Board, including oversight of the General Registrar/Director of Elections, and is responsible to the State Board of Elections for that administration. It employs and supervises the General Registrar, who handles voter records. Generally, the work of the Electoral Board should be shared equally by all three members, although the Secretary has additional responsibilities.

I. Responsibilities:

A. Election administration includes:

1. Approve and recommend polling places within the precincts established by the local government.
2. Approval of voting equipment to be used, and development and approval of a security plan to keep all equipment and materials secure.
3. Ensure the creation, production, and proper custody of ballots.
4. Ensure the proper conduct of Logic and Accuracy (L&A) test to be sure equipment is programmed correctly for each election.
5. Assistance in conducting absentee voting.
6. Appointment of officers of election and ensuring that training, assignment, and review of precinct officers of election occurs.
7. Ensure coordination with other local government departments (e.g., police, sheriff, public works, IT, schools) to ensure smooth conduct of each election.
8. Assistance in procuring, packing, and delivering supplies to polling places.
9. Ensure proper setup of polling places prior to each election.
10. Assistance in polling places and offices as needed on Election Day. Availability to respond to inquiries from media, voters and political parties.
11. Conduct of post-election canvass to ascertain that all precinct results are accurate and complete.
12. Based on input from the General Registrar, determination of validity and counting of provisional ballots.
13. The Electoral Board's signatures on the certification of results following the canvass is the ultimate declaration of the truth, accuracy and dependability of the vote totals being submitted to the Commonwealth and is thus the foundation of the democratic process.

B. The Electoral Board has additional responsibilities, including:

1. Appointment, removal, and annual performance evaluation of General Registrar.



2. Certification of candidates, when required..
3. Conduct of meetings in accordance with the Freedom of Information Act (FOIA).
4. Familiarity with federal and state laws that must be followed in conducting elections.
5. Attendance at training programs provided by Virginia Department of Elections (ELECT).
6. Together with the General Registrar, administration of the Office of Elections, including budgeting and dealing with local government officials, as needed.
7. The Secretary of the Electoral Board has specific tasks and responsibilities according to the Code and must take and keep accurate minutes of all board meetings.

II. Electoral Board Activity Prohibitions:

- A. May not collect any fee as a notary during the time of such appointment.
- B. May not engage in political activities when performing official duties.
- C. May not solicit signatures for candidate petitions in a public building.

III. Qualifications:

The following qualification is required by law: Must be a qualified voter of the County or City, in good legal standing.

IV. Disqualifications:

- A. Must not be directly related to another Electoral Board member or General Registrar or to a candidate or holder of elected office.
- B. May not serve as chair of a political party, at local, district or state level, and may not hold elected office or offer to be a candidate for elected office.
- C. May not be employed by or hold incompatible office under federal, state, or local government.

V. Additional desirable characteristics:

- A. Customer-service orientation in dealing with voters.
- B. Computer literacy, as much business is conducted via email.
- C. Ability to travel around the County or City.
- D. Public speaking ability to conduct training or address groups.
- E. Writing ability to write training materials, legislative positions, or analyses.
- F. Basic budgeting skills.
- G. Knowledge of basic legal concepts and judicial proceedings; willingness to become deeply familiar with United States Code Title 52 and Virginia Code Title 24.2 governing Elections and administrative regulations thereunder.
- H. Assertive manner when needed to enforce compliance with code or regulations.

Conditions:

Service on the Electoral Board is a part-time seasonal job. There is a general election every year in November and a primary election most years in June. In addition, there may be City or Town elections in May and special elections whenever called. From six to two weeks prior to each election, the board may need to be available a few times per week for a few hours. The week prior to and the week of the election, the board needs to be available most of the time,



including 5am-10pm or later Election Day. At other times the board may meet monthly and may attend training or networking meetings or conferences. Members may be asked to address local groups or attend meetings of interest.



Appendix C: Sample Delegations of Authority

<u>Virginia State Board of Elections: Delegation of Authority 2023</u>				
<u>Code §</u>	<u>Code Responsibility</u>	<u>Authority</u> B=Board D=ELECT	<u>Date</u>	<u>Comments</u>
24.2-103	A. The State Board , through the Department of Elections, <u>shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections.</u> Its supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws.	B	6/22/21	
24.2-103	Electoral boards and registrars <u>shall provide information requested by the State Board</u> and shall follow (a) the elections laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law.	D	6/22/21	
24.2-103	A.The State Board shall post on the Internet within three business days any rules or regulations made by the State Board .	D	10/29/19	
24.2-103	Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any instructions or information provided by the State Board to the local electoral boards and registrars.	D	10/29/19	
24.2-103	B. The State Board , through the Department of Elections, shall ensure that the <u>members of the electoral boards are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards for the training.</u>	B	6/22/21	





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 3

Precincts and Polling Places

September 2023

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3. Precincts and Polling Places


<p>REQUIRED FORMS SBE-307 Split Precinct Waiver ELECT-310C ADACC ADA Compliance Confirmation Standard Polling Place Change (JIRA ticket) Emergency Polling Place Change (JIRA ticket) One Mile Precinct Waiver (JIRA ticket)</p>	<p>ADDITIONAL RESOURCES Virginia Constitution Code of Virginia Charter Provisions</p>
<p>REFERENCE SBE Policy 2008-013 SBE Policy 2004-007</p>	<p>REGULATIONS 1VAC20-20-80 Complaints 1VAC20-60-30 Electronic Devices in Polling Places</p>

3.1 CHAPTER ORGANIZATION

Members of the local electoral board and general registrars work with the local governing body to establish precincts and polling places that meet the requirements of law, the needs of the locality, and the needs of the voters in each precinct. This chapter discusses requirements and best practices for general registrars and electoral boards as they manage precincts and polling places in their locality.


The first part of this chapter, §3.2 Precincts, covers general information that registrars and electoral boards should know concerning precincts. First, §3.2.1 provides a general description of what a precinct is. Next, § 3.2.2 describes how to establish or change a precinct. Section 3.2.3 provides the legal framework for precincts and discusses situations in which changing or establishing precincts may be required or prohibited. Finally, §3.2.4 discusses split precincts. This section defines split precincts, discusses why it is ideal to prevent their creation, and how to eliminate them when they do occur.

Frequently Asked Questions



How would you describe a precinct?

A **precinct** is a geographic area in a locality or town that is served by the same polling place.



How would you describe a polling place?

A **polling place** is the specifically designated location at which any qualified voter who is a resident of the precinct may vote.

The second part of this chapter, §3.3 Polling Places, covers general information that registrars and electoral boards should know concerning polling places. First, §3.3.1 provides a general definition of polling place. Next, §3.3.2 explains the process for establishing or relocating a polling place and includes a discussion of emergency polling place relocations. Section 3.3.3 discusses the basic



legal requirements that all polling places must meet. A best practice guide that includes non-legal considerations for polling places is also included. Section 3.3.4 concludes the general discussion of polling places with an overview of how to operate a polling place that is located in a split precinct. Polling place layout, officer training, and Election Day procedures are covered.

Section 3.4 focuses the discussion of establishing and changing precincts and polling places, moving from the general discussion of working with the local governing body in §§3.2 and 3.3 to a more specific discussion of procedures to be followed by the registrar after an ordinance creating a new polling place has been passed. This discussion includes procedures for notifying ELECT and voters.

3.2 PRECINCTS

3.2.1 What is a Precinct?

A precinct is a geographic area within a locality or a town, established by ordinance by the local governing body. As per the Code of Virginia §24.2-307, the “governing body of each county and city may establish as many precincts as it deems necessary.”¹ A precinct must be wholly contained in any district used to elect members of the local governing body.²

3.2.2 How to Establish or Change a Precinct

The governing body (board of supervisors, town council, etc.) of each locality is responsible for establishing or changing local precinct lines and **must do so by ordinance**.³ The local governing body cannot establish a precinct with more than “5000 registered voters.”⁴ At the time any precinct is established, each precinct in a county shall have “no fewer than 100 voters and each precinct in a city shall have no fewer than 500.”⁵

Even though the governing body bears the responsibility for creating local precincts, the general registrar and local electoral board should be directly involved in the process.

3.2.2.1 *Governing Body Passes Ordinance*

A general registrar or electoral board should alert the governing body to the need for a new precinct, or the need to make precinct changes. The general registrar or electoral board should ensure that any proposal to change a precinct complies with federal and Virginia laws, including and especially, the accessibility provisions and requirements for enacting a covered practice (see 3.3.2 How to Establish or Relocate a Polling Place). Local elections officials are responsible for helping the governing body understand the relevant considerations that go into determining precinct boundaries.

¹ See the Code of Virginia [§24.2-307](#).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*



3.2.2.2 *General Registrar Notifies ELECT of Precinct Change*

The general registrar must submit the SBE-15 Polling Place Relocation form to the Department of Elections for any change to a local election district, precinct, or polling place. The completed form and the accompanying ordinance, meeting minutes, and/or certification of no objection from the Office of the Attorney General for the governing body where the change was formally adopted should be sent to the online ELECT Systems Support ticket portal at jsd.elections.virginia.gov. ELECT will review the documents and make the changes in VERIS.

3.2.2.3 *Cannot Change Precincts within 60 Days Before a General Election*



The local governing body may make precinct boundary changes only outside of the 60 days before any general election.⁶ Within the 60 days before a general election, changes to precincts are strictly prohibited. There is no emergency provision for making changes to precincts within the prohibited period.



Law Note

The Attorney General's 2006 opinion 06-014 stated that "a county board of supervisors is statutorily authorized to alter the boundaries of voting precincts at any time other than within sixty days before any general election." For more information, see [2006 Va. Att'y Gen. Op. 06-014](#).

3.2.3 Laws Governing Precincts

3.2.3.1 *Compact and Contiguous*

Each precinct must be a compact and contiguous geographic area with clearly defined and clearly observable boundaries.⁷ A "clearly observable boundary" can be man-made (e.g., roads, train tracks, etc.), or natural (e.g., rivers, lakes, etc.).⁸ A single precinct cannot overlap two *unconnected* territories but can contain more than one territory.

A precinct must also be wholly contained within an election district used for the election of one or more members of the governing body or school board for the city, county, or town.⁹ For example, where there are two adjacent districts for two separate school board seats, a single precinct cannot overlap the two districts.

The precinct must be located completely within one school board district or the other, but multiple precincts may be located inside one district.

⁶ See 2006 Va. Atty. Gen. Op. [06-014](#).

⁷ See the Code of Virginia [§24.2-305\(A\)](#).

⁸ See the Code of Virginia [§24.2-305\(B\)](#).

⁹ See the Code of Virginia [§§24.2-307](#) (county and city) and [24.2-308](#) (town).



3.2.3.2 *Minimum and Maximum Populations Served*

In addition to restricting the geographic boundaries of precincts, the Code also restricts the number of voters a precinct can serve.¹⁰ The Code does not restrict the number of registered voters in a town precinct.

- A **county precinct** – when established, can contain no less than 100 and no more than 5,000 registered voters.
- A **city precinct** – when established, can contain no less than 500 and no more than 5,000 registered voters.



Please note that a precinct containing an insufficient number of registered voters may be established when a larger precinct cannot be created without causing a precinct split (see 3.2.4 Split Precincts below).¹¹

3.2.3.3 *Changes in Population*

Precincts may need to be established or adjusted for any number of reasons. The general registrar or electoral board should notify the governing body when a precinct experiences a significant shift in population, particularly if the population begins to approach statutory limits. The general registrar **must notify the governing body if the presidential election turnout for a precinct exceeds 4,000**.¹² The governing body must revise the precinct boundaries within 6 months to avoid having more than 5,000 registered voters.¹³

3.2.3.4 *Town Precincts*

Counties that contain incorporated towns that conduct elections in accordance with local charter will also designate town precincts. Town precincts are geographic boundaries that determine where residents of each town will vote. Each town must have at least one precinct.¹⁴ Town precincts and their associated polling places are only used when the election being conducted in the locality is solely for the election of town offices. Normally, town precincts are relevant to any special election conducted for election of town offices only.



Best Practice

A town precinct is not prohibited from overlapping the boundary of a county precinct because town precincts are only operational when the surrounding county precincts are not conducting elections. However, when possible, avoid overlapping town precincts. See the Code of Virginia §24.2-310(A).

¹⁰ See the Code of Virginia [§24.2-307](#).

¹¹ See the Code of Virginia [§24.2-308](#).

¹² See the Code of Virginia [§24.2-307](#).

¹³ *Id.*

¹⁴ See the Code of Virginia [§24.2-309](#).

Town elections conducted in conjunction with the November general election will use the surrounding county or city precincts. While town precincts may not divide town council or school board districts, there is no prohibition on these districts being divided by electoral precincts used generally.¹⁵



Policy Note

Due to the rise in absentee voting, and the projected continued expansion of absentee voting, ELECT Policy recommends that absentee voters be excluded when calculating the number of voters, a precinct will serve. However, absentee voters may be included or excluded for the purpose of calculating the number of voters in each precinct and creating new precincts when necessary. See SBE Policy 2008-13.

3.2.4 Split Precincts

With the exception of towns, a locality should only have a split precinct if a waiver has been granted by the State Board.¹⁶ A split precinct is one that overlaps election districts such that voters who live in the same precinct vote in different election districts. Not all voters in the same split precinct will receive the same ballot style on Election Day. A split precinct will need to have multiple ballot styles to serve all voters within the precinct.

Precincts can be split by congressional or General Assembly district lines. They can also be split when a town lies within a larger precinct or across locality lines. However, not all elections will result in a split in a precinct. For example, an even-year general election will not be affected by general assembly district splits except in the instance of a special election in the general assembly office.

If a locality has a precinct that does not meet the minimum number of registered voters and the governing body would like to request a waiver from the State Board, localities must fill out a form and provide it to the Elections and Registration Services division of ELECT at least two weeks before the next scheduled State Board meeting, where this request is to be heard. The form may be found on [Forms Warehouse](#) under "Local Administration". The form requires¹⁷:

- Basic information about the request (locality, contact information, etc.)
- Date the Governing Body's meeting occurred.
- Governing Body's Resolution.
- Governing Body's Meeting Minutes.
- Information on any previous waiver requests.
- Precinct Number, Name, and brief explanation of reason for the request.

¹⁵ See the Code of Virginia [§24.2-309](#).

¹⁶ See the Code of Virginia [§24.2-307](#).

¹⁷ See [ELECT SBE-307 Split-Precinct Waiver](#).



A representative from the locality should be available at the applicable State Board meeting to answer any questions presented by the Board regarding your request. A locality may only administer a split precinct for elections held in the year the waiver is granted. The governing body of each locality must approve the request for a split precinct waiver each year when the split precinct impacts the elections for that year; resolutions from the previous year will not be accepted to renew a split precinct waiver.

3.2.4.1 *How Split Precincts Are Created*

Split precincts can be created in several ways. A precinct can be split if the boundary lines adopted by the General Assembly (i.e., the House of Delegates, State Senate) do not coincide with precinct lines adopted by the locality. This may occur during redistricting. The General Assembly is not required to draw boundaries that align with precinct boundaries.

A split may also be created when a boundary change between two localities (including an annexation) crosses over a General Assembly, or congressional district line.

Towns can also be the cause of a split. This occurs when the precinct containing a town is bigger than the town, or the town is located in more than one county and a town election is held at the same time as another type of election in the county.

3.2.4.2 *How to Prevent a Split Precinct*

When considering a proposed precinct, a locality may need to make adjustments to local districts together with precinct changes in order to prevent the creation of local splits. To avoid local splits after the decennial census, local redistricting should be done in tandem with local redefining of precinct boundaries.

Localities that elect their local governing bodies from districts in November of a redistricting year (i.e., 2011, 2021, etc.) must complete their work in time for use in any June primary that may be held for those offices and the November elections. The election calendar and redistricting timeframe make it necessary for these localities to do their work at the same time the General Assembly is doing its work. In contrast, localities that do not elect local offices from districts in November of a redistricting year should be able to wait and run their November redistricting year general elections using the new precinct lines that the General Assembly adopts. These localities have until December 31st of the redistricting year to complete redistricting local office districts. Local redistricting that can follow the General Assembly's adopted plan has the advantage of allowing localities to adjust their precinct boundaries to eliminate split precincts or to create new precincts from the split precinct segments.

All localities should monitor the General Assembly's work. This can be done by contacting the Division of Legislative Services. Advance knowledge of the General Assembly's plans can help localities develop plans to draw local lines that coincide with the state legislative district lines.¹⁸

¹⁸ See [Division of Legislative Services](#) for more information.



3.2.4.3 *How to “Heal” a Split Precinct*

Occasionally the creation of a split precinct is unavoidable. When a precinct is split, localities can sometimes take steps after the fact to remove the split. This is referred to as “healing” a split precinct.

The Code and accepted practice permit adjustments in lines following the decennial redistricting for the express purpose of making local district/ward lines coincide with state legislative or congressional lines. Methods by which adjustments can be made include the following:

- General Assembly enactment
- Local governing body adjustment affecting no more than the lesser of either 250 persons or 5 percent of the population of the ward or district¹⁹
- A judicially approved boundary change agreed to by adjacent localities²⁰

These same strategies can be employed when a split precinct has been created by a boundary change or settlement between localities, an annexation (towns can annex; cities are currently prohibited from doing so), the creation of a new town or the reversion of a city to town status. The decennial district lines must be followed for General Assembly and congressional elections until the appropriate legislative body enacts changes to align the new jurisdictional lines.

When the methods discussed above are not effective, localities may wish to either create new precincts out of their split precinct segments or to adjust precinct boundaries to eliminate the split precinct. This could add some expense in terms of number of election officials, machines, etc., but it is often preferable to living with the operational complexity of split precincts.

It is important to note, any changes to the boundaries of an election district or ward in a locality including changes made pursuant to a decennial redistricting measure is considered a covered practice. See 3.3.2 How to Establish or Relocate a Polling Place below, for instructions on how to enact a covered practice.



Best Practice

Voters often overlook or misunderstand voter registration notices. Expect more questions from voters in the year or two after a major redistricting. If the locality has new split precincts, ELECT suggests you provide supplementary training to all office personnel who interface with voters. Train staff not to rely on their own memory or knowledge about which precincts are where, or which districts share a precinct.

¹⁹ See the Code of Virginia [§24.2-304.1](#).

²⁰ See the Code of Virginia [§15.2-3106](#) et seq.



3.3 POLLING PLACES

3.3.1 What is a Polling Place

A polling place is the specific location (typically a public building) where voters go to cast their ballots on Election Day. There is one and only one polling place associated with each precinct. The governing body must establish each polling place by ordinance.²¹ According to the Code of Virginia and a 2021 Advisory Opinion of the Office of the Attorney General, central absentee voter precincts, voter satellite offices, and offices of general registrars that are used as the designated location for early voting are considered “polling places” such that the requirements of §§ 24.2-129, 24.2-306, and 24.2-310(C) as well as the prohibitions of §24.2-604 (A) (iv) apply.²²

3.3.2 How to Establish or Relocate a Polling Place

The local governing body is responsible for establishing and relocating polling places; this must be done by passing an ordinance.²³ Any change that reduces the number of, consolidates, or relocates polling places in the locality is considered a “covered practice” and a locality must meet certain requirements before the change can be enacted.²⁴ These requirements fall under what is called obtaining “preclearance”.

To enact a covered practice the **governing body** of a locality must adhere to the following:

- Present the proposed change in advance for public comment for a minimum of 30 days.
- Conduct at least one public hearing.
- Wait an additional 30 days following the public comment period before the proposed change becomes effective.

In lieu of a public comment period, the governing body can receive a certification of no objection from the Office of the Attorney General. The certificate of no objection indicates the covered practice does not have the purpose or effect of denying or abridging the right to vote based on race, color, or membership in a language minority group.

General registrars and electoral boards should nonetheless be directly involved in the process: scouting the locality for potential polling places, meeting with operators of proposed polling place facilities, alerting the local governing body to the need for a polling place change, helping the governing body balance the relevant considerations that go into choosing a polling place, and managing existing polling places. A good working relationship with the local governing body

²¹ See the Code of Virginia [§24.2-307](#).

²² See the Code of Virginia §§[24.2-129](#), [24.2-306](#), [24.2-310\(C\)](#), and [24.2-604\(A\)](#). See 2021 Va. Atty. Gen. Op. [21-040](#).

²³ *Id.*

²⁴ See the Code of Virginia [§24.2-129](#)



and the other agencies of local government is of the utmost importance for accomplishing these tasks.

3.3.2.1 *Cannot Change Polling Place within 60 Days*



The local governing body cannot change the location of a polling place within the 60 days before any general election.²⁵ Unlike precincts, however, there are exceptions to this rule for certain emergency situations.

3.3.2.2 *“Emergency” Polling Place Relocation*

When an emergency makes a polling place inaccessible or unusable within 60 days before a General Election, either the electoral board or general registrar should act immediately to work with the local governing body to find an alternate polling place site in compliance with all applicable deadlines.

Frequently Asked Questions



What is an “emergency”?

The term “emergency” is narrowly defined in § 24.2-310(D) as “a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.”



Policy Note

In some circumstances where the Code confers responsibilities on the State Board of Elections, the Board has delegated these responsibilities to the Department of Elections. One example of this is the Department’s responsibility for approving emergency relocations of polling places where the Code of Virginia §24.2-310(D) reads that such a relocation is “subject to the prior approval of the State Board.” This and other instances where the State Board has delegated responsibilities to the Department are outlined in [SBE Policy 2004-007](#) last amended June of 2021

The Department of Elections must provide prior approval for an emergency relocation of a polling place.²⁶ The Commissioner of Elections may request the State Board of Elections consider the matter before or after approving a request, as a matter for possible action for failure to properly discharge the duties of office.²⁷ An emergency request cannot be approved unless it is clear that the nature of the emergency requires immediate action and approval by the Department of Elections. If a permanent

²⁵ See the Code of Virginia [§24.2-306\(A\)](#).

²⁶ See the Code of Virginia [§24.2-310\(D\)](#), “subject to the prior approval of the State Board.” This has been delegated to the Department of Elections. See, [State Board of Elections Policy 2004-007](#) as amended September 4, 2010.

²⁷ See the Code of Virginia [§§24.2-103](#) and [24.2-234](#).





relocation is not possible, the electoral board or general registrar may erect or rent a temporary building (e.g., a trailer) as the temporary site, if it is generally accessible to voters. Localities are required to provide notice to both voters and candidates once approval is granted.²⁸

A general registrar that realizes a polling location may be unsuitable for Election Day prior to the 60-day prohibition does not need to submit an Emergency Polling Place Relocation Approval Request. Rather, a completed SBE-15 form, and the required documentation will suffice in making the needed changes.

For changes to polling locations within the 60-day prohibition period, only an emergency as defined under Va. Code §24.2-310(D) will suffice for a polling place change.

3.3.3 Laws Governing Polling Places

The polling place is the site of all major Election Day activities. Localities should select the polling place that best facilitates voting, while complying with the following legal requirements.

3.3.3.1 Location Requirements

- There can be one, and only one, polling place for each county, city, or town precinct.²⁹
- The polling place must be located within the boundaries of the precinct it serves or within one mile of that boundary.³⁰
 - Exception: In the event that there is **no suitable building** that could be used within the precinct or within one mile of the precinct boundary, a locality may request a waiver from ELECT to establish a polling place that does not meet the location requirements.³¹ Waivers are generally used only in the case of an emergency, or for precincts that are established with less than the minimum number of registered voters pursuant to §24.2-309.³²
 - In circumstances where a polling place is located outside the precinct it serves, multiple polling places may be situated within the same facility.³³
- The polling place must also be located in the locality that it serves.³⁴
 - Exception: a county may locate a polling place in a city that is “wholly contained within the county election district served by the precinct.”
 - Exception: a county may locate a polling place in a city where “the city is wholly contained within the county and the polling place is located on property owned by the county.”

²⁸ See the Code of Virginia [§24.2-310\(D\)](#).

²⁹ See the Code of Virginia [§§24.2-307](#) (counties and cities) and [24.2-308](#) (towns).

³⁰ See the Code of Virginia [§24.2-310\(A\)](#).

³¹ See the Code of Virginia [§24.2-310\(G\)](#).

³² See the Code of Virginia [§24.2-309](#).

³³ See the Code of Virginia [§24.2-310\(B\)](#).

³⁴ See the Code of Virginia [§24.2-310\(A\)](#).



As with precincts, a town election for town offices held in November must use the regular polling places for the county in which most of the town is located.³⁵

3.3.3.2 Facility Requirements



All polling places must be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act,³⁶ the Voting Accessibility for the Elderly and Handicapped Act,³⁷ and the Americans with Disabilities Act³⁸ relating to public services.³⁹

- The Department provides a checklist for determining whether a prospective polling place meets these requirements.⁴⁰
 - This requirement is discussed in depth in Chapter 5 Accessibility.
 - Localities are required to submit an ADA Compliance Confirmation annually to ELECT to verify that a checklist was used to inspect polling places and that the polling places are compliant.
- A polling place must be “located in a public building whenever practicable.”⁴¹
 - If no public building is available, a polling place may be located in a building “which serves primarily as the headquarters, office, or assembly building” for “an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature.”⁴²
 - The locality may only locate the polling place in another type of facility if no other building meets the requisite accessibility requirements and only with the approval of the Department of Elections.⁴³
- Where multiple polling places have been established within the same facility, each must be located in a “separate room” or have its own “separate and defined space”.⁴⁴

³⁵ See the Code of Virginia [§§24.2-601](#) and [24.2-310\(A\)](#).

³⁶ See the Code of Virginia [§51.5-1 et seq.](#)

³⁷ See [52 U.S.C. §20101 et seq.](#)

³⁸ See [42 U.S.C. §12131 et seq.](#)

³⁹ See the Code of Virginia [§24.2-310\(C\)](#).

⁴⁰ See [ELECT-310C](#) (in the Forms Warehouse).

⁴¹ See the Code of Virginia [§24.2-310\(B\)](#).

⁴² See the Code of Virginia [§24.2-310.1](#).

⁴³ *Id.*, “unless the State Board has approved the use of the building.” This has been delegated to the Department of Elections. See [SBE Policy 2004-007](#) as amended September 14, 2010.

⁴⁴ See the Code of Virginia [§24.2-310\(B\)](#).





Regulation Note

1VAC20-20-80: Complaints. Anyone may make an informal complaint either by telephone or electronically (20-20-80(A)). It is the locality's responsibility to respond to these complaints, but the locality may request assistance from the Board as needed (20-20-80(A)). The Board must provide the forms from the Help America Vote Act of 2002 to allow people to make formal requests (20-20-80(B)). These formal complaints require review and a response from the Commissioner or Deputy Commissioner, who may contact the locality to gather more information (20-20-80(B)). If the submitted complaint does not meet the requirements of a formal complaint, it may be responded to informally by the appropriate staff (20-20-80(B)).



Best Practice Guide to Selecting a Polling Place

Availability

The polling place should be available for all general, special, and primary elections. Selection of a public building for the location of a polling place helps to ensure availability.

Accessibility

As discussed above, polling places are legally required to meet accessibility standards related to public services outlined in the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act ("ADA"). Local electoral board should visit each potential new site and conduct an accessibility survey before recommending it. Localities should consider the effort and cost (and available funding) necessary to make the site accessible.

Convenience

Where possible, the polling place should be in a location that provides maximum ease of access for all voters in the county, city, or town precinct. A polling place should be on a well-known street or road, in a well-known public building, and in a location that requires the shortest driving time for voters in the outlying parts of the precinct. While there are no rules regarding maximum travel time to a polling place, it is recommended that, in general, a voter should not be expected to spend more than twenty minutes, under normal traffic and weather conditions, driving to the polling place from home.

Security

Polling place facilities should also provide a sense of security to voters while ensuring that a free, open, and transparent election is conducted. The ideal facility should have a secure area where voting equipment and materials can be safely stored overnight, should that be necessary.



Utilities

Proper utilities are important for ensuring the effective operation of election technology and the safety and comfort of voters and election officials at the polling place. At a minimum the polling place should have electricity, adequate lighting, and phone availability. Polling places should also have adequate heat for winter elections and air conditioning for summer elections. Restroom facilities are also important. Make sure election officials are aware of how to operate utilities when the option is available (e.g., if the thermostat for the room in which polling takes place can be adjusted, or if the polling place telephone requires a particular number to reach an outside line).

Order

Voting should be able to be conducted with minimal disruption by the activities that normally take place at a polling location. To evaluate whether this is possible, look at the overall facility and the actual polling place during a time of normal activity. For example, if a proposed polling place is in a school, visit on a day school is in session. Because there are elections throughout the year, this should be done even if the locality normally does not have class on November Election Days. Be careful with the use of gymnasiums in educational facilities. Negotiation with facility management may be necessary to ensure that no sporting or other events are scheduled for the evening of Election Day, particularly for special elections, and to make sure that sports equipment is not left where it can impede voting activities or be accessed by voters. Gyms are often cold and acoustically difficult for voters with hearing disability, so other types of rooms are preferred if available.

When evaluating the suitability of a polling place, identify potential hazard areas (e.g., steps/sidewalks that could be icy in winter, floors that could be slick when wet). Discuss your concerns with facility management or custodial staff to ensure that these problem areas will not cause issues on Election Day. Additionally, you may want to consider the safety in managing the 40-foot line pursuant to §24.2-604. For example, using a polling place entrance within 10-feet of street would lead to unsafe conditions and potentially impact the First Amendment rights of individuals wishing to campaign.

Emergency Preparedness

Each polling place should be equipped to respond to any number of emergency circumstances. Make sure that polling places are equipped with basic safety equipment (e.g., fire alarms, fire extinguishers, clearly marked exits). Talk to the property manager about whether emergency evacuation plans exist for each polling place (evacuation routes, meeting points, etc.). If a plan does not already exist, registrars or electoral boards should consider making one for officers. You should also consider contingency plans should an emergency make the polling place inaccessible on Election Day. For example, is there a secure space outside the polling place that could be used to conduct the election should the polling place become unusable? Is there a nearby facility that the polling place could be moved to in the event of an Election Day emergency? Registrars may consider keeping the contact information of such nearby facilities, just in case such an emergency occurs.



3.3.4 Operating a Split Precinct Polling Location

Split precincts require additional planning beyond that required to run a polling place with only a single ballot style. Current election technology should allow for the smooth operation of split precincts, but officers of election must be mindful of the ballot style that each voter should receive and have a well-documented process for identifying the ballot style that should be received by each voter.



Best Practice

Some localities use colored cards that are handed to voters that they exchange for the correct ballot style, other localities have the ballots accessible to the check in clerks who distribute ballots.

3.3.4.1 Precinct Organization

How a split precinct is laid out may vary, but these variations tend toward two extremes. Some localities treat precinct segments separately. These localities may use colored cards that direct voters to separate areas where they are handed the correct ballot style and/or given access to the correct voting device. Other localities chose to have a less clear separation between precinct segments.

The choice of how to organize affects your polling place set-up, the number of machines, lines, and officers that you need, as well as the supplies used in the precinct and envelopes for returning the official supplies. Variables that may impact the choice of setup include the type of voting equipment in use, whether e-pollbooks or paper pollbooks are used, and whether you have more than one room inside the polling place available for voting.

3.3.4.2 Officer Training

Pre-election training sessions should include a special class for officers working in split precincts. It is important that these officers completely understand their responsibilities on Election Day.

Officers of election should be familiar with the geography of the split precinct and which voters are voting in each election. While the voters' ballot style should be clearly indicated on the electronic pollbook, it is still helpful for the officers of election to know what areas, neighborhoods, and subdivisions of the precinct are in the different segments of the split. This will be helpful in explaining to voters who ask why only certain offices are on their ballot.

Officers should understand the sign-in process, the operation of separate entry slips (if used), how to handle voters who are in the wrong line (if used), when to call the registrar's office, etc. It should be emphasized that a split does not affect how the pollbook will be marked.

Finally, officers in split precincts must understand how to complete the Statements of Results (SOR); two Statements must be completed for each precinct split.



3.3.4.3 *Conducting the Election*

After the voter has been checked in on the pollbook, the officer of election should either give them an entry slip that clearly shows which machine type or ballot style to use (when treating splits separately) or give them the correct ballot style (when splits are “combined”).

For ballot scanner systems, separate scanners may be used for each split or all splits may be programmable on one scanner depending on the type of equipment and how the locality chooses to manage their splits. Machine officers must be trained on how to manage splits on their equipment prior to Election Day.



Regulation Note

1VAC20-60-30: Electronic Devices in Polling Places. Regulation 20-60-30(A) states that individuals may use and bring electronic devices inside the polling place. Party candidates and representatives, however, are prohibited from taking photos or videos within the polling place.

Officers of election are authorized to monitor and restrict use of electronic devices inside the polling place if an individual’s use hinders or delays the voting process, or if this device is being used to influence, intimidate, or solicit another individual’s vote (20-60-30(B)).

Those found violating 20-60-30 may be asked to stop using their electronic device, to use their electronic device outside the polling place only, or to leave the polling place entirely (20-60-30(B)). However, a voter may not be removed from the polling place for use of an electronic device until after their ballot is cast (20-60-30(C)). Any determination an officer of election makes as to the use of electronic devices in polling places is subject to immediate appeal to the local electoral board (20-60-30(D)).

Electoral boards are also forbidden from enacting any policy that categorically denies use of electronic devices in polling places (20-60-30(E)).

3.3.4.4 *Ascertaining the Results*

After the polls close, the officers of election should go about their closing/ascertainment routine as if there were two separate precincts. Two Statements of Results (SORs) should be completed for each precinct segment.

The Statement of Results (SOR) form should be labeled to identify the precinct segment it covers. Everything entered on the form should apply only to the precinct segment it covers. Particular care is required to enter the “number of voters voting” only for the relevant segment.

There is no need to separate each segment into separate election materials envelopes for return to the clerk of court or registrar. However, all sensitive materials (materials that will be needed by the electoral board during the canvass or materials that might be needed in a recount or contest) should be separately banded and bundled according to split precinct segments. Each bundle should be labeled with a piece of paper noting the



appropriate precinct segment before the bundles are placed in the appropriate envelope. There is no need to separately bundle items that are not germane to a canvass, recount or contest, such as the Code book, officer of election buttons/badges and the like.

3.3.4.5 *Reporting Results*

Localities that assemble their unofficial results on election night by calling them into a central office must agree in advance on whether to report results by split precinct segment or by aggregating the segments in order to provide results for the complete precinct. The registrar or electoral board member should, when reporting to the media, report the aggregated results for the entire precinct. Reporting by split precinct segment serves no purpose and will only confuse media representatives.

3.4 PROCESS TO CHANGE PRECINCT OR POLLING PLACES

No changes that reduce the number of, consolidates, or relocates polling places in a locality can move forward without first having a public comment period with a public hearing or receiving a certificate of no objection from the Attorney General.

3.4.1 *Providing Notice to the Department of Elections*

Precinct and polling place management in VERIS is handled by the Department of Elections. Once your change request has been submitted, ELECT will process your ticket through JIRA and make the necessary updates in VERIS.

3.4.1.1 *More Than 60 Days Before a General Election*

If it is more than 60 days before a general election, a completed Standard Polling Place Change form must be submitted through JIRA to the Department of Elections. The ticket must include: (i) a copy of the ordinance or minutes from the local governing body; and (ii) supporting documentation that shows the preclearance process was followed such as public hearing minutes or a copy of a certification of no objection. The Standard Polling Place Change form may be used for multiple purposes not involving polling place relocation (e.g., precinct line change, name change, change to the location of the general registrar's office). Please check the boxes on the form that describe the requested change and provide the required information (e.g., ADA compliance and electric company information for a polling place change).

3.4.1.2 *60 Days or Less Before the General Election*

If there are fewer than 60 days before the general election, the general registrar or electoral board should notify the Department of Elections of the proposed emergency relocation of the polling place by submitting a completed Emergency Polling Place Change form through JIRA.⁴⁵ The locality should also provide the Department with a copy of a letter or some other form of correspondence that demonstrates that the local governing body is aware of the emergency polling place change as preclearance is not required for an emergency change.

⁴⁵ See the Code of Virginia [§24.2-310](#).



Virginia Code §24.2-310(D) defines “emergency.”⁴⁶ The use of the Emergency Polling Place Change form should only be used when circumstances call for it. For an emergency, only the polling place can be changed, and the change can only be made temporarily.

3.4.2 Providing Notice to Voters

The mailing costs and postage expenses for voter notification should be anticipated and included in the budget request associated with the precinct change.

3.4.2.1 *More than 60 Days Before the Next Election*

The general registrar or electoral board must notify active voters by mailing a new voter registration notice if their county or city precinct, local election district, town/town precinct, super district, and/or legislative district (congressional, house or senate) when applicable, are changed. All active voters must be notified by mail at least 15 days prior to the next election.⁴⁷ Inactive voters are excluded from this requirement.⁴⁸

Upon receiving a completed SBE-15 Polling Place Relocation form or ELECT-310 Emergency Polling Place Relocation Approval Request form, along with attached proof of relocation by the local governing body (an ordinance and meeting minutes, or certificate of no objection), the affected voters’ registration records will be updated accordingly. The Department of Elections can generate information for the voter registration notices, but localities are responsible for printing and mailing the voter registration notices.⁴⁹ VERIS will not exclude inactive voters from printing voter registration notices.

Additionally, the registrar or electoral board must publish notice of changes to districts, precincts or polling places prior to enactment.⁵⁰ Notice must be provided in a newspaper that is generally circulated in the affected precinct once a week for two successive weeks. The public notice must “state where descriptions and maps of proposed boundary and polling place changes may be inspected.”⁵¹

3.4.2.2 *60 Days or Less Before the Next Election*

In the event of an emergency polling place relocation the general registrar must give notice to “all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place.”⁵² Registrars must also “provide notice to the voters appropriate to the circumstances of the emergency.”⁵³ In most circumstances outside the 15 days before the election, notice should look exactly like the notice

⁴⁶ See the Code of Virginia [§24.2-310\(D\)](#).

⁴⁷ See the Code of Virginia [§24.2-306](#).

⁴⁸ See the Code of Virginia [§24.2-101](#).

⁴⁹ See the Code of Virginia [§24.2-114\(13\)](#).

⁵⁰ See the Code of Virginia [§24.2-306](#).

⁵¹ *Id.*

⁵² See the Code of Virginia [§24.2-310\(D\)](#).

⁵³ *Id.*



provided for non-emergency polling place relocations (i.e. mailed voter information notices, and one notice a week for two weeks in a local paper). When the non-emergency requirements cannot be met, registrars should use all prudent means to ensure that all affected voters are notified of the emergency change.

3.5 REVIEW OF INFORMATION WHEN DISTRICT OR PRECINCT BOUNDARIES CHANGE

3.5.1 Locality's Requirement to Provide Information

Any time the governing body of a locality changes the boundaries of a district or precinct, the governing body is required to provide a copy of the ordinance and a Graphic Information System (GIS) map to the following:

- The local electoral board,
- The Department of Elections, and
- The Division of Legislative Services.⁵⁴

If a locality does not have GIS capabilities, they may ask the Department of Elections for assistance in creating and providing the maps.⁵⁵

3.5.2 Department of Elections Review of Information

Once the Department of Elections receives an ordinance and GIS map from a locality, the Department will review the information and compare it to current information in VERIS to ensure voters have been assigned to the correct districts. The Department will notify the General Registrar of any changes that may need to be made.⁵⁶

⁵⁴ See Code of Virginia §§[24.2-103.1](#), [24.2-304.3](#), and [24.2-306](#).

⁵⁵ See the Code of Virginia [§24.2-103.1](#).

⁵⁶ See the Code of Virginia [§24.2-103.1](#).





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 4

Voting Equipment and Electronic Pollbooks

September 2023

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4. Voting Equipment

<p>REQUIRED FORMS</p> <p>Voting Equipment Testing and Preparation Form – ELECT 633</p>	<p>ADDITIONAL RESOURCES</p> <p>Election Assistance Commission's Logic and Accuracy Testing</p> <p>ELECT Election Security Webpage</p>
<p>REFERENCES</p> <p>State Certification of Voting Systems</p> <p>Virginia Electronic Pollbook Certification Standard</p> <p>Voting Systems Security Policy</p> <p>Ballot on Demand Systems Certification Standards</p> <p>Electronic Pollbook Certification Standards</p>	<p>REGULATIONS</p> <p>1VAC20-60-50 Overfull Optical Ballot Scanner Container</p> <p>1VAC20-60-70 Mandatory logic and accuracy testing for electronic pollbooks</p>

4.1 CHAPTER ORGANIZATION

The purpose of this chapter is to provide an overview of important aspects of voting equipment. §4.2 discusses the required state certification of voting systems used for elections in the Commonwealth. §4.3 provides information on voting equipment. §4.5 provides a brief outline to testing the equipment in the logic and accuracy testing each locality must complete prior to Election Day. §4.6 discusses voting equipment security and audits. Lastly, §4.7 outlines certain aspects FOIA that the local electoral board and general registrar should consider surrounding the security of voting systems.

4.2 STATE CERTIFICATION OF VOTING SYSTEMS

The State Board of Elections has established a voting system certification scheme that examines the vendors' voting systems and the ballots designed to be used with these systems.¹ Voting systems are defined in §24.2-101 of the Code of Virginia as an electronic voting and counting machines used in elections, ballot scanner machines, on-demand ballot printing systems, and ballot marking devices used to manufacture or mark ballots to be cast by voters on electronic voting and counting machines.² All voting systems must be approved by the State Board prior to their use in an election and must be tested in an actual or mock election in one or more counties or cities.³ A governing body cannot adopt the use of any voting system that has not been approved by the State Board.

Modification to an existing voting system that has been previously certified will, in general, invalidate the results of the prior certification unless and until it can be determined by the State Board of Elections that the change does not affect the overall flow of program control or the manner in which ballots are interpreted, and the vote data are processed. No change of any kind can be made to any voting system software or firmware unless the Department of Elections has been informed of the proposed change and determined whether it will require recertification of the system.

¹ See Code of Virginia §24.2-629. See also the Department of Elections, [Voting System Certification Standard](#).

² See Code of Virginia §24.2-101

³ *Id.*



Should a previously approved voting system be shown to no longer comply with the standards adopted by the State Board or be shown to have critical software or hardware issues the Board, at its discretion, may decertify the voting system.⁴

The State Board of Elections has determined that Direct Recording Electronic (DRE) Systems no longer provide the security needed to ensure protection from third-party interference; thus, these systems were and remain decertified and prohibited from use in any election taking place in the Commonwealth.⁵ Voting systems must be capable of retaining and printing each ballot cast, in order for it to receive State Board approval for certification.⁶

4.3 STATE BOARD CERTIFICATION OF BALLOT ON DEMAND SYSTEMS

In 2022, the definition of a voting system, pursuant to §24.2-101, was expanded to include Ballot on Demand (BOD) systems.⁷ BOD are stand-alone units that print ballots for each precinct/ballot style within a locality. These systems are typically used during early voting to provide the appropriate ballot style to a voter at check-in but may also be used on Election Day if, for example, a locality runs out of a certain ballot style. Pursuant to §24.2-629 of the Code of Virginia, the State Board must approve of any “voting system” in use in the Commonwealth.⁸ The Ballot on Demand System Certification Standards can be found on ELECT’s election security page.⁹

4.4 STATE CERTIFICATION OF ELECTRONIC POLLBOOKS

The State Board of Elections has established an electronic pollbook certification scheme that provides a formal and organized process for vendors to follow when seeking state certification for an electronic pollbook (EPB) system in Virginia.¹⁰

Any modification to the hardware, software, firmware, infrastructure, or any component of a certified EPB will invalidate the prior certification unless ELECT can review and provide an assurance to the SBE that the change does not affect the accuracy, reliability, security, usability, or accessibility of the system.¹¹

ELECT reserves the right to examine any previously certified EPB system for any reason at any time. Any EPB system that does not pass certification testing will be decertified. An EPB system that has been decertified by the State Board of Elections cannot be used for elections held in Virginia and cannot be purchased by localities to conduct elections.

⁴ *Id.*

⁵ See the Code of Virginia [§24.2-626](#).

⁶ See the Code of Virginia, [§24.2-629](#).

⁷ See the Code of Virginia, [§24.2-101](#).

⁸ See the Code of Virginia, [§24.2-629](#).

⁹ See the Department of Elections, [Virginia Ballot on Demand Systems Certification Standards](#).

¹⁰ See the Department of Elections’ [Election Security webpage](#)

¹¹ See Department of Elections, [Electronic Pollbook Certification Standard](#).



4.5 STATE CERTIFICATION OF RANKED CHOICE VOTING TABULATION SOFTWARE

The State Board of Elections has approved the use of a ranked choice voting (RCV) tabulation software, Universal RCV Tabulator v1.0.1 (RCTab). RCTab is a federally tested open-source software that meets the Voluntary Voting System Guidelines (VVSG) established by the U.S. Elections Assistance Commission. RCTab does not fall under the definition of a voting system as it does not count the ballots cast but rather tabulates the votes displayed on the Cast Vote Record produced by the electronic voting system. Thus, a method was developed to ensure the security of RCTab and can be found in the approval report on Forms warehouse.¹²

4.6 VOTING EQUIPMENT



An **optical ballot scanning machine** counts marks made on paper by the voter. The tool used to make these marks is called the marking device. A polling place typically needs one optical ballot scanning machine for proper voting operation with certain exceptions for presidential elections.¹³

All localities are required to use a voting system at every precinct and for all elections held in the county, the city, or any part of the county or city as per Virginia Code §24.2-626.¹⁴ While choosing a voting and counting system is at the discretion of the local electoral board, the systems chosen must be from the State Board of Elections' approved vendor and system list.

Localities may also experiment with new voting systems in one or more precincts.¹⁵ A new system may be one that has already been certified for use by the Department of Elections, or it may be one that is still in the testing stage. In either case, the electoral board must have approval from the State Board of Elections for experimental use of election equipment.¹⁶

4.6.1 Purchasing Equipment

The governing body of each county and city is responsible for purchasing the voting machines that have been approved by the State Board.¹⁷ For contracting purposes, the Department of Elections may negotiate a government rate for procuring machines; however, a local governing body is not required to use these contracts and should refer to local procurement procedures.

4.6.2 Number of Voting Machines Required



Each precinct is required to deploy a minimum number of ballot scanner machines based on the number of registered voters in the precinct.¹⁸ In determining the number of registered voters, absentee voters may be excluded.¹⁹ As previously mentioned, DREs are no longer permitted for use in elections in the Commonwealth. The number of ballot scanner machines required for an election is significantly lower than the required number for DREs previously set in code.

¹² See Department of Elections, [Ranked Choice Voting Tabulation Software Approval](#).

¹³ See Code of Virginia, [§24.2-627](#).

¹⁴ See Code of Virginia [§24.2-626](#).

¹⁵ See Code of Virginia [§24.2-630](#).

¹⁶ *Id.*

¹⁷ See Code of Virginia [§24.2-626](#).

¹⁸ See Code of Virginia [§24.2-627](#).

¹⁹ *Id.*



- Each precinct must have at least one scanner and one voting booth with a marking device for each 425 registered voters.²⁰
- During a presidential election, a precinct with more than 4,000 registered voters will be required to have two ballot scanning machines. This requirement may change if the governing body of the county or city, in consultation with the general registrar and local electoral board, determines a second ballot scanning machine is unnecessary.²¹

4.6.3 Maintaining Digital Ballot Images

If your locality's voting system creates digital ballot images, these records must be maintained with the Clerk of the Circuit Court for twenty-two months for federal elections, pursuant to 52 U.S.C. § 20701 and §24.2-669, or for one year for any other election, pursuant to §24.2-669.²² A locality may choose to transfer these records from the original data storage device to another device to ensure compliance with federal law. Any locality choosing to transfer records to another device should ensure proper transfer prior to sealing the records. To complete these processes, you should work closely with your vendor. If a locality decides to host a ranked choice voting contests, their voting equipment must be able to produce a digital ballot image.

4.7 CUSTODIANS

The voting equipment custodian is an individual identified by the electoral board or the general registrar to oversee the programming, configuration, and testing of voting systems in the locality.²³ The custodian programs and prepares voting and counting equipment and is charged with overseeing and instructing the vendor technician in programming, testing, calibrating, and delivery of the equipment.²⁴

The electoral board and general registrar are responsible for choosing a custodian and are required to appoint an individual to this position at least 30 days before each election. Any individual within this position must sign an oath prior to taking the position.²⁵

The electoral board may assign a board member or deputy registrar to serve without pay as a custodian; however, if the presence of a board member and the custodian is required, the same individual is prohibited from serving in both positions.²⁶

With the approval of the Department of Elections, the electoral board or general registrar may contract with the voting equipment vendor or another contractor for the purpose of programming, preparing, and maintaining the voting equipment. The voting equipment custodians shall instruct and supervise the vendor or contractor technicians and oversee the programming, testing, calibrating, and delivering of the equipment. The vendor or contractor technicians shall be sworn to perform their duties honestly and faithfully.²⁷

²⁰ *Id.*

²¹ *Id.*

²² See U.S. Code, [52 U.S.C. § 20701](#); the Code of Virginia [§24.2-669](#).

²³ See Code of Virginia [§24.2-632](#).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*



4.8 LOGIC AND ACCURACY TESTING

Logic and accuracy testing is an integral part of preparing for an election. Each machine and electronic poll book (not a sampling of machines) that will be used in an election must be tested prior to that election to ensure it has been programmed correctly and is functioning properly. The logic and accuracy test for voting machines will also uncover any ballot printing or coding issues that may affect accurate and complete tabulation.

Before the logic and accuracy testing of voting machines for any election, the general registrar must provide a written notice to the chairman of the local committee of each political party, or for an election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, to the candidates.²⁸

The notice must provide the time and place where the machines will be tested and state that the political party or candidate receiving the notice may have one representative present while the equipment is tested.²⁹ The representatives must be given an opportunity to see that the equipment is in proper condition for use at the election and that machines are properly sealed after testing.³⁰

Each machine should be tested with enough ballots or votes to substantiate that each machine recorded the correct number of votes for each candidate. An electoral board member, general registrar, or a designated representative, must be present during this process and must certify the results from each machine.³¹ A representative should be used only if it is impracticable for a board member or the general registrar to be present.³² This representative cannot be the custodian or a vendor or contractor technician who was responsible for programming the ballot software, electronic activation devices, or electronic storage media.

Form ELECT-633 must be submitted electronically to the Department of Elections after logic and accuracy testing is complete for the voting machines.

Per Virginia Administrative Code 1VAC20-60-70, logic and accuracy testing for electronic poll books must be performed by 12:00 pm on the day before the election and testing must be certified to ELECT.³³ EPBs must be tested to ensure the proper election (or elections in the case of a dual primary) is loaded, the applicable voter registration files were downloaded so that all absentee ballot information is present, and that all precincts show the correct ballot style(s) for voters in the precinct.

Unlike logic and accuracy testing for voting machines, testing of EPBs does not require notice to be sent to the chairman of the local committee of each political party.

²⁸ See Code of Virginia §[24.2-633](#).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² See Code of Virginia §[24.2-632](#). See [2006 Va. Atty. Gen. Op. 06-058](#) (“practicable” means “reasonably capable of being accomplished; feasible”).

³³ See Virginia Administrative Code, [1VAC20-60-70](#).



Frequently Asked Questions

Can a candidate or her representative request to attend the L&A testing of voting machines?

Yes. The general registrar of each locality may exercise discretion in considering whether to grant a candidate's request to attend the testing. If the general registrar permits the requesting candidate to attend the testing, she/he must, as soon as reasonably possible, contact all other candidates for that office to provide an equal opportunity.

Can a general registrar proactively provide notice of the L&A testing to all candidates?

The general registrar must provide equal notice to all candidates or their representatives if they choose to do this. For example, a general registrar should not provide notice to some candidates by telephone and notice by mail to others.

It is advisable to conduct logic and accuracy testing for electronic pollbooks, as this practice can help identify potential problems within the data files or election setup that might impact the voter check-in process. Carrying out these tests on pollbooks can be instrumental in detecting any issues that might lead to either minor or major complications on the day of the election. Electronic pollbooks should be tested with the real data files of the election to verify that each precinct is present, correct ballot styles are assigned to several voters across party lines and password-protected access is in place according to the designated roles at the polling locations.

4.9 VOTING EQUIPMENT SECURITY

The electoral board or the general registrar of each locality must develop and annually update written plans and procedures to ensure the security and integrity of its electronic voting system.³⁴ The local electoral board is responsible for the security of all voting systems, including electronic pollbooks. The State requires each locality to develop a written security plan and review the plan annually.³⁵ A cover letter signed by the electoral board and general registrar must be submitted annually as directed by the Department of Elections confirming the review and update of the plans.

³⁴ See Code of Virginia [§24.2-625.1](#).

³⁵ *Id.*



4.9.1 Risk-limiting Audits



Va. Code §24.2-671.2 requires the Department of Elections to coordinate a post-election, pre-certification risk-limiting audit (RLA) of ballot scanner machines for certain races, which will be performed by the localities. Additionally, local electoral boards may apply for an RLA of a race wholly contained within the jurisdiction of the local electoral board, pursuant to §24.2-671.2(D).³⁶ The purpose of the audit is to verify that the electronic voting systems have accurately reported the outcome of an election.³⁷ In the Commonwealth there are two methods for performing an RLA, ballot polling and batch comparison. Details regarding these methods are covered in the RLA Manual.³⁸

The Department of Elections will coordinate and has established procedures relating to the audit, which can be found in the RLA Manual.³⁹ The local electoral board will be required to submit the results of the audit to the Department. The Department will be required to submit a report to the State Board detailing the results of the audited election results and analysis of any detected discrepancies.

4.10 VIRGINIA FREEDOM OF INFORMATION ACT (FOIA) CONSIDERATIONS

There are limited exemptions from VFOIA public meeting and records disclosure requirements for voting equipment security issues. For reference, please be aware that “records of the Department of Elections or of a local electoral board, to the extent such records describe protocols for maintaining the security of ballots or voting and counting equipment, or reveal the results of risk assessments of specific local electoral procedures, the release of which would compromise the security of any election, shall be confidential and excluded from inspection and copying under the Virginia Freedom of Information Act (FOIA).”⁴⁰

An electoral board of the State Board of Elections may close a meeting to discuss security protocols and conduct security compliance site visits preceded and followed by open meetings about the visits.⁴¹ Records describing security protocols or specific risk assessments that could compromise election security if released are exempt from disclosure.

³⁶ See the Code of Virginia, [§24.2-671.2](#). See the Administrative Code of Virginia, [1VAC20-60-80](#).

³⁷ See the Code of Virginia [§24.2-671.2](#).

³⁸ See Department of Elections, [RLA Manual \(2023\)](#).

³⁹ *Id.*

⁴⁰ See Code of Virginia [§24.2-625.1](#).

⁴¹ *Id.*





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 5

Accessibility

September 2023

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5. Accessibility

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<p>REFERENCE</p> <p>Quick Start Guide – EAC 6 Tips</p> <p>ADA Checklist for Polling Places</p> <p>EAC Election Management Guide Chapter 19: Accessibility</p>	<p>REGULATIONS</p> <p>I VAC 20-20-40 Virginia's Help America Vote Act Plan</p>

5.1 Chapter Organization

Every qualified voter has the right to vote, regardless of whether he or she has a mental or physical disability or limited English proficiency. This chapter is designed to help electoral board members and general registrars ensure that reasonable accommodations are made for all voters in both the registrar's office and at all polling places. §5.2 lists the key federal and state laws undergirding accessibility in elections throughout the Commonwealth. §5.3 discusses the requirements in these laws, divided into subject matters such as voting equipment, polling place accessibility, requests for assistance, and curbside voting. §5.4 discusses officers of election training, as so many voter misunderstandings can be avoided by solid training to all officers of election on how to help voters with disabilities enjoy their voting experience. §5.5 and §5.6 address both the limitations of implementation and the enforcement mechanisms designed to ensure voters with disabilities are guaranteed an equal opportunity to vote. §5.7 lists local, state, federal and other public sector resources focused on elections accessibility issues. §5.8 discusses a few funding suggestions for localities seeking to implement accessibility improvements.

5.2 Legal Basis

The following laws govern accessibility to polling places:



- The Voting Rights Act of 1965 (VRA)¹
- Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA)²
- Title II of the Americans with Disabilities Act (ADA)³ and Rehabilitation Act of 1973⁴
- Help America Vote Act of 2002 (HAVA)⁵
- Virginians with Disabilities Act (VDA)⁶
- The Code of Virginia, Title 24.2⁷

¹ See [52 U.S.C. §20102](#).

² See [52 U.S.C. §20101](#).

³ See [42 U.S.C. §12131](#) et seq.

⁴ See [29 U.S.C. §794](#).

⁵ See [52 U.S.C. §20901](#).

⁶ See the Code of Virginia [§§51.5-1](#) and [51.5-43](#).

⁷ See the Code of Virginia [§24.2](#).



In addition, the United States Department of Justice (DOJ) has provided standards related to accessibility and a detailed ADA checklist for evaluating polling place accessibility.⁸

5.3 Requirements

5.3.1 General Assistance to Voters

State and local governments must give persons with disabilities equal opportunity to benefit from all programs, services, and activities. This includes voting. Government entities and employees must communicate effectively with persons who have physical or mental disabilities, ensure that buildings in which services are provided are accessible, and provide opportunities to request accommodating aids and services.⁹ Any voter requiring assistance may receive it from a person of the voter's choosing ("other than the voter's employer or agent of that employer or agent of the voter's union").¹⁰

5.3.2 Voting Equipment

HAVA requires voting systems to be accessible to individuals with disabilities for use in a private and independent manner, including non-visual access.¹¹ Virginia law requires that voting equipment allow alternative languages when DOJ determined that a specified number of the population does not speak or understand English well enough to engage in the electoral process.¹² These federal and state requirements override Virginia's general statutory rule declaring English the official state language.¹³



Law Note

Not all voting machines are wheelchair accessible. Each polling place must **have at least one piece of voting equipment that permits a voter with a disability to cast his or her ballot in a private and independent manner**. The voting booth provided for persons casting provisional ballots should also be accessible. This should be a table that can accommodate a wheelchair. The table should be at least 30 inches wide, with a surface no more than 27 inches high, and an underneath clearance of at least 19 inches. If a voter with a disability wishes to vote on an inaccessible machine instead, he or she may request assistance.

HAVA and the Code of Virginia require **at least one voting machine** in every precinct that provides non-visual voting access.¹⁴ **Voting equipment with audio capability for use by blind**

⁸See [Voting and Polling Places, ADA Checklist for Polling Places](#).

⁹ See DOJ [State and Local Government](#).

¹⁰ [52 U.S.C. §10508](#); see the Code of Virginia [§§24.2-649, 24.2-704](#).

¹¹ See generally HAVA [52 U.S.C. §20101](#) et seq. See also GREB Handbook Chapter 15 Recounts and Contested Elections for more information on accessible voting machines.

¹² See the Code of Virginia [§24.2-626.1](#). See also [DOJ list of covered jurisdictions](#).

¹³ See the Code of Virginia [§1-511](#).

¹⁴ See the Code of Virginia [§24.2-626.1](#).



voters has been certified for use in Virginia.¹⁵ For voters with a visual disability, the locality should also make magnifiers available at each polling place or at each voting station. For most voting equipment, magnifying sheets tend to work better than magnifying glasses with handles. Magnifying sheets are relatively inexpensive and available in many stores or catalogs.

5.3.3 Voters who have a Visual or a Print Disability

Voters who indicate that they will require assistance due to a visual impairment or print disability are entitled to vote using an electronic ballot marking tool provided to the localities by the Department of Elections.¹⁶ SBE 701/703.1 and ELECT's online Citizen Portal provide registered voters the option to identify as needing assistance due to a print disability. The General Registrar will offer those voters the ballot marking tool with screen reader assistive technology. For more information on this process, refer to GREB Handbook Chapter 7, section 12.

5.3.4 Communications

All media materials concerning voter registration or voting which are distributed or published by the registrar's or electoral board's office or local governing body should prominently display the registrar's office email address and telephone number. This will allow better communication with voters who have hearing disabilities or other disabilities. It is strongly recommended that the general registrar use an official email address that is generic in nature and not based on the name of an individual. Using individual names can cause confusion when the individual is absent or retires, and the voter may still retain an old email address in their records or email address book.

Every registrar and electoral board member should actively publicize the availability of absentee ballots, curbside voting, accessible equipment, and the right to ask for assistance. It is important to ask the voters directly what works for them with sensitivity to individual differences. Voters should be informed that these accessibility measures, including curbside voting, are available throughout Virginia's 45 days of early voting at the general registrar's office or satellite voting locations, as well as on Election Day.

5.3.4.1 Website

When a voter looks up his or her polling place on the ELECT website, the accessibility information entered in VERIS will be displayed. Localities should try to provide some detail as to the efforts made to ensure that the polling place is in fact ADA compliant such as stating a checklist was used to assess accessibility.

5.3.4.2 Teletypewriters (TTY or TDD)

Telecommunications devices for the deaf ("TDD") or teletypewriters ("TTY") provide another way for people to communicate and obtain information about registering and voting. A TTY or TDD is a device with a keyboard and display that allows users to send and receive typed messages across phone lines. TTY users can directly call other TTY

¹⁵ See GREB Handbook Chapter 4 Voting Equipment for more information.

¹⁶ See the Code of Virginia [§24.2-103.2](#).



users and exchange typed messages to easily communicate. Communication between a TTY/TDD-user and someone without a TTY device is also possible and can be accomplished by calling a Relay Service. A specially-trained Relay Service operator receives the messages on a TTY and relays the messages to a hearing individual using a standard phone. A standard phone user can also place a call through a Relay Service operator to a TTY user. Many localities have a TDD/TTY line for government offices. If the locality doesn't have a TDD/TTY line, instruct voters to use the ELECT TTY line, or use the TTY number of the Virginia Relay Center – a service designed specifically for TDD/TTY users, government agencies and other service providers.¹⁷ Speech-to-speech relay enables a person with speech impairment to converse on the telephone via a trained communication assistant. To access these services, call the following numbers:

- ELECT TTY: 711
- VIRGINIA Relay Center: 1-800-229-5746 or just “711”

5.3.4.3 Signage

Signs instructing voters where to park, where to enter and exit the polling place, the location of curbside voting, and which table to go to help reduce the verbal communication required for a voter with a hearing disability. These aids are also required for Election Day. “The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any [...] entrance designed for their use.”¹⁸ Further, printed instructions for checking in at the pollbook table and for the use of voting equipment should be prominently displayed at the level where persons with disabilities can read.

5.3.5 Minority Language Provisions

If the illiteracy rate of the minority group is higher than the national illiteracy rate and one of the following thresholds is met within that jurisdiction, the jurisdiction is required to provide all election information directed to English speaking voters in the covered minority language as well.

Thresholds:¹⁹

- More than 10,000 of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,

¹⁷ See [Virginia Relay](#).

¹⁸ See the Code of Virginia, [§24.2-604.1](#).

¹⁹ For more information about minority language provisions and thresholds, see [DOJ webpage for language minority voting rights](#).



- More than five percent of American Indian citizens of voting age residing on an Indian reservation within the jurisdiction belong to a single language minority and are limited English proficient.

Pursuant to §24.2-128, “Whenever a covered locality provides any voting or election materials, it shall provide such materials in the language of the applicable minority group as well as in the English language. For purposes of this requirement, “voting or election materials” means registration or voting notices, forms, instructions, assistance, voter information pamphlets, ballots, sample ballots, candidate qualification information, and notices regarding changes to local election districts, precincts, or polling places. For purposes of this requirement, “registration notices” means any notice of voter registration approval, denial, or cancellation required by the provisions of Chapter 4 (§ 24.2-400 et seq.). A covered locality may distribute such materials in the preferred language identified by the voter.”²⁰

As of December 2021, there are 4 localities that are required to provide materials in other languages:

- Fairfax County: Spanish and Vietnamese
- Prince William County: Spanish
- Manassas City: Spanish
- Manassas Park City: Spanish

Before any change occurs that would restrict interpreter services or materials in languages other than English, local governing bodies must follow the procedures outlined in § 24.2-129. Failure to do so could result in a cause of action brought in a circuit court by the Attorney General or any qualified voter.

5.3.6 Voter Registration Facility Accessibility

A reasonable number of permanent registration facilities used in federal elections must be accessible to the elderly (defined as 65 years of age or older) and people with physical disabilities. This requirement is not binding in Virginia because we allow potential voters to register by mail.²¹

5.3.7 Polling Place Accessibility

Polling places are required to be accessible by the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and Title II of the Americans with Disabilities Act.²² **The electoral board should complete an approved ADA Checklist to ensure that any new polling place is accessible or can be made so before recommending it to the local governing body.** The local governing body is required to provide “adequate facilities at each polling place for the conduct of elections”.²³ For the purpose of this law, ELECT interprets adequate facilities to include buildings that are physically accessible to persons with disabilities.

²⁰ See the Code of Virginia [§24.2-128\(B\)](#).

²¹ See *Krieger v. Loudon County*, 2014 United States Dist. LEXIS 138293 (W.D. Va. Sept. 30, 2014).

²² See the Code of Virginia [§24.2-310\(C\)](#).

²³ See the Code of Virginia [§24.2-310\(B\)](#).



The current ELECT ADA Checklist (rev. 2023) is based upon the DOJ ADA Checklist (rev. 2016). While electoral boards may use either checklist to assess and document ADA compliance, ELECT's ADA checklist includes requirements for curbside voting as mandated by [§24.2-649.1](#). Accordingly, ELECT's ADA checklist is the recommended document for electoral board completion as it includes this unique state statutory requirement. If a local electoral board prefers to use the DOJ's ADA Checklist (with expanded information and diagrams), they should take care to also assess and document compliance with curbside voting as required by [§24.2-649.1](#).



The electoral board must conduct an Accessibility Survey every time the locality approves a new polling place or there is a change in accessibility at an existing polling place. Local electoral boards must also provide to ELECT each year an Annual ADA Compliance Confirmation; this confirmation verifies that a checklist was used in the assessment of all polling places in a locality, the checklists are within the records of the local electoral board, and all polling places within the locality are compliant with applicable law.²⁴

As a best practice, ELECT recommends periodically resurveying the accessibility of polling places. Just because a polling place was accessible last year, does not mean it will be so this year. For example, tree limbs could grow back, concrete could develop breaks, and parking signs may be removed. Investing a little time before each election can pay great dividends in preventing complaints about a new accessibility barrier at a previously accessible polling site, such as disenfranchising voters or a lawsuit.

When choosing a polling place, it is best practice to choose a location that is compliant year-round rather than a polling place that may need to be modified temporarily to comply with accessibility requirements.

Local electoral boards are authorized to use an alternative polling place if an emergency makes a polling place unusable or inaccessible.²⁵ The electoral boards must provide notice to the “voters appropriate to the circumstances of the emergency.”²⁶ ELECT must approve all emergency polling location changes.²⁷ Emergency polling place move requests are to be submitted by the general registrar through JIRA.

When entering polling place information into VERIS, the registrar must check whether the polling place has met ADA standards and include a comment detailing the level of compliance. If an existing polling place is found to be inaccessible, take the following steps:

- Notify the local governing body that the locality’s polling place is in violation.
- Determine whether reasonable permanent or temporary changes can be made to make the site accessible.
- If the site cannot be made accessible through reasonable means, survey the precinct and the adjoining area within one (1) mile of the precinct boundary in an attempt to

²⁴ A suggested survey form and the Annual ADA Compliance Confirmation are included in Formswarehouse under [Accessibility](#).

²⁵ See the Code of Virginia [§24.2-310\(D\)](#).

²⁶ See the Code of Virginia [§24.2-310\(C\), \(D\)](#).

²⁷ *Id.*



find an alternative site to recommend that is accessible or can be made temporarily accessible on Election Day.

- The accessibility status of each polling place in the locality should always be updated in VERIS.

The following exceptions may be granted under United States and Virginia law:

- If an alternate site is in a private facility normally ineligible for polling place selection, the registrar may request that ELECT approve its use on an emergency basis due to unavailability of any other building meeting accessibility requirements.²⁸
- The specifications made in this chapter reflect the 2010 ADA Standards. The 1991 ADA Standards and the 2010 ADA Standards, as applied to polling places, are very similar. Elements and spaces in a building constructed or altered before March 15, 2012, that complied with the 1991 ADA Standards may remain in compliance with the 2010 ADA Standards.

5.3.7.1 Parking Spaces

If parking is provided for voters, then accessible parking must also be provided at a ratio of one (1) accessible space for every 25 spaces in the parking lot. If only one accessible space is provided, it must be a van-accessible space.

To be considered accessible, a parking space must meet the following criteria:²⁹

- At least 8 feet wide for cars and 11 feet wide for vans.
 - Exception: van parking spaces can be 8 feet wide minimum where the access aisle is also 8 feet
- An access aisle that is 5 feet wide for car and van spaces (all parking lots must have at least one van-accessible space).
 - Two parking spaces may share a common access aisle.
- **Marked with an upright sign with the symbol of accessibility**
 - For van-accessible parking spaces, the sign must designate it as a van-accessible space. This does not prevent other non-van vehicles from parking in that space.
- Located closest to the accessible entrance of the polling place.
- Connected by an accessible aisle to an accessible route to the accessible entrance of the polling place.

Accessible parking spaces may be temporarily created for Election Day using portable signs and traffic cones. These parking places should be the closest spaces to the entrance, creating the shortest distance possible to travel. The route taken from the parking space to the entrance should be level, stable, and firm in all directions.

5.3.7.2 Signage

No special signs are required at buildings where all voters (those with disabilities and those without) use the same entrance on Election Day. However, if the accessible voting

²⁸ See the Code of Virginia [§24.2-310.1](#).

²⁹ See [ADA Center, Information on Accessible Voting](#). See also [Accessible Parking Spaces](#).



entrance is separate from the main voting entrance, then the following standards apply.³⁰

- The accessible entrance must be marked by the symbol of accessibility.
- All other entrances must have directions to the accessible entrance.
- Curbside voting signage should be placed at every polling place.

5.3.7.3 *Curbs and Ramps*

Temporary ramps may be used on Election Day. However, a better solution is to work with the owner of the building to establish reasonable accessibility. Ramps are necessary where there are steps into the building or inside the building. Permanent ramps are obviously the best option, but temporary ramps can also work when necessary. They can be purchased or rented from a variety of vendors in compliance with the locality purchasing procedures.

Curbs or ramps in the path of travel must generally have the following features:³¹

- They must be at least three feet (36 inches) wide not including any flared sides.
- They should have a stable, firm, slip-resistant walking surface.
- They should have a slope that rises or falls no more than one (1) foot in height for every 12 feet in length (the 1' in 12" rule).
- They should have a relatively level cross slope and should not be steeper than 1:48.
 - Cross slope is the slope perpendicular to the direction of the walkway and can be measured the same way as a slope.
- If a ramp is more than six inches off the ground, it must have handrails on both sides.
- They cannot have openings greater than ½ inch wide.

5.3.7.4 *Walkways (Inside & Out)*

To be considered accessible, a walkway must meet the following criteria:³²

- It must be at least three feet (36 inches) wide.
- It should have a slope that rises or falls no more than one foot in height for every 12 feet in length.
- It should have no edges that could cause a person or service animal to trip or fall.
- It should have a relatively level cross slope (the slope perpendicular to the direction of the walkway).
- It should be made of a smooth, consistent material, i.e. no loose gravel or dirt;
- It should have headroom in the pathway of at least 80 inches from the surface.
- It cannot have openings greater than ½ inch wide.
- It cannot have abrupt changes in level greater than ½ inch tall unless a ramp is provided. Sudden changes in height less than ¼ inch tall are always acceptable; however, changes between ¼ inch and ½ inch can be beveled at a slope no greater than 1:2.
- The 1' in 12" rule applies to all standards of accessibility for walks, ramps, etc.

³⁰ See [ADA Accessibility Standards](#) and [ADA Checklist for Polling Places](#).

³¹ *Id.*

³² See [ADA Accessibility Standards](#) and [ADA Checklist for Polling Places](#).



5.3.7.5 Protrusions

Items sticking out from walls (such as fire extinguishers) pose a threat to both blind voters – who cannot detect them with a cane – and to those with limited sight. Items mounted on walls between 27 and 80 inches off the floor cannot protrude more than 4 inches from the wall.

A temporary solution is to place a large item on the floor (such as a potted plant) below the protruding item to make it detectable with a cane. A permanent solution is to build protruding walls on either side of the item or lower the item so that it is no more than 27 inches above the floor.³³

5.3.7.6 Doors and Doorways

Doors are among the most common accessibility barriers in polling places. For people in wheelchairs, an inaccessible door can defeat hard work getting out of a vehicle, through the parking lot, and up the walk. Several features can make a door inaccessible:

- Round doorknobs are difficult for people with limited use of their hands. Replace with ADA compliant hardware.³⁴ If they can't be replaced, buy levers that fit over round doorknobs.
- Interior doors must be operable with 5 pounds of force or less. As a temporary fix, prop the door open or station an election official (or election page) to assist with opening and closing.³⁵ The best solution (and most expensive) may be to install a power door opener.
- There is no requirement for the opening force of exterior doors. However, 8.5 pounds of force is typically sufficient to keep the door closed and still be usable by persons with disabilities.³⁴
- Door width is often a problem for wheelchairs. There should be at least 32 inches of clear space for a wheelchair to get through. This is measured from the face of the door to the stop on the other side not including any door hardware.³⁶ Some doors that just barely fail to meet this criterion can be adjusted to gain that extra inch or two by using special hinges.
- If there is a door threshold with an abrupt change of more than ¼ inch, it is inaccessible. Either a new threshold or a covering ramp will need to be installed.

5.3.7.7 Stairs

Based on reports to the federal Election Assistance Commission (EAC), stairs remain the greatest physical obstacle at our nation's polling places for both people in wheelchairs and those with difficulty walking. **If access to a polling place or voting room within a polling place involves stairs, then there must be an alternate route to the voting room; otherwise, the site is not accessible.**³⁷ There must be, either inside or outside the building, a ramp or ramps, or an accessible elevator, or a wheelchair lift that voters with

³³ See [ADA Voting Solutions for Polling Places](#).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ See [ADA Checklist for Polling Places](#).



limited mobility can use to access the polling place. If an alternate route must be used, large signs directing voters with disabilities are needed.³⁸

5.3.7.8 *Inside the Polling Place*

The inside path of travel must meet the same guidelines as the path outside. Loose rugs, plush carpets, slick floors and the like can cause problems for people with wheelchairs, canes, and walkers. Further, floor surfaces must be stable, firm, and slip resistant.³⁹ Instruct officers of election to be sure that hallways and voting rooms are free of such hazards, and to make adjustments as needed.

5.3.7.9 *Seating*

Every polling place should be furnished with seats for the use of elderly voters or those with mobility impairments. Even if the polling place has no waiting lines, seats should be available for those lawfully present who just need to rest.

5.3.8 Request for Assistance

The Virginia Voter Registration Application includes a box allowing voters with physical disabilities to so indicate. Registrars should attempt to contact voters who check this box to explain available accommodations such as voting curbside or absentee with an application. Be sure to communicate to the electoral board and officers of election any information needed to plan for Election Day such as arrival time for curbside voting. The Attorney General issued an opinion in 2010 that voters may communicate a request for curbside voting to election officials in advance of coming to the polling place.⁴⁰

5.3.9 Curbside Voting

Curbside voting does not satisfy or eliminate the requirement for an accessible entrance to the polling place that the voter can use at their option.

Curbside voting must be offered at every polling place. Any voter with a disability, whether physical or mental, or who is age 65 or older is entitled to utilize curbside voting.⁴¹

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See [2010 Op. Va. Att’y Gen. 46](#).

⁴¹ See the Code of Virginia [§24.2-649.1](#).



**Law Note**

Pursuant to the ADA [42 U.S.C. §12102](#), disability is defined as, “(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.” Further, 42 U.S.C. §12132, states, “...no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” Curbside voting is a government service for individuals with disabilities. This service must be available not only to individuals with a physical impairment but also to those with a mental impairment, pursuant to the provisions of the ADA.

However, during a declared state of emergency related to a communicable disease, any voter, regardless of age or disability, is entitled to utilize curbside voting.⁴² The area designated for voting outside of the polling place shall be within 150 feet of the entrance to the polling place. This area shall be clearly marked, and instructions on how to notify an officer of election of the voter's request to vote outside of the polling place shall be prominently displayed.⁴³ In no case shall the voter be required to enter the polling place to provide such notice.⁴⁴ The voter may choose to call ahead to alert election officials of their interest in using curbside voting or send another person inside the polling place to alert the officers of election.⁴⁵ The EAC also provides a quick start guide with some best practices for curbside voting.⁴⁶

Take the following steps for ensuring curbside voting goes smoothly:

- Provide clear and visible signage informing voters of the possibility of voting curbside, the location of the curbside voting, and how a voter is supposed to notify the election official that he/she is waiting curbside. The signage should be upright and visible at all times while voting is taking place at the polling place;
- Ensure that no campaign materials or campaign personnel are blocking the curbside voting area or signage.
- Establish a location that allows the curbside voter to obtain information from candidates and others campaigning outside the polling place;
- Provide a method for the voter to announce his/her arrival (buzzer, bell system, or a phone number to call for curbside assistance);
- Ensure a timely response from election officials inside the polling station and delivery of the information that is provided to voters inside the polling location;



⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See [2010 Op. Va. Att’y Gen. 46](#).

⁴⁶ See EAC, [Curbside Voting Quick Start Guide](#).



- Provide a portable voting system that is accessible and allows the voter to cast his/her ballot privately and independently while voting curbside.⁴⁷

**Best Practice**

Chief Officers of Election or general registrars may assign an officer of election, election page, or volunteer to periodically check outside each polling location to make sure curbside voting is not needed.

5.3.10 Large Print Materials

The state must make available registration and voting aids, including the large print instruction posters in polling places and registrar's offices.⁴⁸ Large print directional and instructional signs should help voters with limited sight navigate the polling place and the voting process. Pictures or symbols on signs are also helpful.

5.3.11 No Signature or Mark Required for Certain Voters



No signature or mark is required for a voter who is blind to receive assistance at the polling place from an officer of election.⁴⁹ This means:

- Voter registration forms do not have to be signed by the voter if they have a physical disability that prevents them from signing their form.⁵⁰
- No signature is required by the voter or an assistant for the voter on the envelope to return an absentee ballot.⁵¹

5.4 Officer of Election Training

Every training session for officers of election should include a section on working with persons with disabilities and operating the accessibility features of all voting equipment. Please emphasize these key best practices regarding interacting with the elderly or persons with disabilities in every training. ELECT updated the Officer of Elections online training course in August 2023, including a module addressing Accessibility and Etiquette.

⁴⁷ For more information on signage and accessibility, see DOJ, [The Americans With Disabilities Act, and Other Federal Laws Protecting the Rights of Voters with Disabilities](#).

⁴⁸ See [52 U.S.C. §20104](#).

⁴⁹ See the Code of Virginia [§24.2-649](#).

⁵⁰ See the Constitution of Virginia, [Art. II, Sec. 2](#). See also the Code of Virginia [§24.2-418\(A\)](#).

⁵¹ See the Code of Virginia [§24.2-706\(C\)](#).





Best Practice

Officers of election have the most face-to-face contact with voters with disabilities.

Please –

- *look out for* and, *where possible*, remove **obstacles** in the polling place;
- *when needed*, assist with door-opening;
- *when requested*, *provide* other means of helping;
- *remember* the **legal rights** of persons with disabilities **to ask for assistance** with ballot-marking – ask your chief officer of election or general registrar for a recap if you aren't sure;
- *keep an eye out for* people requesting to **vote curbside** (offered for voters aged 65 or older and voters with disabilities) and
- *be sensitive* to the needs of voters with disabilities.

Remember that people with disabilities want, expect, and deserve reasonable accommodations to give them equal access. If the best alternative cannot be done, then try for the next best alternative.

- Treat people the **way you want** to be treated;
- Speak **directly to the person**, not to their companion;
- Change your position so you are **at eye level** with the person;
- **Introduce yourself** by name;
- Respect **personal space**; do not touch the person or the person's wheelchair, service animal, etc. without their prior consent or request;
- **Ask** the person **to repeat** what they said if necessary (including *writing it, or verbally repeating, or paraphrasing*);
- **Never** assume what a person is saying.
- *Do not assume* someone who is deaf or hard of hearing or who has an intellectual disability requires you to speak loudly or slowly;
- **Presume competence**;
- Let people be independent; **ask before** providing assistance; let the person control his/her movements;
- Do not ask questions focused on the person's condition and do not express sympathy or admiration or other feelings related to the person's disability;
- Treat adults as adults and with respect;
- Use **People-First Language**, which puts the *person before the disability* (e.g. Instead of "a disabled person," say "a person with a disability;" instead of "a table for a wheelchair is needed," say "a table for a person using a wheelchair is needed").
- Anyone can make mistakes. Offer an apology if you forget some courtesy. Keep a sense of humor and a willingness to communicate.



5.5 Limitations

Adherence to ADA is a requirement of polling locations. If questions arise regarding any limitations on a locality's ability to comply with federal and state accessibility laws, they should be directed to the locality's attorney and administrators.⁵²

5.6 Enforcement

5.6.1 Voting Accessibility for the Elderly and Handicapped (VAEHA)

Localities may be sued in a federal district court by either the United States Attorney General or any person who is personally aggrieved by the noncompliance of being prevented from registering to vote or casting a ballot. Before any person may sue a locality under this law, the complainant must first notify the Commissioner of Elections of the non-compliant condition and allow 45 days to pass before continuing the lawsuit. This law can be used to force a locality to remove an inaccessible condition, but not to award attorney's fees unless the fees were accumulated forcing a locality to comply with an original court judgment.⁵³

5.6.2 Americans with Disabilities Act (ADA)

Complaints of ADA Title II violations may be filed with the DOJ within 180 days of the date of the discrimination. In certain situations, cases may be referred to a mediation program sponsored by the Department. The Department may bring a lawsuit where it has investigated a matter and has been unable to resolve violations.⁵⁴

Title II may also be enforced through private lawsuits in federal court. It is not necessary for a complainant to file a complaint with the DOJ or any other federal agency, or to receive a "right-to-sue" letter, before going to court.

5.6.3 Help America Vote Act (HAVA)

The DOJ's Civil Rights Division enforces HAVA.⁵⁵ Congress did not authorize private enforcement (via litigation) of the requirements of HAVA. Instead, HAVA directs private complaints into state administrative processes and reserves judicial enforcement to the DOJ.⁵⁶



Regulation Note

1VAC 20-20-40: Virginia's Help America Vote Act Plan

Virginia's plan under the Help America Vote Act of 2002, 42 USC § 15301 et seq., states policy of the board and performance goals for the board to document and measure.

⁵² See [DOJ, Federal Civil Rights Enforcement](#).

⁵³ See [52 U.S.C. §20105](#).

⁵⁴ See [42 U.S.C. §12131](#).

⁵⁵ See [52 U.S.C. §21111](#).

⁵⁶ See [52 U.S.C. §21112](#).



5.6.4 Virginians with Disabilities Act (VDA)

Pursuant to §51.5-43, “No person with a disability who is otherwise entitled to vote under the provisions of § [24.2-400](#) and who is not disqualified from voting under the provisions of § [24.2-101](#) shall be denied the opportunity to register or vote in this Commonwealth because of such disability.” Any person with a disability whose rights, guaranteed under the VDA, have been violated can bring a claim in state circuit court. The court can order the defendant (locality) to make changes to its practice or procedures, pay for the plaintiff’s legal fees, and award compensatory damages not including payments for pain and suffering.

Localities are liable for violating the VDA for up to one year from the violation of a person’s rights if the person started the action or filed a complaint by registered mail within 180 days of the alleged violation.⁵⁷

5.6.5 Code of Virginia

Virginia’s adequate facilities provision has no separate enforcement mechanism; like other election law requirements for local governments, ELECT and local electoral boards play an important role educating local governments. DOJ has brought enforcement actions against localities failing to meet federal law mandates.

⁵⁷ See the Code of Virginia [§51.5-46](#).



5.7 Resources

Registrars and electoral board members are not expected to be experts on building structural issues, machine technology for those with disabilities, or other assistive technologies. There are, however, several places and agencies that can provide information and assistance with these issues to help ensure the locality's compliance. The following are just some of the resources available in Virginia.

5.7.1 Election Assistance Commission (EAC) and Department of Justice (DOJ)

The EAC publishes a helpful guide addressing polling place accessibility, election officer training, and website accessibility. EAC has voter guides published in different languages, including Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese.⁵⁸ The EAC website also provides other detailed reference materials on voting accessibility.⁵⁹

The EAC provides quick start guides for local elections officials; we strongly recommend you check them out. This image is taken from Quick Start Series No. 15; you can find the link [here](#).



The DOJ provides compliance guidelines in addition to a detailed ADA polling place accessibility checklist with design standards, technical assistance materials, and information about enforcement actions.⁶⁰

5.7.2 ADA Information Line

The DOJ provides information about the Americans with Disabilities Act (ADA) through a toll-free ADA Information Line, 1-800-514-0301. This service permits businesses, state and local governments, or others to call and ask questions about general or specific ADA requirements including questions about the ADA Standards for Accessible Design.⁶¹

5.7.3 United States Access Board

The Access Board is an independent federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards.⁶² Created in 1973 to ensure access to federally funded facilities, the Access Board is now a leading source of information on accessible design. The Access Board develops and maintains design criteria for the built environment, transit vehicles, information and communication technology, and medical diagnostic equipment under the Americans with Disabilities Act of 1990 (ADA) and other laws. The ADA Accessibility Standards can be found on their website.⁶³ The Access Board may be contacted at info@access-board.gov or 202-272-0080, extension 3.

⁵⁸ Forms in alternate languages can be downloaded from the [EAC website](#).

⁵⁹ For more information on accessibility, please see the [EAC guide](#), and the [EAC voting accessibility website](#).

⁶⁰ See [52 U.S.C. § 10303\(f\)](#), and [28 CFR 55](#). See also, [DOJ webpage on the ADA and voting](#).

⁶¹ See [ADA Information Line webpage](#).

⁶² See [the US Access Board website](#).

⁶³ See U.S. Access Board, [Accessibility Standards](#).



5.7.4 ADA Coordinators

The ADA requires governments to appoint an ADA coordinator if they have more than 50 employees. If your locality meets this threshold, your local ADA Coordinator should prove to be an excellent resource. This individual is most likely in the personnel or building inspections department of the local government. The local ADA coordinator may not be an expert on the technical aspects of ensuring accessibility, but he or she should be able to help with interpreting the law and with surveying potential or existing polling places to evaluate their accessibility. ELECT's ADA coordinator may be contacted at atadavoter@elections.virginia.gov.

5.7.5 Regional ADA Centers

The federally-supported ADA Center for the Mid-Atlantic Region provides training, information, and technical assistance on the Americans with Disabilities Act (ADA) for businesses, consumers, schools, and government agencies within the Mid-Atlantic Region. Government entities can call for guidance and information on what is required, who is covered, and how to work through a disability related question. Call 800-949-4232 or go to their website for more information.⁶⁴

5.7.6 Centers for Independent Living

Virginia law also provides for government supported Centers for Independent Living, which are private, non-profit, community-based advocacy organizations staffed by persons with disabilities.⁶⁵ These agencies can provide advice and assistance with a wide variety of disability issues. There are many such centers in Virginia.⁶⁶

5.7.7 Virginia Department for the Deaf and Hard of Hearing

This department can provide information about sign language, interpreters, special hearing devices, and communications issues: 1-800-552-7917.⁶⁷

5.7.8 Virginia Department for the Blind and Vision-Impaired

This department can provide information about Braille accommodations, large print, recording on tapes, and other visual-assistive technologies: 1-800-622-2155.⁶⁸

5.7.9 Virginia Assistive Technology System

This is a program of the Virginia Department of Rehabilitative Services. It is a statewide project working to increase awareness and accessibility of assistive technology through programs, information, and technical assistance. Its website includes an equipment finder. Call 1-800-552-5019 or see the Virginia Assistive Technology System website.⁶⁹

⁶⁴ The [Mid-Atlantic ADA Center website](#) has more information on accessible information technology and training resources.

⁶⁵ See the Code of Virginia [§51.1-163](#).

⁶⁶ For more information on the Centers for Independent Living, please visit their [website](#).

⁶⁷ Visit the Department for the [Deaf and Hard of Hearing website](#) for more information.

⁶⁸ See the [Virginia Department for the Blind and Vision Impaired website](#) for more information.

⁶⁹ See [Virginia Assistive Technology System website](#).



5.7.10 Job Accommodation Network

[The Job Accommodation Network site](#) provides information on vendors and manufacturers of equipment and devices for people with disabilities: 1-800-526-7234.⁷⁰

5.8 Funding Accessibility Improvements

Electoral boards and registrar offices (like all public bodies) operate with limited resources. Below are suggestions to help afford accessibility improvements when the local governing body may be reluctant or unable to provide funding:

- Local Disability Services Boards may suggest grant money that can be used to make such purchases. Contact the local board to find out how to apply for funding.
- The federal government offers tax incentives for businesses to make their facilities more accessible to people with disabilities.
- Check with any of the agencies listed in the Resources section above. Many of the agencies have funds for purchasing assistive technology or know of inexpensive sources for these items.
- Consider sharing costs of such items with other government offices that can use them when they are not needed for elections.

⁷⁰ See [the Job Accommodation Network website](#).





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 6

Voter Registration

September 2023

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6. VOTER REGISTRATION

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<p>REFERENCE</p> <p>National Voter Registration Act</p> <p>Virginia Department of Elections Website – Military & Overseas Voting</p> <p>FVAP Virginia Voting Assistance Guide</p>	<p>REGULATIONS</p> <p>1VAC20-20-20: Electronic transmission of records containing sensitive personal information; encryption or redaction required</p> <p>1VAC20-20-70: Duty to request assistance and to notify voters of denial of applications for voter registration or absentee ballots</p> <p>1VAC20-40-10: Definitions</p> <p>1VAC20-40-30: Presumptions</p> <p>1VAC20-40-40: Review of Application</p> <p>1VAC20-40-50: Supplemental Questions</p> <p>1VAC20-40-60: Review of Supplemental Questions</p> <p>1VAC20-40-70: Applications for Voter Registrations; affirmation of United States Citizenship</p> <p>1VAC20-45-20: Voter Registration</p> <p>1VAC20-45-30: Electronic Submission of Federal Post Card Application</p>

6.1 CHAPTER ORGANIZATION

The purpose of this chapter is to discuss the multiple pieces that make up voter registration. Voter registration is the first step in an individual exercising their right to vote; thus, registration is a critical responsibility of the general registrar. The general registrar must contend with checking applications for eligibility standards and tracking and processing these documents within a limited amount of time as required by Virginia Election Code. §6.2 outlines the eligibility requirements that every applicant must satisfy prior to their application being processed and approved by the registrar. These requirements include but are not limited to age, citizenship, and residency. In particular, this section focuses on residency issues that often challenge registrars. Next, §6.3 provides information on the methods of registration that are available to applicants and discusses how, depending on the method of registration, the application will be processed. The Code of Virginia establishes deadlines for voter registration; thus, §6.4 focuses on these deadlines and any extensions provided depending on the status of the applicant. For example, applicants



categorized under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may be provided an extension past the normal deadline. §6.5 provides information on the type of voter registration applications available, such as: the Virginia Voter Registration Application, the application received through the Department of Motor Vehicles, and forms that combine the voter registration application and the absentee application. §6.6 discusses the procedures that a registrar should complete prior to processing an application, while §6.7 dives into how an application should be processed using Virginia Election and Registration Information System (VERIS). Lastly, §6.8 outlines the procedures for denying an application.

6.2 WHO IS ELIGIBLE?

To be eligible to vote in the Commonwealth of Virginia, an individual must meet the following qualifications:

- | | |
|---------------------|--|
| 1) Age: | Will be eighteen years of age or older by the date of the next general election; ¹ |
| 2) US citizenship: | Is a US citizen; ² |
| 3) Residence: | Has domicile and place of abode in Virginia and in the precinct where he intends to vote; ³ |
| 4) No Felony: | Has not been convicted of a felony, or if convicted, has had his civil rights restored by the appropriate authority for the latest felony conviction; ⁴ |
| 5) Mental Capacity: | Has not been adjudicated mentally incompetent (i.e., legally incapacitated) or, if so, has had his competency (legal capacity) restored; ⁵ and |
| 6) Registration: | Provides all information required by law to be entered on the registration application material to determining qualification to vote. ⁶ |

6.2.1 Age Requirement

To qualify for voter registration, the applicant must be eighteen years of age or older on or before the date of the **next general** election. If otherwise qualified, a 17-year old that will turn eighteen on or before the date of the next general election may be registered and permitted to vote in any intervening special or primary election.⁷ As for federal presidential years, any individual that will

¹ See the Virginia Constitution [Art. II, §1](#). See also the Code of Virginia §§[24.2-403](#) and [24.2-544\(D\)](#).

² See the Virginia Constitution [Art. II, §1](#).

³ See the Virginia Constitution [Art. II, §1](#). See also the Code of Virginia §[24.2-101](#) (defining “residence” as requiring domicile and place of abode).

⁴ See the Virginia Constitution [Art. II, §1](#).

⁵ See the Virginia Constitution [Art. II, §1](#).

⁶ See the Virginia Constitution [Art. II, §2](#). See also Virginia Administrative Code [IVAC20-40-40\(C\)](#) and [IVAC20-40-70\(B\)](#) (applications to register to vote cannot be denied for omitted information if they include all information required by law).

⁷ See the Code of Virginia §§[24.2-403](#) and [24.2-544\(D\)](#).



be 18 on or before the day of the next November general presidential election may register to vote and vote in any intervening presidential primary and any other primary held on the same day as the presidential primary.⁸

Effective October 1, 2022 individuals who are 16, but otherwise qualified, may be preregistered. Preregistered individuals are not permitted to vote.⁹ Once the individual turns 18, they will be automatically registered to vote.

6.2.2 U.S. Citizenship

The current Virginia Voter Registration Application asks the applicant, as required by federal and state law, “Are you a U.S. citizen?”¹⁰ The applicant must answer this question.¹¹

If an applicant leaves this section blank or answers “No” and signs the application, the application should be denied in VERIS and a denial notice sent. In the instance of an applicant leaving the answer blank, the denial notice should be sent with a new voter registration application.

6.2.3 Residency

An applicant must establish residency in the precinct in which she wishes to vote.¹² Residency requires both domicile and place of abode.¹³ An applicant can establish a domicile by living in a locality with the intention to remain.¹⁴ Abode is the **physical** place where a person lives.¹⁵ Residency regulations provide a rule of broad construction to “provide the greatest opportunity to register and to vote.”¹⁶ Failure to establish residency may be grounds for denying the voter registration application.¹⁷

Applicants must provide their house number and street name, or rural route and box number, unless homeless. Only under certain circumstances may a post office box may be accepted as a home address (discussed later in this chapter).¹⁸ Address of a mailing service or a business office cannot be accepted (unless the applicant actually lives in the office).

An applicant who lives in a rural area and receives mail at a post office box may not have a rural route and box number. Such applicants may enter the number of the highway on which they live. Any applicant who does not have a house number/street name should, in the space

⁸ *Id.*

⁹ See the Code of Virginia [§24.2-403](#).

¹⁰ See the Virginia Constitution [Art. II, §2](#). See also the Code of Virginia [§24.2-418\(A\)](#).

¹¹ See the Virginia Constitution [Art. II, §2](#).

¹² See the Virginia Constitution [Art. II, §1](#).

¹³ *Id.* See also the Code of Virginia [§24.2-101](#) (defining “residence” as requiring domicile and place of abode).

¹⁴ See the Code of Virginia [§24.2-101](#).

¹⁵ *Id.*

¹⁶ See Virginia Administrative Code [IVAC 20-40-30\(A\)](#).

¹⁷ See Virginia Administrative Code [IVAC 20-40-40\(A\)](#) (if information required by law is missing from the application, that is grounds for denial).

¹⁸ See the Code of Virginia [§24.2-418\(B\)](#).



provided on the application, enter enough description of the location of his home to enable the registrar to determine his precise location for precinct assignment purposes.¹⁹

The general registrar should ask any applicant who gives a residence address that will not also serve as a mailing address to supply a mailing address in the “Mailing Address” space. The Code does not specifically require this information, and 1VAC20-40-30(c) specifically states “no person shall be denied registration for failure to submit a mailing address.”

6.2.3.1 Protected Voters

Certain voters are allowed to request that their residence addresses not appear on lists provided for public inspection.²⁰ These voters **must provide a post office box within Virginia** to receive protected voter status and are responsible to communicate changes in this address. The following individuals, and any person living at their residence, are permitted to provide alternative addresses:²¹

- Active or retired law enforcement officers,
- Persons granted protective court orders under the authority of any court of competent jurisdiction,
- Threatened or stalked individuals who have a written statement,
- Participants in the address confidentiality program,
- Active and retired federal and Virginia justices, judges, magistrates, and attorneys employed by the United States Attorney General or Virginia Attorney General, and
- Approved foster parents.

Protected Voter Codes

ACP	Participant in the Attorney General’s Address Confidentiality Program
LEO	Active or Retired law enforcement officer, judge, magistrate, U.S. or Virginia Attorney General attorney
CPO	Court-Issued Protected Order
TSC	Applicant or a member of their household has evidence or filed a complaint with law

¹⁹ See Virginia Administrative Code [1VAC20-40-30\(C\)](#).

²⁰ See the Code of Virginia [§24.2-418\(B\)](#).

²¹ *Id.*



	enforcement about being threatened or stalked
AFP	Approved to be a Foster Parent
LEO and CPO	Active or Retired Law Enforcement Officer, Judge, Magistrate, U.S. or Virginia Attorney General <i>and</i> Court-Issued Protective Order
LEO and TSC	Active or Retired Law Enforcement Officer, Judge, Magistrate, U.S. or Virginia Attorney General <i>and</i> Applicant or a member of their household has evidence or filed complaint with law enforcement about being threatened or stalked.
CPO and TSC	Court-issued protected order <i>and</i> Applicant or a member of their household has evidence or filed a complaint with law enforcement about being threatened or stalked.
LEO and CPO and TSC	Active or Retired Law Enforcement Officer, Judge, Magistrate, U.S. or Virginia Attorney General <i>and</i> Court Issued Protective Voter, and Applicant or a member of their household has evidence or filed complaint with law enforcement about being threatened or stalked.

Applicants in any of these categories can have their residence address redacted on the registered voter list, the list of those who have voted, absentee applicant lists, and any other registration records available for inspection by third parties.²²

P.O. Box addresses are only acceptable when the applicant cannot receive mail at their residence address (e.g., the residence address is not deliverable by the U.S. Postal Service)²³ or when the applicant is a protected voter. This address does not have to be in the locality of residence, but protected voter alternative P.O. Box addresses must be in Virginia.

²² See the Code of Virginia §§[24.2-405\(D\)](#), [24.2-406\(D\)](#), [24.2-418\(B\)](#), [24.2-444\(C\)](#), [24.2-706](#), and [24.2-710](#).

²³ See Virginia Administrative Code [IVAC20-40-10](#)



If an applicant fails to provide a reason code for protected voter status and the general registrar cannot reach out to the applicant for supplemental information, the voter should be denied the protected status; **however, if the applicant is otherwise qualified they must be registered.**

6.2.3.2 *Person whose domicile straddles two political subdivisions*

Property boundaries may not follow election district or locality boundaries. When an applicant's domicile and place of abode straddles two (or more) jurisdictions, a decision must be made as to where the person should be registered. If the applicant's dwelling unit falls totally within one jurisdiction, even if a portion of the applicant's property is in an adjacent locality, then the applicant can only be registered in the locality of the dwelling unit. If the dwelling unit straddles the boundary line, then the applicant is deemed to reside in the location of his bedroom or usual sleeping area.²⁴

6.2.3.3 *Homeless Applicants*

A person with no permanent address must describe on the application to register his actual physical dwelling place and may choose to list a mailing address where he can receive election mail.²⁵

6.2.3.4 *College Students*

You should consider the following when determining the residency for college students:

- College students should register to vote in the city or county in which they are legal residents.
- The student determines and declares the city, county and state in which he or she claims legal residence.²⁶ This may be the residence where his or her family lives, or the city or county and state where the school is located.
- A college student may claim residency at the school address at which the student lives only a portion of the calendar year if the student otherwise meets the qualifications of legal residence for voter registration.²⁷

6.2.3.5 *People Living in Different Locations for Different Seasons*

The residency status of persons who live elsewhere for a portion of the year (such as persons who spend winters in warmer climates, migrant workers, or persons who live part of the year on a sailboat, for example) will be determined by the applicant.²⁸ If the

²⁴ See Virginia Administrative Code [IVAC20-40-30\(E\)](#).

²⁵ See Virginia Administrative Code [IVAC20-40-30\(C\)](#).

²⁶ See Virginia Administrative Code [IVAC20-40-10](#) (registrars must presume the address of residence declared by the applicant is where the applicant has domicile).

²⁷ See Virginia Administrative Code [IVAC 20-40-40\(C\)\(3\)](#) (registrars are to treat dormitories as permanent addresses) and [IVAC20-40-30\(B\)\(3\)](#) (registrars cannot make any presumptions about a person's residence based on the person's student status).

²⁸ See Virginia Administrative Code [IVAC20-40-10](#) (registrars must presume the address of residence declared by the applicant is where the applicant has domicile).



applicant has the intention to return to a location and considers the location their place of abode, they should be considered as having residency.²⁹

6.2.3.6 *Overseas Voters and Military Personnel*



Persons serving in the military, as well as their spouses and dependents, and overseas voters fall into a special class regarding residence. If a person, upon entering military service, wishes to declare his last residence before entering service (his home of record) as his legal residence, then he is considered to have residence there until he declares a different place his legal residence or leaves the service. “If that address is no longer a recognized residential address, the voter must be assigned an address for voting purposes.”³⁰

Tax laws permit military members to claim a residence for tax purposes only. A military member may be exempt from paying local and state taxes if they file a Certificate of Legal Residence form with the state or local government. Filing this form for tax purposes does not prohibit the service member from claiming Virginia as their legal residence for voter registration purposes.³¹

Great care must be taken before denying or canceling the voter registration of a service member. Action to deny registration can only be taken after considering the special rules applicable to military personnel and the relevant facts, which may require consulting Department of Elections staff for guidance or your local legal representative. Cancellation must always be authorized under one of the specific grounds detailed under the Code of Virginia §24.2-427. It is a violation of federal law punishable by a fine and up to five years imprisonment to knowingly deny or attempt to deny rights provided under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).³²

6.2.3.7 *Reviewing Residency*



A registrar has limited discretion in reviewing the residency portion of the voter registration application. As discussed above, residency requires domicile and place of abode and the registrar must “presume that domicile is at the address of residence given by the person on the application.”³³ If an applicant lists a location as where they sleep and this information is sufficient to assign the applicant to a polling place within the precinct, the application should be processed if the applicant meets all other eligibility requirements.³⁴

²⁹ See the Virginia Constitution [Art. II, §1](#) and the Code of Virginia [§24.2-101](#) (defining “residence” as requiring domicile and place of abode, and defining “domicile” as living in a locality with intent to remain).

³⁰ See Virginia Code [§24.2-456](#)

³¹ See Virginia Attorney General Opinion No. [06-048](#)(Oct. 3, 2006) (stating “a general registrar may not deny an application for voter registration or cancel the voter registration of a registered voter who is a service member of the armed forces of the United States based solely upon the filing of such certificate.”).

³² See [18 U.S.C. §608](#).

³³ See Virginia Administrative Code [IVAC20-40-10](#).

³⁴ See Virginia Administrative Code [IVAC20-40-60\(A\)](#).



There are only five situations in which a registrar **must** ask for additional information regarding an applicant's residency.³⁵ When a situation requiring more information arises, the registrar is prohibited from denying the application.³⁶ Instead, the registrar must request more information by providing a form to the applicant, to which the applicant must respond in writing.³⁷ The application cannot be accepted or denied while the registrar is awaiting the applicant's response.³⁸ If the applicant does not provide the information by the last day to register before the election, and the registrar is unable to determine the applicant's residency through any other means, only then should the registrar deny the application.³⁹

Under 1VAC20-40-40, a general registrar must ask for additional information regarding residency when:

1. The applicant provides a mailing address in a different county, city, or state from his residential address.
 - The registrar must ask **and** mail the supplemental questions provided in the form titled *Approved Inquiry as to Residency*. This form must be answered and returned before the last day of registration.
2. The applicant provides a residential address that cannot receive mail or from which mail sent by the registrar's office is returned.
 - The registrar is required to ask for an alternate mailing address. However, no person shall be denied registration for failure to submit a mailing address.
3. The applicant provides a temporary address.
 - The registrar must ask the supplemental questions provided in the form titled *Approved Inquiry as to Residency*. This form must be answered and returned before the last day of registration.
4. The applicant provides a nontraditional residential address.
 - A nontraditional residential address includes industrial or commercial buildings. If the individual sleeps there and considers the location their residence, the application should be processed
5. The application causes a conflict with another existing voter in the statewide, voter registration system.

The applicant's application should be processed if, in responding to the supplemental questions, the applicant provides sufficient information for the registrar to assign the applicant to a polling place within the precinct and cancel any existing registration elsewhere. If the applicant does not provide sufficient information, the application must be denied.

³⁵ See Virginia Administrative Code [1VAC20-40-40\(C\)](#).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*



6.2.4 Felony convictions

6.2.4.1 *Virginia convictions*

An applicant who has been convicted of a felony in Virginia has lost the right to vote and cannot legally register to vote in the Commonwealth until their voting rights have been restored by the Governor of Virginia.⁴⁰ The Governor has the authority to restore voting rights of persons convicted of felonies in Virginia.⁴¹ An application to the Governor may be made through the Secretary of the Commonwealth or by circuit court petition.⁴²

If a registered voter that has their voting rights restored is convicted of a new felony, the voter's registration must be cancelled.⁴³ The individual cannot legally register again in the Commonwealth of Virginia until their voting rights have been restored for the new felony.

6.2.4.2 *Convictions in other states*

A citizen moving to Virginia whose rights have been restored in the convicting state may register to vote in Virginia, indicating restored felon status on the Virginia voter registration application.⁴⁴ The registrar should consult the Commonwealth's Attorney who represents the registrar on denials of registration, when any questions arise on restoration of rights for a convicted felon outside the Commonwealth. If restoration is not established, the application should be denied and the individual can appeal to the appropriate court.⁴⁵

6.2.4.3 *Verification*

A convicted felon, whose rights have not been restored, that attempts to register or that votes may be prosecuted for false statements or illegal voting.⁴⁶ Therefore, general registrars should correct misunderstandings that may have been created by voter registration drives and others encouraging registration by former offenders.

Applicants may not know whether they have been convicted of a felony versus a misdemeanor, or whether their rights have been restored. The registrar may, as a matter of courtesy, work with the applicant, reach out to the Secretary of the Commonwealth, or other state authorities to help the applicant make this determination. However, the responsibility for such determinations ultimately rests with the applicant, who may need legal counsel.

⁴⁰ See the Virginia Constitution [Art. II, §1](#).

⁴¹ See the Virginia Constitution [Art. V, §12](#).

⁴² See the Code of Virginia [§§53.1-231.1 – 231.2](#) (detailing process for restoration of civil rights).

⁴³ See the Code of Virginia [§24.2-427\(B\)](#)

⁴⁴ See Virginia Attorney General Opinion No. [99-087](#)(Aug. 3, 1999).

⁴⁵ See the Code of Virginia [§24.2-422](#).

⁴⁶ See the Code of Virginia [§§24.2-1004](#) (illegal voting and registrations) and [24.2-1016](#) (false statements).



If the proper classification is uncertain and cannot readily be determined from available information, the general registrar should request assistance from the Commonwealth's Attorney who represents the general registrar on registration matters.⁴⁷

Applicants whose rights have been restored may provide the registrar documents showing the restoration of their voting rights or simply provide the restoration date(s) on the registration application. If the applicant only provides the restoration date(s), the registrar must verify the date of restoration, determine the convicting jurisdiction, and if the convicting jurisdiction is in Virginia. Verification can be completed by contacting the applicant or by looking up the applicant's restoration order on the Secretary of the Commonwealth's website.⁴⁸ A general registrar may also request documentation to confirm the restoration of voting rights of a person previously convicted of a felony.⁴⁹ If an applicant is convicted of multiple felonies, the registrar must ensure the applicant has their rights restored for all felonies convicted prior to registration. All documentation should be attached to the applicant's record in VERIS.

If an applicant is not eligible to register, the registrar should provide appropriate information to the applicant regarding the restoration-of-rights process. An applicant who disagrees with the registrar's determination may submit an application, within 10 days of denial, and appeal the denial to the circuit court in the county or city of where he applied to register.⁵⁰

6.2.4.4 *Juvenile Convictions*

Sometimes an applicant will ask, "I was convicted of a felony as a juvenile. Can I register to vote?" or, "How do I answer the felony question?" The responsibility for such determinations ultimately rests with the applicant, who may need legal counsel.

NOTE: The place where the juvenile served his sentence (e.g., Department of Juvenile Justice facility as opposed to Department of Corrections' facility) **does not indicate whether he was convicted of a felony as an adult.** The most important factors are which court heard the case and the details of the conviction. If it was heard in Circuit ("adult") Court, contact your local Commonwealth's Attorney for information on determining conviction status.

6.2.5 **Persons Adjudicated Incapacitated**

The Virginia Constitution, Art. II §1 states, "no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished." It has been further codified in §24.2-101 that "[n]o person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law."

⁴⁷ See the Code of Virginia §[24.2-422\(A\)](#).

⁴⁸ See restore.virginia.gov

⁴⁹ Virginia Attorney General Opinion [No. 06-048](#) (Oct. 3, 2006).

⁵⁰ See the Code of Virginia §[24.2-422](#).



Adjudications of incapacity result in loss of voting rights unless a court order expressly preserves voting rights. Circuit court clerks are required to furnish voting officials with lists of persons ineligible to vote due to adjudications of incapacity.⁵¹

Only a court adjudication of incapacity can take away a person's voting rights for mental incompetence. Unless a court has determined that a person is incapacitated, that person retains their voting rights. It is a crime to try to "vote for that person" - no matter how noble the aims may be (e.g., "I know how my family member would have wanted to vote"). Improperly completing an absentee ballot application, signing another's name, or otherwise rendering improper assistance, must be referred to the Commonwealth's Attorney in the locality in which the votes were cast or were attempted to be cast.

6.2.6 Social Security Numbers



A full social security number is only required when the applicant is providing an original voter registration application **and** has not checked the "No SSN" box on the application.⁵² SSNs are not guaranteed to be unique and the Social Security Administration has advised that individuals may share the same valid SSN. While VERIS accepts the SSN for internal tracking and searching purposes, VERIS will assign a Voter ID unique identifier to each voter registered in the system. This assigned Voter ID protects each individual's vote against improper dilution and helps detect duplicate registration and fraud.

Occasionally an applicant will object to providing his or her SSN in order to register to vote. If the applicant has been issued an SSN and indicated they have an SSN on their voter registration application, they are required to provide this information for voter registration purposes.⁵³

The federal Privacy Act of 1974 and Virginia's Government Data Collection and Dissemination Practices Act ("Data Act") both require that applicants be informed of the legal basis for requesting the SSN and its possible uses.⁵⁴

NOTE: SSN is not required for a transfer or a change of name or address. A transfer or change of name or address application from a voter who omits his SSN must still be processed.⁵⁵

6.3 METHODS OF REGISTRATION

Virginia authorizes six ways to apply for registration:

- Online by internet application to the Department of Elections,⁵⁶

⁵¹ See the Code of Virginia [§24.2-410](#).

⁵² See Virginia Administrative Code [1VAC20-40-70\(B\)\(1\)](#).

⁵³ See Virginia Administration Code [1VAC20-40-70](#).

⁵⁴ See [5 U.S.C. §552](#). See also the Code of Virginia [§2.2-3800](#) et seq.

⁵⁵ See Virginia Administrative Code [1VAC20-40-70\(F\)](#) (applications from already registered voters must be processed as a request to transfer or change, as long as the application contains some new information and is signed).

⁵⁶ See the Code of Virginia [§24.2-416.7\(A\)](#).



- By application at the polls to an officer of election-on-election day,⁵⁷
- In person before a registrar,
- By application at a state designated voter registration agency,⁵⁸
- By directly mailing an application to the general registrar,⁵⁹ and
- By third-party voter registration.⁶⁰

While there are multiple methods of registration, an applicant does not become registered until the application is reviewed and accepted by his/her local general registrar. This distinction is important. Applications taken by personnel at the Department of Motor Vehicles or other agencies are only applications; they are not legally effective as registrations until the appropriate general registrar accepts them as complete and valid.

6.3.1 Online

Applicants may register online using the Department of Elections website.⁶¹ Applications submitted online to the Department of Elections can be accepted through 11:59 p.m. on the final day of registration preceding an election. To complete the application process and sign the application electronically, the applicant must have a driver's license or identification issued by the DMV.⁶² A voter may also check their status and/or update their voter registration electronically.⁶³ The web address for the online application is: <https://www.elections.virginia.gov/register>.

6.3.2 At the Polls on Election Day

Officers of election must provide any person offering to vote provisionally with an application to register.⁶⁴ If the person's provisional ballot is not counted, but the person is qualified to register to vote and their application contains all information required by law, their submitted application should be processed and accepted.

6.3.3 In-Person Registration

6.3.3.1 *In the Voter Registration Office*

Eligible Virginia residents may complete a voter registration application in person at the registrar's office during legally authorized official business hours.

⁵⁷ See the Code of Virginia [§24.2-653](#).

⁵⁸ See the Code of Virginia §§[24.2-411.3](#) (Department of Motor Vehicles) and [24.2-411.2](#) (other state-designated voter registration agencies).

⁵⁹ See the Code of Virginia [§24.2-416.1](#).

⁶⁰ See the Code of Virginia [§24.2-416.3](#).

⁶¹ See the Code of Virginia [§24.2-416.7\(A\)](#).

⁶² See the Code of Virginia [§24.2-416.7](#).

⁶³ *Id.*

⁶⁴ See the Code of Virginia [§24.2-653](#).



On the final day of registration preceding an election, applications must be accepted until 5:00 pm.⁶⁵ At that time, the general registrar must list all applicants in line, and accept their applications as timely, if complete.⁶⁶

The registrar, or the electoral board, may establish additional office hours for registration beyond those normally scheduled.⁶⁷ All locations within the locality should comply with the extended hours.

Any extended public hours beyond regular office hours in the registrar's office and any additional locations for voter registration must be advertised. There are several provisions governing advertising of additional times and locations:

- Any hours or locations must be advertised at least three days in advance.⁶⁸ Notice must be posted on the locality website, and either published at least once in a newspaper of general circulation in the locality or announced at least twice on a television station serving the locality (if one is available).⁶⁹
- Notice is not required for:
 - the regular office hours of the general registrar's office or of any co-located office normally staffed by at least one registrar,⁷⁰
 - any office or location offering voter registration services or forms in the normal course of its daily business,⁷¹ or
 - any other locations that do not have a government employee statutorily authorized to receive voter registration applications present, but that offer mail-in forms.⁷² For example, § 24.2-416.3 provides for registration applications to be available through agents of the Department of Game and Inland Fisheries statewide. However, since these agents are not authorized to accept applications and applicants are responsible for sending their own applications to the appropriate registrar, these agents are not subject to the public notice requirement.

6.3.3.2 Other Registration Sites

As an alternative or in addition to expanded office hours, the general registrar or electoral board may establish additional registration sites to meet the registration needs

⁶⁵ See the Code of Virginia [§24.2-414.1](#).

⁶⁶ See the Code of Virginia [§24.2-414](#).

⁶⁷ See the Code of Virginia [§24.2-415](#) (for hours outside of regular office hours, advance notice must be given).

⁶⁸ See the Code of Virginia [§24.2-415](#).

⁶⁹ See the Code of Virginia [§24.2-415](#).

⁷⁰ *Id.*, at (B).

⁷¹ *Id.*

⁷² See the Code of Virginia [§24.2-415\(B\)](#). It is the participation of one of these authorized government employees or a registrar that triggers the public notice requirement.



of the locality. Like additional office hours, these additional sites must be advertised to the public; including posting the notice on the locality website if applicable.⁷³

6.3.3.2.1 School Sites

The Department of Elections encourages each general registrar to work with each local high school at least annually to encourage registration. As of October 1st, 2022, any person who is otherwise qualified and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, may preregister to vote in any election except as provided in §24.2-403.⁷⁴ Before the high school visit, the school administration and government teachers should be contacted about arranging an opportunity to speak to the students about voter rights and responsibilities and to encourage service as an officer of election. Registration drives conducted by the general registrar at high schools and naturalization ceremonies may be closed to the public.⁷⁵

6.3.3.2.2 Registration through State Agencies

As part of the National Voter Registration Act (NVRA), certain public agencies must offer voter registration applications to most customers at their state, regional, or local offices.⁷⁶ The opportunity to apply to register is provided at the time of the client's original application for services and when filing for re-certification, re-admission, renewal, or change of name or address.⁷⁷ Agency personnel must assist clients with completing voter registration forms as they would for their own forms, unless the applicant refuses such assistance.⁷⁸

The law does not specify what assistance must be provided and permits flexibility to develop solutions to accommodate particular needs of persons with disabilities (however, Virginia law prohibiting discrimination against persons with disabilities must be followed⁷⁹). For example, non-English speaking clients may be referred to the Department of Elections for language translations of the Virginia Voter Registration Application and other forms. The federal Election Assistance Commission website may provide translations of the National Mail Voter Registration Form in additional languages such as Spanish or Korean.⁸⁰ Designated agency personnel do not consider issues of client eligibility to register to vote. Eligibility determination is the responsibility of the general registrar.

The state office of each designated public agency sets policy for distributing, displaying, collecting, and returning applications in accordance with NVRA requirements.

⁷³ See the Code of Virginia §[24.2-415](#).

⁷⁴ See the Code of Virginia §[24.2-403.1](#).

⁷⁵ See the Code of Virginia §[24.2-412 \(C\)](#).

⁷⁶ See the Code of Virginia §[24.2-411.2\(A\)](#).

⁷⁷*Id.*, at (D)(1).

⁷⁸ See National Voter Registration Act (NVRA), [52 U.S.C. §20506\(a\)\(6\)\(C\)](#). See also the Code of Virginia §[24.2-411.2\(C\)\(2\)](#).

⁷⁹ See the Code of Virginia §[51.5-43](#) (“No person with a disability ...shall be denied the opportunity to register or vote...because of such disability”).

⁸⁰ See [EAC website](#) for additional languages.



The Department of Elections distributes display boxes, application forms, and other needed supplies to all appropriate agencies. Registrars should be prepared to supplement these when needed.

The Code of Virginia designates the following agencies as registration sites in accordance with NVRA and §§24.2-411.1 and 24.2-411.2:

- Department of Motor Vehicles
- Agencies whose primary function is to provide public assistance
- Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities
- Armed Forces recruitment offices
- Regional offices of the Department of Game and Inland Fisheries and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8



Agencies are required to transmit applications to the Department of Elections no later than five business days after the date of receipt.⁸¹

6.3.3.2.3 Registration at the Department of Motor Vehicles

The National Voter Registration Act (NVRA) signed in 1995 was enacted for the purpose of simplifying the voter registration process and increasing access to voter registration opportunities to all populations. One of the most significant impacts to voter registration through NVRA was “motor-voter.” Essentially, Motor-Voter mandates the execution of voter registration opportunities as an interagency process. In plain meaning, this act requires the DMV to act as an arm of ELECT to increase access to voter registration opportunities.

As mandated by NVRA and state law, almost any person who comes to an office of the DMV to apply for, replace, renew, or change an address on a driver’s license or special identification card (“qualifying transactions”) must be given the opportunity to apply to register to vote at the same time.

Beginning in July 2016, the Department of Elections and the DMV partnered to simplify the method of voter registration application for most DMV customers. Customers in DMV customer service centers could complete a voter registration application or submit a notice of change of address or other information electronically. The introduction of the electronic motor voter application process dramatically reduced the number of paper applications received by localities. Customers at DMV customer service centers who apply for or replace a driver’s license or DMV ID card, renew a license or ID card, or update an address on file with DMV will be presented with the opportunity to register to vote as required by the National Voter Registration Act. If the voter agrees, the information will be transmitted to general registrars for processing within five days of receipt.

In 2020, the Governor signed HB235 which implements a form of automatic voter registration. With this change, the customer must affirmatively decline to register to vote;

⁸¹ See the Code of Virginia §§[24.2-411.3](#) (DMV) and [24.2-411.2\(G\)](#) (all other state-designated voter registration agencies).



essentially making the system an “opt-out” rather than “opt-in.” Customers must opt-out of registering to vote or updating their voter registration.

A customer must answer the same questions as those found on the paper form of the Voter Registration Application; including the US citizenship. If the customer attests to not being a US citizen or does not answer the citizenship question will not be asked any questions related to voter registration.

Similarly, a DMV customer using the DMV website to conduct any one of the transactions mentioned above, will be provided the opportunity to electronically transmit a voter registration application.

The electronic DMV applications are processed by general registrars in a manner consistent with other electronically received registration applications.

6.3.4 Mail Registrations

Voters can register by mailing an application directly to a voter registration office or the Department of Elections.⁸² Voters may also complete an application and give it to a third party (someone other than a sworn registrar or state-designated agency employee) to forward to a voter registration office.⁸³ Persons entitled to vote absentee under the Uniformed and Overseas Citizens Voting Act may combine a registration application with an application for an absentee ballot on a Federal Post Card Application (FPCA) or a ballot using the Federal Write-In Absentee Ballot (FWAB).

Applications received through any form of mail service, including the U.S. Postal Service, Federal Express, United Parcel Service, DHL, or any other mail carrier, are considered to have been received through the mail and should be coded as “S” in VERIS.

For federal elections, anyone may vote absentee by mail. First time voters who registered by paper will be required to mail in a copy of a HAVA compliant ID for their vote to be counted.

6.3.5 Third Party Registration Drives

Anyone can distribute and receive registration applications.⁸⁴ Any individual or group obtaining 25 or more voter registration applications from the Department of Elections or a local office is required to register with the Department of Elections or local office, provide information as required by the Department of Elections, receive training, and execute a sworn affidavit that they will abide by all Virginia voter registration laws and rules.⁸⁵

The Department of Elections is required to furnish a reasonable number of blank mail applications to any individual or group who requests them.⁸⁶ Likewise, registrars should be prepared to furnish small quantities of applications to anyone who may request them. If a

⁸² See the Code of Virginia [§24.2-416.1](#).

⁸³ See the Code of Virginia [§24.2-416.3\(A\)](#).

⁸⁴ See the Code of Virginia [§24.2-416.3\(B\)](#).

⁸⁵ See the Code of Virginia [§24.2-416.6](#).

⁸⁶ See the Code of Virginia [§24.2-416.3\(A\)](#).



person or group requests a large number of applications, please refer them to the Department of Elections. Individuals with blank applications may go door-to-door, set up display boxes with applications at business or other establishments, distribute applications to members of their organizations, or otherwise distribute applications however they wish. Individuals and groups conducting voter drives are not subject to the same restrictions imposed on “official” registration sites conducted by a registrar.⁸⁷ Restrictions on official sites that are not applicable to third parties include prohibitions on conducting registration at events requiring an entry fee to access the registration location or where campaigning is taking place at the same location.⁸⁸ However, a third party may not pay its volunteers or employees based on the number of completed voter registration applications they collect.⁸⁹

When the local registrar or electoral board furnishes individuals or groups multiple copies of the voter registration application (even if providing fewer than 25 copies), it must also provide the instructions and an outline of penalties for destruction of, or failure to mail or deliver signed applications.⁹⁰

Third-party registration drives may decide to simply distribute applications and put the responsibility on the applicants to mail their applications to the voter registration office or Department of Elections. A third party which offers to return the completed applications to the voter registration office must provide the applicant a receipt.⁹¹ In either case, the application must be treated as a mail application.

If the third party offers to return a completed and signed application for the applicant, return must be made within ten days or by the close of registration, whichever comes first. Not doing so is a Class 1 misdemeanor.⁹² Unlawful use or disclosure of social security numbers or parts thereof is a felony.⁹³ Unlawful disclosure of other personal information may facilitate identity theft.⁹⁴

6.4 SUBMISSION DEADLINES

With the exception of online voter registration applications, voter registration for general and primary elections closes at the normal close of business⁹⁵ on the twenty-second day before the election and remains closed for the **twenty-one days preceding the election and on Election**

⁸⁷ See the Code of Virginia [§24.2-412\(C\)](#).

⁸⁸ See the Code of Virginia [§24.2-1003](#).

⁸⁹ See the Code of Virginia [§24.2-416.6](#).

⁹⁰ *Id.*

⁹¹ See the Code of Virginia [§24.2-418.1](#).

⁹² See the Code of Virginia [§24.2-1002.01](#).

⁹³ See the Code of Virginia [§24.2-1002.1](#).

⁹⁴ See the Code of Virginia [§18.2-186.3](#).

⁹⁵ See the Code of Virginia [§24.2-414.1](#).





Day.⁹⁶ Electronic applications may be submitted until 11:59 p.m. on twenty-second day preceding the election.

For any special election that has been called by the Governor, Speaker of the House of Delegates, President pro tempore of the Senate, or by either House of the General Assembly, registration must be closed for the **six days preceding the election and Election Day.**⁹⁷

For any other special election, registration must be closed for **thirteen days preceding the election and Election Day.**⁹⁸

In the event that a failure of the Virginia online voter registration system occurs before the scheduled close of registration, the Governor has the authority to extend registration for a period of time equal to the amount of time the online registration system was unavailable. This extension can be rounded up to the nearest whole day, with an additional whole day for voter education efforts.⁹⁹

After books are closed for any election, the registrar can accept applications during this time, but applications cannot be approved and processed until registration reopens the day after the election.

6.4.1 Applications Received by Mail

If an application is received through the U.S. Postal Service (USPS) and is postmarked on or before the final day of registration, the application must be accepted as timely regardless of when it is actually received.¹⁰⁰ If an application is received through the USPS and its postmark is missing, illegible, or has no date, the application must be accepted as timely if received by the fifth day after registration closed.¹⁰¹

If a mail application is received by any other means – through another mail system such as UPS or Federal Express, or through a third party – it must be accepted as timely only if it was received by 5:00pm on the final day of registration, regardless of when it was postmarked or sent.¹⁰²

6.4.2 Exceptions to Normal Application Deadline

In certain situations, the law allows for a registration to relate back or be considered effective as of the date of application. For example, in the context of provisional voting, a voter whose name does not appear on the pollbook may vote provisionally and fill out a registration application at

⁹⁶ See the Code of Virginia [§24.2-416](#).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ See the Code of Virginia [§24.2-416\(B\)](#).

¹⁰⁰ See the Code of Virginia [§24.2-416.4\(A\)](#).

¹⁰¹ *Id.*

¹⁰² See the Code of Virginia [§24.2-416.4](#).





the polls.¹⁰³ If it is found that the person is a qualified voter, and the person provides evidence of having submitted a timely registration application at the Department of Motor Vehicles or another state-designated voter registration agency prior to the close of registration, the person's Election Day application will become effective as of the day the person initially applied.¹⁰⁴

Certain citizens receive an extended deadline to register *by mail* regardless of the postmarked date. If the citizen is eligible to be registered and, if by reason of active duty, they are normally absent from the city or county they reside, the citizen's application may be accepted and approved.¹⁰⁵ The following individuals' application may be submitted with an application for an absentee ballot or a federal write-in absentee ballot:

- Any member of a uniformed service on active duty;
- Any spouse or dependent residing with a person listed as active duty; and
- Any person temporarily residing outside the US.

Certain categories of citizens are allowed an extended time to register. Applicants who fall into any of these categories may register *in person* up to and including Election Day:¹⁰⁶

- Active-duty members of the uniformed services, their spouses, and dependents residing with them, who, by reason of such active duty, meet one of the following criteria:
 - Are normally absent from the locality in which they reside.
 - Have been absent from the locality and returned to reside there within the twenty-eight days prior to the election.¹⁰⁷
- Persons formerly on active duty in the armed forces who were discharged from service during the sixty days preceding the election, their spouses, and their dependents (whether or not residing with them).¹⁰⁸
- Persons who reside temporarily outside the United States, their spouses, and dependents residing with them who, by reason of such temporarily overseas residency, meet one of the following criteria:
 - Are normally absent from the locality in which they reside.
 - Have been absent from the locality and returned to reside there within twenty-eight days prior to the election.¹⁰⁹

Same Day Registration

Notwithstanding any provisions of §24.2-416 any person who is qualified to register to vote shall be entitled to register in person up to and including the day of the election at the office of the general

¹⁰³ See the Code of Virginia [§24.2-653\(A\)](#).

¹⁰⁴ See the Code of Virginia [§24.2-653](#).

¹⁰⁵ See the Code of Virginia [§24.2-419](#).

¹⁰⁶ See the Code of Virginia [§24.2-420.1](#).

¹⁰⁷ *Id.*, at (A).

¹⁰⁸ *Id.*, at (B).

¹⁰⁹ *Id.*, at (A).



registrar in which the person resides or at the polling place for the precinct in which such person resides. Voters, who opt to register and vote on the Same Day, will be given a provisional ballot. The voter's registration form will be entered into VERIS by the General Registrar's office for registration validation. This registration and provisional ballot will be reported to the Electoral Board during the canvass. If the Electoral Board confirms the validity, the ballot will be counted; If the Electoral Board determines that the registration is invalid, the ballot will not be counted.¹¹⁰ Please review Chapter 13 Provisional Ballots for additional information.

6.5 APPLICATIONS

There are several different types of voter registration applications. The State Board of Elections must approve all types of state applications for use.¹¹¹ Where available, application forms may be downloaded from the Internet, printed, and used like pre-printed registration applications. A fax submission of an application is not acceptable, except in the case of a Federal Postcard Application (FPCA) (discussed below), or for a change of address or transfer. The following types of official application forms, both current and prior versions¹¹², as well as approved Spanish translations, can be accepted:

- Virginia Voter Registration Application (paper or online)
- Department of Motor Vehicles Application
- National Voter Registration Application
- Federal Post Card Application (FPCA)
- Federal Write in Absentee Ballot (FWAB)

6.5.1 Virginia Voter Registration Application (VA-NVRA-1)

This form may be used in-person, by mail, by third party groups, and agency applicants and can be distributed by the general registrar throughout the locality in display boxes. The Department of Elections may provide these boxes, or registrars may design and purchase their own display boxes.

The current application is titled Virginia Voter Registration Application (VA-NVRA-1). When properly completed, the form contains all the information necessary to process the application.

Printed forms can be ordered from the Department of Elections using the contact information on its website.

An applicant may submit an electronically signed voter registration application for processing. These applications, and signatures, are valid for purposes of voter registration.

¹¹⁰ See the Code of Virginia [§24.2-420.1](#) Extended time for individuals to register in person.

¹¹¹ See the Code of Virginia [§24.2-418\(A\)](#) ("The application to register shall be only on a form or forms prescribed by the State Board"). See also Virginia Administrative Code [IVAC20-40-70\(A\)](#).

¹¹² See Virginia Administrative Code [IVAC20-40-70\(J\)](#)



6.5.2 Older Versions of the Virginia Application

Various versions of the official Virginia Voter Registration Application (VA-NVRA-1) form remain in circulation, including a previous 5" X 11" version (with a 3" X 5" perforated tear-off portion on the left side) used immediately before and after Virginia's implementation of NVRA in 1996.

Prior versions of any voter registration application must be accepted by registrars for voter registration under 1VAC20-40-70: Applications for Voter Registration; Affirmation of United States. Prior versions of any voter registration application may not be denied for failure to provide information that is deemed not material.

Unless the Department of Elections instructs otherwise, registrars should accept these older applications. However, some of these older applications request information no longer required by law. If processing an application using one of these older forms, registrars should not deny the application for failure to provide information no longer required.¹¹³

6.5.3 National Application

The National Mail Voter Registration Form is designed by the United States Election Assistance Commission (EAC).¹¹⁴ The National form comes with a booklet that explains voter registration requirements for each state. Therefore, even though the form itself does not specify Virginia requirements, the requirements are provided to the applicant with the application. Some of the questions on the Virginia Application do not appear on the National Application. However, all information required for registration in Virginia is on the form, either in the form of questions or as part of the statement the applicant must sign.

Translations of the National form and instructional booklet are available from the EAC website.¹¹⁵ Armed Forces recruitment offices use a variant of the National form. It is printed in red and is labeled "DD 2644" in the corner.

6.5.4 Combined Voter Registration and Absentee Application-- Federal Post Card Application (FPCA) and Federal Write-In Absentee Ballot (FWAB)

Overseas citizens, military members, and their dependents may use FPCA or FWAB. They are available at the website of the Federal Voting Assistance Program (FVAP).

FPCA forms may serve as applications both for voter registration and for absentee ballots.¹¹⁶ Forms received for both purposes should be photocopied; the original form should be retained as the registration application, and the photocopy retained as the application for an absentee ballot.

¹¹³ See Virginia Administrative Code [1VAC20-40-70\(J\)](#).

¹¹⁴ See [Election Assistance Commission website](#).

¹¹⁵ See [Election Assistance Commission website](#).

¹¹⁶ See the Code of Virginia [§24.2-458\(B\)](#).



Unlike other registration application forms, the FPCA may be sent by fax or scanned email attachment to registrars or the Department of Elections. As long as it is complete, an emailed or faxed FPCA is sufficient to apply for registration, and mailing the original is not required.¹¹⁷

The FWAB is designed for use as a backup ballot if an applicant's timely requested absentee ballot does not arrive in time. The FWAB, commonly called the federal "backup" ballot, includes a registration application page similar to the FPCA. Virginia allows use of the FWAB for all elections in which the voter is eligible to vote.¹¹⁸ The FWAB is also available for download from the FVAP.

In processing a FPCA or FWAB, keep in mind not all information requested on the form is material for registration. If information that is not material is omitted, the application for voter registration should still be processed. The following omissions are not material:¹¹⁹

- On an application that declares active-duty military status: Service ID number, rank, grade, or rate.
- On an application that declares temporary overseas residence with a date of last residence: Employer name and address.
- On an application that declares indefinite overseas residence: Date of last residence.

6.6 PROCEDURES UPON RECEIPT OF VOTER REGISTRATION APPLICATIONS

6.6.1 Determine Which Applications Belong to Other Localities

Registrars will likely receive some applications that are not for their locality. **The registrar must determine to which locality these applications belong and forward them to the appropriate voter registration office.**¹²⁰ If the registrar is uncertain about the correct locality, calling the registrar in the locality where the application may belong may help.



It is not up to the registrar receiving such an application to determine if the application is complete and acceptable. Only the registrar in the locality for which an applicant is applying for registration can make that determination.¹²¹

The original application should be forwarded immediately to the correct locality as soon as practicable. The sending general registrar must indicate to the receiving general registrar the origin of the application by a note attached to each application or a cover sheet (similar to that used by the Department of Elections) for a group of applications indicating the common origin of the applications.

¹¹⁷ See Virginia Administrative Code [1VAC20-45-30s](#).

¹¹⁸ See the Code of Virginia §§[24.2-461](#) and [24.2-702.1\(A\)](#).

¹¹⁹ See Virginia Administrative Code [1VAC20-45-20\(B\)](#).

¹²⁰ See the Code of Virginia [§24.2-114\(6\)](#).

¹²¹ *Id.*



General registrars should make a file copy of any forwarded application to document compliance with HAVA processing standards.

6.6.1.1 *Forwarding Applications near the Registration Deadline*



Mailed applications received during the final two days before the close of registration that belong to another locality, as well as those received after the close of registration but that appear to be timely, should be transmitted by using one of the following methods:

- Fax the application to the appropriate locality **and** mail the original application, making a photocopy of each before sending. Remember to redact sensitive personal information from an application before faxing or emailing, unless the email is encrypted. Sensitive personal information includes date and month of birth, any part of the social security number, and **residence addresses of protected voters**. The year of birth is not required to be redacted.¹²²
- Arrange to deliver the applications in person.

6.6.1.2 *Ensuring Receipt*

Making file copies of applications forwarded by mail assures that a record of the application exists in case it becomes lost in delivery. GRs should confirm receipt by conducting a VERIS search for the social security number in Active, Incomplete and Rejected statuses. If a reasonable period of time has passed and VERIS indicates no record of action by the receiving registrar, the forwarding registrar should call to determine if the application has been received. Delivery confirmation service may also be considered.

6.6.2 *Determine Application Completeness*

A completed application is required in order to register a new applicant for voter registration.

A completed application means an application that provides all required information.

A fully completed application is not necessary to transfer or change the address of a currently registered voter. A currently registered voter only needs to submit (in person, mail, email, or fax) a signed statement in order to update or transfer his or her registration.¹²³ An update is not required to have all the same information as a new applicant.

Registrars receive many applications that do not contain all the information required by law and have the legal duty to deny any application from a **new applicant** (a person who is not already registered) that is incomplete when received.¹²⁴

Revised in 2016, the State Board of Election restated policies governing incomplete applications for registration. The regulation implements federal law by identifying certain information as

¹²² See Virginia Administrative Code [IVAC20-20-20](#).

¹²³ See Virginia Administrative Code [IVAC20-40-70\(F\)](#) (all applications, even if incomplete, from already registered voters must be processed as a request to transfer or change, as long as the application contains some new information and is signed).

¹²⁴ See Virginia Administrative Code [IVAC20-40-40\(A\)](#).



neither material to determining voter qualification or required by the Code of Virginia, and prohibits a registrar from denying an application for the failure of an applicant to provide any of the following information:

1. Social security number if the applicant checks the box indicating no SSN was ever issued;
2. Gender;
3. Generational suffix;
4. Middle name if the voter checks the box indicating none;
5. Email address;
6. Daytime telephone number;
7. Response indicating protected voter status, military status, overseas status, or any other information requested in Box 4;
8. Mailing address;
9. State in which the applicant is currently registered if the applicant is currently registered in Virginia;
10. Response indicating interest in serving as an officer of election;
11. Signature of applicant if applicant indicates that he is an individual with physical disabilities;
12. Response indicating the applicant has a physical disability if the application is signed by the applicant; or
13. Date of the application.

Current regulations do not require the registrar to request nonmaterial missing information. If any nonmaterial missing information is obtained, the registrar must add the information manually, including the registrar's name and the date of the addition on the reverse side of the form to indicate that the general registrar made the alteration. However, the registrar is prohibited from changing information provided by the applicant on the application without written, signed authorization from the applicant.¹²⁵

6.6.2.1 *Registration Date*

The general registrar accepting an application enters the date of acceptance on the application form as follows:

- Standard Virginia Voter Registration Application form (VA-NVRA-1): The registrar must enter the date of registration on any available space on the form and may enter precinct name or number or town code, if applicable
- Federal forms (National, FPCA, FWAB): the registrar must enter the date of registration on any available space on the form.

The registration date in VERIS will automatically default to the date of data entry for a new voter and will remain the original registration date for an existing voter, but it may be changed if necessary. In general, this should be the date that the registrar accepted the application and deemed it complete. Limited exceptions include:

¹²⁵ See Virginia Administrative Code [1VAC20-40-70\(D\)](#).



- Any valid application received in person by one registrar and forwarded to another registrar should show the date received by the first registrar as the registration date;
- Any valid application received in person at the DMV or any other state-designated agency should show the date it was received by that agency as the registration date;
- Mailed applications that are complete and show a timely postmark before the deadline, as well as applications lacking a postmark that are received by mail within 5 days after the deadline, are considered timely and should show the final day of registration as the registration date¹²⁶ (unless eligible for extended registration for certain military and overseas voters);
- Active-duty uniformed services members, overseas voters, and their eligible family may register in person up to and including the day of the election;¹²⁷
 - Registration applications from active-duty uniformed services members and their eligible family accompanying applications for absentee ballots must be accepted regardless of the close of books.¹²⁸
 - Effective October 1, 2022, in person voter registration will be expanded to include all qualified individuals.¹²⁹

6.6.2.2 Name

The applicant's full name is required and because a middle name may be material to determining voter qualification, registrars are required to do the following under 1VAC20-40-70(c):¹³⁰

- Contact the applicant, if the applicant indicates that they have no middle name, the registrar shall process the application.
- Contact the applicant, if the applicant indicates that they have a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.
- If the registrar is unable to contact the applicant and is therefore unable to determine if the application is incomplete, the registrar shall give the benefit of doubt to the applicant and process the application.

Many applicants enter their middle initial instead of their middle name. For some applicants, the initial *is* their middle name; while other applicants have no middle name. In order to determine if the applicant has a more complete middle name than appears on the application, the registrar can either perform a "Voter Search" or after entering information on the "Add Voters" page, select "Process" for a system search for duplicates. If the registrar determines the applicant is already registered with a middle

¹²⁶ See the Code of Virginia [§24.2-416.4\(A\)](#).

¹²⁷ See the Code of Virginia [§24.2-420.1](#).

¹²⁸ See the Code of Virginia [§24.2-419](#).

¹²⁹ See the Code of Virginia [§24.2-420.1](#).

¹³⁰ See the Administrative Code of Virginia [1VAC20-40-70](#).



name, that registration only should be updated. DMV data, if available, can also be checked to see if the applicant has a more complete middle name on file at the DMV.

Alternatively, the registrar can try to contact the applicant. If the registrar can obtain a more complete name, it should be used when entering the applicant in the VERIS. If the registrar cannot get a more complete name and is unable to determine whether the applicant has a middle name or not, registrars are required to accept the name as printed on the application.¹³¹

6.6.2.3 Age

A new applicant must provide their date of birth. If the date of birth question is not completed, the registrar may attempt to contact the applicant by phone or letter to correct the information. If the registrar is able to obtain the correct information and is therefore able to determine if the applicant meets the age requirement, the incomplete application in VERIS can be entered as “Approve” to register the otherwise qualified voter. If the applicant cannot be reached, the application must be denied.¹³²

Pre-Registration of 16 Year Olds¹³³

Any person who is otherwise qualified and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, may preregister to vote. This preregistration shall not entitle a person 16 years of age or older to vote in any election except as provided in §24.2-403.¹³⁴

If a voter registration application is completed by a voter who is between the ages of 16 and 17-years old (for example, if a 17-year-old will not turn 18 before the General Election), the general registrar or deputy registrar will input the voter registration into VERIS using the same processes as they would any other voter registration application. When the general registrar or deputy clicks the “process” button, they will get a notice stating, “Voters under 17 years of age must be pre-registered.” At this time, this applicant will be placed in the “Pre-Registration” Hopper. General Registrars should send a notice to the pre-registered voter indicating that their application has been received and instructing them that they are to update their information if their address changes. At the time of eligibility, the pre-registered voter will be marked as eligible and should be processed by the general registrar or their staff.

6.6.2.4 Residency – Protected Voters

If an applicant has claimed protected status on the application form and provided a Virginia P.O. Box address anywhere in the Commonwealth, then the registrar must

¹³¹ See Virginia Administrative Code [IVAC20-40-70](#).

¹³² See the Virginia Constitution [Art. II, §2](#) (date of birth is required information). See also Virginia Administrative Code [IVAC20-40-40\(A\)](#) (applications missing information required by law must be denied).

¹³³ See Code of Virginia [§24.2-403.1](#).

¹³⁴ *Id.*



indicate this protected status on the “Add Registration” page of VERIS by checking the appropriate box for protected voters.

Do not deny a voter registration application if no P.O. Box address was supplied.

Instead, the general registrar should contact the applicant to explain this provision of the law and give the applicant the opportunity to provide the needed information. The Attorney General’s Address Confidentiality Program (ACP) provides a free post office box option to victims of domestic violence or stalking.¹³⁵ VERIS requires that the registrar enter a P.O. Box in the mailing address field in order to process and approve an application once the protected voter status box is checked. USPS post office boxes and other commercial mailboxes may be provided as alternative addresses for publication in lists.¹³⁶

6.6.2.5 *Social Security Number*



It is extremely rare for a U.S. citizen not to have an SSN. If the applicant is not currently in VERIS and has indicated “none” in the space for the SSN, the application should be accepted and entered in VERIS with the SSN field left blank. Select the “Applicant has not been issued SSN” checkbox when processing the application in order to “Approve” the application and register the otherwise qualified voter. VERIS will generate a unique “Voter ID.” However, if the space for the SSN is simply left blank, and the applicant is not currently in VERIS, the application should be denied as “Incomplete.”¹³⁷ Then, select the checkbox for missing SSN. This action will automatically generate a notice of denial to send to the applicant stating that the SSN was missing. If, in response to this letter of denial, the otherwise qualified applicant states that he has no SSN, then the application can be accepted and VERIS will generate a unique “Voter ID.”

Applicants who continue to refuse to provide a social security number may be informed that the Code requires that her application must be denied and they have the right to appeal the denial to the circuit court.¹³⁸

6.6.2.6 *Gender*



No application may be denied for failure to indicate gender.¹³⁹ In VERIS, the registrar may enter an applicant’s gender as male, female, or unknown.

6.6.2.7 *Conviction of Felony/ Adjudication of Incapacity– Restoration of Rights*

A new applicant must provide information regarding their rights and disqualification of voting rights. The application asks: “Have you ever been convicted of a felony or judged

¹³⁵ See the [Office of The Attorney General website](#) for more information on the Address Confidentiality Program.

¹³⁶ See Virginia Administrative Code [1VAC20-40-10](#).

¹³⁷ See the Virginia Constitution [Art. II, §2](#) (social security number is required information if the applicant has one). See also Virginia Administrative Code [1VAC20-40-70\(B\)\(1\)](#) (omission of social security number is only immaterial if the applicant indicates they have no SSN).

¹³⁸ See the Code of Virginia [§24.2-422\(A\)](#).

¹³⁹ See Virginia Administrative Code [1VAC20-40-70\(B\)\(2\)](#).



mentally incapacitated and disqualified to vote?” This question must be answered by new, unregistered applicants.

If the applicant answers “YES,” the applicant must also provide an answer regarding if their right to vote was restored. If the applicant answers “YES,” and the applicant is otherwise qualified, the application should be approved. Applicants whose rights have been restored may provide the registrar documents showing the restoration of their voting rights or simply provide the restoration date(s) on the registration application. If the applicant only provides the restoration date(s), the registrar must verify the date of restoration, determine the convicting jurisdiction, and if the convicting jurisdiction is in Virginia. Verification can be completed by contacting the applicant or by looking up the applicant’s restoration order on the Secretary of the Commonwealth’s website.¹⁴⁰ A general registrar may also request documentation to confirm the restoration of voting rights of a person previously convicted of a felony.¹⁴¹ If an applicant is convicted of multiple felonies, the registrar must ensure the applicant has their rights restored for all felonies convicted prior to registration. All documentation should be attached to the applicant’s record in VERIS.

If an applicant is not eligible to register, the registrar should provide appropriate information to the applicant regarding the restoration-of-rights process. An applicant who disagrees with the registrar’s determination may submit an application, within 10 days of denial, and appeal the denial to the circuit court in the county or city of where he applied to register.¹⁴²

6.6.2.8 *Signature*

The applicant must sign the application in the box provided.¹⁴³ By signing, the applicant is affirming the following registration statement:

I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true. I authorize the cancellation of my current registration and I have read the Privacy Act Notice.

An applicant unable to sign due to physical disability may make a mark or an assistant may sign the application, including their name and address below the signature line.¹⁴⁴ A small checkbox below the signature line allows the applicant to request assistance with voting.

¹⁴⁰ See restore.virginia.gov

¹⁴¹ Virginia Attorney General Opinion [No. 06-048](#) (Oct. 3, 2006).

¹⁴² See the Code of Virginia [§24.2-422](#).

¹⁴³ See the Code of Virginia [§24.2-418\(A\)](#).

¹⁴⁴ See the Code of Virginia [§24.2-418\(A\)](#). See also Virginia Administrative Code [IVAC20-40-70\(B\)\(1\)](#).



6.6.3 How to Process Incomplete Applications

Incomplete applications must be processed in VERIS to:



- Deny a new voter’s application because required information is missing;¹⁴⁵ or
- Enter an application as “Incomplete” while attempting to contact the applicant to gather the missing required information.

VERIS allows the registrar two ways to determine whether an applicant is currently registered when processing an incomplete application:

- Searching for the applicant on the “Voter Search” page by a number of criteria including the voter’s name, SSN, or portion thereof
- Selecting “Add Voters” from the VERIS navigation bar and entering the information that is present on the application. Once the “Process” button is selected, the system will search for and return any duplicate registrations.

If the applicant is not currently registered in Virginia, the registrar may not “Approve” the registration until complete information is received. The application should be saved as “Incomplete” in order to contact the applicant and obtain the missing information if possible; otherwise, the application must be denied. When denying such an application, “Incomplete” should be selected as the reason for denial with the appropriate boxes checked to indicate what information was missing. This will automatically generate a denial notice to send to the applicant that lists the specific items that were incomplete. A new application must be sent with the denial notice if the applicant was eligible for registration.¹⁴⁶

6.6.4 Processing Updates

If the voter is currently registered, the registrar **must** accept the application and update the voter’s registration if the change request application contains new information and is signed.¹⁴⁷ If the application contains no new information, it should still be accepted which will show as a duplicate or re-registration with no new information or updates. If the new application indicates any new information that would serve to cancel the voter’s registration, such as felony conviction or adjudication of incapacity without a restoration of rights, then the registrar must deny the application and cancel the voter’s registration.¹⁴⁸ If the registrar determines that a potential duplicate matches the voter on the application, the existing voter registration should be updated with information from the new signed application.

If the voter is currently registered and the change request application with new information is signed, the registrar **must** accept it and update the voter’s registration. Even if the application has no new information, it should still be accepted, indicating a duplicate or re-registration

¹⁴⁵ See Virginia Administrative Code [1VAC20-40-40\(A\)](#).

¹⁴⁶ See the Code of Virginia [§24.2-422\(B\)](#).

¹⁴⁷ See Virginia Administrative Code [1VAC20-40-70\(F\)](#).

¹⁴⁸ See the Code of Virginia [§24.2-427\(B\)](#).



without updates. However, if the new application reveals information that would invalidate the voter's registration, such as a felony conviction or loss of rights without restoration, the registrar must reject the application and cancel the registration. When a potential duplicate aligns with the applicant's details, the existing voter registration should be amended with the new signed application's information.

6.6.5 Transfers and Reinstatements

This section of the voter registration application requires the applicant to indicate whether or not he is currently registered to vote at another address.

If the applicant indicates a current registration in Virginia, this section can be disregarded because processing the application will automatically transfer the voter's registration from the other Virginia locality. The receiving registrar need not notify the registrar in the applicant's former locality because VERIS automatically transfers the applicant from the old locality and informs the registrar there of the transfer.¹⁴⁹

VERIS will also automatically notify the registrar when a cancelled voter is reinstated by registering to vote in a new locality. This notice is in the form of a new transfer record in the former locality's hopper. The new hopper notice should be retained to remind the registrar in the former locality to send any records for the reinstated voter to the voter's new locality, retaining a copy until receipt is confirmed.

ELECT recommends that localities scan all paper forms received to simplify the registration and transfer process.

6.7 PROCESSING A VALID VOTER REGISTRATION APPLICATION IN VERIS

6.7.1 Entering applicants on VERIS



Processing voter registration applications is a major element of registrars' duties.¹⁵⁰ Depending on the size of the locality and the resources available, a registrar may find themselves overwhelmed. Processing applications must be completed under tight deadlines; thus, a registrar should seek assistance from their local board to assure compliance with state and federal law.¹⁵¹ Refer to VERIS User Manual Step-by-Step *Add-Update Voter* for more information on processing applications.

6.7.1.1 Application Origin Codes

NVRA Tracking ID is used in VERIS to identify the source of each voter registration application. Codes to be used for identifying these sources in VERIS are as follows:

Code	NVRA Tracking ID
M	Military Recruiting

¹⁴⁹ See the Code of Virginia [§24.2-424\(D\)](#).

¹⁵⁰ See the Code of Virginia [§24.2-114](#).

¹⁵¹ See Virginia Administrative Code [1VAC20-20-70\(A\)](#).



F	Federal Forms (FPCA or FWAB)
A	Public Assistance
S	State Mail in Form
D	Discretionary Agencies
C	Disability Offices
T	Third Party Voter Drive
N	National Form
R	Confirmation Notice
I	Voter Card
O	Other Document/ Information
V	Department of Motor Vehicles
R	Confirmation Transfer

6.7.2 Correspondence

Once an application is approved, VERIS will automatically generate a voter registration notice and any other information necessary to send to the voter. Notices and cards can be printed off in batch mode or individually. It is best to wait until verifying the accuracy of the data entry before printing. Any notices needing to be removed due to error can be removed before printing by removing the page from the print job. Corrections can also be added so that only the revised, correct voter registration notices will print in that batch.

Effective October 1, 2022, any applicant that is 16 years of age or older but who will not be 18 years of age on or before the day of the next general election may be eligible to pre-register to vote.¹⁵² Applicants, who are considered “pre-registered” to vote, should receive correspondence that acknowledges receipt of their application. This correspondence will be generated automatically by VERIS.

6.7.3 Processing an Out-of-State Cancellation

If the applicant has indicated previous registration in another state, the election authorities in that state will be notified that the individual is now registered in Virginia.¹⁵³ Once you enter the previous state of residence in VERIS, the Department of Elections will send notices to the state of previous residence.

6.8 DENYING A REGISTRATION APPLICATION

There are several reasons for denying an application. When a registrar makes the determination to deny an application, the applicant must receive a notice of the denial and the specific reason his application was denied.¹⁵⁴ Further any denial must be accompanied with a new voter registration application.

The following are reasons for voter registration application denials:

¹⁵² See the Code of Virginia §[24.2-403.1](#).

¹⁵³ See the Code of Virginia §[24.2-114\(15\)](#).

¹⁵⁴ See Virginia Administrative Code [1VAC20-20-70\(B\)](#). See also the Code of Virginia §[24.2-114\(9\)](#).



- The applicant has provided incomplete information required on the application.¹⁵⁵
- The applicant has provided information that indicates he is not qualified to register (*e.g.*, too young, convicted felon, or not a citizen).¹⁵⁶
- The applicant did not sign the application.¹⁵⁷
- The registrar determines the applicant matches a prohibited voter record.

As of July 1, 2020 the registrar must send the notice within 5 days of denying the registration.¹⁵⁸ The denial notice and correspondence is automatically generated through VERIS. The denial must be in writing and through email or telephone, if provided by the applicant. If the applicant provided a telephone number, the general registrar may contact the applicant to make corrections.

6.8.1 Steps for Processing

1. Mark the application

If using the standard Virginia application, enter the date of denial and the reason for the denial wherever you can find space on the form.

2. Enter the application into VERIS

Applications can be entered in VERIS either by first completing a “Voter Search” or going straight to the “Add Voters” page as noted above.

After the application to be denied is entered, the “Deny” button is selected with the appropriate reason for denial from the drop-down box. Space is also provided for any other comments needed. If the denial reason selected is “Incomplete,” the appropriate boxes are checked to indicate what was missing.

The system will automatically generate denial notices listing the reason for denial selected and will insert any other comments provided. These letters can be printed individually or in batch mode. Selecting batch reporting allows selecting the appropriate Voter Registration Acknowledgment report and either printing all letters or selecting individual letters to print.

By entering all denied applications and entering the NVRA Tracking ID, it is not necessary to keep a separate tally of all denied applications. VERIS will be able to report the number of denials entered for each Application Origin Code. VERIS will also enable the registrar to search for all denied applications.

3. Copy and File

¹⁵⁵ See Virginia Administrative Code [1VAC20-40-40\(A\)](#).

¹⁵⁶ See the Virginia Constitution [Art. II, §2](#).

¹⁵⁷ See the Code of Virginia [§24.2-418](#).

¹⁵⁸ See the Code of Virginia [§24.2-422\(A\)](#).



Mail the denial letter to the applicant. If the applicant was denied due to incomplete information, include a new application form with the mailing.¹⁵⁹

If the applicant was denied due to a felony conviction, include information from the Secretary of the Commonwealth that describes procedures for applying for restoration of voting rights.

6.8.1.1 *Transferring Registrations*

Localities receiving applications for transfers should request from the losing locality the alpha card if the alpha card is not available electronically on the VERIS record

1. Create an empty envelope library with each localities' number and address. Most of you already have something like that in place.
2. Run the **Transfer Out Registrations** report each Friday. Date set to previous Friday to Thursday i.e.: Running a report for 02/02 means setting the start date as Friday, Jan 26 with an end date of Thursday, Feb 1.
3. If you are a **non-scanned** alpha location, pull the alphas using the report and note the receiving locality name or number in a corner of the alpha.
4. Once alpha cards are pulled, insert them into the receiving localities' envelope and put it in the mail.

¹⁵⁹ See the Code of Virginia [§24.2-422\(B\)](#).



VERIS INFORMATION INDEX

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Timeliness of Applications

See [section 3.4](#)

Application Origin Codes

See [section 3.5.6](#).

Procedures Upon Receipt of Voter Registration Applications

See [section 3.6](#).

Processing a Valid Voter Registration Applications in VERIS

See [section 3.7](#).

Denying an Application

See [section 3.8](#).

Can't find what you're looking for? See the VERIS [Step-by-Step](#) guide for a walkthrough of all of VERIS's processes.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 7

Absentee Voting

September 2023

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7.1 ABSENTEE VOTING

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7.2 CHAPTER ORGANIZATION

This chapter serves as a guide to help registrars and electoral boards perform their responsibilities for absentee voting in accordance with the Code of Virginia, the Virginia Administrative Code, and the State Board of Elections' policies. This chapter follows the sequence of absentee ballot processes during an election cycle and explains steps and preparations both general registrars and local electoral boards must take to facilitate absentee voting.

This chapter begins with guidance for administering a locality's absentee program. §7.2 provides general information on absentee voting, highlights the 45-day deadline, and the 3 days within receipt deadline. §7.3 provides a list of important absentee deadlines at a high level. §7.4



addresses records, and §7.5 briefly outlines the three kinds of special ballots Virginia voters may use in certain circumstances.

Part One: Pre-Election Day Absentee Voting includes §7.6, discussing absentee readiness including ballot printing and certification. §7.7, the largest section in the Absentee Voting chapter, outlines the different types of absentee applications to vote by mail, the requirements of each application, and general processes related to each specific kind of absentee application. §7.8 addresses in-person absentee voting. Both §§7.7 and 7.8 discuss the procedures that must be taken by general registrars and local electoral boards and establish requirements of voters to be eligible to vote either by mail or absentee in-person. §7.9 discusses change of address Issues for In-Person Voters.

Part Two: Military and Overseas Voters includes §§7.10 and 7.11, which explain how to administer absentee voting with respect to military and overseas voters.

Part Three: Election Day addresses curbside voting and provides guidance on what to do if a voter needs assistance voting at the absentee precinct.

Part Four: Processing Absentee Ballot outlines how to receive mailed ballots, issue replacement ballots, process ballots before Election Day and what to do if a UOCAVA voter's ballot has returned after the polls close. This part also discusses the requirement to pre-process absentee ballots, the absentee ballot cure process, and material omissions on absentee ballot envelopes.

IN GENERAL

7.2.1 Who is Entitled to Vote by Absentee Ballot

Any registered voter may vote by absentee ballot. Registered voters may choose to vote absentee by-mail or in-person. By-mail absentee voters may return their ballots to a drop-off location.¹ The rules for each kind of absentee voting are discussed later in this chapter.

7.2.2 The 45 Day Absentee Deadline



Send ballots for all absentee applications on hand as soon as the ballots are received from the printer, but **“not later than 45 days prior to any election or within three business days of the receipt** of a properly completed absentee ballot application, whichever is later. In the case of [a non-federal special election] if time is insufficient to meet the applicable deadline [...], then the general registrar [must] make printed ballots available as soon after the deadline as possible.”²

In-person absentee voting begins when printed ballots for the election are available and continues through the Saturday prior to Election Day.³

¹ See the Code of Virginia [§ 24.2-707.1](#).

² See the Code of Virginia [§ 24.2-612](#).

³ See the Code of Virginia [§§ 24.2-612 and 24.2-701.1](#).



7.2.3 Required to send Absentee Ballot within 3 Days of Receiving Complete Application

Ballots must be sent within 3 business days of receipt of a properly completed application following the 45-day absentee deadline. Electoral boards and general registrars have shared statutory responsibilities under §§24.2-612 and 24.2-706 to send ballots out on time.

- Process absentee ballot applications on a regular schedule throughout the year.
- Enter absentee ballot applications promptly into VERIS as they are received for the upcoming election. Entering applications into VERIS allows the voter to check his absentee ballot status online and assures the voter that the application has been received.
- Run absentee reports regularly, check the applications against the report, and make corrections as needed.
 - Daily Absentee Application List for the majority of data keyed for SBE-701, SBE-703.1, SBE-703.1(C), and FPCA applications.
 - Ongoing Absentee Applications List for SBE-703.1 to verify voter’s political party primary selection.
The ongoing report might be rather large in certain jurisdictions. Requesting to receive the report in CSV format for conversion to Excel will greatly improve the user’s ability to filter and sort for easier data review.



EXCEPTION: An absentee ballot application from an applicant who has registered to vote in person “[must] be held and processed no sooner than [five days] after the date that the applicant registered to vote.” **Military and overseas voters are exempt from this requirement.**⁴

7.2.4 Absentee Voting Locations Must Still Follow Polling Place Rules

Remember that regular polling place rules apply to in-person absentee voting at all absentee voting locations:

- Voter ID is required to vote absentee in person. If the voter does not have an acceptable ID, they may sign the ID Confirmation Statement.⁵ Please note that voters are **not** required to show ID to submit mail absentee ballots at a drop-off location.⁶
- Voters may not be accompanied into the voting booth by anyone other than an authorized assistant or his/her child aged 15 or younger.⁷
- No political activity is permitted within 40 feet of the entrance of the polling place structure.⁸ Such prohibited activity includes, “loiter[ing] or congregat[ing] within 40 feet of any entrance of any polling place [...] within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any

⁴ See the Code of Virginia [§24.2-701](#).

⁵ See the Code of Virginia [§24.2-643](#).

⁶ See the Code of Virginia [§§24.2-707](#) and [24.2-707.1](#).

⁷ *Id.*

⁸ See the Code of Virginia [§24.2-604](#). See also Chapter 11 (Election Day) referring to polling places.



person or to solicit or in any manner attempt to influence any person in casting his vote.”⁹

- All in-person absentee voting locations, such as the General Registrar’s office or satellite location(s) are required to conform to the requirements of §24.2-310.¹⁰

Follow procedures for issuing provisional ballots: e.g., the voter does not have acceptable ID and does not sign the ID Confirmation Statement; or the voter is not listed in VERIS and voter refuses to utilize a same day voter registration procedure.¹¹



Regulation Note

1VAC20-60-40: When Ballot Cast. A voter has not cast a vote until a permanent record of the person’s vote is preserved. 20-60-40(B) provides that this can be done by **inserting an optical scan ballot** into a counter. A vote is not cast until the voter (or an officer of election or assistant if requested and desired by the voter) completes one of those actions.

Remember: No one else can cast a voter’s ballot unless doing so at the direction of the voter. However, if a voter inserts a ballot into an optical scanner, leaves, and then the ballot is returned by the scanner due to an over vote or under vote, the officer of election can cast the ballot for that voter. Absentee voters are considered to have cast their ballots at the moment they personally deliver the ballot to the general registrar, electoral board, or an authorized carrier for returning the ballot.

A **change to a person’s name** needs to be reported and changed in VERIS. The name change has no effect on the voter’s eligibility to vote, but may affect identification and require provisional voting.¹² More about why or when a voter may have to vote a provisional ballot can be found in Chapter 13 Provisional Ballots. You **must count** a ballot that has been cast by a voter prior to his/her death. State Board of Elections’ regulation 1VAC20-60-40 defines when an absentee ballot voted other than in person is cast.

7.3 ABSENTEE DEADLINES

- 5 days after registration: when absentee application can be processed after in person registration.¹³
- 22 days before the election: Deadline to register to vote.¹⁴
- 21 days before the election: Books are closed.¹⁵
- 12 months before the election: Earliest to apply for an absentee ballot.¹⁶

⁹ *Id.*

¹⁰ See the Code of Virginia §[24.2-310](#).

¹¹ See Chapter 13 (Provisional Ballots) *explaining provisional voting*.

¹² See Chapter 13 (Provisional Ballots)

¹³ See the Code of Virginia §[24.2-701](#).

¹⁴ See the Code of Virginia §[24.2-414](#).

¹⁵ See the Code of Virginia §[24.2-416](#).

¹⁶ See the Code of Virginia §[24.2-701\(A\)](#).



- 45 days before the election: Deadline for absentee ballots to be mailed or emailed for applications on file.¹⁷
- 5 pm EST on the eleventh day (typically the second Friday) before the election: Deadline to apply for an absentee ballot by mail.¹⁸
- Noon on Saturday before the election: Earliest that a person can learn of his/her need for an emergency absentee ballot due to his business, profession, or occupation, or a family medical emergency.¹⁹
- After noon on Saturday before the election: an officer of election accepts an Election Day assignment outside his or her voting precinct and s\he has not yet voted.²⁰
- 5 pm on Saturday before the election: Deadline to vote in-person absentee.²¹
- 5 pm on Saturday before the election: Deadline for a voter with a disability or illness who has been sent an absentee ballot to request a replacement ballot using a designated representative.²²
- 2 pm on the day before the election: Deadline to request an Emergency Absentee Ballot Application for either (i) an individual who was unable to apply for an absentee ballot by the deadline due to hospitalization or illness of himself or a family member, death of a family member, or other emergency found to justify receipt of an absentee ballot (ii) an individual who is unable to vote on election day due to hospitalization or illness, the hospitalization , illness, or death of a spouse , child, or parent, or other emergency found to justify receipt of an emergency absentee ballot that occurred after the deadline for applying for an absentee ballot; Green Form.²³
 - 5 pm on day before election: Deadline for designated representative to return with completed application for hospitalized voter and to pick-up ballot.
- 2 pm on the day before the election: Deadline for late in-person Business/Personal/Emergency voters to vote (Buff/Cream Form) and late assigned officers of election.²⁴
- Election Day: electoral board members must deliver all returned absentee ballots to precincts or CAP.²⁵
- Noon the third day after Election Day: Deadline for FWAB to be received and serve as the absentee application and ballot based on voter affirmation of timely completed FPCA, if registered or eligible for late registration.²⁶
- Noon the third day after Election Day: Deadline to receive absentee ballots that were postmarked on or before Election Day.²⁷

¹⁷ See the Code of Virginia [§24.2-612](#). See also [52 U.S.C. § 20302](#).

¹⁸ See the Code of Virginia [§24.2-701\(B\)\(2\)](#).

¹⁹ See the Code of Virginia [§24.2-705\(B1\)](#).

²⁰ See the Code of Virginia [§24.2-705\(B2\)](#).

²¹ See the Code of Virginia [§24.2-701](#).

²² See the Code of Virginia [§24.2-703.2](#).

²³ See the Code of Virginia [§24.2-705](#).

²⁴ See the Code of Virginia [§24.2-705\(B\)](#).

²⁵ See the Code of Virginia [§24.2-710](#).

²⁶ See the Code of Virginia [§24.2-702.1](#).

²⁷ See the Code of Virginia [§24.2-709](#).



- Immediately after 7 pm on Election Day: Deliver any remaining returned ballots to precincts or CAP.²⁸
- After the completion of the canvass: registrar must transmit original absentee ballot applications to the clerk of the circuit court.²⁹
- 5 pm on second business day before State Board of Elections meets to certify results: Deadline to return voted ballot or FWAB late if ballot requested but sent late after 45 day deadline in §24.2-612.³⁰
- After the Election on date instructed by Department of Elections (normally 30 days after): Deadline to send late ballots received after the election to the clerk of the circuit court, provided the ballots were not eligible to be counted late.³¹
- Friday before Election Day: Any ballot received on or before this date is subject to the absentee ballot cure process described in Code of Virginia §24.2-709.1.
- Seventh day immediately preceding the election: deadline for general registrar to begin pre-processing absentee ballots as described in §24.2-709.1(B).

 **Deadlines stated as a time of day must be adjusted for daylight savings time when applicable.**



Frequently Asked Question

What happens when a major election deadline falls on a state holiday?

Outside of §24.2, ELECT may reference [1-210 Computation of time in Virginia subparagraph C](#) to provide localities with direction. C states that “when an act of the General Assembly specifies a maximum period of time in which a legal action may be brought and the last day or part of a day on which the clerk’s office is closed as authorized by an act of the General Assembly, the act may be performed on the next day that is not a Saturday, Sunday, legal holiday, or day or part of a day on which the clerk’s office is closed as authorized by an act of the General Assembly.”

²⁸ See the Code of Virginia [§24.2-709](#).

²⁹ See the Code of Virginia [§24.2-710](#).

³⁰ See the Code of Virginia [§24.2-709](#).

³¹ See the Code of Virginia [§24.2-711](#).



7.4 ABSENTEE BALLOT RECORDS

7.4.1 Copies Requested for Inspection

If copies of AB applications are requested for inspection by a Virginia registered voter, inspect the absentee ballot applications prior to being copied and redact the full/partial social security number and day and month of birth, if provided, so those elements are not visible. “No list or application containing an individual’s social security number, or any part thereof, or the individual’s day and month of birth, shall be made for inspection or copying by anyone.”³²



- For Protected Voters, **redact the residence address in addition to all other personally identifying information.**
- Please see Chapter 9 Records Retention for the appropriate retention schedule.

7.4.2 Absentee Ballot Application Chain-of-Custody

The general registrar is required to deliver all applications, under seal; to the clerk of the circuit court after the electoral board canvass is complete. A voter’s permanent absentee ballot application, i.e., SBE-703.1, must be maintained in the general registrar’s office. Therefore, a copy of the voter’s permanent absentee ballot application must be sent to the clerk of court after each applicable election. A voter’s original single election absentee ballot application, i.e., SBE-701, must be sent to the clerk of court. A review of a voter’s permanent absentee ballot change application, i.e., SBE-703.1(C), will be necessary before determining if the original or a copy is sent to the clerk of court. A request to permanently change a voter’s political party for primary elections must be maintained along with the voter’s permanent absentee ballot application until such time as another political party change is submitted or the voter requests to be removed from the permanent absentee program.



Exception: This does not include the original FPCAs and FWABs that are retained for registration. Retention for registration records is 4 years after cancellation.³³ Send copies of these to the clerk instead of the originals.

7.5 SPECIAL BALLOTS

Virginia provides special ballots to certain voters in certain situations. The three special ballots are:

- Federal-only absentee ballot (every even numbered year).
- Presidential-only absentee ballot (every fourth year from 2024).
- Federal write-in absentee ballot (FWAB – at any election).

³² See the Code of Virginia [§24.2-706](#).

³³ See the Code of Virginia [§24.2-114\(8\)](#).



In ordering federal-only and presidential only ballots, the Department recommends ordering a small quantity of each for allocation to the Election Day voting precincts. There is a greater chance of using a presidential-only ballots in a presidential election than federal-only ballots. However, the availability of each will serve the locality well should such a voter appear to vote on Election Day. The main use of these special ballots will be in by mail absentee voting using paper ballots for the federal only and presidential only ballot styles.

7.5.1 Federal-Only Absentee Ballots

7.5.1.1 *In General*

Some overseas voters only qualify for ballots for federal offices. These are voters who have moved overseas, have no place of abode in Virginia and did not provide an employment reason for being overseas.³⁴ Voters must request a federal only ballot using either the Virginia Absentee Ballot Application Form or the FPCA.

7.5.1.2 *Eligibility*

Federal-only ballots are issued to applicants residing overseas who meet one the following qualifications:

- No longer have a Virginia place of abode but their last place of residence in the U.S. was in Virginia;³⁵
- Are not military voters or not the spouse or dependents residing with the member of the military;
- Did not provide an employment reason for moving overseas or show that the applicant “is the spouse or dependent of a person employed overseas.”³⁶

7.5.1.3 *General Registrar Action*

- Mark these applications with “Federal-Only Ballots” in the upper right corner of the form.
- Enter into VERIS in the usual manner.³⁷
 - Select the applicable Military and Overseas Voter category from the Virginia Absentee Ballot Application Form or FPCA.
 - Enter all information concerning registration and last date of residence.
 - Registration is permanent under 2012 legislation.
 - VERIS will set the default for the ballot to Federal-Only.
 - Issue the ballot in the usual manner.

³⁴ See the Code of Virginia [§24.2-453](#).

³⁵ See the Code of Virginia [§24.2-101](#) for definition of residency.

³⁶ See the Code of Virginia [§24.2-453](#).

³⁷ See [VERIS Step-by-Steps](#) (instructions for data entry).



7.5.2 Presidential-Only Absentee Ballot

Federal and Virginia law require issuing an absentee voter a ballot limited to Presidential and Vice Presidential electors in **one situation only**.³⁸

- A registrant who has moved from the Commonwealth of Virginia fewer than thirty days before a Presidential Election. Enter these applications into VERIS using “Presidential-Only” exception code, which is available for selection during the presidential election.
- After the election, these presidential-only voters must be cancelled based on moving their residence to a new state shown on the application.³⁹
- Keep a copy of completed applications, as the original needs to go to the clerk of court, for voters who qualify for Presidential-Only ballots to process as voter requests for cancellation after the election. Retain with voter registration records as per the Library of Virginia’s retention schedule.



This provision does not apply to a Presidential Primary.



An application that indicates a voter is moving overseas rather than to another state must be processed under the procedures for UOCAVA voters; the FPCA may be a better choice for the voter.⁴⁰

Like “federal only” ballots required for certain overseas citizens, these “presidential only” ballots for departing citizens moving to other states require special handling to assure voters entitled to full ballots are not disenfranchised on the one hand, and voters ineligible for the full ballot do not vote illegally on the other.

7.5.3 Federal Write-In Absentee Ballots (FWAB)

7.5.3.1 In General

The FWAB is designed “for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States absentee ballots.”⁴¹ Applicants often mail a FWAB about the same time as an FPCA. Additionally, Virginia Code Sections §§ 24.2-454 and 24.2-461 allow for FWAB use in non-federal elections.⁴²

- “An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State ballot, may submit the State absentee

³⁸ See [52 U.S.C. §§20302\(a\)\(2\)](#) and [§20310\(5\)\(B\),\(C\)](#). See also the Code of Virginia [§24.2-402](#). See Section 11.7. The *presidential only* ballot differs from a *federal only* ballot required in federal elections for an overseas citizen eligible to vote absentee under UOCAVA or UMOVA who has no Virginia place of abode.

³⁹ See the Code of Virginia [§§24.2-402](#) and [24.2-427\(B\)\(v\)](#).

⁴⁰ See [Federal Post Card Application \(FPCA, Standard Form 76\)](#).


⁴¹ See [52 U.S.C. §20303](#).

⁴² See Virginia Code §§[24.2-454](#) and [24.2-461](#).



ballot” regardless of whether a FWAB has been received.⁴³ §24.2-1004 clarifies there is no double voting since the FWAB is not counted if the regular state ballot is also received in time.

- The regular state ballot will be easier to process and count than if the choices on the FWAB are handwritten.

 **FVAP has developed** technology on its website for federal elections to enable voters to print a FWAB with their choices from ballot data provided by the Department of Elections. This technology makes it less important for these voters to return the regular state ballot.

7.6 PART ONE: PRE-ELECTION DAY ABSENTEE VOTING

7.6.1 Absentee Ballot Readiness

7.6.1.1 When and How to Order Printed Ballots

When? As soon as the general registrar receives confirmation from the Department of Elections that candidate and referendum, if applicable, VERIS data is stable for ballot proof generation, the general registrar should request one of the available VERIS reports for distribution to the voting equipment vendor\ballot printer (see list below).

Available VERIS Reports:

- Ballot Proofing Mock-up Report
 - Ballot Styles Detail Report
 - Ballot Styles Summary Report
- Reminder: For CAP by precinct reporting post-election, make sure to choose “Yes” as the answer for “Show Precincts:” in the VERIS report description set-up screen.

Along with the VERIS report, provide the quantities of each precinct ballot needed for both by mail and in-person absentee voting methods. Verify that the voting equipment vendor\ballot printer has all the information required to prepare the ballot proofs. Remember that your ballots must be proofed and approved by ELECT before printing. The Department of Elections provides SBE’s ballot standards that should be followed when producing ballots⁴⁴.



How Many? Consider the following when ordering ballots:

- Number of active registered voters⁴⁵
- Historical election data, including voter turnout⁴⁶
- Number of ballots to order using past history from similar elections

⁴³ See [52 U.S.C. §20303](#).

⁴⁴ See [Forms Warehouse](#), Election Management/Ballots/SBE Ballot Standards and Verification Procedures.

⁴⁵ See the Code of Virginia [§24.2-612](#).

⁴⁶ *Id.*



- Number of ongoing applications
- Expected turnout for any race that appears to have greater local interest than expected
- Extra ballots (for the precincts and early voting)
- When applicable, quantities of federal-only or presidential-only ballots .
- Due to Virginia’s shift from excuse-based absentee voting to no-excuse absentee voting, expect increased absentee voting beginning with the November 2020 General Election.
- Also consider that with increased by mail applications, there are likely to be more voters who bring their marked or unmarked ballot to early voting or to the polling place on Election Day and need a replacement ballot.



Note: The number of ballots to be printed is subject “to approval by the electoral board” and the Department of Elections.⁴⁷

7.6.2 Distribute Ballot Oaths and Ensure Timely Return of Signed Documents

Virginia Code Sections §§24.2-616 – 24.2-621 require localities to treat ballot printing with purpose, security, and with a delineated chain of custody. A locality might strongly consider distributing the ballot printer oath statements identified below at the time it submits its ballot order with its voting equipment vendor\ballot printer. Establish expected return of signed oaths based on the “Signature Trigger” event also identified.

Ballot Printer Oath	Signature Trigger
Oath, Statement of Printer SBE-616	Vendor or printer accepts printing assignment. No more than a few days after receipt of GR’s print request.
Oath, Statement of Electoral Board or General Registrar Representative SBE-617	Printer completes printing quantities requested.
Oath, Statement of Person Affixing of Seal and Packaging Ballots SBE-619	For ballot artwork electronic files, after insertion of the electoral board’s seal within the voting equipment vendor’s proprietary software Rare: For printed ballots on a printing machine that will affix the electoral board’s seal during printing, after the print job is complete.
Oath, Certificate of Number of Ballots Delivered to Electoral Board or General Registrar SBE-618	At time of ballot quantity delivery to the electoral board or general registrar.

Reminder: If additional absentee ballot quantities are ordered, additional ballot printer oaths will be needed, except for SBE-619 when electronic ballot artwork files already containing the electoral board’s seal are used.

⁴⁷ *Id.*



7.6.3 Third party mailing and assembling of printed ballots

General registrars may contract with a third party for the printing, assembly, and mailing of ballots.⁴⁸ The State Board of Elections has promulgated regulatory action 1VAC20-70-90, which regulates the process of forming these contracts with third parties.

Under 1VAC20-70-90, the general registrar is ultimately responsible for guaranteeing compliance with all relevant requirements under the Code of Virginia, including but not limited to the requirements of § 24.2-612 and § 24.2-706.



Regulation Note

1VAC20-70-90 Requirements for Third Parties Mailing and Assembling Absentee Ballots. General Registrars should carefully review this regulatory action before forming a contract with a third party to mail absentee ballots. Further, General Registrars should regularly review this regulatory action for the duration of such a contract. This action establishes mandatory actions that the General Registrar must take, as well as mandatory contract terms for agreements between the General Registrar and the third party.

Start Absentee Voting When Ballots Received From Printer

First certify the number of all ballots received from the printer, including the ballots to be used for absentee voting.⁴⁹ Remember to file a copy of the receipt in the electoral board minutes.⁵⁰

- The applications for absentee ballots must be entered into VERIS and proofed before the printed ballots are received.

Begin absentee voting as soon as the ballots are received. Do not wait for the mandated 45-day deadline.



Best Practice

Conduct logic and accuracy testing on the voting machines and ballots before you send out any absentee ballots.

7.6.4 The 45 Day Absentee Ballot Deadline

At least **45 days prior** to any election⁵¹ ballots **must be sent for all applications on file, and ballots must be ready for in-person absentee voting.**



Exception: For **non-federal special elections:** “if time is insufficient to meet the applicable deadline [45 days before an election], then the general registrar [must] make printed ballots

⁴⁸ See the Code of Virginia [§24.2-706\(D\)](#).

⁴⁹ See the Code of Virginia [§24.2-618](#).

⁵⁰ *Id.*

⁵¹ See the Code of Virginia [§24.2-612](#).



available as soon after the deadline as possible.”⁵² The Department of Elections will send a survey at the deadline to verify compliance.

7.6.4.1 *Be Ready to Email Ballots*

Localities should have a specific email address established for eligible overseas, military, and print disabled voters that have requested to receive ballots via email. The Department offers Enhanced Ballot to localities to facilitate distribution of email absentee ballots. Access to the Enhanced Ballot application is through the OKTA single sign-on home page. Localities will be able to access the Enhanced Ballot user guide once logged into the application through the “Support” button. Once in the system, pay particular attention to managing locality specific configurations and settings.

Elections within Enhanced Ballot are established by the Department prior to the commencement of absentee voting. VERIS data is the source of ballot content displayed within Enhanced Ballot. If a candidate name or office detail is changed within VERIS, the change will need to be moved from VERIS to Enhanced Ballot. Communication with ELECT’s ERS staff when changes occur is essential for swift updates to Enhanced Ballot.

Prior to the commencement of absentee voting, a locality will need to add its absentee email voters to Enhanced Ballot. The VERIS report that will accomplish importing voters into Enhanced Ballot is the “Absentee Ballots To Be Emailed” report. The report must be requested in the CSV file format for proper importation to Enhanced Ballot. The normal course of action is for a main upload of a locality’s email absentee voters is performed prior to absentee commencement. Thereafter, manual entry of new email absentee voters may be done within Enhanced Ballot. Be sure that all absentee ballot application processors recognize and alert the appropriate member of the general registrar’s staff when new email absentee voters are identified so that post-commencement email absentee voters are not overlooked.

Print disabled absentee voters may request to receive absentee ballots by email. To facilitate a private and independent voting method, a locality must use Enhanced Ballot.⁵³ The permission for a non-UOCAVA voter to receive an absentee ballot by email is relatively new and some absentee voters are unfamiliar with the assistance choices presented. Traditional human assistance is available as well as the Enhanced Ballot private and independent path. Attention is needed when processing absentee ballot applications for situations where an applicant has designated a print disabled situation but neither requested to receive the ballot via email nor selected the “Needs Assistance” designation. Correspondence with the voter either by phone or email normally addresses the issue. Make written notes of the voter’s selection on the absentee ballot application with time, date and initials of the person corresponding with the voter. Also make the necessary changes to the voter’s absentee ballot application in VERIS. If the print disabled voter declines the use of Enhanced Ballot, the voter must be mailed the request for assistance form.⁵⁴

⁵² See the Code of Virginia [§24.2-612](#).

⁵³ See Code of Virginia [§24.2-103.2](#).

⁵⁴ See Code of Virginia [§24.2-704](#).



A locality will be required to mail the print disabled voter his\her postage paid return mailing envelope with tactile marking, envelope B, and ADA absentee ballot instructions. The VERIS report “Absentee Email Return Labels” will be needed to begin the mailing process. Having a prepared batch of print disabled mailing bundles with the supplies needed will reduce preparation time when supplies are needed. The Department offers two ADA absentee ballot instructions so be sure to identify the difference and keep supplies of each available, i.e., Forms Warehouse > Absentee > Absentee Mail Instructions > ADA Enhanced Ballot Voting Instructions without assistance and with assistance. Additional labels will be needed to mail the materials to the print disabled voter, i.e., delivery label with voter’s address and return label for the general registrar’s office. These additional labels must be generated by the means available within the general registrar’s office. Therefore, the return label to the general registrar’s office will not contain an intelligent mail barcode. This is the one exception to 1VAC20-70-70(B).⁵⁵

A locality may choose to use its own email account for sending email ballots. Once you have approved your ballots you should create template email files ready to send to UOCAVA voters. The voting equipment vendor or ballot printer can provide a PDF (portable document format) file of all precinct ballots used in your locality. Incorporate these PDF files into the email to UOCAVA voters along with the additional materials the voter will require to complete the ballot⁵⁶.

In the case of an emergency that will not allow sufficient time for the distribution and handling of absentee ballot applications and absentee ballots, the Commissioner of the Department of Elections shall have the authority to designate alternative methods and procedures to handle such applications and ballots.⁵⁷ The reference is made within this section of the Chapter to acknowledge that the alternative methods designated may include an expansion to the email ballot process.

7.6.4.2 **Be Ready with Ballots for In-Person Absentee Voting**

In-person absentee voting may take place in the office of the general registrar, or at another location or locations in the county or city approved by the governing body.⁵⁸

Most absentee voters in the Commonwealth cast ballots in-person. Therefore, you should plan accordingly to ensure that a sufficient number of ballots are on-hand of each precinct ballot in your locality. If your locality uses a ballot on demand printing system, please follow the Department’s 8/30/2023 ballot on demand guidance.

In-person absentee voting is much like running thirty Election Days. The Department of Elections highly recommends operating all in-person absentee voting with officers of election. The Department is aware of the permission granted for the general registrar and staff to operate in-person absentee voting and understands that resources and officer availability drive this permission. However, officer of election utilization for in-

⁵⁵ See the Administrative Code of Virginia [1VAC20-70-70](#).

⁵⁶ See [Forms Warehouse](#), Absentee Voting/Ballots-UOCAVA.

⁵⁷ See Code of Virginia [§24.2-713](#).

⁵⁸ See the Code of Virginia [§§24.2-701.2](#) and [24.2-712](#).



person absentee voting allows for an improved voter experience, improved officer of election performance through repetition, and improved general registrar staff availability. Advanced planning will be needed with the ranks of officers of election. A summer availability survey for fall service is advisable. Additionally, communicate with the county or city payroll department about officer of election pay. Certain officers may earn enough pay to require withholding. The ability for the general registrar\staff to see the officers of election work in and Election Day environment is invaluable.

7.6.5 Certify Ballot Readiness to ELECT

The general registrar must certify to the Department of Elections that ballots were ready by the required date and that all applicants on file were sent ballots by the 45 day deadline.⁵⁹

If the general registrar’s office is closed on Saturday, the certification must be provided to the Department of Elections after the close of business on Friday. If the office is open on Saturday, the certification must be provided to the Department after the close of business on Saturday. If Friday is a holiday and the office is closed both Friday and Saturday, the certification must be provided on Thursday.

Additional reporting may be required. For each election, the Department of Elections will notify you when an electronic survey is available to collect the required certification of the compliance deadline and review of ballot orders.

7.7 APPLICATIONS TO VOTE ABSENTEE BY MAIL

Following are the types of applications and instructions used for voters requesting a ballot by mail.

7.7.1 Virginia Absentee Ballot Application Form (SBE 701/703.1)

7.7.1.1 In General

The Virginia Absentee Ballot Application form lets registered voters apply to vote absentee for an upcoming election within the next twelve (12) months.⁶⁰ The form also allows a registered voter to request to receive at his or her residence address by mail absentee ballots for all future elections.⁶¹ Anyone may request an application. Applications must be returned to the Registrar’s office completed in full and signed. Applications may be filed no more than twelve (12) months before an election. The application must be submitted to the appropriate registrar no later than 5:00 p.m. on the eleventh day prior to the election, which would be the second Friday preceding an election held on a Tuesday. In-person absentee voting does not require an application. A registered voter may vote absentee in-person through the Saturday immediately preceding any election.

⁵⁹ See the Code of Virginia [§24.2-612](#).

⁶⁰ See the Code of Virginia [§24.2-701](#).

⁶¹ See the Code of Virginia [§24.2-703.1](#).



Applications may be signed electronically, and can be received by mail, fax, in person, or by email with electronic signature, or through ELECT’s Citizen Portal website. Applicants who apply in person may wish to request that a ballot be mailed to them.

Ballots are sent by mail to applicants who apply by mail, fax, or email (see exception below). Citizens covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may apply on the Virginia application, though they are encouraged to use the Federal Post Card Application (FPCA). UOCAVA voters are eligible to have their ballots sent to them by email, fax or mail.⁶²

7.7.1.2 **Virginia Permanent Absentee Voter Change Form (SBE 703.1C)**

Permanent absentee voters may use this form to change where the ballot is mailed for one election, change the political party primary ballot mailed for one primary election, change the political party primary ballot mailed for all primary elections, or cancel their permanent absentee voter status.⁶³

7.7.1.3 **Eligibility**

All Virginia registered voters are eligible to vote by absentee ballot.⁶⁴

- UOCAVA citizens who apply using the *Virginia Absentee Ballot Application* are eligible to have their ballots sent to them by email or fax, but only for the one election requested.
- Print disabled voters may also have their ballots sent to them by email.⁶⁵

If the absentee applicant is not currently registered and the books are not closed, the applicant may apply to register to vote. If absentee voting has begun, this individual may vote in person. If absentee voting has not yet begun, this individual may apply for a mail absentee ballot. However, that voter must wait at least five days after his registration application is granted before his absentee ballot application can be processed or before voting absentee in-person.⁶⁶ Military and overseas voters are exempt from this requirement.

- Some voters may be eligible for late registration, if they qualify under §24.2-419 or §24.2-420.1.

7.7.1.4 **How to Process the Virginia Vote by Mail Application Form (SBE 701/703.1)**⁶⁷

Check each application for missing information. Each application **must** contain the following:

- The election for which the ballot is being requested, **unless the voter elects to complete the “Permanent Absentee Option” section of the form.**
- The applicant’s **printed name**, and the **last four digits** of the applicant’s **social security number**.

⁶² See below discussion on use of the Federal Post Card Application (FPCA).

⁶³ See the Code of Virginia [§24.2-703.1\(C\)](#).

⁶⁴ See the Code of Virginia [§24.2-700](#).

⁶⁵ See the Code of Virginia [§§24.2-103.2](#) and [24.2-704](#).

⁶⁶ See the Code of Virginia [§24.2-701](#).

⁶⁷ See the Code of Virginia [§24.2-701](#).



- The applicant’s residence address in Virginia.
- Unless the applicant is disabled, all applications for absentee ballots must be signed by the applicant.

Additionally, please review the following non-mandatory information:

- Assistance with Ballot: If checked, indicate that in VERIS and be certain to send the *Request for Assistance in Voting an Absentee Ballot* form with the ballot (ELECT-704 (AB)). **Print disabled voters may also indicate that they would like to receive their ballots electronically by email.**
- If the voter has moved:
 - Enter change of address in VERIS if *Vote by Mail Application* is received before the books close.
 - **Do not** enter change of address in VERIS if the books have closed.
 - **Note:** Moving conditions apply.⁶⁸
- Then, look up voter in VERIS:
 - Compare the information on the application with the data recorded in VERIS.
 - If the information matches, move to “Absentee History” in VERIS and check for any absentee application already on file.
 - If the registration address provided does not match and the voter has not completed the “Change of Name/Address” section, contact the voter and confirm residence address. With confirmation and voter registration open, edit the voter’s registration address to match the address provided before proceeding. With confirmation and voter registration closed, apply the move conditions before proceeding but retain a copy of the application with other voter registration applications that did not make deadline for processing after the election.
 - If VERIS information for the voter shows “Vote in Person” or “Verify ID” flags, refer to these sections in this Chapter.
 - **If there is no absentee application on file, enter the absentee data and process the application.**
- Refer to VERIS Step-by-Steps for detailed processing instructions.
- Complete the “Office Use Only” block on the form.
- The voter is now ready for a ballot to be mailed, emailed or faxed.
- Follow instructions for mailing, emailing and faxing ballots.

7.7.1.5 *Incomplete Virginia Vote by Mail Application (SBE 701/703.1)*

“In reviewing the application for an absentee ballot, the general registrar [must] not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.”⁶⁹

⁶⁸ See section on changes of address in this Chapter for details.

⁶⁹ See the Code of Virginia [§24.2-706](#).





Best Practice

If information is missing from an application an absentee ballot, try to collect the missing information by phone, email or fax for anything other than the signature.

Indicate the name of the person providing the information, the date and initial the form or attach a copy of the fax or email response. If no one can be reached within 3 business days, deny the application in VERIS.

Please note that the voter's full SSN is requested on the application to assist in finding the voter's record, but it is *not* required.⁷⁰ A voter cannot be denied an absentee ballot for failure to provide the full SSN.

Frequently Asked Questions



What if the voter forgets to include the last four digits of SSN?

§24.2-706 requires the general registrar to determine if the omission prevents determining qualification to vote absentee.⁷¹

What if the voter forgets to sign the application? The voter's signature is required. The voter must be denied for failure to sign.⁷² You should send a new application to the voter with the denial letter generated by VERIS.



Policy Note on Electronic Signatures for Absentee Ballot Applications

The State Board of Elections in May 2015 determined that applications requesting absentee ballots may be signed electronically. Registrars are directed to accept electronic signatures as long as the applicant is required to affirmatively check a box confirming acknowledgement of the Affirmation Statement on the Vote by Mail Application and the completed Application includes a disclaimer indicating that it includes an electronic signature. Accepting electronic signatures increases voter convenience and makes it easier for currently registered voters who are qualified to cast an absentee ballot.

7.7.1.6 *Help America Vote Act (HAVA) ID Requirement by Mail*⁷³

In a federal election, first-time voters who registered by mail will be noted with the "Verify ID" flag in VERIS.

⁷⁰ See the Code of Virginia [§24.2-701](#). §24.2-701(C) provides authority for the application to collect the last four digits of the voter's social security number.

⁷¹ See also [52 U.S.C. §10101\(a\)\(2\)\(B\)](#).

⁷² See the Virginia Administrative Code [1VAC20-70-20](#).

⁷³ See the Code of Virginia [§24.2-706](#).



- **Permissible forms of ID** for these voters *when voting by mail* include the following⁷⁴:
 - Virginia Voter Card
 - Virginia Driver’s License
 - “Copy of a current and valid photo identification”⁷⁵
 - “Copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter”⁷⁶
- **Exemptions** from HAVA ID when voting by mail:⁷⁷
 - Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters
 - Other federal entitlement
 - Commissioner of Elections determines that no accessible polling place available for voter with physical disability or age 65 or older.

Nonexempt first-time voters must be sent the HAVA ID notice (ELECT-HAVA-1) with ballots for *federal elections*; this includes students.

- Must return a copy of the required ID with his or her ballot
- If HAVA ID is returned, edit absentee ballot information in VERIS to indicate that ID was returned by checking the “ID Provided” box in VERIS.
- Failure to return proper HAVA ID requires Provisional Ballot processing.⁷⁸
- Change the ballot status in VERIS to “Provisional” and note on the absentee ballot record that the ballot was cast as Provisional.

7.7.1.7 **Change of Address Scenarios for Ballots by Mail**⁷⁹

The action taken is dependent upon whether the books are open or closed. After the books close, the date the voter moved is essential in determining whether the voter is qualified to vote in the election(s) in which he/she offers to vote. Ballots must be mailed within 3 business days upon receipt of a properly completed application (if the voter registered in person, count the 3 business days from acceptance of the registration application).⁸⁰ Act on missing information or problems immediately, and document your actions. If problems cannot be resolved quickly, deny the *Vote by Mail Application* in VERIS.

Use your resources. Refer to “What If” document for current moving conditions. Below are different change of address scenarios with guidance on how to process these applications.

⁷⁴ *Id.*

⁷⁵ See the Code of Virginia [§24.2-706](#).

⁷⁶ *Id.*

⁷⁷ See [52 U.S.C. §21083](#). See also the Code of Virginia [§24.2-706](#).

⁷⁸ See Chapter 17 Provisional Ballots.

⁷⁹ See the Code of Virginia [§24.2-401](#).

⁸⁰ See the Code of Virginia [§24.2-612](#).



7.7.1.7.1 The Voter has Moved to a New Address Within Your Locality and Wants a Ballot by Mail⁸¹

If the application is received **before** the books close and the “Change of Name/Address” section is completed, change address in VERIS and process the application using the voter’s new address.

If the application is received before the books close and the “Change of Name/Address” section is not completed, contact the voter for confirmation of the voter’s address, date of move, and eligibility. If all elements are present to proceed, edit the voter’s registration record before processing the absentee ballot application.

If the application is received **after** the books close:

- Do not change the address in VERIS.
- If the voter meets the moving conditions in §24.2-401 and is submitting SBE-701, process the application in VERIS using the old address but mail the ballot to where the voter resides.
- If the voter meets the moving conditions in §24.2-401 and is submitting SBE-703.1, immediately contact to the voter and proceed by either (i) denying the application for voter’s submission of SBE-70 or (ii) having the voter submit SBE-703.1(C) before processing the application in VERIS using the old address but mail the ballot to the address provided on SBE-703.1(C).
 - Keep a copy of the Virginia Absentee Ballot *Application* to make address change *after* the election.
- If the voter does not meet the moving conditions in §24.2-401, the application must be denied.
 - Enter the denial in VERIS and state the reason.
 - Mail denial notice to the voter.
 - Voter may not vote by mail or in person.
 - If applicable, keep a copy of the Virginia Absentee Ballot *Application* to make address change *after* the election.
- In all cases where voter registration is closed, a discussion with the voter about Virginia’s Same Day Voter Registration process is warranted. Document voter decisions with written notes on the Virginia Absentee Ballot *Application* when an application is abandoned. Abandoned applications will still go to the circuit court clerk after the election.

7.7.1.7.2 The Voter has Moved to a New Address Within Your Locality but is Registered in Another Virginia Locality and Wants a Ballot by Mail⁸²

If the application is received **before** the books close, request a copy of the voter’s record from the other locality to be sent to you immediately. In cases

⁸¹ See the Code of Virginia [§24.2-401](#).

⁸² See the Code of Virginia [§24.2-401](#).



where the applicant provided a full Social Security number, redaction of the first five digits is necessary⁸³ even when sent via encrypted email.⁸⁴



- With receipt of the voter’s record, update the voter’s registration record in VERIS and process the application for a ballot by mail.
- Make a comment in the VERIS voter record that you are waiting for the original voter registration record to be received from the previous locality.

In cases where the losing locality has associated a Virginia Voter Registration Application to the voter’s record in VERIS, process the change of address and proceed with accepting the absentee ballot application. Make sure to check that the voter registration application associated is complete before processing.

If the application is received **after** the books close, send the voter’s *Virginia Absentee Ballot Application Form* to the voter’s old locality with the first five digits of the Social Security number redacted, if provided. The old locality will determine whether the voter is eligible to vote under moving conditions in §24.2-401 or if application should be denied. The old locality is responsible for sending the denial notice, if needed.



Regulation Note

1VAC20-20-20. Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required.

Election officials must use encryption technology that meets the Security Requirements for Cryptographic Modules, FIPS PUB 140-2, with change notices through December 2002, of the National Institute of Technology of the United States Department of Commerce to transmit any records containing sensitive personal information. This includes e-mails and faxes including sensitive information. This regulation defines “sensitive personal information” as: more than four digits of a social security number or other identifier other than a voter identification number, day and month of birth, and the residence address of voters qualified for protection under 24.2-418. If encryption is not used, all sensitive personal information must be redacted before being electronically transmitted. “Redact” means to alter or truncate data so no sensitive personal information is accessible.

⁸³ Redact means to alter or truncate data so that no sensitive personal information is accessible.

⁸⁴ See the Virginia Administrative [Code 1VAC20-20-20](#).



7.7.1.7.3 The Voter has Moved to a New Address in Another Virginia Locality and Wants a Ballot by Mail⁸⁵



If the application is received **before** the books close, send a copy of the voter record with the *Virginia Absentee Ballot Application* to the new locality.

Alternatively, scan and associate the voter's registration application to the record in VERIS before sending the Virginia Absentee Ballot Application to the new locality.

Remember: The **full** Social Security number must always be covered before faxing or emailing unless encrypted.⁸⁶

- The new locality will process the transfer, then process the *Vote by Mail Application* and send the ballot.
- **Do not send a ballot from the old locality.**

If the application is received **after** the books close, confirm the date the voter moved into the new address on the *Virginia Absentee Ballot Application Form*.

- If not listed on the *Virginia Absentee Ballot Application Form*, the voter must be contacted.
- If the voter meets the allowable moving conditions in §24.2-401 and is eligible to vote in old locality:
 - Look up the voter in VERIS.
 - Check for any absentee ballot record.
 - Process *Virginia Absentee Ballot Application Form* SBE-701 using the voter's old address and mail the ballot to where the voter resides.
 - Process Virginia Absentee Ballot Application Form SBE-703.1 by either (i) denying the application for voter's submission of SBE-701 or (ii) having the voter submit SBE-703.1(C) before processing the application in VERIS using the old address but mail the ballot to the address provided on SBE-703.1(C).
- If the voter does not meet the moving conditions, the application must be denied.
 - Enter the denial in VERIS and state the reason.
 - Mail denial notice to the voter.
 - The voter may not vote by mail or in person.
 - Keep a copy of the *Virginia Absentee Ballot Application Form* to make address change *after* the election
- After the election use a copy of the *Virginia Absentee Ballot Application Form* as authorization to transfer the voter to his/her new locality. Send the application copy to the new locality.
- In all cases where voter registration is closed, a discussion with the voter about Virginia's Same Day Voter Registration process is warranted. Document voter decisions with written notes on the Virginia Absentee Ballot Application when an application is

⁸⁵ See the Code of Virginia [§24.2-401](#).

⁸⁶ See the Virginia Administrative Code [1VAC20-20-20](#).



abandoned. Abandoned applications will still go to the circuit court clerk after the election.

7.7.1.7.4 The Voter has Moved to a New Address in Another State and Wants a Ballot by Mail⁸⁷

“The general registrar may cancel the registration of any person for whom a notice has been submitted [...] and forwarded to the general registrar that the voter has moved from the Commonwealth.”⁸⁸ The signed *Virginia Absentee Ballot Application Form* is your authorization to cancel the voter. Thus, the *Virginia Absentee Ballot Application* should be denied and his/her voter registration cancelled.

- Before cancellation, the general registrar must “mail notice of such cancellation to the person at both his new address, [...] and the address at which he had most recently been registered in Virginia.”⁸⁹
- Send a denial letter and keep a copy of the *Virginia Absentee Ballot Application Form* as your authorization for the cancellation. The original application will go to the circuit court clerk after the election.



Exception for Presidential Election only: If a voter has moved to another state less than 30 days before a Presidential General Election, he/she may be eligible for a Presidential Only ballot from his/her old Virginia address.⁹⁰ After the election, the voter’s Virginia voter registration must be cancelled in VERIS.

7.7.1.7.5 The Voter has Moved to Your Locality but VERIS Flags a Warning that the Voter has Been Issued a Ballot from His Old Locality and the Voter Wants a Ballot by Mail

- **Application received before the books close:**
 - Begin processing the transfer.
 - A warning message will appear in VERIS depending on “Ballot Status.”
 - **If Status = Issued**
 - Warning message will read “Warning: Active Absentee Application in _____ County/City will be cancelled.”
 - Update voter’s registration.
 - VERIS will automatically cancel/void any ballot in the old locality after the transfer is complete (The ballot cannot be counted in the old locality).
 - Process the *Virginia Absentee Ballot Application* and send ballot from new locality.
 - **If Status = Marked or On Machine or Pre-Processed**

⁸⁷ See the Code of Virginia §§24.2-402 and 24.2-427.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ See the Code of Virginia §24.2-402.



- Warning message will read “Warning: Voted ballot in _____ County/City.”
 - The voter cannot vote in the new locality because the ballot has already been cast.
 - The application and the ballot from the old locality will remain unchanged as this voter has already cast his/her ballot.
 - DO NOT process the new *Virginia Absentee Ballot Application Form* in VERIS.
 - The new locality should notify the voter that the application has been denied because a ballot has already been cast in this election from his/her old locality.
 - Inform the voter that his/her new address will be updated after the election.
 - Keep a copy of the application to request an alpha card from the old locality and update after the election. In cases where the voter has a voter registration application associated to his\her record, update after the election.
 - If the voter denies having already cast a ballot, offer a provisional ballot.
- **Application received after the books close:**
 - The Voter cannot vote in the new locality.
 - The new locality should notify the voter that the application has been denied because it is past the deadline to update their registration record to the new address. The notice should also inform the voter, if a ballot has already been issued for this election from the old locality. If the voter claims not to have received the absentee ballot, discuss using the Statement of Voter
 - Inform the voter that his/her new address will be updated after the election.
 - Keep a copy of the *Virginia Absentee Ballot Application Form* to request an alpha card and update after the election.

7.7.1.7.6 The Voter Did Not Complete the Change of Address Option and Wants a Ballot by Mail

- If the applicant did not specifically request a change of address and the residence address does not match the address listed in VERIS, call or email the voter to confirm he/she has moved.
 - Note the information provided by the voter on the *Virginia Absentee Ballot Application Form* and date and sign in red pen.
 - If the voter is qualified, send a ballot.
 - If the voter is not qualified, deny the *Virginia Absentee Ballot Application Form*.
- If the applicant is not registered in your locality, call or email the voter to confirm whether to update his/her voter registration.
 - If the voter is qualified, send a ballot.
 - If the voter is not qualified, deny the *Virginia Absentee Ballot Application Form*.



- The *Virginia Absentee Ballot Application Form* can serve to transfer voters because it is a signed statement indicating a change of address.
- Prior address and date moved are not required to be stated on *Virginia Absentee Ballot Application Form* but may be needed after the books close to apply moving conditions of §24.2-401.

7.7.1.7.7 Managing Permanent Absentee Voters Throughout the Year as They Depart Your Locality

Request the VERIS Absentee Report “Cancelled Absentee Applications Due to Transfer every week or two depending on size of your locality. For the individuals found on the report, send them ELECT’s “Absentee Cancellation Template.docx” letter along with a Virginia Absentee Ballot Application Form. The file is available on Forms Warehouse > Absentee > Absentee Voting > Cancellation. Pull the voter’s Virginia Absentee Ballot Application Form SBE-703.1 out of the active file and transfer to the cancelled file. Cancelled Virginia Absentee Ballot Applications Forms may be collected throughout the year and transmitted to the circuit court clerk after the November election.

7.8 FEDERAL POST CARD APPLICATION (FPCA, STANDARD FORM 76)

7.8.1 In General

Most FPCAs are submitted by military members, overseas citizens and their families. The FPCA can serve as both a registration application and an absentee ballot request.⁹¹ All revisions of the form containing the required information are acceptable.

7.8.1.1 Attorney General 1971 Opinion on “Place of Abode” for Military

In a 1971 opinion, the Virginia Attorney General stated that servicemen who had a place of abode in Virginia prior to their assignment to active duty elsewhere must constructively retain the Virginia place of abode, otherwise these members of society would be deprived of the electoral franchise. Such servicemen should be permitted to register to vote as though he still resided at this old place of abode and should be put in the precinct where such place of abode is located.⁹²

7.8.1.2 Who is Eligible to Use FPCA

Block 1 of the FPCA identifies the following eligible classes of voters:

- “A member of a uniformed service on active duty who [...] is absent from the place of residence where [...] otherwise qualified to vote.”⁹³
- “A member of the merchant marine who [...] is absent from the place of residence where [...] otherwise qualified to vote.”⁹⁴

⁹¹ See the Code of Virginia [§24.2-703](#).

⁹² See 1971-1972 Op. Atty Gen. Va. 153.

⁹³ See [52 U.S.C. §20310](#).

⁹⁴ *Id.*



- “A spouse or dependent of a member [of a uniformed service or merchant marine] who [...] is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.”⁹⁵]
- U.S. citizens residing outside the U.S. and that are qualified to vote in the last place in which the person was domiciled before leaving the U.S.⁹⁶
The registrations for uniformed service, merchant marine, spouses, and dependents are permanent with full ballot eligibility. The registrations for U.S. citizens residing outside the U.S. are permanent dependent upon whether the application indicates:
 - The voter retains a place of abode in Virginia.
 - The voter is employed overseas or is the spouse or dependent of the individual employed overseas.⁹⁷

To provide further assistance in processing FPCA, an illustration of Block 1 of the FPCA is provided. An illustration of the VERIS Absentee Reason Codes is also provided.

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 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 intent to return is uncertain.

I am a U.S. citizen living outside the country, I have never lived in the United States.

6A - Military - Domestic
 6B - Military - Spouse/Dependent - Domestic
 6C - Temporarily Residing Outside US (Full Ballot)
 6C - Temporarily Residing Outside US (Federal Only Ballot)
 6D - Temporarily Residing Outside US Due To Employment
 6E - Military - Overseas
 6F - Military - Spouse/Dependent - Overseas
 Incomplete Information

Uniformed Service, merchant marine, spouse, and dependents applicants will be keyed in VERIS using Reason Codes 6A, 6B, 6E, or 6F depending on the address provided in Block 3 on the FPCA.

U.S. citizens living outside the country with an intent to return will be keyed in VERIS using Reason Code 6C – Temporarily Residing outside US (Full Ballot).

U.S. citizens living outside the country with uncertain intentions to return, must be contacted if the application does not indicate employment abroad. With confirmation of employment, key in VERIS using Reason Code 6D – Temporarily Residing Outside US Due to Employment. Without confirmation of employment, key in VERIS using Reason Code 6C – Temporarily Residing Outside US (Federal Only Ballot).

U.S. citizens that have never lived in the United States will be keyed in VERIS using

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See the Code of Virginia [§24.2-453](#).



Reason Code 6C – Temporarily Residing Outside US (Federal Only Ballot).
Voter’s

7.8.1.3 State Law Definitions – Uniform Military and Overseas Voting Act (UMOVA)⁹⁸

- Provides additional definitions expanding federal law protections on voting rights of absent military and overseas citizens.
- Permits U.S. citizens residing overseas, whose last residence in the U.S. was in Virginia but who no longer maintain an abode in Virginia, to receive absentee ballots for elections for federal office.⁹⁹
- Persons born overseas to Virginia parents may be eligible to vote in Virginia elections.¹⁰⁰
- Eligibility for full ballot is defined by state law based on retaining place of abode in Virginia or employment overseas.¹⁰¹

7.8.1.4 Late Military Registrant By Mail¹⁰²

The applicant must:

- Be eligible to register and otherwise qualified to vote
- Be a member of the uniformed services of the US on active duty, a member of the merchant marine or the spouse or dependent residing with the same, and
- By reason of active duty or merchant marine service be normally absent from the city or county in which he/she resides.¹⁰³

Persons eligible for late voter registration may do so after the books are closed up to and including Election Day.¹⁰⁴ They must be given a registration date equal to the final day of registration (effective date).

7.8.1.5 FPCA Duration of Eligibility – How Long Ballots Must be Sent

“An application [...] that is received by the general registrar no later than 5:00 p.m. on the eleventh day prior to the election shall be considered a standing request for absentee ballots through December 31 of the year following the calendar year of [their] application.”¹⁰⁵

7.8.1.6 How to Process the FPCA

Board regulation 1 VAC 20-45-30 allows accepting a faxed or scanned email attachment as an original application for registration and absentee ballot request.¹⁰⁶

- FPCA may be signed electronically for registration and absentee ballot requests.
- FPCA may be returned by mail, in person, by fax or email.
- The FPCA is both voter registration and absentee ballot request.

⁹⁸ See the Code of Virginia §§[24.2-451](#) and [24.2-470](#).

⁹⁹ See the Code of Virginia [§24.2-452](#).

¹⁰⁰ *Id.*

¹⁰¹ See Va. Const. [Art. I, §1](#); see also the Code of Virginia [§24.2-453](#).

¹⁰² See the Code of Virginia [§24.2-419](#).

¹⁰³ See also the Code of Virginia [§24.2-425](#).

¹⁰⁴ See the Code of Virginia [§24.2-419](#).

¹⁰⁵ See the Code of Virginia [§24.2-703](#).

¹⁰⁶ See the Code of Virginia [§24.2-457](#).



- Make a copy of the FPCA for the absentee application.
- Overseas voters on short vacations or business trips less than a year should use the “Virginia Absentee Ballot Application SBE-701” not the FPCA which provides continuing ballots through the next calendar year.



Regulation Note

1VAC20-45-30: Electronic Submission of Federal Post Card Application

An applicant who is eligible for registration and applies for registration and requests an absentee ballot on a Federal Post Card Application may apply for registration and the absentee ballot by facsimile or e-mail. Electronically submitted FPCA applications are sufficient for registration and requesting an absentee ballot if signed and otherwise complete.

7.8.1.7 FPCA Acknowledgment

If ballots are not ready to be mailed and the FPCA is properly completed and ready for a ballot, the applicant should receive an acknowledgement notice or email. The content of the notice or email should include the elements listed below:

- The acknowledgement notice or email should inform the voter of the type of ballot he or she will receive, i.e., Full Ballot or Federal Only Ballot.
- It should also indicate when and how you will send the ballot (i.e.: mail, email or fax).

7.8.1.8 Checking the FPCA

- Section 1 is the classification of voter type (uniformed services, etc.) The applicant also provides name, suffix, previous name, date of birth, and Social Security Number
 - **Social Security Number:** If the applicant is already registered, only the last four digits of the social security number (SSN) are needed. **If the person is not yet registered, the full SSN is required.**
 - If a voter does not have a Social Security number and “none” is written in the box, VERIS will assign an identification number. Department of Elections staff can check the DMV record to verify no SSN.¹⁰⁷
- Section 2 is for a valid residence address in your locality.
- Section 3 is for the mailing address of the applicant, i.e., where to the applicant is now.
 - Current military or overseas address to which ballot should be sent.
 - an alternate address to mail the ballot.
- Section 4 is for contact information (, email, alternate email, phone, and fax).
- Section 5 is the ranked preference of method for receiving ballot (mail, email, fax). The applicant may also provide political party preference for primary elections:
 - If a party is provided, primary ballots are sent for that party primary.
 - If no party is provided, no primary ballot is sent.
- Section 7 is for the applicant’s signature to the affirmation statement.

¹⁰⁷ See the Code of Virginia [§46.2-208\(B\)\(9\)](#).





Regulation Note

1VAC20-45-20: Voter Registration. No presumption for or against residence may be based on a person’s presence or absence in the following circumstances: being employed in the service of the Commonwealth or the United States, whether military or civilian.

With respect to material omissions on Federal Write-In Absentee Ballots, the following omissions are **not material**: omitting service identification number, rank, grade, or rate on an application that declares active military duty status, employer name and address on an application that declares temporary overseas residence with no date of last residence, employer name and address on an application that declares temporary overseas residence with a date of last residence, and date of last residence on an application that declares indefinite overseas residence (20-45-20(B)(4)).

Eligibility for a full absentee ballot requires providing the name and address of an employer outside the United States (20-45-20(B)(3)). Lastly, the date of last residence for an application declaring indefinite overseas residence without indicating the date of last residence in the United States is the **date the application is signed** (20-45-20(B)(4)).

7.8.1.9 Processing a Properly Completed FPCA



- Perform a “Voter Search” in VERIS to determine if the voter is registered to vote at the address given in Part 2.
 - If the voter is not registered and the books are open, process as a new registration in VERIS according to the VERIS Step-by-Steps. Use the original FPCA you received for registration and a copy for the absentee ballot application.
 - If the voter is registered, proceed to “Absentee History” and check for an AB application already on file. If no application has been processed, enter the data into VERIS according to the Step-by-Steps.
- If the voter is not registered and the books are closed, consider if the applicant is eligible for late military registration.¹⁰⁸
- If needed, you may attach the properly completed FPCA to a sheet of paper on which an “Office Use Only” section from the Virginia Absentee Ballot Application Form has been printed and complete that information.
- Check VERIS to verify that the proper full or federal only ballot status is assigned based on the information provided. Federal only ballots are for US citizens residing abroad who have no current place of abode in Virginia and who are neither employed overseas nor eligible family of a person employed overseas or a uniformed services voter. “To be eligible to vote in state and local elections, the application of an overseas voter who has given up his place of abode in Virginia must show that the

¹⁰⁸ See above late military registration.



applicant is employed overseas or the spouse or dependent of a person employed overseas.”¹⁰⁹

7.8.1.10 *Processing an Incomplete FPCA*

- Contact the voter to obtain any missing information. Email is usually the fastest method.
- Process the application as soon as the missing information is obtained.
- If the signature is missing, the voter must send a new completed FPCA.
 - Deny the application in VERIS.
 - Send a new FPCA or the link to FVAP.
 - Send the denial by email whenever possible.

7.8.1.11 *Using the FPCA for Multiple Elections – Ongoing Application*

The FPCA is valid for all elections and is “considered a standing request for absentee ballots through December 31 of the year following the calendar year of the date of the application.”¹¹⁰

- Once the FPCA has been processed and approved, VERIS treats it as an ongoing application through the expiration date, and it does not have to be reentered for each eligible upcoming election.
- The application for ongoing ballots may be submitted at any time after the previous year’s November general election.
- The applicant must meet applicable deadlines for both voter registration and absentee ballot request.
- Ongoing applicants on file are eligible for ballots for special elections held in November or December provided their applications have not yet expired **unless otherwise specified in the FPCA**.
- Any voter sending in the FPCA after the November general election for the *next year* and at least 11 days before the special election are also eligible to receive ballots for that special election provided the voter has met the voter registration deadline.
- “If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots [may] be sent” to the voter until a new application is filed and accepted.¹¹¹
 - Double check mailing and email addresses.
 - The default method to send ballot is **by mail** if nothing is selected.¹¹²

7.8.1.12 *Activating the Ongoing Application*

Activating the ongoing applications will allow VERIS to generate a ballot line for the specified election in which the applicant is eligible for a ballot. All ongoing applications for a specified election are activated at one time.



- To activate ongoing applications take the following steps:
 - Click on the “Absentee” tab on the VERIS Tool Bar.
 - Click on the “Ongoing Absentee Ballots” link.

¹⁰⁹ See Va. Const. [Art. II, §1](#); see also the Code of Virginia [§24.2-453](#).

¹¹⁰ See the Code of Virginia [§24.2-703](#).

¹¹¹ *Id.*

¹¹² See the Code of Virginia [§24.2-706](#).



- Select the appropriate election from the dropdown menu.



VERY IMPORTANT: You *must* activate your ongoing applications *for every election* before you set your ballot ready date *for every election*! All ongoing applications are activated at one time. Permanent absentee ballot applications will be updated along with any military or overseas voters if you have them.

- Click on the “Generate Ballots” button.
- Request and print\review the Daily Absentee Applications List and the Ongoing Absentee Application List VERIS reports after the activation of the ongoing applications finishes.
 - When PDF files are viewed rather than printed, save the report with a review date added to the file’s name.
- Review each application that is eligible for a ballot and proof it against the reports. The reports and applications should match.
 - The Daily Absentee Applications List report will confirm the mailing address or email address of the applicant.
 - The Ongoing Absentee Application List report will confirm the applicant’s selected political party for primary ballots or that no political party was selected.
- Resolve any issues with missing applications or missing entries on the report.
- Complete this process in time to mail your ballots. “The general registrar [must] make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application.”¹¹³
- When ballots are ready and the ballot ready date is set, each ongoing ballot line will be updated to show the ballot sent date.
- Refer to the Absentee Processing VERIS Step-by-Steps for additional details.

7.8.2 Federal Write-In Absentee Ballots (FWAB)

7.8.2.1 In General

The FWAB is designed “for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States absentee ballots.”¹¹⁴ Applicants often mail a FWAB about the same time as an FPCA.

- “An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State ballot, may submit the State absentee ballot” regardless of whether a FWAB has been received.¹¹⁵ §24.2-1004 clarifies

¹¹³ See the Code of Virginia [§24.2-612](#).

¹¹⁴ See [52 U.S.C. §20303](#).

¹¹⁵ See [52 U.S.C. §20303](#).



there is no double voting since the FWAB is not counted if the regular state ballot is also received in time.

- The regular state ballot will be easier to process and count than if the choices on the FWAB are handwritten.



FVAP has developed technology on its website for federal elections to enable voters to print a FWAB with their choices from ballot data provided by the Department of Elections. This technology makes it less important for these voters to return the regular state ballot. The Department of Elections offers similar technology to enable localities to issue ballots by sending links a voter can use to download and print a ballot for return by mail. Please contact your Liaison if your locality would like more information on this program.

7.8.2.2 What the FWAB is Used For

“A covered voter may use the [...] federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if [the declaration accompanying the FWAB] is received by the applicable deadline.”¹¹⁶

- “If the declaration is received after that date, [the FWAB] must be treated as an application to register to vote for subsequent elections.”¹¹⁷
- “A covered voter may use the [...] federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.”¹¹⁸
- Absentee Ballot Application for the enclosed ballot only.
- Voted Ballot for one election only.

7.8.2.3 Who May Use the FWAB

“Covered voters” include¹¹⁹:

- “A uniformed-service voter or an overseas voter who is registered to vote in this state;”¹²⁰
- “A uniformed-service voter [...] whose voting residence is in this state and who otherwise satisfies this state’s voter eligibility requirements;”¹²¹
- “An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements;”¹²²
- “An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter been of voting age and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements;”¹²³

¹¹⁶ See the Code of Virginia [§24.2-457\(B\)](#).

¹¹⁷ *Id.*

¹¹⁸ See the Code of Virginia [§24.2-458\(D\)](#).

¹¹⁹ See the Code of Virginia [§24.2-452\(1\)](#) (defining “covered voters”).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*



- “An overseas voter who was born outside the United States, is not described in [the bullets above] and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements, if.”¹²⁴
 - “The last place where a parent or legal guardian of the voter was, or [...] would have been, eligible to vote before leaving the United States is within this state; and”¹²⁵
 - “The voter has not previously registered to vote in any other state.”¹²⁶

7.8.2.4 **When Can the FWAB Be Used**

Federal law mandates, and Virginia law allows, that UOCAVA applicants may use the FWAB as a back-up ballot.¹²⁷ A qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of §24.2-700 may use a federal write-in absentee ballot in any election.¹²⁸ A FWAB cannot be rejected on the basis that no FPCA can be found or because the applicant indicates on the FWAB that no FPCA has been submitted.¹²⁹ However, no regular ballot can be sent without a FPCA or Virginia Absentee Ballot Application SBE-701, nor will ballots continue without a FPCA. General registrars should encourage absent military and overseas citizens to submit a FPCA, using a FWAB only if concerned a regular ballot will not arrive on time.¹³⁰ When the FWAB is received affects the action to take if no FPCA can be found:

- More than 45 days before election with sufficient time to submit FPCA—general registrar should contact voter to request FPCA so a regular ballot can be issued and ballots sent for future elections.
- Less than 22 days before election from an unregistered overseas citizen—FWAB is valid as registration for future elections only.
- Less than 7 days before election—if military or registered overseas citizen, voted ballot can be accepted; if unregistered overseas citizen, FWAB is valid as registration for future elections only.¹³¹

7.8.2.5 **FWAB Mailing Deadlines Allowed**

Active duty military, their spouses and dependents may mail their FWAB from any location in the US or overseas. Federal law stipulates that non-military overseas citizens must mail their FWAB from outside the United States for the ballot to count.¹³² The FWAB instructions include addressing the voted ballot to the appropriate general registrar or Electoral Board.¹³³ FWABs may not be returned electronically as a voted ballot. Any applicant sending a FWAB electronically should be notified immediately that

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ See the Code of Virginia [§24.2-452\(1\)](#).

¹²⁷ See [52 USC §20303](#).

¹²⁸ See the Code of Virginia [§24.2-702.1](#).

¹²⁹ See the Code of Virginia [§§24.2-457](#) and [24.2-458](#).

¹³⁰ See [Department of Elections website](#) and [FVAP Virginia Voting Assistance Guide](#).

¹³¹ See the Code of Virginia [§24.2-459](#).

¹³² See [52 USC §20303](#).

¹³³ See the Code of Virginia [§24.2-462](#).



this method of return is not authorized for any voted ballot and a FPCA is required to request ballots sent.¹³⁴

7.8.2.6 *How the FWAB is to be Mailed*

Remember the Code of Virginia §24.2-416.4 timely mailing rule if FWAB is used for registration. There is no five day hold for mailed applications from military and overseas applicants eligible under §24.2-700(2).¹³⁵

- **Before Books Close:** “A covered voter may use the [...] federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the [FWAB], if the declaration is received by the applicable deadline for registration.”¹³⁶ This means that accepting a completed FWAB received by the **registration** deadline is timely for registration, absentee ballot application, and voted ballot.
- **After Books Close:** “If the [completed FWAB] is received after [the registration deadline], it must be treated as an application to register to vote for subsequent elections.”¹³⁷ This means that accepting a completed FWAB received by the deadline for returning ballots (postmarked on or before Election Day) is timely for registration, absentee ballot application and voted ballot **only if** the applicant is eligible for late registration.¹³⁸ You can accept a completed FWAB received by the deadline for returning ballots, but after close of books, as timely for an absentee ballot application and voted ballot if the applicant is already registered to vote in the jurisdiction¹³⁹

¹³⁴ See the Code of Virginia [§§24.2-702.1](#) and [24.2-707](#). See also [FVAP Virginia Voting Assistance Guide](#).

¹³⁵ See the Code of Virginia [§§24.2-416.4](#) and [24.2-706](#).

¹³⁶ See the Code of Virginia [§24.2-457\(B\)](#).

¹³⁷ *Id.*

¹³⁸ See the Code of Virginia [§24.2-419](#) (addressing late military registration).

¹³⁹ See the Code of Virginia [§24.2-702.1](#).





Regulation Note

1VAC20-45-40: Material Omissions from Federal Write-in Absentee Ballots (FWAB).

Timely received FWAB applications are valid, unless an omission from the application is material. In order to be accepted as timely, the applicant must meet the applicable registration deadline, but §24.2-419 extends the mail in deadline for certain military applicants (20-45-40(B)).

The following are **always considered material omissions**; any application containing these omissions are invalid: the applicant did not sign or check the assistance box, there is no declaration/application page, information on the declaration/application page needed to determine the voter's identity or eligibility, which may include, but is not limited to, current military or overseas address. Under §24.2-707 and 1VAC20-70-80, failure to provide the year of birth *or* the last four digits of the voter's social security number, or if the voter was never issued a social security number the unique identifier assigned to the voter, are always considered material omissions *unless* there is a declared state of emergency related to a communicable disease of public health threat.

The following are **immaterial omissions that do not render the application invalid**: not listing the applicant's name as "Last, First, Middle," listing a middle initial or maiden name instead of a full middle name, omitting the street identifier, such as "Street" or "Avenue", the county or city if the locality is clearly identifiable based on the address given, omitting the zip code, omitting the date the voter signed the ballot, not sealing the ballot in the security envelope, so long as the outside envelope containing the ballot and declaration/affirmation page was sealed (20-45-40(D)(7)), and submitting a ballot containing offices or issues for which he is not eligible (20-45-40(D)(8)).

7.8.2.7 **Additional Tools Available**

- How To Process a FWAB VERIS Step-by-Steps.
- Department of Elections Regulation 1VAC20-45-40¹⁴⁰: "Material Omissions from Federal Write-in Absentee Ballots."

7.8.2.8 **Tables**

- **Table 1** summarizes the action to be taken when only a FWAB is received.
- **Table 2** summarizes the action to be taken when both an FPCA and a FWAB are received for the same applicant.
- **Table 3** summarizes the action to be taken when both a voted state ballot and FWAB are received from the same applicant.
- **Table 4** summarizes the action to be taken when a FWAB is received after the election.

¹⁴⁰ See the Administrative Code of Virginia [1VAC20-45-40](#).



Table 1—Instructions for Processing FWABs Alone		
Description	Action to Take with FWAB	Code
Applicant is registered or meets applicable registration deadline and FWAB is received by the deadline for returning ballots.	<ul style="list-style-type: none"> Retain original FWAB Voter Information page for registration file and make 2 additional copies of the Voter Voter Information page, one for AB Application and one to go with ballot to serve as the Statement of Voter. Enter Voter Information pages that have made the applicable deadline for permanent registration¹⁴¹ Enter the FWAB as both AB Application and a received ballot. Indicate the date, time received and the precinct code. Indicate Congressional, Senate and House as needed. Send FWAB to CAP on Election Day. No further ballots are issued under the FWAB. 	<p>§24.2-416 §24.2-419 §24.2-702.1</p>
Unregistered applicant does not meet applicable registration deadline and is not eligible for late registration (e.g., a FWAB received for unregistered overseas citizen after COB deadline).	<ul style="list-style-type: none"> FWAB is eligible for registration; FWAB ballot not counted, and no ballot sent without FPCA. Keep original FWAB Voter Information page and make one or two copies for denied absentee application. Write “VOID” on the original FWAB Official Backup Ballot. Place the ballot in the “Federal Write-In Absentee Ballots Voided” (SBE-FED) envelope for your locality. Within 90 days of rejection, electoral board must “send a written explanation of the reason for rejection of an absentee ballot to the voter whose absentee ballot was rejected” (e.g., no timely registration application, ballot received after election, etc.).¹⁴² The FWAB Voter Information page is effective for registration after the election. Voter must submit a new FPCA to request ballots for future elections. 	<p>§24.2-416 §24.2-419 §24.2-702.1</p>

¹⁴¹ See the Code of Virginia [§§24.2-457\(B\)](#) and [24.2-458\(D\)](#).

¹⁴² See the Code of Virginia [§24.2-711.1](#).



Table 2—FPCA and FWAB for Same Applicant—Ballot Issuance			
Description	Action to Take with FPCA	Action to Take with FWAB Official Backup Ballot (OBB)	Code
FPCA and FWAB are received together and meet Absentee Ballot Application deadline, and applicant is registered or meets applicable registration deadline.	<ul style="list-style-type: none"> Process as AB Application. Issue regular state absentee ballot, full or federal only, depending on registration status. 	<ul style="list-style-type: none"> Hold the FWAB OBB until noon on the third day after the election to allow time for the state ballot to be returned. If the state ballot does not come back by noon on the third day after the election, process the FWAB as a voted ballot and send to CAP. 	<p>§24.2-702.1 §24.2-703 §24.2-706 §24.2-709</p>
Neither FPCA nor FWAB meets applicable registration deadline and voter is <i>not</i> eligible for late registration (e.g., a FWAB is received for unregistered overseas citizen after COB deadline).	<ul style="list-style-type: none"> FPCA is not eligible for this election. Retain FPCA to process after the election. <p>After the Election</p> <ul style="list-style-type: none"> If not registered, use FPCA for registration. Process FPCA as AB Application for future elections. This application will continue as an ongoing AB Application for statutory period. 	<ul style="list-style-type: none"> FWAB Voter Information page is <i>not</i> eligible for registration, Absentee Ballot Application or voted ballot for current election. Keep original FWAB Voter Information page and make one or two copies to keep for registration and denied absentee application. Write “void” on the original FWAB OBB. Place the ballot in the “Federal Write-In Absentee Ballots Voided” (SBE-FED) envelope for your locality. Within 90 days of rejection, electoral board must “send a written explanation of the reason for rejection of an absentee ballot to the voter whose absentee ballot was rejected” (e.g., no timely registration application, ballot received after election, etc.).¹⁴³ 	<p>§24.2-416 §24.2-419 §24.2-702.1 §24.2-703</p>
FPCA and FWAB are received together but FPCA has NOT met regular AB Application deadline (11 days prior to Election Day).	<ul style="list-style-type: none"> FPCA not eligible for this election Retain FPCA to process after the election. <p>After the Election:</p> <ul style="list-style-type: none"> If not registered, use FPCA for registration. Process FPCA as AB Application for future elections. This application will continue as an ongoing AB Application for statutory period. 	<p>If voter is registered or eligible for late registration:</p> <ul style="list-style-type: none"> Process FWAB Voter Information page as AB Application and FWAB OBB as a voted ballot. <i>Do not</i> send a state ballot. <p>If voter is not registered:</p> <ul style="list-style-type: none"> Follow instructions under “Does not meet applicable registration deadline” found above. 	<p>§24.2-702.1 §24.2-703</p>

¹⁴³ See the Code of Virginia [§24.2-711.1](#).



Description	Action to Take with State Ballot	Action to Take with FWAB Official Backup Ballot (OBB)	Code
Regular state ballot was issued. Both state ballot and FWAB are received before Election Day (VERIS shows state ballot was sent but not yet received).	<ul style="list-style-type: none"> Enter the state ballot as received, selecting “Marked” as the ballot status. Send state ballot to CAP on Election Day. 	<ul style="list-style-type: none"> Write “VOID” on the FWAB OBB. Place the FWAB in the “Federal Write-In Absentee Ballots Voided” (SBE-FED) envelope for your locality. 	§24.2-702.1 §24.2-703 52 USC §20303
Regular state ballot was issued but <i>not</i> received; only FWAB was received by deadline for returning ballots.	<ul style="list-style-type: none"> No action needed 	<ul style="list-style-type: none"> Enter FWAB ballot as received, using the edit function. Select “FWAB” as the ballot status. Indicate the date, time received and precinct code. Indicate Congressional, Senate and House as needed. Place this ballot with the other “hand count” CAP ballots. 	§24.2-702.1 §24.2-709 52 USC §20303

State Ballot Sent on Time		
Description	Action to Take with FWAB	Code
FWAB is received after the election but VERIS shows state ballot was issued and received as a voted ballot.	<ul style="list-style-type: none"> No VERIS action needed for keying FWAB Voter Information page as AB application as state ballot was already received. Place the FWAB Official Backup Ballot (OBB) in envelope labeled “Ballots Received after Election” for Clerk of the Court. 	§24.2-710
FWAB is received after the election but VERIS shows state ballot was issued on time but was <i>not</i> received as a voted ballot.	<ul style="list-style-type: none"> Best Practice: Registrars may choose to process the FWAB as a ballot returned “LATE” on VERIS for tracking purposes. Use the edit function on the ballot line. Rejecting the ballot will allow the voter to check the status of the FWAB on the Department of Elections website after the election. Place the FWAB OBB in envelope labeled “Ballots Received after Election” for Clerk of the Court. 	§24.2-710
State Ballot NOT Sent on Time		
Original state ballot requested by FPCA or SBE-701 on or before, but <i>not</i> sent by, the 45-day deadline. State ballot NOT returned, only FWAB is received after election	<ul style="list-style-type: none"> FWAB is received before 5 pm on the second business day before the State Board of Elections meets to ascertain the results of the election. Process as a received “FWAB” ballot using the edit function on the ballot line. Count FWAB OBB or reject for material omission.¹⁴⁴ 	§24.2-612 §24.2-709(B)
NO State Ballot Sent		
FWAB is received after the election and VERIS shows NO state ballot was issued.	<ul style="list-style-type: none"> The FWAB Voter Information page is effective for registration after the election. Place the FWAB OBB in envelope labeled “Ballots Received after Election” for Clerk of the Court. Best Practice: Inform voter that FWAB was received after the election and that a FPCA must be submitted to request ballots for future elections. 	§24.2-702.1 §24.2-710

¹⁴⁴ See the Virginia Administrative Code [1VAC20-45-40](#).



	•	
<p>Best Practice: Ensure that each FWAB voter that has the Official Backup Ballot counted or rejected receives voting credit for the election in VERIS. Most General Registrars keep the voter’s “Ballot Status” as “FWAB” for tracking purposes. The “FWAB” designation will not provide the voter voting credit. A general registrar may edit the “Ballot Status” to “Marked” or “Rejected” which will automatically provide voting credit. An alternative approach is to manually add the voter’s voting credit. When this is done, the voting credit must be designated as “Absentee” and the “Ballot” designation as either “Full Ballot” or “Federal Only.” In the “Comments” section, please indicate that the “Voter’s FWAB was either counted or rejected.”</p>		

7.8.3 Permanent Absentee Voting with the Vote By Mail Application Form (SBE 701/703.1)

7.8.3.1 In General

By completing the “Permanent Absentee Option” section of the SBE 701/703.1 form, a voter may receive all ballots for which he is eligible.

- i If a voter who has already completed the “Permanent Absentee Option” section of the form submits a new SBE 701/703.1, you should contact the voter to confirm whether he/she intends to supersede the active ongoing application.

7.8.3.2 Eligibility

Any registered voter is eligible to complete the “Permanent Absentee Option” section of the form and to receive all ballots they are entitled to, unless or until the voter is removed or cancelled from the Permanent Absentee List.¹⁴⁵

7.8.3.3 Registrar Requirements

- Keep the original application on file indefinitely.
- Voters who join the permanent absentee voter list must have their ballots sent to “the address in the voter’s registration record...”¹⁴⁶ If the voter wishes to use a different mailing address for a single election, the voter must complete and submit the form SBE-703.1C “Virginia Permanent Absentee Ballot Change Application.”¹⁴⁷

7.8.3.4 Removal from the Permanent Absentee List

A voter is removed from the permanent list under the following conditions¹⁴⁸:

- The voter requests in writing to be removed from the list.
- The voter’s registration is cancelled.
- The voter’s registration is placed on inactive status.

¹⁴⁵ See the Code of Virginia §§24.2-700 and 24.2-703.1.

¹⁴⁶ See the Code of Virginia §24.2-703.1

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*



- The voter moves to a different address not in the same county or city of his registration.
- If a voter is removed from the permanent list, the GR should send a notice of removal and explain the reason for removal. VERIS will automatically generate this letter.

7.8.3.5 Processing the Application

Confirm the application is properly completed and contains all of the required information to process an absentee ballot application.

- Printed name and address, last four digits of the SSN, and signature¹⁴⁹
 - “No action undertaken to fulfill any requirement [...] to register or vote [is] valid or complete when the action is based on the exercise of a power of attorney.”¹⁵⁰
 - “No ballot [can] be sent to, or in care of, any other person.”¹⁵¹
- Which party’s primary ballot the voter would like to receive for any relevant primary election. If neither party is checked, primary ballots will not be sent.
- Assistant’s Statement (only required when the first box is checked in the “Assistance with Ballot” section is checked)
 - Assistant’s full name, residence address and signature;¹⁵²
 - Voter unable to sign, if applicable.¹⁵³
- Change of Address
 - Look up the voter in VERIS.
 - Enter change of address in VERIS if Virginia Absentee Ballot Application is received before the books close.
 - **Do not** enter a change of address in VERIS if the books have closed.
 - **Note:** Moving conditions may apply.
 - Compare the information on the application with the data recorded in VERIS.
 - If the information matches, move to “Absentee History” in VERIS and check for any Virginia Absentee Ballot Application already on file.
 - If there is no Virginia Absentee Ballot Application on file, enter the absentee data and process the application.
 - Refer to VERIS Absentee Processing Step-by-Steps for detailed processing instructions.
 - Complete the “Office Use Only” block in the top right corner of the form.
 - The voter is now ready for a ballot to be mailed.
 - Follow instructions for mailing ballots.

¹⁴⁹ *Id.*

¹⁵⁰ See the Code of Virginia [§24.2-123](#).

¹⁵¹ See the Code of Virginia [§24.2-701\(C\)\(3\)](#).

¹⁵² See the Code of Virginia [§24.2-704](#).

¹⁵³ *Id.*



7.8.3.6 *Activating Ongoing Applications*

Activating the ongoing applications will allow VERIS to generate a ballot line for the specified election in which the applicant is eligible for a ballot. All ongoing applications for a specified election are activated at one time. Follow the steps below to activate ongoing applications in VERIS:

- Hover cursor over the “Absentee” tab on the VERIS tool bar.
- Click on the “Ongoing Absentee Ballots” link in the drop down menu.
- Select the appropriate election from the dropdown menu.
- Click on the “Generate Ballots” button.



VERY IMPORTANT: You must activate your ongoing applications for every election before you set your ballot ready date for every election.

All ongoing applications are activated at one time. Annual applications will be updated along with any military or overseas voters if you have them.

- Request and print the “Daily Absentee Application List” and the “Ongoing Absentee Application List” VERIS reports after the activation- of the ongoing applications finishes.
 - When PDF files are viewed rather than printed, save each report with a review date added to the file’s name.
- Review the applications that are eligible for a ballot and proof them against the reports. The reports and applications should match.
 - The Daily Absentee Applications List report will confirm the mailing address or email address of the applicant.
 - The Ongoing Absentee Application List report will confirm the applicant’s selected political party for primary ballots or that no political party was selected.
- Resolve any issues with missing applications or missing entries on the report.
- Complete this process in time to mail your ballots.¹⁵⁴
- When ballots are ready and the ballot ready date is set, each ongoing ballot line will be updated to show the ballot sent date.
- Refer to the Absentee Processing VERIS Step-by-Step instructions for additional details.

7.8.4 *Emergency Absentee Ballot Application (ELECT-705)*

7.8.4.1 *In General*

“Any person registered and otherwise qualified to vote may request at any time prior to 2:00 p.m. on the day preceding the election that he be permitted to vote by emergency absentee ballot with the assistance of his designated representative.”¹⁵⁵

¹⁵⁴ See the Code of Virginia [§24.2-612](#).

¹⁵⁵ See the Code of Virginia [§24.2-705](#).



7.8.4.2 Eligibility

- 24.2-705(A) addresses voters requesting an emergency absentee for the following reasons: i) they were unable to apply or an absentee ballot by the deadline due to their hospitalization or illness, or the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify the receipt of an absentee ballot; or (ii) will be unable to vote on Election Day due to their hospitalization or illness, the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot after the deadline for applying for an absentee ballot.
- Voter or designated representative must request the application be delivered to him or her “prior to 2:00 p.m. on the day before an election.”¹⁵⁶
- Voter was unable to apply for an absentee ballot by the deadline due to his hospitalization or illness, the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot.¹⁵⁷
- Voter will be unable to vote on Election Day due to his hospitalization or illness, the hospitalization, illness, or death of a spouse, child, or parent, or other emergency found to justify receipt of an emergency absentee ballot that occurred after the deadline for applying for an absentee ballot.¹⁵⁸

7.8.4.3 Request for Emergency Absentee Ballot Application (ELECT-705)

The voter or designated representative must ask the Registrar to provide an *Emergency Absentee Ballot Application* by phone, email, or in writing at any time prior to 2 pm on the day preceding the election and provide the name of the person selected to be the representative.¹⁵⁹ The designated representative must “be age eighteen or older and [cannot] be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.”¹⁶⁰

- The *Emergency Absentee Application* (ELECT-705) is given to the designated representative for delivery to the hospitalized voter at the hospital or to the voter at the voter’s current residence as shown on the registration records. The *Emergency AB Application* may be faxed or emailed to the designated representative or to the voter.¹⁶¹

7.8.4.4 Return of Completed Application

“On receipt of the completed form and a determination of the qualification of the requesting voter to vote, the general registrar shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the requesting voter.”¹⁶²

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ See the Code of Virginia [§24.2-705](#).

¹⁶¹ See the Code of Virginia [§24.2-705](#).

¹⁶² *Id.*



- The general registrar must verify the following:¹⁶³
 - That the applicant is a qualified voter;
 - That the name of the designated representative is listed;
 - That the completed application is received “no later than 5:00 pm on the day preceding the election;”
 - That the requesting voter has properly completed and signed the application;
 - That the designated representative has signed and completed the witness portion of the form.

7.8.4.5 **Providing the Absentee Ballot for the Hospitalized/Incapacitated Voter**

- Prepare the absentee ballot in the same manner as a mailed absentee ballot but include the *Instructions for Voting an Emergency Absentee Ballot* (SBE-705(2)).
- Request ID from the designated representative to assure that he/she is the person designated by the voter. Picture ID is preferred, but any item bearing the representative’s name is acceptable.
 - Failure to provide identification will not disqualify the application.
- Enclose the instructions with the ballot that advises the representative that the completed absentee ballot must be delivered to the general registrar’s office prior to 7:00 pm on Election Day.
- Enclose a *Request for Assistance* (ELECT-704 (AB)) form if the voter indicates he/she will need assistance with the absentee voting materials.
- Enter the hospitalized or incapacitated applicant’s name on the Emergency Absentee Ballot Applicants List (SBE-710-Supp).

7.8.4.6 **Statement of Designated Representative**

Upon returning the absentee ballot, the representative must complete the *Statement of Designated Representative of Hospitalized or Incapacitated Voter (Green)* (SBE-705(2)) stating under oath that he:

- Is the designated representative,
- Meets the qualifications of a representative,
- Personally delivered the ballot to the voter who applied,
- Was in the presence of the voter when he/she marked the ballot; that it was placed in the envelope provided; the envelope sealed and the statement on its reverse side completed by the voter, and
- Returned the sealed ballot to the Electoral Board at the Registrar’s office.

7.8.4.7 **Registrar’s Certification**

After the representative has executed the affidavit, the registrar or deputy registrar must complete the lower portion of the form by inserting the following:

- Application number,
- Precinct name and number,
- Date ballot returned, and
- Time ballot returned.
- The Registrar or deputy registrar must sign the form and attach it to the *Emergency Absentee Ballot Application* for that voter.

¹⁶³ *Id.*



7.8.4.8 **Entering Into VERIS**



- Enter the application information into VERIS.
- The *Emergency AB Application* is listed as an application type in the absentee application drop down menu.
- Select “*Emergency Application*” (SBE-705).
- Received by method will automatically populate with “designated representative.”
- The reason type will populate and only allow “2A – Disability or Illness.”
- Use “2A – Disability or Illness” even if the reason is bereavement or otherwise incapacitated and use the comments field to explain.
- Select “Designated Representative” form the “Ballot Sent by” drop down menu.
- Complete the application process and, when appropriate, the received ballot process.

7.8.4.9 **Delivery of Ballots**

“The ballot shall be counted only if the ballot is received by the general registrar prior to the close of polls, and the general registrar shall deliver the ballot to the officers of election at each appropriate precinct.”¹⁶⁴ “Before the polls close on [Election Day], the electoral board [must] deliver the absentee ballot containers to, and obtain receipt from, the officers of election at each appropriate precinct.”¹⁶⁵ “Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, [must] be delivered in an appropriate container to the officers of election at each appropriate precinct.”¹⁶⁶

7.8.5 **Emergency Absentee Ballot Application (Emergency Travel for Business, Hospitalization or Death in Immediate Family and Late Assignment of Election Officer ELECT-705)**

7.8.5.1 **Eligibility**

Code of Virginia §24.2-705(B) states “A qualified voter may vote absentee in person in the office of the general registrar through 2:00 p.m. on the day immediately preceding the election by complying with the requirements of §24.2-643 and affirming that one of the following emergency circumstances will prevent him from voting on Election Day: “Election Day.”¹⁶⁷ Those emergency circumstances are listed in the qualifying reasons below.

7.8.5.2 **Qualifying Reasons**

- Voter will be absent on business, profession, or occupation¹⁶⁸

¹⁶⁴ See the Code of Virginia [§24.2-705](#).

¹⁶⁵ See the Code of Virginia [§24.2-710](#).

¹⁶⁶ *Id.*

¹⁶⁷ See the Code of Virginia [§24.2-705](#).

¹⁶⁸ See the Code of Virginia [§24.2-705](#).



- Voter or a member of voter’s immediate family has been hospitalized;¹⁶⁹
- Death of a member of [voter’s] immediate family;¹⁷⁰ which means child, grandchild, parent, grandparent, legal guardian, sibling, or spouse of the voter.
- The voter is an officer of election who was assigned after 12:00 p.m. on the Saturday before the election to work in a precinct other than his own on Election Day.¹⁷¹

7.8.5.3 Enter into VERIS



- Application type = emergency application
- Received by method = in-person or other
- Reason type = business, illness or disability or election official
- Ballot sent by method = in-person
- Complete the application process and the received ballot process.
- See VERIS Step-by-Steps.

7.8.6 Mailing Absentee Ballots

7.8.6.1 In General

“The general registrar [must] make printed [absentee] ballots available [...] not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later.”¹⁷²



Best Practice

Proof applications against labels/reports for every mailing. Check for “Needs Assistance (NA)” or “ID Required” on the label and make sure the corresponding additional form(s) is\are including in the outgoing envelope.



VERY IMPORTANT: Per 1VAC20-70-70 All absentee ballot envelopes used for mailing the ballot and materials to the voter and for the voter to return their ballot must contain the following elements:

- An Intelligent Mail barcode (IMb) that is unique to the voter.
- The official U.S. Postal Service Election Mail insignia.

7.8.6.2 Assembling Ballots

Assemble as follows for each ballot to be mailed on the Certificate of Mailing (COM):

- Obtain *Instructions for Voting an Absentee Ballot* for ballot type (ELECT-706-4).

¹⁶⁹ See the Code of Virginia [§24.2-705](#).

¹⁷⁰ *Id.*

¹⁷¹ See the Code of Virginia [§24.2-705](#).

¹⁷² See the Code of Virginia [§24.2-612](#).





VERIS

VERIS reports are used for processing ballots for applications previously entered. Reports can be scheduled one time, daily, weekly, or monthly.

- Daily Absentee Applications List
- Certificate of Mailing
- Absentee Ballot Mailing Labels
- Generated Ongoing Ballots List

If a voter has applied in-person for a ballot but would like the ballot to be mailed, be certain to change “In Person” to “Mail” in the “Ballot Sent By” field in VERIS.

- Please note: when there is a proposed constitutional amendment or statewide referendum on the ballot, the instructions **must** include a link to the ELECT webpage explaining the proposed amendment or referendum.¹⁷³
- Seal the ballot in Ballot Envelope A Ballot within (VA-VBM-Envelope-A-7-2023).
- Use *Envelope B - Statement of Voter* - for which there are two versions:
 - UOCAVA (for UOCAVA voters only).¹⁷⁴
 - Statement of Voter (for all voters other than UOCAVA). (VA-VBM-Envelope-B-7-2023)
- Self-address a return envelope with the VERIS generated return label.
- Use the left-hand label printed from VERIS for the “Return Envelope.”
- Insert the “Return Envelope” and all the above materials into the “Mailing Envelope.”
- Affix the right-hand label to the “Mailing Envelope” and seal.
- Use postage free “Mailing Envelope” for UOCAVA ballots.

7.8.6.3 *Special Forms that may also be Included*

- *Request for Assistance Form* if needed (ELECT-704(AB))
- *HAVA ID Form* if needed (ELECT-HAVA-1)
- FPCA if needed¹⁷⁵

7.8.6.4 *Certificate of Mailing*

- Print labels first
- Printing labels generates the “Certificate of Mailing”

7.8.6.5 *Order for Printing Labels and Certificate of Mailing*

- Ballot Style – Full or Federal Only
- Congressional District
- Senate District
- House District
- Voting Precinct

¹⁷³ See the Code of Virginia [§24.2-706\(C\)\(4\)](#).

¹⁷⁴ See [52 U.S.C. §20302\(b\)](#).

¹⁷⁵ See the Code of Virginia [§24.2-706\(5\)](#).



- Alpha Order

Postage free ballots are listed after the “Certificate of Mailing” labels and are repeated in the same order.

Mail the absentee ballots using the “Certificate of Mailing.” The Certificate provides the proof that the ballots were mailed and the address to which they were mailed. The number of ballots mailed must equal the number of names on the “Certificate of Mailing.” Make corrections and adjustments to the totals within VERIS for the “Certificate of Mailing. Print or reprint the “Certificate of Mailing” when finished.

Deliver the ballots and the “Certificate of Mailing” to the Post Office. USPS will stamp the “Certificate of Mailing” as proof that the ballots were mailed.

NOTE — the Code of Virginia authorizes expedited mailing of ballots through commercial carriers other than USPS and authorizes use of alternative forms of evidence of mailing that may be less costly such as intelligent mail bar coding. Work with your local administration and USPS on procedures that may be available to lower absentee mailing costs.¹⁷⁶

7.8.7 Third Parties Mailing and Assembling Absentee Ballots

Virginia Code permits the out-sourcing of mailing absentee ballots to a third-party printing company. A locality must review and adhere to 1VAC20-70-90 before signing a contract with a third-party printing company. As a contract will be needed, early involvement with local legal counsel is highly recommended. Signed contracts must be emailed to the Department using ea@elections.virginia.gov.

7.8.8 Emailing or Faxing the Ballots

The general registrar is required to send the blank ballot, the form for the envelope for returning the marked ballot and instructions to the voter by these electronic procedures if the UOCAVA applicant so requests.¹⁷⁷

7.8.8.1 Procedures

- UOCAVA and Print Disabled voters may request ballots emailed or faxed.¹⁷⁸
- Proof your daily email/fax ballot applications against the “Daily Absentee Applications” list.
- If arranging for a time to send the ballot by fax is a problem, you can inform the voter that emailing the ballot is also an option.

7.8.8.2 E-mailed or Faxed Ballot Assembly for a Locality not using Enhanced Ballot

Include the following with each e-mailed or faxed ballot:

- VotingInstructions.pdf
- BallotWithin.pdf = Envelope A

¹⁷⁶ See the Code of Virginia [§§24.2-704 and 24.2-706](#).

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*



- ABEnvelope.pdf = Envelope B
- ReturnEnvelopeTemplate.pdf = Outside Return Envelope
- FPCA, if needed¹⁷⁹

7.8.9 Drop-off Locations

7.8.9.1 *In General*

The 2021 General Assembly voted to codify the use of absentee ballot drop-off locations in Virginia. These locations include both secured drop-boxes and staffed locations where a voter can return a completed absentee ballot.

7.8.9.2 *Requirements for Drop-off Locations*

General registrars are required to maintain drop-off locations at:

- The general registrar’s office;
- any satellite offices in the locality; and
- at each polling place on Election Day.

The following rules apply to all drop-off locations in your locality:

- Your locality’s drop-off locations *must* be available for the hours that the general registrar’s office or satellite office is open.
- On Election Day, you must operate a drop-off location at each precinct’s polling place.
- These locations must be available for the hours that the polling place is open.

7.8.9.3 *Additional Locations*

As the general registrar, you may establish additional drop-off locations within your county or city as you deem necessary. Drop-off locations must be accessible, on public property unless located at a polling place, and compliant with any other criteria set by the Department of Elections.

- The Department of Elections highly recommends that registrars confer with their local Electoral Boards to determine if and where to place additional drop-off locations.
- You may use existing drop-boxes on government property as drop-boxes for elections (e.g., drop-boxes for making utility payments). However, any drop-box used must comply with all of the requirements in this guidance.

7.8.9.4 *Accessibility Requirements*

All drop-off locations must meet accessibility requirements, including being accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (51.5-1 et seq.) the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. 20101 et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. 12131 et seq). These are the same accessibility requirements as those for polling places, found in 24.2-310(C) of the Code of Virginia.

¹⁷⁹ See the Code of Virginia [§24.2-706\(5\)](#).



7.8.9.5 Operation of Drop-Off Locations

You may operate your drop-off locations as either 1) secured drop boxes; or 2) staffed drop-off locations.

- Individuals are not required to show identification (ID) when returning their ballots to drop-off locations.
- At the general registrar's office, satellite locations, and polling places, clear signage should indicate where voters drop-off their ballots versus where voters vote in-person.
- On Election Day, it is especially important that proper signage ensure that drop-off voters do not mistakenly wait in line to vote with in-person voters.

On the Sunday and Monday before Election Day, you are not required to operate drop-off locations at your satellite offices. However, *you must* continue to collect ballots daily from any drop-off location or drop boxes that remain open to the public on those days. If a drop box is available to the public on those days (for example boxes that are outside) and you do not wish for it to operate, it must be 1) locked so that ballots cannot be deposited in the box; and 2) have clear signage indicating that the last day for voting at this box is/was the date of the Saturday before Election Day.

7.8.9.6 Security Standards for Drop-off Locations

Each year the Department is required by October 1st to provide the Chairman of the House and Senate Committees on Privileges and Elections, the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations with the standards for the establishment and operation of drop-off locations, which includes necessary security requirements. These standards may be found both on ELECT's website and linked to this document.¹⁸⁰

7.8.9.6.1 Physical Security Requirements for Secured Drop-Boxes

- Must be constructed of durable material able to withstand vandalism, removal, and inclement weather, and be securely fastened to prevent moving or tampering.
- Your drop boxes must be monitored by a video surveillance system. Existing security systems on government property may be utilized for drop-box surveillance.
- Video surveillance footage must be retained for 30 days following the deadline to certify the election, or until the conclusion of any election contest, whichever is later; except where there is a potential violation of law where the surveillance could be used as evidence, then it must be retained through the statute of limitations or conclusion of judicial proceedings, whichever is later.
- Your locality's drop boxes should be well lit and have a clearly identified ballot insertion slot.
- Drop boxes should have signage clearly indicating that they are absentee ballot drop-boxes.

¹⁸⁰ See the Code of Virginia, [§24.2-707.1](#)



- Drop boxes should be designed to prevent overflow.
- If a drop-off location has multiple drop boxes, then each should be labeled with a unique identifier, such as a number, letter, or string of numbers and letters. That identifier will be used to describe the particular drop box for record keeping.
- All drop boxes must have an opening slot that is not large enough to allow ballots to be tampered with or removed. The opening slot should be designed to minimize the ability for liquid to be poured into the drop box or for rainwater to seep in.
- All drop boxes must be secured by a lock (e.g. padlock) or sealable with a tamper-evident seal. Only an elections officer, general registrar staff, or the general registrar or deputy registrar should have access to the keys and/or combination of the lock.
- The individuals retrieving ballots should wear a badge or other identifier that readily identifies them as a designated ballot retriever.
- The drop box must be clearly and visibly marked as an “Official Ballot Drop Box” in all languages required under the federal Voting Rights Act of 1965. This includes:
 1. Language stating that tampering with the drop box is a felony.
 2. A phone number connecting the voter to your office.
 3. A statement informing the public that no ballots will be accepted after 7:00 p.m. on Election Day, unless there are voters in line or the time for the closing of the polls has been extended by a court order.

7.8.9.6.2 Physical Security Requirements for Staffed Drop-off Locations

- Staffed locations do not need to use a drop box, and instead may have ballots placed into either 1) a container placed behind a counter; or 2) a portable container that can be transported to a curbside or mobile voting area.
- However, these containers **must be monitored at all times and may not leave the possession of the drop-off location staff while in operation.**
- At least one staff member must monitor the drop-off location at all times.
- These individuals should be officers of election representing the two major parties, when practicable, or two employees from the office of the general registrar. Registrars and deputy registrars may also staff drop-off locations.
- To secure ballots, these individuals must use a container that can be locked or sealed.
- Once the drop-off location is not in use, any mobile containers must be placed in an area that is inaccessible to the public and/or otherwise safeguarded from tampering during the hours not in use.

7.8.9.7 Chain of Custody Requirements

Under the new law, absentee ballots shall be collected from each drop-off location at least daily, by two officers of election representing the two major political parties, when practicable, or by two employees from the office of the general registrar, unless the



drop-off location is in the office of the general registrar, in which case the general registrar or a deputy may collect the absentee ballots.

Your officers of election or employees should follow the instructions below to collect ballots from drop-off locations:

Before Election Day

1. The officers of election or employees will remove the ballots from the drop-off location and place them in a secure container.
2. That container will be sealed or locked by the officers of election or employees with their signatures, the date, and a record of the number of ballots that have been secured in the container.
3. The sealed or locked container shall be immediately transported to the general's registrar office by the officers of election or employees who collect the ballots.
4. At the general registrar's office, these ballots shall be processed following the procedures in § 24.2-709.1 and § 24.2-711 of the Code of Virginia.

On Election Day

1. Follow steps 1 and 2 above.
2. The sealed or locked container shall be immediately transported to the general's registrar office OR the central absentee precinct by the officers of election or employees who collect the ballots.
3. At each polling place, and each drop-box, the two mandatory officers of election or employees *must* be at the drop-off location at 7 pm to collect the final cast ballots. Any person in line to drop-off their ballot at 7 pm is allowed to do so.
4. Please note that all drop-off ballots should be logged into VERIS as "Drop Off" when choosing the "Received by Method." These ballots do not need to be counted on Election Night but must be counted as soon as possible in the following days.
5. Use the form "[Ballot Collection from Drop-Off Location \(ELECT-C1289\(B6\)\)](#)" to keep a record of the ballot collection process. **Keeping a record of chain of custody using this form is mandatory.**

7.8.9.8 Notice Requirements for Drop-Off Locations

- You must post notice of each drop-off location in the general registrar's office.
- You must post notice of each drop-off location on the official website of your county or city.

These notices shall remain posted for the duration of the period during which absentee ballots may be returned; through **the Saturday before Election Day, or as long as your drop-off locations (including drop boxes) remain open, whichever is later.**

7.8.9.9 Recordkeeping Requirements

Your office should create and retain a record each time ballots are collected from a drop-off location, using the "**Ballot Collection from Drop-off Locations**" form. You may store either physical copies of these records or electronic copies. Records should be retained for at least 24 months after the date of the election.



7.8.9.10 *Ballot Returned to Drop-Off with no Outer Envelope*

For drop-boxes: If you receive a ballot with no outer envelope but a complete Envelope B, you should accept the ballot and process it normally. If Envelope B contains material errors or omissions, follow the cure process outlined in ELECT's Official Guidance Absentee Cure Process.

For staffed drop-off locations: If a voter attempts to return their ballot without the outer envelope, and you notice before they have tendered the ballot to you, then you may ask the voter to place the ballot in the outer envelope. If the voter does not have the outer envelope or does not wish to place the ballot in the outer envelope, then you should proceed to accept the ballot in sealed Envelope B.

7.8.9.11 *Ballot Returned to Wrong Locality*

The absentee ballot instructions direct voters to use drop-off locations in their own locality. However, some voters may drop-off their ballots at other localities in-error. **To guarantee that all votes are counted, general registrars should take reasonable action to deliver these ballots to the correct GR's office.** If you receive a ballot that should have been delivered to a different locality, you should either hand-deliver the ballot or forward it to the correct office, depending on how practicable physical delivery is.

Take the following actions to handle these ballots:

- Create a system to record any ballots that were incorrectly delivered to your locality.
- As soon as possible, mail (or if practicable for a nearby locality) hand-deliver those ballots to the correct locality.

If delivered by hand, these ballots should not leave the possession of the GR, deputy general registrar, or registrar staff delivering the ballots until delivered to the correct office.

7.8.9.12 *Emergency Considerations*

If a drop-box is suspected broken, tampered with, missing, or if chain-of-custody is unverifiable, the general registrar must investigate, document their findings, and report the incident to the Department of Elections, as appropriate. If there is any evidence of the above, the general registrar must also notify the Commonwealth's Attorney. If any ballots may have been affected, ELECT will instruct your locality to post notice of the issue and allow impacted voters to complete the gold emergency form and cast a new ballot.

Any video security surveillance recordings of a box that has been tampered with should be retained, and local law enforcement shall be contacted as soon as possible.



7.9 VOTING ABSENTEE IN-PERSON / EARLY VOTING

7.9.1 In General

All other rules for voting at a polling place apply to In-Person Absentee Voting at the general registrar's office, including voter identification with the voter allowed until Friday noon following the election to provide a copy of acceptable identification to the electoral board.¹⁸¹

- Voters may not be accompanied by anyone other than an authorized assistant or his/her child age 15 or younger;
- No political activity is permitted within 40 feet of the entrance of the polling place structure.¹⁸²
- Please note that voters do NOT need to provide identification to drop-off ballots at drop-off locations.¹⁸³
- In person absentee voters may need to be offered a provisional ballot if, for example, the voter does not have ID or is not listed in VERIS and claims to have registered at the DMV.¹⁸⁴
- Same Day Voter Registration will begin for early voters on the day after voter registration ends.

Virginia law prohibits persons registering to vote in person from also voting absentee in person at the same time; "an application that is completed in person at the same time that the applicant registers to vote [must] be held and processed no sooner than the fifth day after the date that the applicant registered to vote."¹⁸⁵



EXCEPTION: This **five-day waiting period does not apply to "covered" military and overseas voters voting absentee as defined in §24.2-452.**¹⁸⁶

7.9.2 No Application is Required for Voting In-Person

The General Assembly removed the requirement for in-person absentee voters to complete an absentee ballot application in order to vote absentee.

Instead, any registered voter offering to vote absentee in person shall provide his name and his residence address in the county or city in which he is offering to vote.

¹⁸¹ See Chapter 13 Provisional Ballots.

¹⁸² See Chapter 3 Precinct or Polling Place Requirements and Procedures (discussing polling places).

¹⁸³ See the Code Virginia [§24.2-706](#).

¹⁸⁴ See Chapter 13 Provisional Ballots (discussing provisional voting).

¹⁸⁵ See the Code of Virginia [§24.2-701](#).

¹⁸⁶ See the Code of Virginia [§§24.2-452](#) and [24.2-701\(A\)](#).



7.9.2.1.1 Procedures

In-Person absentee voting shall be available on the forty-fifth day prior to any election and shall continue until 5:00 pm on the Saturday immediately preceding the election.¹⁸⁷ Pursuant to § [24.2-701.1](#), the electoral board or general registrar may also provide for absentee voting in person on Sundays.¹⁸⁸ The deadline to vote in person is close of business on the Saturday before the election.¹⁸⁹ If an early voter changes his or her mind and wishes to vote by mail, direct voters to the Virginia Absentee Ballot Application. Be sure to check the application while the voter is present. This will greatly reduce errors or inconsistencies over voter registration changes.

Take the following steps for in-person absentee voting when VERIS is Used to check-in voters:

- Ask the voter to provide their name and address. Ask the voter for *one* form of acceptable identification before the voter is allowed to vote. ID is for identifying the voter only.¹⁹⁰ If the voter does not have an acceptable form of ID, they can fill out and sign the ID Confirmation Statement.
- Look up voter in VERIS to determine if the voter is registered in your locality and at the address they have provided.¹⁹¹
- Check for Military, Overseas, Verify ID, Vote in Person flags.
- Check Absentee History for any absentee application already on file.
- If there is no current absentee application on file, enter the absentee information and process the voter.
 - Refer to VERIS Step-by-Steps for detailed processing instructions.
- If there is an application on file, see sections dealing with Voter Listed as Absentee, military and overseas voters.
- Complete the In-Person information for “On Machine” or “Marked” in VERIS.
- If voter requests assistance, be sure to check the “Assistance Requested” box in VERIS.
- The voter is now ready to use the voting equipment or a paper ballot. See next two sections for details.
- Just like on Election Day, if the voter is in line to vote in-person absentee when the General Registrar’s office (or other location used for absentee voting) closes, the voter must be allowed to vote.

Take the following steps for in-person absentee voting with Electronic Pollbooks (EPBs):

- Ask the voter to provide their name and address. Ask the voter for *one* form of acceptable identification before the voter is allowed to vote. ID is for

¹⁸⁷ See the Code of Virginia [§24.2-701.1](#).

¹⁸⁸ See the Code of Virginia [§24.2-701.1](#).

¹⁸⁹ See the Code of Virginia [§§24.2-701.1](#).

¹⁹⁰ See the Code of Virginia [§24.2-706](#); see also Chapter 17 Provisional Ballots for acceptable ID changes and provisional voting for lack of acceptable ID and other reasons.

¹⁹¹ See Late Voter Registration (describing eligibility for late registration).



identifying the voter only.¹⁹² If the voter does not have an acceptable form of ID, they can fill out and sign the ID Confirmation Statement.

- Type in the voter’s name to find the voter in the EPB.
- If the voter needs assistance or is voting curbside, make sure to check those flags within the voter’s EPB record.
- Confirm the record on the screen matches the voter and check-in the voter.
- If the EPB produces a voter check-in receipt, hand the receipt to the voter.
- If the EPB check-in also facilitates the printing of the voter’s ballot, hand the voter his or her ballot.
- Voters will proceed to the privacy booths to vote their ballot.
- Voters with voted ballots will proceed to the voting equipment to insert their ballot into the voting equipment.
- If possible, have the voter acknowledge the “Ballot Counted” or “Thank you for voting” message displayed on the voting equipment.
- At the end of each early voting day, upload EPB check-in data to VERIS for assignment of voting credit.

Each morning after early voting commencement, upload the locality’s “supplemental voter file” from VERIS into the EPBs operating software in accordance with the manufacturer’s specifications.

Note: In the case of a special election, if time is insufficient between the issuance of the writ calling for the special election and the date of the special election for there to be 45 days of absentee voting, absentee voting in person shall be available as soon as possible after the issuance of the writ.

7.9.3 Voting Machines Used for Absentee Voting

- Follow the proper control procedures established for the equipment used in your locality.
- Provide the voter with a private place to vote.
- Instruct the voter on how to insert the ballot into the voting machine.

7.9.4 Voter Listed as an Absentee Voter Comes to Vote in Person

7.9.4.1 In General

A voter who has already been issued an absentee ballot might come to the general registrar’s office before Election Day, or to the Central Absentee Precinct (CAP) or regular precinct polling place on Election Day. The action to take depends on the “Ballot Status” in VERIS and whether the voter has the absentee ballot in hand. The following can occur:

- Voter comes in with ballot already voted.
- Voter comes in with blank ballot.

¹⁹² See the Code of Virginia [§24.2-706](#). See also Chapter 17 Provisional Ballots for acceptable ID changes and provisional voting for lack of acceptable ID and other reasons.



- Voter comes in with or without a defaced ballot.
- Voter comes in without the ballot because it has been lost, defaced or not received.

To void a ballot, a general registrar or officer of election should mark the ballot as spoiled. Record the name, voter ID and precinct for all voided ballots on the *Statement of Results* or on a separate sheet to be attached to the *SOR*. “What If” **problem 19** addresses the absentee voter who appears on Election Day at the CAP or regular polling place.

- If the absentee voter surrenders a damaged ballot to the officer of election, the voter can vote normally.¹⁹³
- If the absentee voter brings a voted ballot, he may ask the officer to void his absentee ballot and vote normally.¹⁹⁴ Voided ballots are placed into Envelope 4
- If the absentee voter has no ballot and lost or did not receive their ballot, they may complete the goldenrod form “Statement of Voter AB Ballot Not Received or Lost” available on Forms Warehouse. Voters sign this form subject to felony penalty for a false statement. If the voter completes the form, they may vote a regular absentee ballot. Otherwise, the voter may cast a provisional ballot. If the officer of election, general registrar or electoral board member can confirm return of the ballot unused or defaced before Election Day, then the voter may cast a regular absentee ballot.¹⁹⁵
- If an absentee voter abandons his ballot at the polling place with no communication with an officer of election, the ballot should be voided and placed into Envelope 4. This action can be noted on the *SOR*.

7.9.4.2 The Process in the Office Before Election Day When a Voter brings in a By Mail Absentee Ballot

- Voter brings a voted ballot to the office before Election Day:
 - Follow your office procedures for receiving voted ballots.
- Voter brings the unmarked and/or defaced ballot:
 - **Option A:** If unmarked, encourage voter to vote the ballot he/she has in hand.
 - **Option B:** If the voter requests to vote on the machine proceed to the following:
 - Confirm ballot belongs to voter.
 - Look up the voter in VERIS.
 - Ballot status should be “Issued” for the current election.
 - Write VOID across the ballot envelope and place in Envelope 4.
 - Have the voter provide his name and residence address in the county or city in which he is offering to vote.
 - Process the voter as having a “new” *AB Application* in VERIS for an in-person/on machine voter. Please note that the voter himself does not need to complete an application to vote in person. However, you will select the “IN PERSON” application type in VERIS to process this voter.
 - Add a comment in the “Status Change Reason” box that the voter returned the paper ballot “Unmarked.”

¹⁹³ See the Code of Virginia [§24.2-708](#).

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*



- Voter may now proceed to vote normally on equipment.
- ① Keep in mind that a ballot initially issued by mail in VERIS would be superseded by a ballot later issued in person/on machine.
- Voter does not bring the ballot (ballot was lost, not received or defaced)
 - Look up the voter in VERIS.
 - Ballot status should be “Issued” for the current election.
- If the ballot status is “Marked” or “On Machine,” the voter has already voted and cannot be reissued a second ballot.
- If the voter’s status is “Marked” or “On Machine” and the voter insists that he/she has not voted, a provisional ballot should be offered.
 - If the voter’s Ballot status is “Issued,” have the voter complete the *Statement of Voter* form (*Gold Form*, ELECT-708).
 - Maintain the *Gold Form* with your absentee records.
 - Process the application as “new” in VERIS for an in-person/on machine voter.
- Add a comment in the “Status Change Reason” box that the voter’s ballot was not received, was lost or was defaced and *Gold Form* was signed.
 - Voter may now proceed to vote a regular absentee ballot.
- ① Keep in mind that a ballot initially issued by mail in VERIS would be superseded by a ballot later issued in person/on machine.

7.10 CHANGE OF ADDRESS ISSUES FOR IN-PERSON VOTERS

7.10.1 In General

The action to be taken depends upon whether the books are open or closed. After the books close, the date the voter moved is key in determining whether the voter is qualified to vote in the election in which he/she offers to vote.

- “A person who is qualified to vote except for having moved his residence from one precinct to another within the Commonwealth may vote in the precinct from which he has moved [...] unless his registration has been transferred or cancelled as provided in” the Code of Virginia Chapter 4.¹⁹⁶
- “A person may continue to vote in the precinct from which he has moved [for a limited period of time], provided that:
 - He has moved his residence from one precinct to another in the same registrar’s jurisdiction and the same congressional district;
 - He has failed to respond to the notice provided [...];
 - His registration has not been transferred or cancelled [...];
 - He has affirmed [...] his new address before an officer of election.”¹⁹⁷

¹⁹⁶ See the Code of Virginia [§24.2-401](#).

¹⁹⁷ *Id.*



7.10.2 The Voter has Moved to a New Address within Your Locality

7.10.2.1 Voter Offers to Vote before the Books Close

- Ask the voter to fill out a Virginia Voter Registration Application and provide the new address.
- Change address in VERIS and process the voter using the voter's new address.
- In cases where EPBs are being used, making the voter's address change in the EPB application will be required before the voter is checked in. Follow the manufacturer's guidance in these situations as data transfer from the EPB application to the EPB units is needed before the voter can be checked-in at the new address.

7.10.2.2 Application Received after the Books Close and Voter Does Not wish to use Same Day Voter Registration

- Ask the voter to fill out a Virginia Voter Registration Application and provide the new address.
- Do not change address in VERIS.
- If the voter meets the moving conditions, process the *voter's offer to vote* using the old address.¹⁹⁸
 - Keep a copy of the *Virginia Voter Registration Application* to make address change after the election.
- If the voter does not meet the moving conditions, the *offer to vote* must be denied for the current election.
 - Voter may not vote in person.
 - Enter the denial in VERIS and state the reason.
 - Keep a copy of the *Virginia Voter Registration Application* to make address change after the election.
- If voter is not eligible to vote at the old address and the voter says he has changed address by mail or at DMV, a provisional ballot may be offered.

Voters that choose to use SDR must complete the Provisional ballot envelope completely and vote a provisional ballot.

7.10.3 The Voter has Moved to a New Address Within Your Locality but is Registered in Another Virginia Locality

7.10.3.1 Before the Books Close

- Voter should complete the name and address portions of the *Virginia Voter Registration Application* for his/her new address or otherwise provide the relevant address change information.
- Process the voter registration in VERIS as a new registrant.
- Process the offer to vote in VERIS using the new address.
- When using EPBs, update the voter's record in the EPB application before checking in the voter. Follow the manufacturer's guidance in these situations as data transfer

¹⁹⁸ See the Code of Virginia [§24.2-401](#) (describing the moving conditions).



from the EPB application to the EPB units is needed before the voter can be checked-in at the new address.

The voter is now ready to vote according to office procedures.

7.10.3.2 *After the Books Close and the Voter Does Not wish to use Same Day Voter Registration*

- If eligible to vote in old locality under §24.2-401, offer the voter the option of going there to vote absentee.
- Have the voter complete a *Virginia Voter Registration Application* before he/she leaves your office to be processed after the election, or offer another means for the voter to change her address.
- If voter is not eligible to vote at the old locality and the voter says he/she has changed address by mail or at DMV, a provisional ballot may be offered.

Voters that choose to use SDR must complete the provisional ballot envelope completely and vote a provisional ballot.

7.10.4 The Voter has Moved to a New Address in Another State

- The offer to vote should be denied and his/her voter registration cancelled.



Exception for Presidential elections only: “A person who is qualified to vote except for having moved his residence from the Commonwealth after the [30th] day preceding a presidential election may vote in the precinct from which he has moved only in that election and only for [the offices of President and Vice President].”¹⁹⁹After the election, the voter’s registration must be cancelled in VERIS.

7.10.5 The Voter has Moved to your Locality, but VERIS Flags a Warning that the Voter has been Issued a Ballot from his old Locality

7.10.5.1 *Application Received Before the Books Closed*

- Begin processing the transfer.
- Warning message will appear in VERIS depending on “Ballot Status.”
- **Status = Issued**
 - Warning message will read “Warning: Active Absentee application in _____ County /City will be cancelled.”
 - Update the voter’s registration.
 - VERIS will automatically cancel/void any ballot in the old locality after the transfer is complete (the ballot cannot be counted in the old locality).
 - Create an “IN PERSON” application in VERIS to allow voter to vote in-person if using VERIS to check-in early voters.
 - When using EPBs, add the new voter to the EPBs before allowing the voter to vote. Follow the manufacturer’s guidance in these situations as data transfer from the EPB application to the EPB units is needed before the voter can be checked-in at the new address.
- **Status = Marked or On Machine**

¹⁹⁹ See the Code of Virginia [§24.2-402](#).



- Warning message will read “Warning: Voted ballot in _____ County/City.”
- Voter cannot vote normally in new locality because ballot has already been cast. However, if the voter denies having voted, then a provisional ballot must be offered.
- The *Virginia Absentee Ballot Application* or in person record and the ballot from the old locality will remain unchanged as this voter has already cast his/her ballot.
- *Do not* process the new *AB Application* in VERIS.
- Voter should complete a new *Virginia Voter Registration Application* to be processed after the election or provide another method of address change.

7.10.5.2 *In-Person Absentee Voter Attempts to Vote After the Books Close and is Not Registered and not Eligible for Late Registration*

Voters that choose to use SDR must complete the provisional ballot envelope completely and vote a provisional ballot.

An individual that refuses to complete the Same Day Voter Registration cannot vote in the locality because registration has closed until after the election. Advise voter he may return to vote in old locality if eligible under moved voter rules or provisionally. If voter insists eligible in new locality, offer a provisional ballot.



Part Two: Uniformed, overseas citizen Voters

7.1.1 VOTERS FLAGGED IN VERIS – UOCAVA

7.1.1.1 In General

A UOCAVA flag is added to a voter's registration in VERIS in the following circumstances:

- A *Virginia Voter Registration Application* (VA-NVRA-1) is entered with a military or overseas mailing address and the UOCAVA flag is checked.
- A *Federal Post Card Application* (FPCA) is entered for registration and/or absentee ballot request.
- A *Federal Write- In Absentee Ballot* (FWAB) is entered for registration and/or absentee application and voted ballot.
- A *Virginia Absentee Ballot Application Form* (SBE 701/703.1) is entered as an absentee ballot request using a military or overseas voter category.

A UOCAVA flag does not automatically mean an active ongoing absentee record is on file:

- If the FPCA or FWAB has expired and the voter has not updated his registration, the UOCAVA flag still shows.
- If an SBE 701/703.1 Virginia Absentee Ballot Application Form is used, with a military or overseas voter category, the UOCAVA flag is not automatically deleted after the election, even though the application is a one-time use only.

The UOCAVA flag is automatically removed when a Virginia Voter Registration Application is processed in VERIS without a military or overseas voter category selected.

7.1.1.2 UOCAVA Voter Comes to Vote Absentee in Person before Books Close

7.1.1.2.1 UOCAVA, Federal Only Flags – Ballot not Issued

The voter should be asked "Have you returned to the U.S. permanently or separated from the Military?"


- If "yes," do the following:
 - Have voter complete a new *Virginia Voter Registration Application* to update address or provide another means for the voter to update her address.
 - Update the voter's record in VERIS.
 - VERIS will remove the UOCAVA flag.
 - Allow the voter to vote routinely.
 - When using EPBs, update the voter's record in the EPB application before checking in the voter. Follow the manufacturer's guidance in these situations as data transfer from the EPB application to the EPB units is needed before the voter can be checked-in at the new address.
- If "no," do the following:
 - Have voter provide name and registration address.
 - Have voter complete a new FPCA for future elections.




- A voter that is allowed to vote a full ballot may now proceed to vote routinely.
- A voter that is allowed to vote a federal only ballot may now proceed to vote routinely.

7.11.2.2 Military, Overseas, Federal Only Flags – Ballot Issued

The voter should be asked “Have you returned to the U.S. permanently or separated from the Military?”

- If “yes” and the voter did *not* receive the ballot, do the following:
 - Have the voter complete a new *Virginia Voter Registration* application to confirm address, update other information, or provide another means for the voter to update her address.
 - Update the voter’s registration record in VERIS.
 - VERIS will remove the UOCAVA flag.
 - Have voter complete the *Statement of Voter (Gold Form)* for the current election.
 - Retain the *Gold Form* with your absentee records.
 - Update voter’s registration in VERIS.
 - Process the voter as “new” in VERIS for an in-person/on machine voter.
 - Add a comment in the “Status Change Reason” box that the voter’s ballot was not received or was lost and *Gold Form* was signed.
 - Voter may now proceed to vote routinely.
-  Keep in mind that a ballot initially issued by mail in VERIS will be superseded by a ballot later issued in person/on machine.
- If “yes” and the voter has the ballot in hand, do the following:
 - **Option A:** If voter’s residence address has *not* changed
 - Encourage voter to vote the ballot he/she has in hand. Have the voter complete a new *Virginia Voter Registration Application (VA-NVRA-1)* to confirm address and other information.
 - VERIS will remove the UOCAVA flag once the application is entered after the election.
 - **Option B:** If voter’s residence *has* changed
 - Have the voter complete a new *Virginia Voter Registration (VA-NVRA-1)* application to update address, update other information, or provide another means for the voter to update her address.
 - Update the voter’s registration in VERIS.
 - VERIS will remove the UOCAVA flag.
 - Confirm that the voter’s voting precinct is the same.
 - If the same
 - The voter may vote the ballot in hand.
 - If the precinct is *not* the same
 - Write “VOID” across the ballot envelope and place in Envelope 4.
 - Process the voter as “New” in VERIS for an in-person/on machine voter.
 - Add a comment in the “Status Change Reason” box that the voter returned paper ballot “Unmarked” and has a new residence.



- **Option C:** If the voter requests to vote on the machine and the voter's residence has *not* changed
 - Confirm ballot belongs to voter.
 - Search the voter in VERIS.
 - Ballot status should be "Issued" for the current election.
 - Write "VOID" across the ballot envelope and place in Envelope 4.
 - Have the voter confirm their name and address.
 - Process the voter as having a "New" "IN PERSON" application in VERIS for an in-person/on machine voter.
 - Add a comment in the "Status Change Reason" box that the voter returned paper ballot unmarked.
 - Voter may now proceed to vote routinely.
-  Keep in mind that a ballot initially issued by mail in VERIS will be superseded by a ballot later issued in person/on machine.
- If "no"
 - Choose the scenario best suited to the voter from the previous section above for the applicable action to be taken noting the following:
 - Do *not* update voter's registration prior to voting.
 - No *Virginia Voter Registration Application* is needed.
 - Have the voter complete a new FPCA to request absentee ballots for future elections.
 - Process this FPCA *after* the election.

7.11.2.3 UOCAVA Voter Comes to Vote Absentee in Person after Books Close

For the applicable actions, determine which scenario is best suited to the voter from UOCAVA Voter Comes to Vote Absentee in Person before Books Close (§7.10.2) above. Follow those procedures while noting the following:

- Do not update voter's registration until after the election unless eligible for late registration.
- Discuss the voter's options on completing a Same Day Voter Registration transaction only if the voter has returned to the U.S. permanently or separated from the Military. Proceed with those steps as needed.
- A Federal Only voter is not eligible to vote in a Non-Federal election unless returning permanently and voter qualifies for late registration.
- Moving conditions apply to any voter that has changed *permanent* residence and not eligible for late registration.²⁰⁰
 - Apply moving conditions beginning with the day the voter returned to the U.S.
- Moving conditions may not apply in the following circumstances:
 - The voter has returned to the U.S. for a short term assignment.
 - The voter is in temporary housing waiting to move into his/her new permanent residence. The moving conditions will not begin until the voter has acquired the new permanent residence.

²⁰⁰ See the Code of Virginia [§24.2-420.1](#).



7.12 UOCAVA VOTERS' LATE VOTER REGISTRATION (AFTER BOOKS CLOSE)

7.12.1 Eligibility

- “Any member of a uniformed service of the United States, as defined in §24.2-452, who is on active duty;”²⁰¹
- “Any person who resides temporarily outside of the United States;”²⁰²
- “Any spouse or dependent residing with a person listed [above].”²⁰³
 - These individuals may apply by mail²⁰⁴ or in-person.
 - Registration on the FPCA also serves as an absentee ballot application.²⁰⁵
- “Any person who was on active duty as a member of a uniformed service [...] and discharged from the uniformed service during the sixty days immediately preceding the election, and his spouse or dependent.”²⁰⁶
 - These individuals must apply in person to register late.
- Persons who, by reason of active duty or temporary overseas residence who are “normally absent from the city or county in which they reside or [...] have been absent from such city or county and returned to reside there during the twenty-eight days [...] preceding the election.”²⁰⁷
 - These individuals must apply in person to register late.

7.12.2 Date of Registration

Persons eligible for late voter registration may “be entitled to register in person up to and including the day of the election.”²⁰⁸ They must be given a date of registration equal to the final day of registration.

²⁰¹ See the Code of Virginia §§24.2-419 and 24.2-201.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ See the Code of Virginia §§24.2-419 and 24.2-201.

²⁰⁵ See the Code of Virginia §24.2-419.

²⁰⁶ See the Code of Virginia §24.2-420.1.

²⁰⁷ *Id.*

²⁰⁸ *Id.*



Part Three: Election Day

7.13 VOTER NEEDS ASSISTANCE AT CENTRAL ABSENTEE PRECINCT

For any voter who needs assistance with using the voting equipment or reading or understanding the ballot and/or voting procedures take the following steps:

- The voter and assistant must complete the *Request for Assistance* form (ELECT-704 (AB)).
- Follow the instructions on the form carefully.
- The voter may request assistance because of a physical disability or inability to read or write. “If [the voter] is unable to read and write or disabled for any cause other than blindness, [he or she] may designate an officer of election or some other person to assist [...] other than the voter’s employer or agent of that employer, or officer [...] of the voter’s union.”²⁰⁹
- A blind voter may “designate an officer of election or any other person to assist him.”²¹⁰
- “In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance [...] that such machine is available for him [or her] to use to vote in privacy without assistance.”²¹¹ However, the voter is not required to use this equipment.
- For any voter who indicates that they have a visual impairment or print disability and indicates that they will require assistance on their application, the general registrar is required to offer and provide the applicant with the ballot marking tool with screen reader assistive technology.
- **Blind or sight-impaired voters do not have to sign the assistance form;** blind voter’s assistants must sign.²¹²
- ““Neutral observers” or “authorized representatives” from the party/candidate at the polling place “**shall not be allowed** in any case to provide assistance to any voter [...] or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.”²¹³
- If a voter requests that her ballot be translated and has not designated an individual to assist her take the following steps:
 - “An officer of election, before he assists as interpreter, [must] inquire of the representatives authorized to be present [...] whether they have a volunteer available who can interpret for the voter.”²¹⁴
 - However, authorized representatives or volunteer interpreters often will not be present at absentee voting locations.
 - If available, only one interpreter from each party shall be allowed to listen to interpretation by the Officer of Election.²¹⁵

²⁰⁹ See the Code of Virginia [§24.2-649\(B\)](#).

²¹⁰ *Id.*

²¹¹ See the Code of Virginia [§24.2-649\(E\)](#).

²¹² See the Code of Virginia [§24.2-649\(B\)](#).

²¹³ See the Code of Virginia [§§24.2-604\(C\),\(I\)](#).

²¹⁴ See the Code of Virginia [§24.2-649\(C\)](#).

²¹⁵ *Id.*



- “The voter may designate one of the volunteer party or candidate interpreters to provide assistance.”²¹⁶
- Whoever assists must be qualified to assist and must complete the necessary parts of *Request for Assistance* form.
- If voter denies assistance, he/she must cancel the request on the *Request for Assistance* form.

7.14 ABSENTEE BY MAIL VOTERS VOTING EARLY OR ON ELECTION DAY

Under [§24.2-708](#), absentee by mail voters are allowed to vote in-person at the CAP, but only for the narrow reasons listed in the subsections of the statute, which include:

- Unused Absentee Ballots(A), “Any person who has applied for and received an absentee ballot may choose not to vote absentee and shall be entitled to cast a ballot in accordance with the provisions of this subsection... The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or *at a central absentee voter precinct on the day of the election.*”
- Lost/Never Received Absentee Ballots(B), “Any person who has applied for and has been sent an absentee ballot but does not receive the ballot or loses the ballot shall be entitled to cast a ballot in accordance with the provisions of this subsection... The voter may, on the day of the election, offer to vote at his proper polling place or *at a central absentee voter precinct*, and he shall be entitled to cast a provisional ballot pursuant to [§ 24.2-653.1](#).”
- Spoiled/Defaced Absentee Ballots(C), “Any person who has applied for and has been sent an absentee ballot that has been unintentionally or accidentally defaced and rendered unfit for voting shall be entitled to cast a ballot in accordance with the provisions of this subsection... The voter shall then be entitled to vote a regular ballot in the office of the general registrar, or he may choose to vote at his proper polling place or *at a central absentee voter precinct on the day of the election.*” [emphasis provided]

As absentee voters are allowed to cast their ballot at the CAP for these reasons, curbside voting must be provided, pursuant [24.2-649.1](#). Any voter with a disability or who is age 65 or older is entitled to utilize curbside voting.²¹⁷ However, during a declared state of emergency related to a communicable disease, any voter, regardless of age or disability is entitled to utilize curbside voting.²¹⁸

*For additional information on curbside voting, see GREB Handbook Chapter 5.3.9.

²¹⁶ *Id.*

²¹⁷ See the Code of Virginia [§24.2-649.1](#).

²¹⁸ See the Code of Virginia [§24.2-649.1](#); *Id.*



7.14.1 Voting Procedures

When an absentee by mail voter requests to vote curbside, the officer of election or the general registrar staffer may need to revisit the vehicle if the voter does not express initially his absentee status. The permission to vote normally is only permitted after the voter completes the Statement of Voter AB Ballot Not Received or Lost (Goldenrod)(SBE-708). In cases where VERIS is being used to check-in voters, update voter's absentee record before beginning the in-person "Add Application" process. In cases where EPBs are being used, provided signed Statement of Voter to the Chief Officer or Deputy Chief so that the voter's absentee ballot designation within the EPB can be overridden for a normal check-in.

7.14.1.1 The Curbside Packet

- Prepare curbside voting materials in advance. The curbside voting packet should include:
 - Statement of Voter AB Ballot Not Received or Lost;
 - Privacy folders;
 - Ballot marking device (pen, pencil or special tool as needed; never use a highlighter);
 - Clipboard;
 - *Request for Assistance* form;
 - *ID Confirmation Statements*;
 - *Affirmation of Eligibility*;
 - *Virginia Voter Registration Applications*;
 - *Provisional ballot materials* (Envelopes, Notice to Voter, Officer of Election Instructions);²¹⁹
 - "I Voted" sticker.

7.14.1.2 The Process

- Perform a voter/absentee search in VERIS before going to the car if the voter has called the office from their car. If possible, write the voter's information on a piece of paper to assist with EPB check-in.
- Upon arrival at the vehicle, verify his/her identification. If no acceptable identification and the voter refuses to sign an ID Confirmation Statement, the voter can only vote provisionally.²²⁰
- Compare the information provided by the voter on the application with the information you have from VERIS. Be certain to check for any change of address.
 -
 - Ask the voter to complete a new *Virginia Voter Registration Application* (VA-NVRA-1), if necessary.
 - It may be appropriate to offer the voter a provisional ballot; *e.g.*, the voter's record is marked "Verify ID" in VERIS and the voter does not have the acceptable photo ID, or the voter is not listed in VERIS and voter says he/she registered at the DMV.²²¹
 - If appropriate, discuss and offer Same Day Voter Registration option.

²¹⁹ See Chapter 13 Provisional Ballots.

²²⁰ See Chapter 13 Provisional Ballots for details.

²²¹ See Chapter 13 Provisional Ballots (discussing provisional voting).



- If the voter is not eligible to vote, explain why he/she cannot vote.
- Once you have determined that the voter is eligible to vote in a locality, the Statement of Voter is complete, and the voter has been checked-in, give the voter his/her ballot.
- Complete the *Request for Assistance* form, if needed, both voter and assistant sections.
- Allow “the voter [to] mark the printed ballot in a secret manner and, obscuring his [or her] vote,” insert the ballot into Envelope B.²²²
- Assist the voter as needed.
- The person accompanying the ballot to the curb may be the assistant.
- Have the voter place the voted ballot into the privacy folder. Give the voter his/her “I Voted” sticker.
- Return to the office immediately.
- When VERIS is used to check-in voter, update the voter’s absentee record in VERIS.
- Click “Add Application” in VERIS and use the following designations:
 - Ballot Status “In Person”
 - Ballot status reason is “Voted in Person – OP”
- Make a note in the “Approval Box” that the voter voted outside the poll.
- Complete the “Office Use Only” box at the top of the application.
- In cases where EPBs are being used, provided signed Statement of Voter to the Chief Officer or Deputy Chief so that the voter’s absentee ballot designation within the EPB can be overridden for a normal check-in.
- Deposit the ballot into the voting machine.



Best Practice

Obtain the voter’s information from the voter by phone or from the person accompanying the voter to the absentee precinct. Write down the voter’s full name, address, and Voter ID number as it appears in VERIS. Having this information early will assist in the check-in procedures that follow and may provide the voter with a faster voting experience.

²²² See the Code of Virginia [§24.2-649\(A\)](#).



Part Four: Processing Absentee Ballots


7.15 RECEIPT OF MAILED VOTED BALLOTS

7.15.1 In General

Voted absentee ballots may only be returned by mail, through a commercial delivery service, to a drop-off location, or in person by the voter.²²³

If returned in person, voted ballots must be returned to the general registrar before the closing of the polls on Election Day.²²⁴ Drop-off ballots must be returned to a drop-off location before the close of polls on Election Day.²²⁵ Ballots returned by mail must be postmarked on or before Election Day and received by noon on the third day after the election.²²⁶ Any ballot found abandoned at the polling place must be rejected.

7.15.2 Receipt of the Ballot – Marked or Unmarked

- Slit open the return envelope to determine whether the ballot was returned used or unused.
 - A ballot returned in Envelope A is *unused* with a VERIS “Ballot Status” of “Unmarked” and “Ballot Status Reason” is “Voter doesn’t want to vote AB.” A ballot returned in this manner is not subject to the absentee ballot cure process.
 - A ballot returned in Envelope B is *used* with a VERIS “Ballot Status” of “Marked” if the envelope has no material omissions or errors. If the envelope has a material omission or error, the VERIS “Ballot Status” is “Unmarked” and the “Ballot Status Reason” is “Needs Cure.” The voter has an opportunity to cure the material omission or error under the absentee ballot cure process. Review 1VAC20-70-20 for a list of material and immaterial omissions.
 - A ballot returned as “UNDELIVERABLE” is *unused* with a VERIS “Ballot Status” of “Unmarked” and the “Ballot Status Reason” is “Undeliverable.”
-  **Do not open Envelope B (Marked Ballot). Do not separate.** Keep ballot contents with an outer return envelope.
- Perform an “Absentee Search” in VERIS and update the record by entering the date the ballot was received.
 - Enter the “Ballot Received by Method” and the “Ballot Status” to indicate whether the ballot was returned “Marked” or “Unmarked.”
 - Enter “Ballot Status Reason” when necessary.
 - Enter “Ballot Status Comment” when necessary. Entering ballot cure comments will be extremely helpful to staff that encounter cure voters.
- Secure the ballots in an appropriate locked container or secured location.


²²³ See the Code of Virginia [§§24.2-707 and 24.2-707.1](#).

²²⁴ See the Code of Virginia [§24.2-709](#).

²²⁵ See the Code of Virginia [§24.2-709](#).

²²⁶ *Id.*



- The “*Daily Absentee Ballots List*” will include all applicants whose records are updated with returned ballots.
 - Proof the report to assure all records are properly updated.
-  “A voter who has returned his unused ballot before the day of the election [is] entitled to vote a regular ballot in person on Election Day.”²²⁷

7.15.3 Requirement for Last Four of Social Security Number and Year of Birth on Envelope B

Recent legislative changes, enacted during the 2023 Virginia General Assembly Session, removed the witness signature requirement for an absentee ballot B envelope and replaced it with the last four digits of a voter’s social security number and their year of birth. If a voter attested (when they registered to vote) that they were never issued a social security number, the voter is permitted to provide their voter ID in place of the last four digits of a social security number. If the voter fails to provide their year of birth or the last four digits of their social security number (or the unique identifier assigned to the voter in the voter registration system, if applicable) these are considered material omissions and the ballot will have to go through the absentee cure process outlined below before it can be counted. For additional information on what is considered a material omission on Envelope B, please reference 1VAC20-70-20.²²⁸

7.15.4 Absentee Ballot Cure Process

The cure process applies to absentee ballots returned to the General Registrar up to four days prior to the date of the election. This means that a ballot is received by mail at the General Registrar’s office by that date or deposited at a drop-off location on or before four days before Election Day.

Follow the procedures below when you receive absentee ballot envelopes with an incomplete or incorrect voter statement or any error or failure that would render the ballot void by law.

- Set-aside any returned absentee ballot envelopes returned on or before the Saturday prior to the election that contain an error or failure that would render the ballot void.
- Within three days of receiving such an envelope, you are required to contact the voter either by phone, email, or in writing, and provide information to the voter as to how to correct the issue so that his ballot may be counted.
- Keep a record of each effort to contact a voter using the absentee cure log (found on forms warehouse). The record should contain the date and either the content of the message or, if you contact a voter by phone, a brief summary of the message or conversation.
- The voter is entitled to make the necessary correction any time before noon on the third day after Election Day.
- A corrected ballot shall then be counted pursuant to the procedures set forth in § 24.2-709.1 of the Code of Virginia, if the voter is found to be entitled to vote.

²²⁷ See the Code of Virginia [§24.2-708](#).

²²⁸ See the Virginia Administrative Code, [1VAC20-45-20](#) on material omissions.



- Until the deadline to request an absentee ballot, when you contact a voter, you should provide the option for them to request a new ballot. If you issue a new ballot, then the first ballot shall be preserved with other spoiled absentee ballots.
- After the deadline to cure pursuant to §24.2-709.1 (B), let the voter know that it is past the date to issue a new ballot by mail.²²⁹ Make the voter aware of the option to cure his envelope in person or to cast a new ballot in person. If the voter chooses to cast a new ballot in person, the first ballot shall be preserved with other spoiled absentee ballots.
- For voters whose completed ballots are missing the voter’s signature or the last four digits of their Social Security Number (or assigned Voter ID number, if applicable) or the year of birth, you may issue the Voter Affidavit – AB Cure form (found on Forms Warehouse > Absentee > Absentee Voting > Absentee Cure Process) rather than issuing a new ballot. A voter’s signed, returned affidavit will act in place of these material omissions for purposes of curing the voter’s ballot. Please note that voters may return their affidavits electronically, following the instructions on the attached affidavit [form](#).

7.15.5 UOCAVA Voters with Ongoing Ballots

- If a ballot is returned as “UNDELIVERABLE,” no other ballots shall be sent under that application.²³⁰
- *Do not* expire the application until after the election is over because this action would cancel the ballot line and remove the voter from the “Final Absentee Report.” The report should reflect the return of the “Unmarked/Undeliverable” ballot.



Best Practice

If a UOCAVA voter returns a ballot as unused in *Envelope A* and his ongoing AB application has not expired, ELECT recommends that you contact the voter to see if they will continue to need ballots for the remainder of the ongoing application. It could be that the voter has returned the ballot unused because he chose not to vote in that election or maybe he has returned from overseas or military duty and no longer requires absentee ballots.

7.16 ISSUING REPLACEMENT BALLOTS

7.16.1 Ballot not Received or Lost (Statement of Voter Form (ELECT-708))

7.16.1.1 In General

- “If for any reason a person who has applied for and has been sent an absentee ballot does not receive the ballot or loses the ballot, he [is] entitled to cast another ballot.”²³¹
- The voter must complete the *Statement of Voter* form (ELECT-708).²³²

²²⁹ See Code of Virginia [§24.2-709.1](#) (B).

²³⁰ See Code of Virginia [§24.2-703](#).

²³¹ See Code of Virginia [§24.2-708](#).

²³² *Id.*



- The *Statement of Voter* can be completed and signed in-person, by mail, email attachment or fax. If time is short for sending the *Statement of Voter*, it may be included with the replacement ballot.
- If a replacement ballot is mailed with the *Statement of Voter* included, omission of that document may be material if the omission prevents determining eligibility;²³³ provisional treatment may be needed if it cannot be determined whether the voter has already voted.²³⁴

7.16.1.2 The Process

- The voter must attest to the following information on the *Statement of Voter* form:²³⁵
 - Full legal name.
 - A choice of ballot not received, or ballot lost..
 - Current legal residence address.
 - Last four (4) digits of the voter’s Social Security number are required.
 - The voter *must* sign the form or request assistance.
 - Fill in the date signed.
- The Absentee Precinct staff must take the following steps:
 - Perform and “Absentee Search” in VERIS to acquire the voter’s record..
 - Reissue the ballot in the manner requested by the voter.



Best Practice

Check the form for complete information and signature. Check the voter’s absentee record in VERIS to be sure a ballot has not been returned before reissuing a ballot. Send the replacement ballot by the voter’s chosen method: in person, by mail or by email or fax, if qualified. Follow VERIS Step-by-Step instructions for data entry. Attach the *Statement of Voter* to the *Virginia Absentee Ballot Application*.

7.16.2 Ballot not received or Lost by Disabled, Ill, or Pregnant Voter Designated Representative (Statement of Disabled, Ill, or Pregnant Voter Form (SBE-703.2(1)))

7.16.2.1 In General

- An absentee voter who is disabled, ill or pregnant may request a replacement ballot and designate a representative to obtain the replacement ballot on his/her behalf using the *Statement of a Voter With a Disabled, Ill or Pregnancy* form (SBE-703.2(1)).²³⁶
- If time allows for the routine replacement ballot process using the *Statement of Voter form*, designating a representative may not be necessary.

²³³ See the Virginia Administrative Code [1VAC20-70-20](#).

²³⁴ See the Code of Virginia [§24.2-651.1](#).

²³⁵ See [ELECT-708](#).

²³⁶ See the Code of Virginia [§24.2-703.2](#).



7.16.2.2 *Conditions for Using*

“A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions:

- The voter who applied for an absentee ballot has a disability or illness.
- The application was approved and an absentee ballot mailed to the voter.
- The voter did not receive or has lost the absentee ballot on or before the Saturday before the election.”²³⁷

7.16.2.3 *Deadlines*

- “The voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before Election Day.”²³⁸
- The voter must “designate, in writing, a representative to obtain a replacement absentee ballot on his behalf [...] and to return the [...] ballot [...] no later than the close of polls on the day of election for which the absentee ballot is valid.”²³⁹

7.16.2.4 *The Process*

- “The voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before Election Day.”²⁴⁰
- The voter must then designate a representative to obtain the replacement absentee ballot on his/her behalf.²⁴¹
- “The representative [must] be age eighteen or older and [must] not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.”²⁴²
- The voter and representative, if assistance is required, must complete the *Statement of a Voter With a Disability, Illness or Pregnancy* form and sign to the following information:²⁴³
 - That the voter did not receive or has lost the requested ballot.²⁴⁴
 - That the voter is a citizen of the U.S. and is registered and qualified to vote in the city or county.
 - That the voter is a resident or qualified to vote under the allowable moving conditions.²⁴⁵
 - That the voter confirms residence address and eligibility to vote in the election.
 - That the designated representative meets the age and other qualifications noted above.
- The representative will receive the *Statement of Designated Representative of a Voter with a Disability, Illness, or Pregnancy* form (SBE-703.2(2)) with the ballot that

²³⁷ *Id.*

²³⁸ See the Code of Virginia [§24.2-703.2](#).

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ See the Code of Virginia [§24.2-401](#).



he/she must complete and sign stating that the instructions for the representative were followed.

- If the voter needs assistance in marking his/her ballot, a *Request for Assistance* form (ELECT-704(AB)) will also be given to the representative with the ballot.
- The voter and the representative must complete the *Request for Assistance* form.
- The representative must return the properly completed ballot “no later than the close of polls on the day of election for which the absentee ballot is valid” along with the *Statement of Designated Representative* form and *Request for Assistance* form, if used.²⁴⁶
- Statements on the *Statement of Designated Representative* form and *Request for Assistance* form are subject to felony penalties for making false statements.²⁴⁷

7.17 PROCESSING BALLOTS BEFORE ELECTION DAY – EXPEDITED PROCEDURES

7.17.1 In General

The general registrar is responsible for preprocessing absentee ballots before Election Day as needed. However, preprocessing becomes mandatory beginning on the seventh day immediately preceding the election.²⁴⁸ Preprocessing extends to mailed ballots that are not optically scanned such as FWABs and ballots sent to the voter by email.²⁴⁹

7.17.2 Preprocessing Requirements

The registrar may begin pre-processing returned absentee ballots at any time. However, the registrar *must* begin pre-processing absentee ballots beginning on the seventh day immediately preceding the election.²⁵⁰

To pre-process, the general registrar must either:

- open the sealed ballot envelope and insert the ballot in ballot scan counting equipment without initiating vote totals²⁵¹; *or*,
- open the sealed ballot envelope and deposit the ballot into a secured container that the general registrar has designated specifically for pre-processing.²⁵²

Additional requirements:

- At least two officers of election, one representing each political party, must be present during all hours when sealed ballot envelopes are opened for the purpose of pre-processing absentee ballots.

²⁴⁶ See the Code of Virginia [§24.2-703.2](#).

²⁴⁷ See the Code of Virginia [§24.2-1016](#).

²⁴⁸ See the Code of Virginia [§24.2-709.1\(B\)](#).

²⁴⁹ See the Code of Virginia [§24.2-709.1](#).

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² *Id.*



- Administrative code requires that notice be given to **both** political party chairs regarding the times and places for each pre-processing meeting to allow sufficient time for an authorized representative to be present. This applies to all races, even primaries.²⁵³

7.17.2.1 Administrative Steps

- GR or GR Staff ensure all VERIS ballot statuses are “Marked” before providing envelopes to the CAP officers.
- CAP officers examine the Statement of Voter on Envelope B and note its completion.²⁵⁴
- Mark the pollbook or the absentee applicant list that the voter has voted.²⁵⁵
 - You may also assign Pollbook Count Numbers to the *Final Absentee Report* or other similar report that indicates the voter has voted.
- If you are choosing to run the ballot through optical scan equipment, open the voted ballot envelopes (B) and insert the optical scan ballot into the tabulator without initiating any ballot count totals.²⁵⁶
 - See [Chapter 12 Central Absentee Precinct \(CAP\)](#) for requirements and procedures.
 - See The State Board of Election’s Policy on the Counting and Reporting Results of Absentee Ballots from a Central Absentee Precinct.
- GR or GR Staff ensure all VERIS ballot statuses are edited to reflect “Pre-Processed.”



Regulation Note

1VAC20-70-40: Alternative Processing Procedures for Absentee Ballots Returned Before Election Day. 1VAC20-70-40 states requirements general registrars must take when expediting counting absentee ballots returned before Election Day. General registrars are to: ensure that the general registrar staff follow all previously prescribed instructions for processing and verifying absentee ballots (1VAC20-70-40(1)), secure all absentee ballots at the end of each day following principles of dual custody and chain of control (1VAC20-70-40(2)), ensure that the staff are following the requirements of 24.2-709.1 including the requirement that at least 2 officers of election (one from each party plus one) be present (1VAC20-70-40(3)), and give notice to the local political party chairs of the time and place for processing absentee ballots with sufficient time to allow these party representatives to be present (1VAC20-70-40(4)).

²⁵³ See Administrative Code [1VAC20-70-40](#)

²⁵⁴ See the Code of Virginia [§24.2-709.1](#).

²⁵⁵ *Id.*

²⁵⁶ *Id.*



7.18 BALLOTS RETURNED AFTER POLLS HAVE CLOSED

7.18.1 Qualifications for Counting

Any ballot that is delivered by the voter to the General Registrar’s office must be received by the time the polls close on Election Day to be counted. However, ballots mailed or sent by an expedited delivery service are required to be postmarked on or before Election Day as long as the ballot is received by 12:00 pm, noon, on the third day after the election (Friday in most cases).²⁵⁷ For the purposes of absentee voting, a postmark includes “any other official indicia of confirmation of mailing by the United States Postal Service or other postal or deliver service.”²⁵⁸

Some ballots mailed by voters may make it to the General Registrar with a missing or illegible postmark. These ballots should be processed according to regulation 1VAC20-70-20.

7.19 UOCAVA BALLOTS RETURNED AFTER THE POLLS CLOSE

7.19.1 Qualifications for Counting

Absentee ballots from a UOCAVA voter received after the polls close on Election Day must be counted according to the procedures set forth in §§24.2-700 - 24.2-713 if all of the following circumstances are met:²⁵⁹

- The ballot was received after noon on the third day after Election Day, and;
- The ballot was “received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election”²⁶⁰ and;
- The ballot was “requested on or before but not sent by the deadline for making absentee ballots available under §24.2-612”²⁶¹ and;
- The ballot was “cast by an absentee voter who is eligible for an absentee ballot under subdivision A 2 of §24.2-700.”²⁶²

7.19.2 Actions to be Taken

If any ballots meet all of the above criteria, the electoral board must immediately notify the Commissioner of Elections that qualifying late ballots have been received. If the electoral board has ascertained the results of the election and the absentee applications and provisional ballot materials have already been sent to the circuit court, permission from the Commissioner of Elections must be obtained to retrieve these materials, using the *Request to Inspect Sealed Election Materials* form (ELECT-659-669).

The qualified late ballots must be considered by the electoral board in a canvass according to the provisions of §24.2-671. Set this canvass after the time for receiving such ballots has passed.

²⁵⁷ See the Code of Virginia [§24.2-709\(B\)](#).

²⁵⁸ *Id.*

²⁵⁹ See the Code of Virginia [§24.2-709](#).

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*



Notify the political party chairs and independent candidate(s) of the time, place and purpose of the meeting so they may attend.²⁶³

7.19.3 Procedure for Counting Late UOCAVA Ballots

Determine if any UOCAVA voters are entitled to vote and to have their late ballot counted.²⁶⁴ Prepare a separate pollbook marked “Late UOCAVA Ballots.” Prepare an amended *Statement of Results*. Record the name of each voter in the pollbook whose ballot will be counted. Determine that the sealed envelope containing the ballot is properly completed and the oath is signed. Open the envelope to be sure that only one ballot or ballot set has been enclosed. Without looking at or disclosing how the ballot has been marked, place the ballot or ballot set in the ballot container. Repeat this process for all ballots to be counted. Count the ballots, certify on the *Statement of Results*, and present SOR to the General Registrar so that amended election results can be added to the Enhanced Results application.

Prepare an amended abstract for each office that was changed by the counted ballots.²⁶⁵ All electoral board members present must certify the amended abstracts.²⁶⁶ The electoral board secretary or acting secretary must prepare attested copies of the amended abstract(s). Submit a copy of the amended abstracts immediately to the Department of Elections as directed by the Department. Send a copy of the attested document(s) immediately by overnight delivery or hand deliver to the Department of Elections. Distribute the remaining amended abstract copies as directed by §24.2-675.

Place the pollbook and one copy of the SOR in Envelope #2 labeled “Late UOCAVA Ballots” and send it to the circuit court for retention as provided in §24.2-668. Place the counted ballots considered by the electoral board in Envelope # 3 labeled “Late UOCAVA Ballots” and send it to the circuit court for retention as provided in §24.2-669 and 24.2-710. Within 90 days send written rejection notice to voter(s) whose ballot could not be counted.²⁶⁷



VERIS Step by Steps

[Absentee Processing](#) explains in detail how to process absentee ballots and applications.

[Add-Update Voter](#) explains how to update and/or add a voter.

For further assistance, contact [VERIS help](#)

²⁶³ See the Code of Virginia [§24.2-671](#).

²⁶⁴ See the Code of Virginia [§24.2-709](#).

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ See the Code of Virginia [§24.2-711.1](#).





VERIS Index

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Virginia Absentee Ballot Application Form (SBE-701/703.1)

See [section 7.4.1.](#)

How to Process the FCPA (Federal Post Card Application)

See [section 7.4.2.7](#)

Processing a properly Completed FCPA, see [section 7.4.2.10.](#)

Activating the Ongoing Application, see [section 7.4.2.13.](#)

How to process the Federal Write-In Absentee Ballot (FWAB) Application

See [section 7.4.4.4.](#)

Activating Ongoing Applications, see [section 7.4.4.5.](#)

Entering Into VERIS

See [section 7.4.5.9.](#)

Procedures for Completing the Absentee Application for Voting In-Person

See [section 7.5.2.1.](#)

Voters Flagged in VERIS- Military, Overseas or Fed Only (UOCAVA)

See [section 7.6.](#)

How to process Accessible Absentee Voting

On paper, see [section 7.7.1.2.](#)

On the DRE, see [section 7.7.2.2.](#)

Change of Address Issues for In-Person Voters

See [section 7.10.](#)

Absentee Voting Reports

See [section 7.16.](#)



APPENDIX A

ABSENTEE REPORTS IN VERIS

The following chart may help in deciding which VERIS absentee reports to turn to produce first, the intended purpose and content of each report, and when it is to be used.

Name of Report	Recommended Order of use	What it is	When to use & when to Run	Helpful Tips
Daily Absentee Applications List	1 st	Contains list of absentee applicants processed, received or updated on a specified date or within a specified range (used to reconcile ballots with applications)	Daily	Use as a proofing tool
Ongoing Absentee Applications List	As needed	Contains list of Ongoing absentee applications processed as well as date & method application received, type, reason	Before you generate your ongoing and before setting ballot ready date	Use as a proofing tool
Generated Ongoing Absentee Ballots list	As needed	Contains list of ballots generated in the ongoing process. The list also contains the following: ballot sent method, application type, date, reason code, status change & returned date	After you generate your ongoing and before you set your ballot ready date.	Use as a reconciliation tool, to ensure that the ongoing applications eligible to vote in the selected election are listed
Daily Absentee Ballots List	2 nd	Contains list of absentee applicants processed as well as ballot types, ballot status, and returned date of ballots received or updated on a specified date or within a specified range (used to reconcile ballots with applications)	Daily	May also be used as a proofing tool
Certificate of Mailing (COM)	3 rd	Contains a list of absentee voters who were sent ballots. Additionally used as proof of mailing	Daily	Labels must be printed prior to running COM. This report should only be run once per day or names may be repeated on second COM



Final Absentee Report	As needed	Contains details on all absentee applications and ballots for the selected election	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced. Can be used as a reconciliation document
Final Absentee Totals	As needed	Contains the final absentee totals for the selected election (such as total count of applicants, unused ballots returned and marked ballots returned by precinct)	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced. A great report to reconcile totals with on a daily basis once mail out has begun
Cumulative Control Totals	As needed	Real-time statistics on all applications received, ballots sent (broken down by Ballot Sent By Method), and ballots received (broken down by Ballot Received by Method) by precinct for the selected Election	As needed	
Public Absentee Applications List – Cumulative (with or without email add)	As needed	Public inspection list of all absentee applications for an election	As needed	
Issued Absentee Ballots List	As needed	List of voters that have been issued an absentee ballot for a given date or date range. The report also lists the current status of the ballot (e.g., marked, on machine)	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced
Absentee Email Labels	As needed			
Approved Absentee	As needed	The report displays absentee applications that were approved for a		



Applications list		specified election and locality		
Absentee Application statistics	As needed	Number of Absentee applications received within a specified date range.		
Cancelled Absentee Applications due to transfer	Once a week	Absentee applications that have been cancelled because they have been transferred		This is a cumulative list
Deleted Ballots	As needed	The report displays the names and addresses of voters whose absentee ballots for the specified election have been deleted		

Town absentee reports are separate and must be selected when having a town election.

APPENDIX B

FREQUENTLY ASKED ABSENTEE QUESTIONS

1. When does a voter’s FPCA expire?

An FPCA expires on December 31 of the following year from the date received (§24.2-703). All applications received during this year (2023) will expire 12/31/2024. The applicant can also choose to specify an earlier date to end the standing request. **In the event that a second federal postcard application is received from the voter, any previous applications are considered superseded and the duration of the most recently received application will apply.**

2. If a voter was born Overseas to US citizens can she vote? If so what is her classification and what address do we use?

Yes, an adult born overseas to US citizens can vote. The classification is Federal Only unless the application notes that his/her parents are overseas for employment. Then the voter could qualify for a full ballot. The parents’ last legal residence in the U.S. should be used. For more, see §24.2-456, which states that a voter who was born outside the United States to parents who were/are eligible to vote in Virginia must be assigned to the voting precinct of the address of the last place of residence in Virginia of the parent or legal guardian of the voter.

3. Does a registration for an FPCA Federal Only application expire at the same time the absentee ballot application expires?

No. Registration is now permanent. §24.2-442 used to require that a Fed Only voter’s registration would expire at the end of the FPCA’s term. This law was repealed in 2012 and replaced with the Uniformed Military and Overseas Voter’s Act. §24.2-451.



- 4. If on Item 3 the date of the election is not complete do I deny the AB application?**
Do not deny the AB application if the date of the election is missing. If your locality is holding a primary election when you receive the application, try to call or email the voter to determine the election they are applying for if they marked a primary and general election box. If the voter cannot be reached, process the application for the primary and send another AB application to the voter in July for the November Election. Applications received after the primaries but before the next General Election should be processed for the upcoming November Election (because applications can be received up to one year ahead of an Election.)
- 5. Does the 5 day wait period apply to transfers of registration?**
No. Only applies to voters new to Virginia.
- 6. If I get a DMV OAB in my hopper for an election we are not having, what do I do with the application? How do I get rid of it?**
VERIS will allow you to process the application as a “Denied-Not Eligible” for the election not being held.
- 7. I have a voter that brings their ballot to my office during In Person absentee voting period. Do I allow them to vote that ballot? What are the procedures?**
Yes. Try to convince voter to vote the ballot they have in their hand. If voter insists on casting a ballot through the scanner, the issued absentee ballot must be rendered void and the voter must be given an opportunity to vote in person. Place the void ballot in Envelope #4. **Note:** Voter MAY NOT place a ballot received in the mail through the IN PERSON scanner at the registrar’s office.

If voter did **not receive or lost their ballot**, they must sign the gold form. This applies only to In Person absentee voting (does not apply to precincts on Election Day). They would still be allowed to vote in-person. Note in comments “gold form signed” and best practice: attach gold form to new application.
- 8. I have a voter that brings their ballot to the precinct on Election Day; are they allowed to vote that ballot?**
No, a ballot brought to the precinct is considered void (place in Envelope 4) and using EPB instructions per locality the voter may be unchecked as issued an AB ballot and allowed to vote on scanner and issued a ballot from precinct ballot supply.
- 9. I have a voter who comes to the polling place on Election Day. Their record is marked as voting Absentee in the pollbook but they do not have a ballot with them. Can they vote?**
Voter must vote provisional, UNLESS it is determined the ballot was returned to the Registrar’s office unused. For more, see What Ifs question 19.
- 10. When is a “mail” ballot considered cast?**
An absentee voter who votes other than in person shall be deemed to have cast his ballot at the moment he personally delivers the ballot to the general registrar or electoral board or relinquishes control over the ballot to the U.S. Postal Service or other authorized carrier for returning the ballot as required by law. Virginia Administrative Code **VAC20-60-40 When Ballot Cast**
- 11. How many AB applications can I give to a voter requesting multiples?**



There is not a specific limit; however, if a large number of applications are being requested, suggest giving them some training. There is a registration training available through ELECT but not AB at this time. It would be acceptable for registrar to give training on proper completion of application. Requestor can also make copies of the application vs. registrar's office having to provide.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 8

List Maintenance

September 2023

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8. List Maintenance

<p>REFERENCE ELECT's Annual List Maintenance Reports</p>	<p>ADDITIONAL RESOURCES EAC Fact Sheet: List Maintenance and NVRA</p>
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8.1 CHAPTER ORGANIZATION

Federal law (the National Voter Registration Act, hereafter “NVRA”) requires each state to have a program that makes a reasonable effort to remove the names of ineligible voters from the official list of registered voters.¹ Virginia meets this requirement in part through the Code of Virginia §24.2-427, which requires the general registrar to cancel registrations under certain conditions.² These processes are called list maintenance.

This chapter seeks to equip elections officials with the background, law, and practical “how-to” to follow list maintenance practices that comply with federal and state laws. §8.1 defines maintenance and list data sources such as the Department of Motor Vehicles and Central Criminal Records Exchange which ELECT is required to provide general registrars. §8.2 shows the federal law underpinning Virginia’s VERIS list maintenance system and introduces the topics of §8.3 and §8.4, the cancellation and confirmation programs.

8.1.1 Definition of List Maintenance

List maintenance is the process by which elections officials retain accurate and current lists of registered voters. The basic framework for list maintenance is set forth in Article 5 of Chapter 4 of Title 24.2.³ These provisions implement the NVRA.⁴



The Department of Elections must promptly provide, and general registrars must act upon within **30 days**, information regarding list maintenance (deceased, moved outside locality of residence, felony conviction, adjudication of incapacity, declared noncitizen who has not timely affirmed U.S. citizenship, other disqualification provided by law).⁵

8.1.2 ELECT Information Exchange

The Department of Elections must receive, review, and provide to registrars the following information:

¹ See the “National Voter Registration Act” [52 USC §20507\(a\)\(4\)](#).

² See the Code of Virginia [§24.2-427](#).

³ See the Code of Virginia [§24.2-427](#) et seq.

⁴ NVRA, [52 USC §20501](#) et seq.

⁵ See the Code of Virginia [§24.2-404\(A\)\(4\)](#).



- A monthly list of all persons convicted of a felony during the preceding month and a comprehensive annual list of all persons ever convicted of a felony from Virginia’s Central Criminal Records Exchange (CCRE);⁶
- a weekly list of all persons 17 years of age or older who have died in the Commonwealth from the Virginia Department of Health;⁷
- duplicate registrations identified from comparing other states’ registration and voting information with annual reporting⁸ to the General Assembly which can be found online at <https://www.elections.virginia.gov/resultsreports/maintenance-reports/index.html>.
- information exchanges with other state election officials.⁹

8.1.3 Restoration of Rights

Registrars also have increased responsibilities to detect and remove felons and determine restoration of rights. The Code of Virginia §24.2-427 requires general registrars to conduct a pre-election review “within 21 to 14 days before any primary or general election”.¹⁰

8.2 FEDERAL AND STATE LAWS GOVERNING LIST MAINTENANCE

8.2.1 National Voter Registration Act (“NVRA”)

NVRA mandates that each state develops and maintains programs to ensure accurate and current voter registration rolls. These list maintenance programs are required to be **uniform, nondiscriminatory and in compliance with the Voting Rights Act**.¹¹ NVRA does not permit a list maintenance system to remove the name of a voter from the list because of failure to vote, to prohibit selective or discriminatory voter removal practices. NVRA divides the required list maintenance programs into two major areas: cancellations and confirmations.

8.2.2 VERIS List Maintenance: Confirmation and Cancellation

As per the Code of Virginia §24.2-404(1), list maintenance programs requirements of NVRA are managed through the Virginia Election and Registration Information System (“VERIS”).¹² Through VERIS, it is possible to add or cancel registrants, maintain records of “Active” and “Inactive” voters, generate reports of transactions and activity, track the origin of registration applications, maintain records of confirmation mailings, and interface with other State agencies.¹³

⁶ See the Code of Virginia [§24.2-409](#).

⁷ See the Code of Virginia [§24.2-408](#).

⁸ See LIS Reports to the General Assembly, required as per the Code of Virginia [§24.2-404](#) (F), report pending.

⁹ See the Code of Virginia [§24.2-404.4](#).

¹⁰ See the Code of Virginia [§24.2-427](#).

¹¹ See [Voting Rights Act of 1965, 51 U.S.C. §10101 et seq.](#)

¹² See the Code of Virginia [§24.2-404](#).

¹³ See Chapter 9 (Records Access and Retention) (providing details on what records are available for public inspection and copying).





Frequently Asked Questions about the NVRA

Can the public request copies of voter registration applications? Yes. While elections records in VERIS are exempt from the Freedom of Information Act as per §24.2-404 (B), the National Voter Registration Act (NVRA) requires each general registrar's office to provide copies of voter registration applications submitted after July 20, 2011, and other documents relating to voter registration maintenance activities, including copies of correspondence to voters including denial letters if available. **Social security numbers and day as well as month of birth must be completely redacted before providing these applications for inspection.**

Can any member of the public request records? A request for voter registration applications invokes the NVRA, federal law which requires the provision of voter registration applications to any requestor, regardless of whether the requestor is a state resident. Regarding other records, general registrars are only obligated to provide records under the Virginia Freedom of Information Act to residents of the Commonwealth.

Under the NVRA, what are the circumstances under which Virginia can remove a person's name from the voter registration rolls? Section 8 permits States to remove the name of a person from the voter registration rolls upon the request of the registrant and, as Virginia law provides, for mental incapacity or criminal conviction. The Act also requires States to conduct a general list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls by reason of the person's death, or a change in the residence of the registrant outside of the jurisdiction.

What is "removal at the request of the registrant"? A removal at the request of the registrant under the NVRA involves first-hand information from a registrant that can originate in at least 3 ways: 1) a registrant requesting to remove his or her name from the voting registration list, 2) a registrant completing and returning a notice card indicating an address change outside the jurisdiction, or 3) a registrant submitting a new application registering to vote a second time in a new jurisdiction, and providing information regarding the registrant's prior voter registration address on the new application, which the State can use as a request to cancel or transfer his or her prior registration. **A registrant advising of a new address within the same jurisdiction or registering to vote a second time at a new address within the same jurisdiction, should trigger an updating of the original registration, rather than its cancellation.**



8.2.2.1 Voter Confirmation Program

NVRA requires each state to conduct “regular periodic reviews”, which are maintenance programs to identify voters who may have moved from their address of registration.¹⁴ The Code of Virginia §24.2-428 implements NVRA by requiring an annual systematic review of the voter registration records to identify voters who may have moved without notifying the general registrar.¹⁵ This review will not immediately cancel a voter from the registration rolls, but does initiate the process for confirming residence addresses.

8.2.2.2 Voter Cancellation Program



Under the Code of Virginia §24.2-428, if a response to the “Confirmation Notice” is not received “in thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status”.¹⁶ This applies to registrants that were either identified by the general registrar, processed from data received from DMV, or identified through the National Change of Address (NCOA) match as having moved within or outside their locality of registration.¹⁷

Voters on “Inactive” status in VERIS can be returned to “Active” status by a voter-initiated action. Actions such as change of address, re-registration, or voting in an election can reactivate the voter.

Voters who fail to respond to an address confirmation request and fail to take any voter-initiated action for **two federal elections** will have their voter registration cancelled in the NVRA cancellation program. This cancellation function is **automated in VERIS** and occurs **after each November federal election**.

Pursuant to §24.2-703.1(D), “A voter shall be removed from the permanent absentee voter list if... the voter's registration is placed on inactive status pursuant to § [24.2-428](#) or [24.2-428.1](#).”¹⁸ VERIS does not automatically cancel or expire a voter's Permanent AB application when the voter's registration is inactivated due to non-response to NCOA mailings. Voters on the Permanent Absentee List whose registration status is set to “Inactive” due to non-response to NCOA mailings will need to have their Permanent AB applications manually cancelled by the locality that approved their Permanent AB application.

¹⁴ See [52 USC §20507\(a\)\(4\)\(B\)](#).

¹⁵ See the Code of Virginia [§24.2-428](#).

¹⁶ *Id.*

¹⁷ See 52 USC [§20507\(d\)\(2\)\(A\)](#).

¹⁸ See the Code of Virginia [§24.2-703.1\(D\)](#).



VERIS

Follow these steps to cancel or expire Permanent AB applications of voters inactivated due to non-response of NCOA mailings:

1. Open the attached spreadsheet.
2. Filter the list to show only your locality.
3. For each voter on the list in your locality:
 - a. Search for the voter from the Absentee Search in VERIS.
 - i. Click the pencil icon beside the unexpired, approved Permanent AB application on the Absentee History page.
 1. If you do not have the pencil icon, it may indicate that another locality approved the application. If so, contact the locality or submit a Jira ticket to have the application expired.
 - ii. Cancel or expire the application.
 1. To cancel the application, change the Application Status to "Cancelled or Duplicate".
 2. To expire the application, change the Expiration Date to the date the Voter Registration records were inactivated for NCOA.
 - iii. Change the status reason to "Expired or Cancelled due to Inactivated Voter Registration for NCOA Mailing Non-Response".
 - iv. Click "Save".
4. Once all applications in the list for your locality have been cancelled or expired, notify your ERS Specialist by email.



8.2.2.3 NVRA-Mandated Records Access

Lists of voters whose registration have been cancelled under this program are available for public inspection and copying.¹⁹ The general registrar must post the list at the courthouse, or have it published in a newspaper of general circulation, in the general registrar's community.²⁰ The general registrar must provide a certified copy of the list to the chairman of each political party in the locality. An electoral board may approve accepting a registrar's electronic read email receipt as equivalent to a certificate of mailing to the party chair required by Virginia law.²¹

¹⁹ See [52 U.S.C. §20507\(i\)](#). See the Code of Virginia [§24.2-444\(A\)](#).

²⁰ See the Code of Virginia [§24.2-429](#).

²¹ *Id.*



8.3 CANCELLATION PROGRAM

8.3.1 Deceased Voters

The name of a person who is known to be deceased must be removed from the voter registration rolls.²² In order to *know* that a voter is deceased for purposes of cancellation, local registrars should receive reliable information that provides certainty of the death. There are many sources that provide such information, including:

- Confirmation of death by deceased voter’s family or estate (Requires the ELECT 427B Form)²³
- Confirmation of death by registrar or deputy registrar who personally knows the deceased voter (Requires the ELECT 427B Form)
- Records from the State Registrar of Vital Records processed through the hopper.
- Records from local health officials
- A death certificate.
- An obituary posted in a newspaper distributed within the locality or on a website of a licensed funeral home (Requires the registrar or deputy to complete the ELECT 427B Form)

The Code of Virginia §24.2-404.3 requires ELECT to compare the voter lists with records belonging to the Bureau of Vital Statistics and the Social Security Administration (SSA). The Department of Elections complies with the requirement to match the SSA death list annually by October 1.²⁴ Additionally, the State Registrar of Vital Records is required to transmit a *weekly* list of all persons 17 years of age or older, who have died in the Commonwealth, electronically to the Department of Elections for list maintenance purposes.²⁵ The VERIS “Hopper” and “Agency Updates” screens will reflect this information and the following steps should be taken for processing:

²² See [52 USC §20507](#) (a)(4)(A). See the Code of Virginia [§24.2-427\(B\)](#).

²³ See [ELECT-427 Registration Report of Death of Registered Voter](#).

²⁴ See the Code of Virginia [§24.2-404.3](#).

²⁵ See the Code of Virginia [§24.2-408](#).



VERIS

Once the identity of a deceased individual has been matched with the information of the registered voter, cancel the voter registration using the VERIS “Hopper” or the “Change Status” screens. On the “Change Status” screen, select “Deceased” for the NVRA reason and place important supporting information in the “Comment” section.



- Mark the back of the application in the box provided for deceased. Include the date of death, date of deletion, and the source of the information.
- If a box is not provided, record the information on the lower right corner of the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file. Scan documentation and attach to VERIS record.
- File the application form in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.

VERIS will generate a cancellation letter expressing condolences to “The Family of” the deceased former voter. Consideration should be given to timing the mailing of the notification to allow time for grieving (about 10 days following a published death notice is appropriate). Notice of the cancellation must also be provided by email if one was provided.²⁶

8.3.2 Felony Conviction

The name of a person who has been convicted of a felony must be removed from the official list of registered voters.²⁷ General registrars have three basic responsibilities regarding felony convictions:

1. Remove names when felony information in VERIS is updated once a month and annually.
2. Review the official list of registered voters based on current information “21 to 14 days” before primary and general elections.²⁸
3. Deny registration to new applicants with felony convictions for which rights have not been restored for their most recent felony

²⁶ See the Code of Virginia [§24.2-427\(B\)](#).

²⁷ See [52 USC §20507\(a\)\(3\)\(B\)](#). See the Code of Virginia [§24.2-427\(B\)](#).

²⁸ See the Code of Virginia [§24.2-427](#).



If a voter that previously had their rights restored commits a new felony, the individual must have their voter registration cancelled.²⁹

VERIS



Pursuant to [§24.2-409](#), each month VERIS receives updated electronic files reporting felony convictions from the Virginia State Police CCRE (Central Criminal Records Exchange). In addition, reports of felony convictions by United States District Courts are entered into VERIS, pursuant to [§24.2-409.1](#). GRs may review citizens who have had their rights restored by the Governor by visiting: <https://commonwealth.virginia.gov/judicial-system/restoration-of-rights/>. The VERIS “Hopper” and “Felon Search” screens will reflect the new information. Take the following steps:

- Process all Felony Conviction potential matches through the “Hopper.”
- Determine if a registered voter matches the Felony Conviction information. If so, approve the match to cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Felon” for the NVRA reason and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Convicted of Felony” on the back of the application. Include the date of conviction, and the State Police SID number.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file. Scan the documentation and attach to the VERIS record.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice generated by VERIS stating the reason for removal and any comments entered when processing the cancellation. Include an Application and Instructions for Restoration of Civil Rights Form. Notice of the cancellation must also be provided by email if one was provided.

²⁹ *Id.*





Best Practice

We suggest considering the following when processing felony conviction data:

- The information concerning a felony conviction is not always accurate. Most errors can be accounted for by administrative error, wrongful felony convictions, identity theft, or felony charges that should have been reduced to misdemeanors.
- Individuals have the right to challenge the record; the Virginia State Police (804-674-2000) provides information on the procedures to challenge the record.
- You can request a criminal history search by filing a Criminal Record Name Search (Form SP-167) with the Virginia State Police. The fee for filing this request is \$15.00.
- The Department of Elections will research to confirm accuracy of the conviction information upon request from the general registrar.
- Once an error has been corrected through State Police procedures, the individual will receive notification of the correction from the State Police or appropriate authority. Any person who wishes to be reinstated must provide this documentation to the general registrar.

Please note that persons convicted in other states or under federal law may have their rights restored by “other appropriate authority” determined by the law of the convicting jurisdiction. Other state laws may provide for restoration through much simpler or even automatic processes. Thus, a citizen moving to Virginia whose rights have been restored in the convicting state may register to vote in Virginia indicating restored felon status on the Virginia voter registration application.

8.3.3 Adjudicated Incapacitated

The name of a person who has been adjudicated incapacitated by a court must be removed from the lists of eligible registered voters unless the court order specifically provides voting rights.³⁰

Adjudications for Incapacity can only be ordered by a Circuit Court which may recognize an order from another state. **Simple commitment to an institution for treatment does not constitute an adjudication of mental incompetence or incapacity.** The Circuit Court Clerks are required to send to Department of Elections monthly reports of all persons adjudicated incapacitated.³¹ This required reporting may involve persons in other states and countries under the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.³²

³⁰ See [52 USC §20507\(a\)\(3\)\(B\)](#). See the Code of Virginia [§24.2-427\(B\)](#); [§64.2-2000](#).

³¹ See the Code of Virginia [§24.2-410](#).

³² See the Code of Virginia [§64.2-2001](#) *et seq.*





Best Practice: The Department of Elections is responsible for entering relevant data into VERIS. In rare cases, the circuit clerk may forward these reports directly to your office. Please be sure to forward the reports to the Department of Elections and notify the clerk's office that the reports should be delivered to the Department of Elections. The Code of Virginia permits the Commissioner and Deputy Commissioner to determine the manner of reporting which may be electronic.

VERIS

The VERIS “Hopper” and “Mentally Incapacitated” screens will reflect the information entered by ELECT. The following steps should be taken:



- Process all potential matches through the “Hopper” that appear for the locality. The general registrar must determine if a registered voter matches the adjudication information. If so, approve the match to cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Mentally Incapacitated” as the NVRA reason and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Adjudicated Incapacitated” on the back of the application. Include the date of the adjudication and the Circuit Court case number.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation. Notice of the cancellation must also be provided by email if one was provided.¹

A legal representative of a person under an adjudication of incapacity may petition the circuit court to make provision for voting rights. If the order is silent regarding voting rights, the person is disqualified from voting.



8.3.4 Personal Request

Anyone who wishes to cancel their voter registration for personal reasons may submit a signed written request either by mail, fax, or in person.³³ Within 10 days of receiving a notice of cancellation, the general registrar must send correspondence confirming the voter's removal. The following steps should be taken:

- Process a "Personal Request" cancellation using the VERIS "Change Status" screen. Select "Per Choice" as the reason to cancel the voter. Place important supporting information in the "Comment" section. Cancelling a voter's record through VERIS will automatically generate the required correspondence, which must be sent within ten (10) days of receipt of the request for cancellation. Notice of the cancellation must also be provided by email if one was provided.³⁴



Law Note

To cancel registration during the twenty-two (22) days before an election, the voter must make the request in person at the registrar's office or submit a written notarized request.³⁵ Voters who mail a personal request cancellation notice during the twenty-two (22) days before an election may not be cancelled for that election unless the mailed request is notarized.³⁶ The Code of Virginia §24.2-427(A) states that "Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar." Cancel "at least 22 days prior to an election in order to be valid in that election." The general registrar shall acknowledge receipt of the authorization and advise the voter ... that his registration has been canceled within 10 days of receipt of such authorization.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for "Personal Request" on the back of the application.
- If a box is not provided, record the information in the lower right corner on the back of the application.
- Scan the documentation and attach it to the cancelled VERIS record.
- Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
- File the application in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

³³ See [52 USC §20507\(d\)\(1\)\(A\)](#). See also the Code of Virginia [§24.2-427\(A\)](#).

³⁴ See the Code of Virginia [§24.2-427\(B\)](#).

³⁵ See the Code of Virginia [§24.2-427](#).

³⁶ *Id.*



8.3.5 Error

A general registrar on occasion may need to cancel voter registrations in VERIS to correct administrative error. Administrative corrections that do not actually cancel a voter do not require notice. When making corrections, please note the following types of cancellations:

- If, after approving registration, the general registrar discovers evidence of ineligibility such as omission of citizenship or a felony conviction without restoration and, if confirmation of registration has not been sent, the registrar may cancel a voter and re-enter the information correctly using the following steps:
 - Delete the voter using the VERIS “Change Status” screen. Select cancel for the reason of “Registrar Error,” or “Ineligible.” Important supporting information can be entered in the “Comment” section.
 - Re-enter the voter’s information into VERIS and deny for the appropriate reason. This action will automatically generate the required correspondence to be sent to the voter listing the reason(s) for the denial. Delete any generated correspondence regarding an approval created in error.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Denied” on the back of the application.
 - If a box is not provided, record the information on the lower right corner on the back of the application.
 - Scan the documentation and attach to the denied VERIS record.
 - Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
 - File the application in the “Denied” file.
 - Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
 - Mail the notice of denial generated by VERIS, stating the reason(s) for removal and any comments entered when processing the cancellation/denial.
- If, after approving the registration and mailing correspondence confirming registration, the general registrar discovers evidence of ineligibility such as a felony without restoration, then the regular cancellation process under §24.2-427 must be followed. This requires the general registrar to mail notice of cancellation and the right of appeal to the voter. Follow these steps:
 - Remove the voter using the VERIS “Change Status” screen. Select “Registrar Error,” or “Ineligible” as the reason to cancel the voter. Important supporting information can be entered in the “Comment” section.
 - Notate the back of the application “Error Deleted.”
 - File the application in the “Deleted” file.
 - Scan the documentation and attach to the cancelled VERIS record.
 - Attach appropriate documentation to the back of the application or keep the documentation in a separate file.



- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
 - Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.
 - Notice of the cancellation must also be provided by email if one was provided.³⁷
- If, after approving the registration and mailing the confirmation correspondence, the general registrar discovers information warranting inquiry as to residence, then the general registrar may request an address confirmation mailing or initiate the hearing procedure.³⁸ Cancellation by the general registrar after a hearing is appealable to the circuit court.³⁹ The general registrar’s refusal to cancel can also be appealed by any qualified voter of the locality.



Law Note

“Any person whose registration was cancelled in accordance with the decision of the general registrar pursuant to §24.2-429, shall have the right of appeal, as provided in §24.2-422, to the circuit court of the county or city in which he offers to register. Any qualified voter of the county or city shall have the same right of appeal from the decision of the general registrar refusing to cancel the registration of any person alleged to be improperly registered.” The Code of Virginia §24.2-430.

8.3.6 Voter Now Registered in Another State

Voter registration in Virginia must be cancelled when the general registrar receives a notice signed by the voter or from a voter registration official of another state that the voter has registered in that other state.⁴⁰ These notices require the following actions:

- Process all Out-of-State cancellations on the “Change Status” screen. Select the “Out of State” box and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Notate the back of the application out-of-state.
- Scan relevant documentation and attach to cancelled VERIS record.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.

³⁷ See the Code of Virginia [§24.2-427\(B\)](#).

³⁸ See the Code of Virginia [§24.2-429](#).

³⁹ See the Code of Virginia [§24.2-430](#).

⁴⁰ See [52 USC §20507\(a\)\(4\)](#); See the Code of Virginia [§24.2-427 \(B\)](#).



- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation. Notice of the cancellation must also be provided by email if one was provided.⁴¹

8.3.7 Non-Citizen

Each month the Department of Motor Vehicles (DMV) is required to furnish to Department of Elections a complete list of all persons who have indicated that they are not a United States citizen to DMV.⁴² The Department of Elections will transmit that information to the appropriate general registrar. When notification is received, the following steps should be taken.⁴³

- The general registrar is required to mail a notice of pending cancellation to each registered voter identified by DMV as a non-citizen. The voter is given 14 days from the date the notice was mailed to return a signed statement affirming citizenship.
- If the notice is returned as complete and affirmed, mark the voter as affirmed in VERIS and scan and attach the Affirmation to the voter's VERIS record.
- VERIS will automatically cancel the registration of any voter who does not respond to the notice within 21 days.
- Non-citizen cancellations are processed through the "Hopper." Determine if a registered voter matches the non-citizen information provided by the Department of Elections. If so, use "Cancel Voter" to approve the match and cancel the voter's registration. Individual voters may also be cancelled through the "Change Status" screen. On the "Change Status" screen, select "Declared Non-Citizen" for the reason and place important supporting information in the "Comment" section.

Non-VERIS Steps for Hard-Copy Applications

- Notate the reason for the cancellation on the back of the application.
- Scan and attach documentation to cancelled VERIS record.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- Retain and destroy the application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation. Notice of the cancellation must also be provided by email if one was provided.⁴⁴

⁴¹ See the Code of Virginia [§24.2-427\(B\)](#).

⁴² See the Code of Virginia [§24.2-410.1 \(B\)](#).

⁴³ See the Code of Virginia [§24.2-427 \(B\)\(1\)](#).

⁴⁴ See the Code of Virginia [§24.2-427\(B\)](#).



8.4 CONFIRMATION PROGRAM

8.4.1 Why Request Confirmation

Several factors can trigger the requirement to request a voter confirm his or her registration. These are discussed below and include the U.S. Postal Service's "National Change of Address" program analysis, a notification of out of state activity reported by the Department of Motor Vehicles, or a discrepancy noted in a voter address.

Please note that cancellation may incidentally result from this process if the voter fails to respond to a confirmation request or take other specified action for two general federal elections.⁴⁵

Cancellations under any list maintenance program must be made no later than 90 days before the date of the next federal primary or general election.⁴⁶

8.4.1.1 U.S. Postal Service's "National Change of Address"

Many states, including Virginia, use the U.S. Postal Service's National Change of Address ("NCOA") program to systematically analyze their voter registration records.⁴⁷ At least once a year, the Department of Elections uses the information in the NCOA database registry to match the voter registration addresses of all "Active" registrants in VERIS with USPS addresses. Any voter whose residence address listed in VERIS does not match the address listed with USPS is scheduled to be sent by "forwardable" mail a "Confirmation Notice" to confirm his/her residence address information.

8.4.1.2 DMV Notification of Out-of-State

Several other activities provide reasons to request a confirmation notice be sent to a voter in addition to the NCOA postal match confirmation process. One such reason is notification that the voter has relocated.

Each month VERIS receives an updated electronic file from DMV of persons who have surrendered their Virginia driver's license indicating relocation to another state. VERIS will automatically search for any potential matches of registered voters in the electronic file from DMV. The potential matches will appear in the VERIS "Hopper" for the locality. After reviewing the record, the general registrar may select the record that is a match. This will initiate a request for a "Confirmation Notice" to be sent to the voter.

8.4.1.3 Address Discrepancy

Another reason to request confirmation of a voter's address is the indication of an address discrepancy. General registrars can request a confirmation notice be sent to a registrant based upon reliable information indicating that the registrant has moved. This includes official mail returned as undeliverable or an address on a candidate petition that differs from the address of voter registration. The general registrar may also request a confirmation but should do so only if information warranting inquiry as to residence is discovered.

⁴⁵ See the Code of Virginia [§24.2-428.2](#).

⁴⁶ See [52 USC §20507\(C\)\(2\)\(A\)](#).

⁴⁷ See the Code of Virginia [§24.2-428](#) (defining Virginia's procedures).



Frequently Asked Questions



*What if the USPS NCOA information shows that the voter **moved within the same locality**?* Registrars should mark the voter record for confirmation.

*What if the USPS NCOA data shows that the voter **moved within the Commonwealth but different locality**?* The general registrar should forward that information to the general registrar of that locality and the voter record should be marked for confirmation.

8.4.2 ELECT's Confirmation Mailing

The Department of Elections initiates an annual “Confirmation Mailing” using the information in VERIS from the NCOA postal match and general registrar confirmation requests.⁴⁸ The steps of the “Confirmation Mailing” process are as follows:

- The program provides a data file for each identified registrant whose address does not match the United States Postal Service address.
- The data file is imported into VERIS, and “Confirmation Mailing” is recorded in the registrant’s record. The data file is sent to the mail vendor. (The data file will also include registrants who were marked for confirmation mailing by the general registrar). The mail vendor prepares and mails the Confirmation Notice to registrants.
- The Confirmation Notice contains a return, postage paid card and instructions for completing the card. The notices are sent by forwarded mail and must provide the voter an opportunity to confirm or change their information.
- When Confirmation Notices are received, the information is recorded in VERIS. This data is then utilized by the general registrar for various purposes, such as updating a voter's address, transferring the voter's details to a different locality within Virginia, deregistering a voter who has relocated outside of Virginia, or performing any essential actions to keep the registration list up to date. Confirmation programs are available for public inspection and copying.⁴⁹ Registrars can request reports by accessing the VERIS Reports Library.⁵⁰

8.4.3 VERIS: How to Obtain List of Voters Whose Record was Cancelled



To obtain the listing of all voters whose record was cancelled, select the Cancelled–Other report from the VERIS Reports Library. You should use a date range to identify voters cancelled during a certain time frame such as 1/15/15 – 1/19/15. VERIS will generate a report containing public information authorized in §24.2-444.⁵¹ You should print four (4) copies of this report for distribution as follows:

⁴⁸ See [52 USC §20507\(c\)\(B\)](#).

⁴⁹ See the Code of Virginia [§24.2-444\(B\)](#).

⁵⁰ See Chapter 9 Records Access and Retention for details on records available for public inspection.

⁵¹ See the Code of Virginia [§24.2-444](#).



- One (1) copy must be posted at the courthouse or published in a newspaper of general circulation in your locality.
- Two (2) copies must be certified by you and delivered or mailed, obtaining a certificate of mailing, to the chair of each political party in your locality; and
- One (1) copy is for your records and available for public inspection and copying under Va. Code §24.2-444(B).⁵²



Law Note

“The Department shall provide to each general registrar, for each precinct in his county or city, lists of registered voters for inspection. The lists shall contain the name, address, year of birth, gender, and all election districts applicable to each registered voter. The lists shall be opened to public inspection at the office of the general registrar when the office is open for business. ... The Department shall provide to each general registrar lists of persons denied registration for public inspection. Such lists may be provided electronically through the Virginia voter registration system and produced in whole or in part upon a request for public inspection.”⁵³

8.4.4 Return of Registered Voter to Active Status

Pursuant to the Code of Virginia §24.2-428.2, general registrars return to active status registered voters who were placed on inactive status if the voter “notifies the general registrar of a change of address”, “responds to a confirmation notice with information that the voter continues to reside at the registration address”, “votes or attempts to vote” in a primary, special or general election or “transfers his registration to another county or city within the Commonwealth”.⁵⁴

8.4.5 Cancellation/Removal Due to Inactivity

ELECT runs list maintenance processes to identify voters whose registration should be cancelled under the Code of Virginia §24.2-428.2: “If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person’s voter registration.”⁵⁵ ELECT’s process cancels the voter registration record of those voters whose registration record has been in an “Inactive” status for two (2) successive general elections for federal office.

8.5 NATIONWIDE INFORMATION EXCHANGES

When a voter moves out of state and registers to vote in their new state, the voter should indicate to the new state that they were previously registered in Virginia. The new state should then notify Virginia that the voter wants to cancel their Virginia voter registration. The Code of Virginia §24.2-404.4 requires ELECT to attempt to establish a data sharing relationship with the neighboring states to maintain the accuracy of the voter registration list.⁵⁶ For a comprehensive

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See the Code of Virginia [§24.2-428.2](#).

⁵⁵ See the Code of Virginia [§24.2-428.2](#).

⁵⁶ See the Code of Virginia [§24.2-404.4](#).



overview of ELECT’s list maintenance practices, please visit the website and review the yearly list maintenance reports found [here](#).⁵⁷

⁵⁷ See Department of Elections website, Voter Registration and List Maintenance, <https://www.elections.virginia.gov/resultsreports/maintenance-reports/>



APPENDIX A

GUIDANCE *PROJECT VOTE*

To: General Registrars
From: Don Palmer, Secretary, State Board of Elections
Re: Compliance with *Project Vote* Decision and Court-Approved Agreement
Date: April 3, 2013

The recent *Project Vote* decision involving public disclosure requirements of the National Voter Registration Act (NVRA) provides public access (inspection and/or copying) to individual voter registration applications, excluding the applicant's social security number and residence street addresses of protected voters. The decision also requires production of other documents relating to voter registration, including correspondence to registered voters (excluding, of course, the protected information noted above). The federal court recently entered a consent decree that concluded the litigation.

As required by the court order and because NVRA does not specify a deadline or procedures for responding, SBE has outlined the following recommended guidance and procedures for compliance. Some basic parameters:

What documents are required for inspection and disclosure? Are there exemptions?

- The *Project Vote* decision requires you to make available for inspection and, where available, photocopying at a reasonable cost, completed voter registration applications and other documents relating to voter registration maintenance activities. This may include copies of correspondence to voters such as denial letters, if available.
- Yes, there are exempted applications:
 - As per the court order, the disclosure requirement only applies to voter registration applications that were submitted since July 20, 2011.
 - According to the NVRA, you are not permitted to produce voter registration applications that reveal the identity of the voter registration agency through which any voter is registered. Accordingly, applications that were submitted at the Department of Motor Vehicles should be withheld. If applications submitted through other NVRA-designated agencies (see list in Va. Code § 24.2-411.2) reveal the agency where the individual registered, then those should also be withheld.
- Like FOIA requests, NVRA requests do not require you to create a record that does not already exist.



Am I required or permitted to redact information from the documents produced for inspection and/or photocopying?

- Yes, registrars must redact the following “confidential information”:
 - Social security numbers from all copies of registration applications inspected or produced pursuant to a request under NVRA.
 - All residence street addresses of any individual that provides a post office box address in lieu of his/her street address pursuant to § 24.2-418(B) of the Va. Code. These are commonly known as “protected voters.”
- Please note that these redaction requirements apply to registration applications made available for inspection **and** those photocopied for disclosure to the requesting party:
 - For the inspection process, you may photocopy the application card and redact the protected information prior to the inspection or, alternatively, establish an inspection process in your office to temporarily redact the social security number with a temporary label or removable sticker prior to the individual inspection by the requester. Each office will need to establish an inspection process that includes the time, place, and way your office has the time and personnel to provide redacted applications (temporarily or otherwise) to a requester to personally inspect.

May I charge for production?

- Yes, you may charge reasonable costs for photocopying only. You may not charge for simply making the documents available for inspection. You may require payment before providing the copies. The issue of specific costs is admittedly a gray area of the law so you must be able to articulate why your costs for photocopying are reasonable and how you came to determine that cost analysis. One example of calculating costs for photocopying may be the FOIA schedule/calculations that your office uses. Costs may differ from locality to locality depending on the personnel and resources available in your office and the timing of the request.
- **You may not charge for costs simply related to making the applications available for inspection unless agreed to by the requester as a timelier and more efficient means to disclose the information.**

How long do I have to respond to a request under NVRA?

- While NVRA does not mandate a specific response time, SBE’s recommendation is that requests should be acknowledged within ten (10) working days with an estimate of the cost and timeframe for producing the documents or an estimate on the process and timeframe for making the applications available for individual inspection or photocopying. SBE recommends you comply with the request within twenty (20) working days after receiving the request, if possible.
- NVRA only requires photocopying where available. If you are unable to produce photocopies of the applications due to the high volume of work in your office, lack of personnel or the photocopier being unavailable, you are not required to produce photocopies until you are able.



- If there is a request to inspect a large or voluminous number of applications, you should estimate the number of days necessary for your office to provide the redacted photocopies or to allow temporarily redacted original applications to be reviewed in an inspection process at your office. You may offer alternatives to the inspection process to a requester that include the cost of photocopying and redacting as a more efficient way to respond to their request; however, the requester may request the physical in-person inspection process.
- Requesters should include their name and sufficient information for you to contact the requester and must reasonably describe the records the individual is requesting.

Additional Information:

Alternative Sources of Registration Data: When receiving a request, you may wish to communicate to the requester that he/she may be eligible to view/inspect the list of registered voters and persons denied registration in your office or obtain a copy of the list of registered voters from SBE. For individuals interested in obtaining a copy of the list of registered voters, you can direct them to SBE.

Voluminous Requests and Disputes: If a request involves an extraordinary volume or lengthy search or requests the documents be produced more quickly than is possible, you should make reasonable efforts to reach an agreement with the requester concerning the production of the applications requested. Neither the court order nor the NVRA outlines specifics of how to respond to these types of requests. While you may suggest a mechanism to timelier and efficiently provide many photocopies and redacted applications to the requester, if the requester requests the inspection of applications at your office, you will need to establish:

1. An inspection process that temporarily redacts confidential information from the application for personal inspection in your office; or
2. A mechanism to copy and redact the applications for inspection at your own cost. While SBE is available for consultation, you should consult your attorney if you are unable to reach an agreement to explore what options are available to you.

Optional Notice Guidelines: Please also see the sample notice below that may be helpful in explaining to individuals the specifics of the NVRA disclosure requirements as dictated in the *Project Vote* decision.

These are not FOIA Requests: Please note that document requests under the NVRA are not the same as FOIA requests. Accordingly, the Virginia FOIA provisions that limit its eligibility to in-state requesters only do not apply. Accordingly, these disclosure provisions are available to both Virginians and non-Virginian requesters.



Citations:

USC [§20507](#),

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) of this section are sent, and information concerning whether each such person has responded to the notice as of the date that inspection of the records is made.

Consent Decree: A copy of the consent decree was attached to email transmitting this guidance.

Link to Project Vote Decision: <https://www.ca4.uscourts.gov/opinions/Published/111809.p.pdf>

Sample Public Notice:**National Voter Registration Act Requests**

Under the National Voter Registration Act (NVRA), a federal law, you may request access to voter registration applications held by this office submitted since July 20, 2011. Social security numbers and residence street addresses of any individual that provides a post office box address in lieu of his street address pursuant to § 24.2-418(B) of the Va. Code must be redacted. If you seek this information, your request must include your name and sufficient information for us to contact you and must reasonably describe the records you are requesting and whether you are seeking disclosure of photocopies of the application(s) or are seeking visual inspection of the application(s) at the general registrar office. We will acknowledge response to your request within ten (10) days and attempt to produce the requested disclosure documents within twenty (20) working days of your request.

Before submitting a request, check with the General Registrar to see if the information you seek may be available through an inspection of the list of registered voters or denials or for a request for a list of registered voters with the State Board of Elections.

Our office will charge _____ per page for copying applications. Our office may require payment before providing the copies. If charges are estimated to exceed \$_____, or if you have other unpaid charges, we may require payment in advance before proceeding with the document request. Payment is required before copies will be provided. If charges are estimated to exceed \$_____, or you have other unpaid charges, we may require payment in advance before proceeding. Please submit requests by mail, fax, or e-mail to: _____





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 9

Records Access and Retention

September 2023

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9. Records Access and Retention

<p>REQUIRED FORMS</p> <p>Library of Virginia: Blank ARC-1 Form</p> <p>Library of Virginia: Blank RM-3 Form</p>	<p>ADDITIONAL RESOURCES</p> <p>Records Retention and Disposition Schedule (GS-01)</p> <p>Library of Virginia: Virginia Public Records Management Manual Chapter 7 and 8</p> <p>Library of Virginia: Electronic Records Guidelines Records Retention and Disposition Schedule for Localities</p> <p>Library of Virginia: Records Management</p> <p>Library of Virginia: Instructions for Completing the Certificate of Records Destruction (RM-3 Form) (This link is not working for me)</p> <p>Library of Virginia: Instructions for Completing Archival Transfer List and Receipt (Form ARC-1)</p>
<p>REFERENCE</p> <p>Virginia FOIA Council: Taking the Shock Out of Charges: A Guide to Allowable Charges for Record Production under the Freedom of Information Act (This link is not working for me)</p> <p>Virginia FOIA Council: Access to Public Records</p> <p>Virginia FOIA Council: Email: Use, Access & Retention</p> <p>Virginia FOIA Council: Responding to Requests from Out-of-State</p> <p>Virginia FOIA Council: Forms and Sample Letters</p> <p>Virginia Department of Elections FOIA Page: Freedom of Information Act</p>	<p>REGULATIONS</p> <p>1VAC20-20-20 Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required</p> <p>1VAC20-40-90 Voter Photo Identification Cards</p>

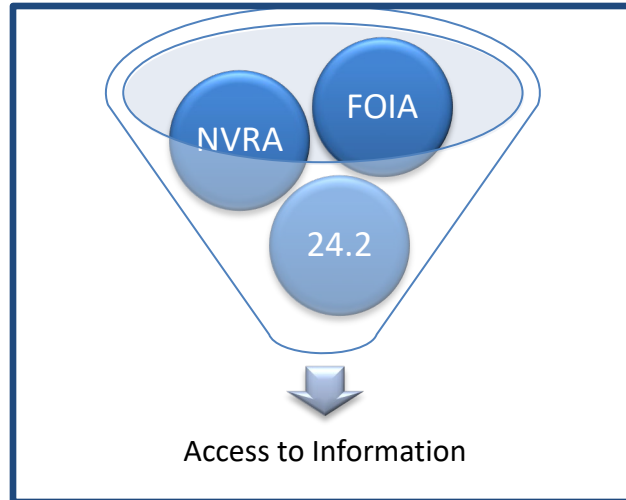
9.1 CHAPTER ORGANIZATION

A general registrar serves as the custodian of a wide range of both public and confidential documents. Public access to records is essential to ensure government transparency but must be limited to protect individual security. Before releasing information, the general registrar must understand *what* is being requested, *who* is requesting the information, and the rules underlying the disclosure of that information. May want to bold the information “what” “Who” etc. This chapter provides a general overview of concepts and rules that govern records access and retention.

The sources of law that touch access to records that general registrars are most often challenged with are Virginia Freedom of Information Act (FOIA), code within Title 24.2, and the National Voter Registration Act (NVRA).

§9.1 provides a brief overview of FOIA, relevant code of 24.2, and NVRA. When determining the release of information, FOIA, NVRA, and certain sections of 24.2 can act as a filter for information either through mandate or providing discretion to the general registrar. For instance, many government records are available under FOIA; however, information can be excluded or exempted from FOIA requests due to the nature of the information. §9.1.4 and §9.1.5 discuss personal information that must be redacted prior to any information release.





§9.2 dives into handling a FOIA request and discusses the elements of a request and creating a proper response. This section also provides examples of proper responses depending on the record being requested. §9.2.3 describes certain exemptions, such as, protecting security information related to voting systems and working papers of a public body. §9.2.4 and §9.2.5 briefly focus on enforcement and penalties for not fulfilling a request.

§9.3 describes what information is required to be provided under NVRA and best practice guidance on how release of information should be conducted for this act. This section is especially important as general registrars often receive requests that fall under NVRA. §9.4 closes this chapter with a brief introduction into records retention and a reference chart for localities' retention schedule.

9.1.1 FOIA: Definition of a “Public Record”

Virginia’s Freedom of Information Act (FOIA) defines public records broadly to include **all records** a public body or officer creates, owns, or possesses during their appointment, employment, or public duties.¹ Drafts and preliminary versions of documents are considered public records and available for public access under FOIA.²



Best Practice

Electronic records, including e-mails, are covered by FOIA, unless some content-based exemption applies (e.g., attorney client privilege). The Virginia Freedom of Information Advisory Council published a useful guide called *E-Mail: Use, Access & Retention* which explains public access to local government officials’ and employees’ email and discusses how email correspondence must be saved. May want to provide link here to the guide.

¹ See the Code of Virginia [§2.2-3701](#).

² See Virginia FOIA Advisory Council Opinion [AO-3-00](#).



9.1.1.1 What is Not a Public Record?

Public records do not include certain personnel records unless protection is waived by the individual in writing.³ FOIA does not require creating a record that does not exist at the time of the request.⁴ Additionally, FOIA may provide other exemptions (discussed later in the chapter). For example, a government body may withhold personal contact information such as home or business address, email, or telephone number.⁵

9.1.2 Title 24.2 and Election and Registration Records



Election law restricts access to voter registration and election records.⁶ “*The Virginia Freedom of Information Act shall not apply to records about individuals maintained in this system [VERIS].*”⁷ Voter records in VERIS are not available to the public, even under a FOIA request, as per the Code of Virginia §24.2-404(B).⁸

Often, requests for information regarding an individual’s voting history will come to a registrar; this information cannot be released, and the request should be denied. Further, lists of registered voters are not available under FOIA. As will be discussed later in this chapter, §§24.2-405 and 24.2-444 govern access to lists of registered voters.⁹ Similarly, lists of those who voted are also not available under FOIA, but may be available to certain groups under §§24.2-406 and 24.2-407.¹⁰

If you are not sure whether a particular record is addressed by election law or FOIA, you should contact your local commonwealth’s attorney. Once it is determined that no election law or FOIA exemption applies, the records are open to inspection and copying. Reasonable costs are allowed, including time required to redact protected information.¹¹

It is important to be aware of what code section is providing or restricting access. For instance, absentee ballot applications are not NVRA but rather Va. Code §24.2-706, which permits the inspection of absentee ballot applications only by a registered Virginia voter during regular office hours.¹²

9.1.3 National Voter Registration Act and Registration Records

Protecting voter privacy requires strict compliance with statutory restrictions. The National Voter Registration Act (NVRA) established mandates for states regarding the voter registration process and the maintenance of related records. Prior to July 20, 2011, voter registration applications were not publicly available. As a result of *Project Vote v. Long*, voter registration

³ See the Code of Virginia [§2.2-3705.1](#).

⁴ See the Code of Virginia [§2.2-3704](#).

⁵ See the Code of Virginia [§2.2-3705.1\(10\)](#).

⁶ See the Code of Virginia [§2.2-3703\(B\)](#).

⁷ See the Code of Virginia [§24.2-404\(B\)](#). See also the Code of Virginia [§2.2-3700](#) et seq. (the Virginia Freedom of Information Act).

⁸ See the Code of Virginia [§24.2-404](#).

⁹ See the Code of Virginia [§24.2-405](#) and [§24.2-444](#).

¹⁰ See the Code of Virginia [§24.2-406](#) and [§24.2-407](#).

¹¹ See the Code of Virginia [§24.2-107](#).

¹² See the Code of Virginia [§24.2-706](#).



applications submitted on or after July 20, 2011, are available for public disclosure if confidential information is properly redacted.¹³



Law Note

The *Project Vote* Consent Decree outlines requirements general registrars must follow regarding maintenance and public inspection of voter registration applications. General registrars are required to:

- Maintain for at least two years and make available for public inspection (including photocopying) completed voter registration applications,
- Redact social security numbers of all completed voter registration applications, and
- Redact the residence address of individuals permitted to provide a post office box address in lieu of residence address due to protected voter status under Va. Code §24.2-418(B).

9.1.4 Generally Redacted Information

Sensitive information is often collected as part of the process of administering elections. Public access to information is important but it must be balanced with an individual's right to privacy; as a result, state and federal laws restrict public access to sensitive personal information.

Before sending any records that contain sensitive personal information electronically through email or fax you should review the contents of each record. You must encrypt or redact sensitive information per 1VAC20-20-20: Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required.¹⁴ Sensitive personal information includes: (1) more than four digits of a social security number or other unique identifier **other than voter identification number**; (2) day and month of birth; or (3) the residence address of voters qualified for protective status under Va. Code §24.2-418.¹⁵

You are required to redact the following information when providing the following information:



- All or part of an individual's social security number;¹⁶
- The birth month and date;¹⁷
- The residence address of an individual with protected status authorized by §24.2-418(B);¹⁸

9.1.5 Social Security Numbers

State and local governments are prohibited from collecting social security numbers without statutory authorization.¹⁹ Election law authorizes collection of all or part of social security

¹³ See *Project Vote v. Long*, [682 F.3d 331](#) (E.D. VA. 2012). See also *Project Vote v. Long* [Consent Decree](#).

¹⁴ See Virginia Administrative Code [1VAC20-20-20](#).

¹⁵ *Id.* See also the Code of Virginia [§24.2-418](#).

¹⁶ See the Code of Virginia [§24.2-405](#) and [§24.2-444](#).

¹⁷ See the Code of Virginia [§24.2-444](#).

¹⁸ See the Code of Virginia §§[24.2-405](#), [24.2-406](#), and [24.2-444](#).

¹⁹ See the Code of Virginia [§2.2-3808](#). See also Privacy Act of 1974, [5 U.S.C. §552\(a\)](#).



numbers for certain purposes, including voter registration.²⁰ The release of social security information in election records is strictly regulated.²¹ Unauthorized release of a voter's or registration applicant's social security number or a part thereof is a Class 5 felony.²²

If the SSN (or part) appears on a record or list open for inspection or copying, the number must be covered so it cannot be read. Marking out the SSN may not be sufficient protection when copying records as the numbers may still be visible after copying.



You must **completely obscure** the social security number. Please remember to take care to

- cover the information manually before photocopying, or
- complete “Black Out” formatting if using Adobe Acrobat.

9.2 HANDLING A FOIA REQUEST FOR INFORMATION

This section discusses how a FOIA request for information should be handled and the elements of a request. A seemingly complex information request can be simplified by engaging with the requester, understanding their specific needs, and providing them with the chance to clarify their requirements. FOIA is largely a matter of *customer service*, i.e., good communication. Requestors often may not know what report or document to request but they do have an idea of what information they want to find.

9.2.1 Elements of a FOIA Request

FOIA requests for state and local records can be made only by Virginia residents or representatives of print or broadcast media reaching Virginia.²³ Requests from non-Virginians or other media representatives may be granted or denied at your discretion.²⁴

9.2.1.1 The Request

The request does not have to be in writing. If the request is made by mail, it will contain the requestor's name and address. If the request is made in person, the office may require the requestor to provide his name and legal address. Nothing in FOIA defines the way in which the requestor must provide his name and legal address, either by stating it or in writing (such as signing a logbook). If the request, name, and address are not provided in writing, record them for the office's information and protection.

The request for records does not need to reference FOIA to invoke the requirements of the Act. If the request is from a qualified requestor (a Virginia citizen or reporter, with both categories broadly interpreted), and is a request for information, it should be considered a FOIA request.

9.2.1.2 “Reasonable Specificity”

The request should include enough information for the recipient to identify whether there are any records in the office (or the official's possession) that satisfy the request. If

²⁰ See the Code of Virginia [§24.2-418](#).

²¹ See the Code of Virginia §§[24.2-405](#), [24.2-406](#), and [24.2-444](#).

²² See the Code of Virginia [§24.2-1002.1](#).

²³ See the Code of Virginia [§2.2-3704](#).

²⁴ See *McBurney v. Young*, U.S. Sup. Ct. [Slip. Op. No. 12-17](#) (4/29/2013). See also Virginia FOIA Council, [Responding to Requests from Out-of-State](#).



there is any question about what is being requested, contact the requestor to discuss the request and response. Keep notes (or emails) on these discussions and file them with the request in the office FOIA file in case there is ever any question about the request and response.²⁵

9.2.2 Responding to a Request

Under FOIA, the general rule is that the public official or employee must respond to the requestor within five working days of receiving the FOIA request; you may request an extension for providing information.²⁶

9.2.2.1 Responses



As a public body, your office is subject to FOIA requests. As the custodian of the requested records, you must respond within five working days of receiving the request. If the response is made within five working days, you will have an additional seven workdays in which to provide one of the following responses:

- The requested records are being entirely withheld,
- The requested records are being provided in part and are being withheld in part,
- The requested records could not be found or do not exist, or
- It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period.²⁷

Refer to the Virginia FOIA Advisory Council for response letters.

9.2.2.2 Charges



Under the Code of Virginia §2.2-3705.1, “a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. **No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body.** Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.”²⁸

A public body is also required to have a written policy that (i) explains how the public body assesses charges for accessing or searching for requested records, and (ii) notes the current fee charged, if any, for accessing and searching for such requested records.²⁹ The local electoral board may establish a cost policy specific to the office of the general registrar, or they may adopt an existing policy created by the locality. The cost policy must be published on the public body’s website and made available upon request.

When you assess charges, you should choose the method that is the most cost effective for producing the records consistent with your written cost policy.³⁰ Charges may include the time needed to access, find, copy, and mail/ship the documents, and

²⁵ See the Code of Virginia [§2.2-3704](#).

²⁶ *Id.*

²⁷ *Id.*

²⁸ See the Code of Virginia [§2.2-3705.1](#).

²⁹ See the Code of Virginia [§2.2-3704.1](#)

³⁰ *Id.*



the actual cost of the copies and the mailing/shipping. The costs of fringe benefits or other overhead expenses may not be added to the charged personnel costs.³¹ If the FOIA request is a repeat of a previous FOIA request, charge the amount to reproduce the previous records not the amount charged for the previous request. Reasonable charges not exceeding actual cost may be assessed for searching, accessing, supplying, and duplicating public records.

If the resident requests an advance estimate, all charges for supplying the requested records must be estimated in advance.³²

- **For requests above \$200**, you may ask the requestor to pay in advance, and you do not have to fulfill the request until receipt of this advance payment.³³
- **For requests under \$200**, the office may *not* require the requestor to pay the charges before turning over the requested documents. If any requestor does not pay in a reasonable time, report the bill to the office that handles normal debt collection for the local government.

Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.³⁴

9.2.3 FOIA Exemptions

FOIA must be “liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.”³⁵ Unless a public body, its officers, or employees expressly invoke a specific exemption provided by FOIA or another statute, all public records are available for inspection and copying upon request. Any exemption from public access to records must be narrowly construed, and no record can be withheld unless specifically made exempt by FOIA or other specific law.³⁶ The Virginia Freedom of Information Advisory Council's website includes an excellent summary and discussion about records exemptions of general applicability; this guide addresses most of the exemptions that might ever be needed by a local electoral board or a general registrar.³⁷

Below is a brief overview of certain records that are exempted from FOIA but may be provided at the discretion of the custodian unless disclosure is prohibited by law. Prior to making any decision to withhold information the general registrar should discuss FOIA access with their local legal counsel.

³¹ For more information about allowable costs under FIOA, see Virginia Freedom of Information Advisory Council's [Taking the Shock Out of Charges: A Guide to Allowable Charges for Record Production under the Freedom of Information Act](#).

³² See the Code of Virginia [§2.2-3704](#).

³³ *Id.*

³⁴ *Id.*

³⁵ See the Code of Virginia [§2.2-3700](#).

³⁶ See the Code of Virginia [§2.2-3700](#) et seq.

³⁷ See [Access to Public Records](#). See also Virginia Freedom of Information Advisory Council's [Records Exemptions of General Applicability](#)



9.2.3.1 *Records Regarding Computer Software and Electronic Security*

“Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.”³⁸

“Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.”³⁹

Election law provides an exemption for plans relating to voting equipment security.⁴⁰

The exemption is applicable for “protocols for maintaining the security of ballots or voting and counting equipment....” And any information that reveals “the results of risk assessments of specific local electoral procedures.”⁴¹

9.2.3.2 *Records compiled in lawfully closed meetings.*

Records created in or compiled *exclusively* for use in closed meetings lawfully held under the Code of Virginia §24.2-3711 are excluded from mandatory disclosure.⁴² Disclosure is at the discretion of the general registrar unless prohibited by law. This rule may be applicable to certain documents produced exclusively for the local electoral board’s provisional ballot meeting as this meeting is a closed meeting.

NOTE: No record that is otherwise open to inspection under FOIA will be considered exempt because it was reviewed or discussed in a closed meeting.⁴³

9.2.3.3 *Working Papers of a Public Body*

"Working papers" means records prepared by or for any of the following named public official for his personal or deliberative use.⁴⁴

- Office of the Governor.
- Lieutenant Governor.
- Attorney General.
- the members of the General Assembly (and legislative aides working on a member’s behalf).
- Division of Legislative Services.
- mayor or chief executive officer of any political subdivision of the Commonwealth; or
- the president or other chief executive officer of any public institution of higher education in Virginia.⁴⁵

However, no record, which is otherwise open to inspection under FOIA, will be determined exempt by it was attached to or incorporated within any working paper or correspondence.

³⁸ See the Code of Virginia [§2.2-3705.1\(7\)](#).

³⁹ See the Code of Virginia [§2.2-3705.2](#).

⁴⁰ See the Code of Virginia [§24.2-625.1](#).

⁴¹ *Id.*

⁴² See the Code of Virginia [§2.2-3705.1](#).

⁴³ See the Code of Virginia [§2.2-3705.1](#).

⁴⁴ See the Code of Virginia [§2.2-3705.7](#).

⁴⁵ See the Code of Virginia [§2.2-3705.7](#).



NOTE: This exception does not extend to local electoral boards or the general registrar unless they are involved in preparing working papers for a named state or local official.

9.2.3.4 *Inmates and Criminal Information*

Historically, Virginia has closed criminal records, but increasingly criminal record information is available online through the courts and law enforcement offices. Any information a general registrar receives regarding criminal records must be kept confidential unless permitted by code.⁴⁶ The Division of Central Criminal Records Exchange provides felony information to Department of Elections only for the purposes of allowing registrars to cancel the registration of any voter known to be a convicted felon.⁴⁷

Requests for information regarding criminal records should be referred to the State Police.

9.2.4 Enforcement

In any action to enforce FOIA, the public body bears the burden of proof to establish an exemption by a preponderance of the evidence.⁴⁸ Any failure by a public body to follow the procedures established by FOIA is presumed to be a violation.⁴⁹

9.2.5 Penalties

If you violate FOIA, you may be held **personally liable**. The civil penalty imposed will be no less than \$500 nor more than \$2,000.⁵⁰ For a second or subsequent violation, the civil penalty will be no less than \$2,000 or more than \$5,000.⁵¹ The public body can also be required to pay the requestor's attorneys' fees.⁵²

9.3 HANDLING AN NVRA REQUEST FOR INFORMATION

The National Voter Registration Act does not specify a deadline or procedures for responding to requests. ELECT recommends the following best practices for responding to requests for voter registration applications under the NVRA:

- NVRA requests should be acknowledged promptly with an estimate of the cost for responding. You may ask for advance payment if estimated costs exceed \$250 before proceeding with the request.
- Within 10 working days after acknowledging the request, copies of requested applications held by your office that were **submitted on or after July 20, 2011**, should be provided with confidential information redacted such as social security number, the identity of the voter registration agency through which a particular voter registered, and, where applicable, the residence street address of any individual that provides a post office box address in lieu of

⁴⁶ See the Code of Virginia [§24.2-409](#) and [§19.2-389](#).

⁴⁷ See the Code of Virginia [§§24.2-409](#) and [24.2-427](#).

⁴⁸ See the Code of Virginia [§2.2-3713](#).

⁴⁹ See the Code of Virginia [§2.2-3713](#).

⁵⁰ See the Code of Virginia [§2.2-3714](#).

⁵¹ See the Code of Virginia [§2.2-3714](#).

⁵² See the Code of Virginia [§2.2-3713](#).



his street address under §24.2-418(B).⁵³ The time involved to redact may be charged to the first request for which the redacted copies are prepared.

- If a request involves an extraordinary volume or lengthy search, you should make reasonable efforts to reach an agreement with the requester concerning the production of the applications requested. Additionally, you should consult your local government attorney or Commonwealth’s Attorney if you are unable to reach an agreement to prepare for possible enforcement action under NVRA. Under 52 USC §20510(b)(3), no prior notice is required to bring suit for alleged violations within 30 days of a federal election.⁵⁴

9.3.1 Voter Registration Applications

Individuals or organizations may request to see voter registration applications, and as general registrar, you should supply these documents in compliance with NVRA. **Voter registration applications received before July 20, 2011 are not available to anyone other than the voter or authorized law enforcement.**⁵⁵

9.3.2 Information to Provide for an NVRA Request

A FOIA request is distinct from an NVRA request. Where information may not be available under FOIA, it may be available under NVRA. NVRA makes available for public inspection and photocopying “*all* records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records pursuant §§24.2-427, 24.2-428, and 24.2-428.1...” (emphasis added).⁵⁶ These records available under NVRA do not include voter registration applications submitted *before* July 20, 2011.

Virginia Code §24.2-444(C) outlines what information must be redacted when providing these records:⁵⁷

- All or part of an individual’s social security number.
- The residence address of an individual who has provided a post office box address in lieu of her residence addresses due to protected voter status as authorized by Va. Code §24.2-418(B).
- The declination by an individual to register to vote and related records.
- The identity of the voter registration agency an individual registered through; and
- The day and month of birth of an individual.

9.3.3 The Precinct List

A general registrar may receive a request for a list of registered voters for a locality. This list is also known as the “record precinct list” and should be made available for public inspection in each office of the general registrar.⁵⁸ This list does not provide voter history. In providing this information, check that all sensitive personal information is redacted, including:⁵⁹

⁵³ See the Code of Virginia [§24.2-418](#).

⁵⁴ See NVRA, [52 U.S.C. §20510](#).

⁵⁵ See *Project Vote v. Long*, [682 F.3d 331](#) (E.D. VA. 2012). See also *Project Vote v. Long* [Consent Decree](#).

⁵⁶ See the Code of Virginia [§24.2-444](#).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*



- All or part of an individual’s social security number, including the last four digits.
- The residence address of an individual who has provided a post office box address in lieu of her residence addresses due to protected voter status authorized by Va. Code §24.2-418(B).
- The declination by an individual to register to vote and related records.
- The identity of the voter registration agency an individual registered through; and
- The day and month of birth of an individual.

9.3.4 The Voter History List

The Department of Elections is required to furnish, “at a reasonable price,” lists of registered voters and persons voting in elections to certain authorized individuals and organizations for specific purposes.⁶⁰ Persons interested in purchasing lists of registered voters and history should be referred to ELECT for information on eligibility and cost. I think this section could be expanded quite a bit. This is a question that is frequently asked by localities, and it would be helpful to include the Client Services link on our website, qualified entities, etc.)

9.4 RECORDS RETENTION

The Library of Virginia provides numerous schedules to assist state and local government agencies in maintaining and disposing of records in compliance with applicable legal requirements. The Library of Virginia Records Retention Schedule GS-01 for Local Election Records was updated and made effective May 26, 2010. The shared Retention Schedule for the State Board and Department of Elections is available on the Library of Virginia website. If any schedule conflicts with federal or state election law requirements, the statutory requirements must be followed.

While reformatting records is at the discretion of the locality, the Department of Elections strongly encourages localities to digitalize records for accessibility, storage, and preservation purposes. **Both permanent and non-permanent records may be digitalized.** After records are digitalized, inspected, and approved according to established standards, the ***originals may be destroyed***, unless specifically prohibited by law. **The digital version will be considered the official copy of record.** *More information here would be helpful as this is a question that comes up frequently by localities.*

Appendix A provides a quick reference chart for records retention for localities. General registrars and staff should review the Library of Virginia’s full schedule on the website. Additionally, Appendix B provides a summary table of frequently requested records.

⁶⁰ See the Code of Virginia §§[24.2-405](#) through [24.2-407.1](#).



APPENDIX A: GUIDELINES: RETENTION OF RECORDS

The following chart is taken from the Library of Virginia's (LVA) Records Retention and Disposition Schedule. Refer to the LVA's [Virginia Public Records Management Manual Chapter 7 and 8](#), [Electronic Records Guidelines](#), and [Records Retention and Disposition Schedule](#) for full guidance.

TYPE OF RECORD (Non-Permanent)	RETENTION SCHEDULE
Administrative Management Records: Registrar (EX: policies, reference materials, management assessments, and reports)	5 years or until superseded, whichever is longer
Absentee Ballots: Applicant List	2 years after election
Absentee Ballots: Drop Box Surveillance	30 days after closed
Ballots: Counted and Uncounted (Federal)	2 years by Circuit Court after election
Ballots: Counted and Uncounted (Non-Federal)	1 year by Circuit Court after election
Ballots: Unused	Retain by Circuit Court until time has expired for initiating a recount, contest, or other proceeding
Candidate Qualification: Campaign Finance Final Report	1 year after the successive election
Candidate Qualification: Campaign Finance Final Report Not Filed (Candidate seeking same office)	Retain through the next general election
Candidate Qualification Forms: Non-Campaign Finance	2 years after receipt
Change of Address Confirmation Records (NVRA)	2 years after deadline for response
Damaged Applications: Voter Registration Applications	4 years after date received
Election Materials (EX: copies of absentee ballot applications, poll books and pollbook count sheets, election day logs)	2 years after applicable election
Electoral Board: Administrative Records (EX: Action plans, accessibility audit reports, cert. of training programs)	Retain as long as administratively necessary
Officers of Election List: Appointments (Form SBE 115)	Retain until superseded with a new list
Receipts and Certificates for Ballots (Forms SBE 616 - 621)	2 years after the applicable election
VERIS: Database and Documentation	Retain database reports as long as administratively necessary
Voter/ Election Mail: Returned	2 years after receipt



Voter Registration Applications: Approved, Cancelled, Transferred Out	4 years after cancellation
Voter Registration Application: Denied	4 years after denial

TYPE OF RECORD (Permanent)	Any original records with <u>permanent retention</u> or records created before 1913 must be offered in writing to the Library of Virginia before destruction of the originals.
Abstracts	
Electoral Board: Minutes	
List of Those Who Voted (LTWV): Pre-1970	
Precinct Redistricting Materials	
Voting Rights Act/ USDOJ Correspondence	



APPENDIX B: SUMMARY TABLE FREQUENTLY REQUESTED ITEMS

Records provided generally may not contain any SSN, driver license number, birthday, birth month, or protected voter residence address.

	Record	Inspect	Copy	Department of Elections
1.	Voter registration application received before 7.20.2011	Commonwealth attorney, applicant, or applicant’s authorized representative	Commonwealth attorney, applicant, or applicant’s authorized representative	Registrar is custodian
2.	Voter registration application redacted (received on or after 7.20.2011)	General public (NVRA request)	Where available, may charge reasonable cost for copying only	Registrar is custodian
3.	List of registered voters	General public only in form of precinct record listing containing the data specified in 24.2-444(A)	No, only for inspection	Qualified requestors enumerated in 24.2-405 may receive more information
4.	Cancelled list (felony, adjudication, confirmed move, declared noncitizen)	General public (NVRA request)	May charge the cost for copying	Registrar is custodian



	Record	Inspect	Copy	Department of Elections
5.	List of Those Who Voted.	Can only be provided by ELECT	See Department of Elections	Qualified requestors enumerated in 24.2-406 may purchase voter list with voting history for the last 4 years.
6.	Absentee ballot applications	Virginia registered voter	No, only for inspection	Registrar is the custodian
7.	Absentee applicant list	Virginia registered voter	Physical copying only; cannot be sent electronically by GR	Electronically to requesting party or candidate.
8.	Campaign Finance reports	General Public	May charge a reasonable cost for copies	Has electronic submissions in COMET
9.	Petitions	Citizen or entity of Virginia. Any SSN or part must be redacted	Yes, can charge reasonable cost not to exceed actual time incurred copying/supplying	If filed with state
10.	Candidate forms (e.g., declaration, qualification, economic interest)	Citizen or entity of Virginia. Any SSN or part must be redacted.	Yes, can charge reasonable cost not to exceed actual time incurred copying/supplying	If filed with state.
11.	List of officers of election with party designations.	Names public but personal information may be withheld.	Only parties and candidates can receive copies. EB Secretary or general registrar must provide to requesting candidates and parties for cost.	If filed with state or available in VERIS.



Supporting citations:

1. Va. Code 24.2-114(8) , 24.2-444 .
2. <i>Project Vote v. Long</i> consent decree (1.30.13); Va. Code 24.2-444(B) .
3. Va. Code 24.2-444 .
4. Va. Code 24.2-114(8) , 24.2-444(B) , 52 USC 20507(i) .
5. Va. Code 24.2-406 , 24.2-407
6. Va. Code 24.2-706 , 52 USC 20701 .
7. Va. Code 24.2-706 , 52 USC 20701 .
8. Va. Code 24.2-946.2 .
9. Va. Code Title 24.2 Chapter 5 , GS-01, Series 000509.
10. Va. Code 2.2-3114 , 2.2-3115 . GS-01, Series 000509.
11. Va. Code 24.2-115 .





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 10

Election Day Prep

September 2023

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10. Election Day Prep

<p>REQUIRED FORMS</p> <p>Officer of Election Training Standards published by the State Board of Elections ELECT-15512-HAVA Complaint Form.docx ELECT-604 Prohibited Area and Activities Poster ELECT-613 Explanation of Political Party Abbreviations Sign and Instructions ELECT-643B – Attention All Voters Acceptable ID Poster ELECT-649.1 – Curbside Voting Sign HAVA-2 – Voting Information Poster (Federal Election Only) HAVA-4 – Voting Rights and Responsibilities All Posters and Publications are available in Forms Warehouse > Posters and Publications</p>	<p>ADDITIONAL RESOURCES</p> <p>Statement of Results (SOR) Write-ins Certification. ELECT-612.1P Notice of Withdrawal Poster Template ELECT-612.1AB-Notice-of-Withdrawal-AB-Slips-Template-7-17.docx (live.com)</p>
<p>REFERENCE</p> <p>Forms Warehouse Virginia Department of Elections Website</p>	<p>REGULATIONS</p> <p>1VAC20-20-80. Complaints. 1VAC20-40-70. Applications for voter registration; affirmation of united states citizenship. 1VAC20-60-30. Electronic devices in polling place. 1VAC20-60-40. When ballot cast.</p>

10.1 CHAPTER OVERVIEW

This chapter provides a series of election day checklists. §10.2 suggests steps that should be taken annually when considering upcoming deadlines for known elections, including scheduling access to polling places and annual officer of election training. §§10.3-10.13 outline pertinent deadlines and provide suggestions for preparing for each election gradually, over the course of six months. §§10.14-10.19 cover election day and a high-level overview of the subsequent election related tasks the general registrar and local electoral board must ensure are complete.

We recommend that general registrars prepare an election checklist suited to their locality and its unique needs using the information contained in this chapter. This may require an adjustment to the timeline and additional details based on the type of election, equipment used to record ballots, and the type of pollbooks used to qualify voters at the polls. Be sure to read the chapters on Canvass (Chapter 14) and Provisional Ballots (Chapter 13), which contain essential post-election processes that should be considered when preparing for an election.

In the Commonwealth, we conduct statewide elections every November, have the possibility of primary elections each June, and a special election could be called nearly any time of year. As such, planning for the known elections can allow you more time to address unexpected elections.



10.2 ANNUAL ELECTION DAY PREP

10.2.1 Schedule Access to Polling Places

- Ask well in advance of the election that an election representative be added to the school district’s “calendar committee” to have direct input into the school schedule.
- Notify polling place facility managers of all possible dates for all scheduled elections based on the 5-year Schedule of General Elections which is available on the [Department of Election’s website](#).
- Notify polling place facility managers when it is known that a primary election will or will not be held.
- Notify polling place facility managers of upcoming special elections as soon as the date is known.
- Schedule meeting facilities for the canvasses that year: “Written directions to the location of any room other than the clerk’s or general registrar’s office where the board will meet [must] be posted” before the canvass begins.¹



You cannot change a polling place or precinct within 60 days before a GENERAL election. At this point in the pre-election timeline, please make sure all polling places are accessible, usable, and ready for an election. If an emergency occurs, you may ask the Department of Elections to approve the emergency and an alternative polling place by submit an Emergency Poling Place Change ticket in the System Support Portal in JIRA.

10.2.2 Officer of Election Training Schedule and Facility Reservations

You must establish a training schedule compliant with the State Board of Elections [training standards](#).² Each officer of election must complete training using training materials developed by the State Board of Elections. Alternatively, officers of election may complete the training course offered on the [Department of Elections website](#).³ **Officers of election must complete one of these trainings before serving in their first election.**⁴ This requirement applies to **each term** for which the officer of election is appointed.⁵ Make reservations for training facilities in advance to ensure their availability.

Please remember that election laws change annually, and the Code of Virginia requires that each officer of election shall receive additional training or instruction whenever a change to election procedures is made to the Code or to regulations that alters the duties or conduct of the officers of election.⁶

¹ See the Code of Virginia [§24.2-671](#).

² See the Code of Virginia §§[24.2-103](#) and [24.2-115](#).

³ See the Code of Virginia [§24.2-103](#).

⁴ See the Code of Virginia [§24.2-115.2\(A\)](#).

⁵ *Id.*

⁶ See the Code of Virginia [§24.2-115.2\(B\)](#).



10.3 SIX MONTHS TO ELECTIONS DAY

- Review polling place ADA accessibility. Make site visits to ensure compliance and that nothing has changed since the last time the facility was used.
- Review quantities of absentee ballot by mail supplies against permanent absentee voter numbers and the projected absentee by mail voter turnout. Review in-stock quantities and each form's revision date against ELECT's Forms Warehouse > Absentee Voting or against communications from ELECT on pending form updates. Reorder quantities as needed. If possible, order an envelope with a peel sealer mechanism to avoid gum seals closing prematurely with summer or fall humidity.
- If applicable, review quantity of blank ballot on demand (BOD) paper stock. Reorder paper as needed.

10.4 120 DAYS TO ELECTION DAY

10.4.1 Notify Officers of Election and Schedule Training Sessions

Give the election officers ample advance notice so they can arrange to attend the necessary training. The training for these officers must either use the materials created by the State Board of Elections (SBE) or the online training course available on the Department of Elections website. The Training Standards of the State Board of Elections are in the Forms Warehouse.

10.4.2 Notify Elections Support Facilities of Election Schedule

- Notify security departments, warehouse supervisors, school superintendents, principals, custodians, and other building managers of increased activity at locations where election preparations are performed.
- Establish election support procedures with police/sheriff/emergency departments.
- Verify that the space used for the canvass meeting will be available.

10.5 90 - 60 DAYS TO ELECTION DAY

- Prepare a folder specific to the upcoming election. This folder will be used to deposit forms and other information particular to that election. If you are using a paper folder, print out a copy of your checklist and attach it to the inside of your election folder.
- Review current versions of all election day forms, signs, envelopes, and materials.
- Order enough of the above materials in accordance with Department of Elections instructions.
- Reproduce all election day instructions and forms in sufficient quantities.
- Exclusive to a Primary Election: Upon receipt, post a copy of the Department of Elections notice calling for election on the official website of the county or city, at not less than 10 public places in



the county or city, or have the notice published at least once in a newspaper of general circulation in the county or city.⁷

- Design (or coordinate with your vendor to design) the ballots as soon as the offices, candidates, and issues have been determined.
- Submit (or coordinate with vendor to submit if you use Print Elect) ballot proofs to the Department of Elections for approval.⁸
- Designate one person to be continuously present in the room in which the ballots are printed from the start to the end of the work and ensure that the undertakings of the printer's statement are complied with strictly.⁹
- Submit ballot order to your printer or vendor.
- Acquire the vendor's printer's statement that s\he will only print the number of ballots requested and that all imperfect ballots will be destroyed. As a template for completing this task, use or model a locality specific statement as seen in form ELECT-616 Oath, Statement of Printer.¹⁰
- Acquire the designated representative's signed statement that all ballots were printed, packaged, and shipped to the general registrar. As a template for completing this task, use or model a locality specific statement as seen in form ELECT-617 Oath, Statement of Electoral Board Representative.
- Acquire the signed statement that either a member of the electoral board, general registrar, or some other person designated by the electoral board or general registrar, ensured that the electoral board seal was affixed to the back of each official ballot\official ballot electronic file. As a template for completing this task, use or model a locality specific statement as seen in form ELECT-619 Oath, Statement of Representative Who Witnessed the Affixing of Ballots.¹¹
- Provide notice of voting systems testing "(I) to the chairman of the local committee of each political party, or (ii) in a primary election, to the chairman of the local committee of the [...] party holding the primary, or (iii) in a city or town council election in which no candidate is a party nominee [...], to the candidates."¹²
- Conduct logic and accuracy testing of voting systems, if applicable, electronic pollbooks(EPBs), and, if applicable, ballot on demand printers used during early voting.¹³
- Lock and seal the voting systems dedicated for early voting.¹⁴
- If not using a ballot on demand system, prepare ballots for voting so that they are available for voting forty-five (45) days before any election.¹⁵
- Prepare sample ballots (be sure to review §24.2-622).¹⁶
- Distribute sample ballots.
- Set a date to conduct the final logic and accuracy test required for voting machines and, if applicable, electronic poll books (EPBs) used in pre-processing and on Election Day.

⁷ See the Code of Virginia §[24.2-517](#).

⁸ See the Code of Virginia §[24.2-612](#).

⁹ See the Code of Virginia §[24.2-617](#).

¹⁰ See the Code of Virginia §[24.2-616](#).

¹¹ See the Code of Virginia §[24.2-619](#).

¹² See the Code of Virginia §[24.2-633](#).

¹³ See the Code of Virginia §§[24.2-632](#), [24.2-633](#), and [IVAC20-60-70](#).

¹⁴ See the Code of Virginia §[24.2-634](#).

¹⁵ *Id.*

¹⁶ See the Code of Virginia §[24.2-622](#) for details on preparing sample ballots.



- Seal the counting equipment for the election after testing.¹⁷
- Publish notice of absentee voting days and hours.
- Complete form ELECT-618(2) “Certificate of Number of Ballots Received from Printer” and file with the minutes of the Board.¹⁸
- Conduct a refresher meeting with staff covering procedures for the upcoming election.¹⁹
- Submit work orders for distribution and return of polling place equipment and materials.
- Establish pre-election day staffing for the following duties:
 - Final polling place material preparations and distribution plans.
 - Electronic pollbook data management and testing.
 - Sunday or Monday pollbook/supply pickup.
 - Polling place equipment distribution.
 - Saturday absentee voting support;²⁰
 - 2 Saturdays before all elections.
 - If applicable, Sunday absentee voting support.²¹
- Establish election day staffing for the following duties:
 - Polling place opening and reporting support.
 - Machine techs
 - Polling place operating support.
 - Machine techs
 - Electronic pollbook techs
 - Reliefs
 - Rovers
 - Results reporting.
 - Polling place closing support.
- Establish after-election day staffing for the following duties:
 - Material transfer between clerk of circuit court and canvass site.
 - Clerical and communication support for canvass.
 - Canvass procedures and documentation.
 - Polling place equipment/supply pickup.
 - CAP by precinct reporting in Enhanced Results.
 - SDR voter registration processing.
 - Provisional ballot research.
 - Risk Limiting Audit (RLA) preparation.
- Start charging electronic pollbooks and voting machines.
- Ensure that you have a sufficient supply of “I Voted” stickers. If you do not, order enough for the upcoming election.
- Determine staffing needs for both online and paper voter registration application and online and paper absentee application processing.
- Establish a procedure for managing the increased flow of electronic and paper applications.

¹⁷ See the Code of Virginia [§24.2-634](#).

¹⁸ See the Code of Virginia [§24.2-618](#).

¹⁹ *Id.*

²⁰ See the Code of Virginia [§24.2-701.1](#).

²¹ *Id.*



10.6 45 DAYS TO ELECTION DAY

- **Begin absentee voting for all elections.²² Please see Part One, Two, and Four of Chapter 7 Absentee Voting for more information.**
- Complete the survey certifying absentee voting readiness upon request by the Department of Elections.
- Conduct logic and accuracy testing of voting systems and, if applicable, EPBs used during pre-processing and Election Day.²³
- Lock and seal voting systems for pre-processing and Election Day.²⁴

10.7 30 DAYS TO ELECTION DAY

- Complete voter registrations for close of books.²⁵
- Paper pollbooks (if used):
 - Verify complete.
 - Notify the Department of Elections
 - Set up splits.
 - Hand correct for adds, deletes, changes, corrections.
- Verify polling place communications.
- Set aside voided copy of ballot(s) to be sent to the Department of Elections with the certified abstracts after canvass.²⁶
- Update election day emergency numbers.
- Prepare polling place materials.
- Code of Virginia, Title 24.2 Virginia Election Law
- Forms:
 - Emergency paper pollbook (used if EPBs fail)²⁷
 - Paper pollbooks (if used)
 - Pollbook count forms (if paper pollbooks used)²⁸
 - Electronic pollbook summary screen sheet (if electronic pollbooks used)
 - Statement of Results²⁹
 - Printed Return Sheet³⁰

²² See the Code of Virginia §[24.2-612](#).

²³ See the Code of Virginia §§[24.2-632](#), [24.2-633](#), and [1VAC20-60-70](#).

²⁴ See Code of Virginia §[24.2-634](#).

²⁵ See the Code of Virginia §[24.2-416](#); see also Virginia Administrative Code [1VAC20-40-70](#) . See Chapter 6 Voter Registration for more information.

²⁶ The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. See Code of Virginia §[24.2-612](#).

²⁷ See Code of Virginia §[24.2-611](#).

²⁸ See [ELECT-643 PBC](#).

²⁹ See [Statement of Results](#)

³⁰ See [ELECT-658](#).



- Write-In Certification for each set of the Statement of Results³¹
- Officer of Election Oaths³²
- Officer of Election Suggestion
- Officer of Election Interest
- Grievance³³



Regulation Note

1VAC20-20-80: Complaints. Anyone may make an informal complaint either by telephone or electronically (20-20-80(A)). It is the locality's responsibility to respond to these complaints, but the locality may request assistance from the Board as needed (20-20-80(A)). The Board must provide the forms from the Help America Vote Act of 2002 to allow people to make formal requests (20-20-80(B)). These formal complaints require review and a response from the Commissioner or Deputy Commissioner, who may contact the locality to gather more information (20-20-80(B)). If the submitted complaint does not meet the requirements of a formal complaint, it may be responded to informally by the appropriate staff (20-20-80(B)).

- Affirmation of Eligibility³⁴
- Machine tracking sheets
- Ballot Record Report³⁵
- ID Confirmation Statement³⁶
- Voter Name Mistake Report
- Voter Registration Application³⁷
- Provisional Ballot Envelope³⁸
- Provisional Ballot Log³⁹
- Provisional Voter Notice⁴⁰
- Provisional Voter Notice – Identification⁴¹
- Voter Registration Cancellation Request
- Notification of Death⁴²
- Request for Assistance⁴³

³¹ See [Statement of Results \(SOR\) Write-ins Certification](#).

³² See [Oath or Affirmation for Officers of Election SBE-120.docx](#).

³³ See Voter Complaint Form [ELECT-11512](#); see also the Virginia Administrative Code [IVAC20-20-80](#).

³⁴ See [Affirmation of Eligibility](#).

³⁵ See [Ballot Record Report, Non-Federal](#); [Ballot Record Report, Federal](#)

³⁶ See [ELECT-643ID – ID Confirmation Statement](#).

³⁷ See [Voter Registration Application](#).

³⁸ See [Provisional-Envelope---Rev-2023.pdf \(virginia.gov\)](#)

³⁹ See [ProvisionalBallotLogRev08.23.pdf \(virginia.gov\)](#)

⁴⁰ See [ELECT-653B-Provisional-Voter-Notice_Rev-8-2023.doc \(live.com\)](#)

⁴¹ See [ELECT-643Pr Provisional Voter Notice - Identification](#).

⁴² See [ELECT-427B](#).

⁴³ See [Request for Assistance](#).

- Incident Report⁴⁴
- Overvote Notice
- Payroll
- Receipt for absentee ballot delivery
- Sample ballots
- Results-tracking Call-in Sheets
-
- Envelopes and Labels:⁴⁵
 - Envelope 1A – Provisional Ballots⁴⁶
 - Envelope 1B – after hours provisional, used only if instructed.
 - Envelope 2 – Oaths, Pollbooks, SORs, etc.⁴⁷
 - Envelope 2A – yellow printed return sheet⁴⁸
 - Label 3-Counted Ballot⁴⁹
 - Envelope 3A – overfull optical scan ballot container⁵⁰
 - Envelope 4 – spoiled and void ballots⁵¹
 - Envelope 5 – Counted Absentee Ballots⁵²
 - Envelope 6 – unused ballots⁵³
 - Envelope 7 – voting equipment keys, memory cards/cartridges, machine seals⁵⁴
 - Federal Elections ONLY – Envelope 7FED- copy of memory cartridge(s).⁵⁵
 - Envelope 8 – completed paperwork⁵⁶
 - Envelope 10 – Officer of Election Buttons/Name Badges
 - Envelope 11 – 4th set of optical scanner result tapes for HAND delivery to GR office (if used)
 - Envelope 12 – duplicate and name mistakes list, notification of death of registered voter (optional)
- Inside Signs:
 - Attention All Voters/Acceptable ID⁵⁷
 - Voter Process to Check in and Vote⁵⁸
 - No Smoking⁵⁹
 - How to Vote (based on equipment used)
 - Sample ballot

⁴⁴ See [Incident Report](#).

⁴⁵ See [Checklist Certification of Materials Used in Elections, ELECT-659-668](#).

⁴⁶ See [Officer certification to reuse empty provisional votes envelope 1A](#).

⁴⁷ See [Envelope 2](#).

⁴⁸ See [Envelope 2A](#).

⁴⁹ See [Envelope 3](#).

⁵⁰ See [Envelope 3A](#) and [1VAC-20-60-50](#).

⁵¹ See [Envelope 4](#).

⁵² See [Envelope 5](#).

⁵³ See [Officer certification for Unused Envelopes](#).

⁵⁴ See [Envelope 7](#).

⁵⁵ See [Envelope 7FED](#).

⁵⁶ See [Label Envelope 8](#).

⁵⁷ See Attention All Voters (Acceptable ID) ([ELECT 643B](#)).

⁵⁸ See [Voter Check In Process Poster](#).

⁵⁹ See [No Smoking Sign](#).



- Prohibited Area and Activities⁶⁰
- Explanation of Political Party Abbreviations⁶¹
- Voter Rights and Responsibilities⁶²
- Notice-Election Date and Hours
- Voter ID Requirements (HAVA-3)



Regulation Note

1VAC20-60-30: Electronic Devices in Polling Places. Regulation 20-60-30(A) states that individuals may use and bring electronic devices inside the polling place; party candidates and representatives, however, are prohibited from taking photos or videos within the polling place. Officers of election are authorized to monitor and restrict use of electronic devices inside the polling place if an individual's use hinders or delays the voting process, or if this device is being used to influence, intimidate, or solicit another individual's vote (20-60-30(B)). Those found violating 20-60-30 may be asked to stop using their electronic device, to use their electronic device outside the polling place only, or to leave the polling place entirely (20-60-30(B)). However, a voter may not be removed from the polling place for use of an electronic device until after their ballot is cast (20-60-30(C)). Any determination an officer of election makes as to the use of electronic devices in polling places is subject to immediate appeal to the local electoral board (20-60-30(D)). **Electoral boards are also forbidden from enacting any policy that categorically denies use of electronic devices in polling places (20-60-30(E)).**

- Outside Signs:
 - Vote Here
 - Handicapped Access
 - Handicapped Parking
 - Curbside Voting with Instructions
 - Voter Parking
 - Polling Place
 - Polling Place with Arrow
 - No Campaigning Beyond This Point
 - Precinct Name
- Support Materials: sealed voting machine key envelopes,⁶³ packing tape, masking tape, painter's tape, calculators, pens, pencils, ballot marking pens, paper clips, note paper, stapler and staples, rulers, scissors, tape measure, precinct maps, voter permits/access cards, numbered envelopes, labels, lanterns, umbrellas, uninterruptable power supplies, flashlights, sidewalk chalk, 40-foot marker lines, extension cords, surge protectors, band-aids, first aid kits, clip boards, magnifying sheets, pencil sharpeners, permanent markers,

⁶¹ See Explanation of Political Party Abbreviations ([ELECT-613](#)).

⁶² See [Voter Rights and Responsibilities](#).

⁶³ See the Code of Virginia [§24.2-639](#).



scotch tape and dispenser, rubber bands, rulers, wire cutters, hand sanitizer, “I Voted” stickers, banker’s boxes.

- Prepare Election Day Guide for non-CAP precincts, Election Day Guide for CAP, and What Ifs for use in the election.⁶⁴
- Prepare items that will be needed for the canvass:
 - Checklist of items to be retained by the registrar.
 - Provisional vote log to be used by the electoral board if provisional votes are counted.
 - Tally sheet for the electoral board to tally provisional votes that are counted.

10.8 20 DAYS TO ELECTION DAY

- Send reminder notices to officers of election about instruction meeting.
- Send notices to party chairs about programming of voting machines, if not done earlier.⁶⁵
- Send notice to warehouse custodians regarding the programming/transport of machines.⁶⁶
- Power up electronic pollbooks to verify that they are functioning properly.
 - Charge the batteries.
 - Download initial pollbook data file(s) and DMV data file. Verify that the data is complete and accurate.
 - Build initial electronic pollbook election file. Verify accuracy.
- Prepare and publish public notice of final registration day at least 10 days before the close of books. This notice must include “the date, hours, and locations for registration.”⁶⁷

10.9 15 DAYS TO ELECTION DAY

- Prepare paper and/or results tally sheets.
- Provide copies of tally sheets to personnel assisting with reporting results.
- Ensure personnel who may assist with entering results into Enhanced Results have access to Enhanced Voting.

10.10 10 DAYS TO ELECTION DAY

- Package and seal ballots for polling places.⁶⁸
- Prepare receipts for delivery of ballots, final absentee ballots list, and other election materials.
- Post notice of the canvass.⁶⁹
- Mandatory preprocessing of absentee ballots begins on the seventh day immediately preceding an election (see Chapter 7 of GREB).⁷⁰

10.11 3 DAYS TO ELECTION DAY

- Ensure all same-day registration records from early voting are entered.
- Final checks of paper pollbooks, supplies.

⁶⁴ Click [here](#) to find these forms.

⁶⁵ See the Code of Virginia §24.2-633.

⁶⁶ See the Code of Virginia §24.2-632.

⁶⁷ See the Code of Virginia §§24.2-414, 24.2-415, and 24.2-416.

⁶⁸ See the Code of Virginia §24.2-620.

⁶⁹ See the Code of Virginia §24.2-671.

⁷⁰ See the Code of Virginia §24.2-709.1



- Alphabetize or sort election oath forms in order of chief pickup schedule.
- Final in-person absentee ballot voting.
- On the Friday or Saturday before an election, you must hold a preprocessing meeting.⁷¹

10.12 2 DAYS TO ELECTION DAY

- Download and print Final AB List.⁷²
- Electoral board signs Final AB List.⁷³
- Prepare AB ballots to deliver to CAP.⁷⁴
- Download final pollbook data for electronic pollbooks, create distribution files, and prepare EPBs for distribution.
- Print paper pollbooks.

10.13 MONDAY BEFORE ELECTION DAY

- Chief Pollbook/Supply pickup.
- Final emergency absentee ballot voting/update precinct lists.⁷⁵
- For November general election, send certification to the Department of Elections that training of election officials has occurred.⁷⁶
- If not already sent to the Department of Elections, send the completed certification of L&A testing.

10.14 TUESDAY ELECTION DAY

- Have a GREAT ELECTION!
- Receive and report election results from polling places after polls close.
- Enter results into Enhanced Results only after polls close at 7:00 p.m.
- Enter election night provisional counts in Enhanced Results.
- Receive election materials from chiefs after election.
- Deliver (or transfer) election materials to clerk of court in accordance with the memo entitled "[Circuit Court Clerks Guidance](#)" provided by the Department of Elections to the clerk of court and in accordance with local procedures approved by the clerk of court. Alternatively, the electoral board may instruct the officers of election to deliver materials to the registrar's Office.⁷⁷

10.15 WEDNESDAY (ELECTION DAY + 1)

- To prepare for the canvass, print out/export the data that was entered into Enhanced Results on election night. Use these print outs to compare to the data determined to be correct during the canvass.
- Enter same-day registration records from Election Day.

⁷¹ See SBE Policy 2023-001, [CAP_August-15_SBE-FINAL.pdf \(virginia.gov\)](#)

⁷² See the Code of Virginia §[24.2-710](#).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See the Code of Virginia §[24.2-705](#).

⁷⁶ See the Code of Virginia §[24.2-115](#).

⁷⁷ See the Code of Virginia §§[24.2-659](#) and [24.2-668](#).



- While reviewing SORs, input election turnout into Enhanced Results to help complete the canvass.
- Receive copies of ID documents from provisional voters who lacked ID on election day.⁷⁸
- Receive election materials from clerk of court.
- Check in returned election materials.
- Conduct provisional ballot meeting.⁷⁹
 - If ID has not been provided by the end of meeting for any provisional ballots cast due to lack of ID, the meeting will have to be adjourned to a later date (no later than the third day after the election [Friday]. If the third day is a weekend or holiday, the deadline becomes noon of the next business day [Monday]).⁸⁰
- Conduct canvass.⁸¹
- Document completion of canvass using Abstract of Votes Cast.
 - Submit certified copies of abstracts to the Department of Elections via the Abstract of Votes Formsite form.
 - Mail abstracts to the Department of Elections once approved to do so.
- Enter provisional statistics into Enhanced Results.
- Enter VERIS provisional data for counted and rejected ballots and process letters.⁸²
- Enter VERIS rejected absentee ballot data and process letters.⁸³
- Verify that the data entered Enhanced Results on election night matches the data determined to be correct at the canvass.
 - Precinct returns.
 - CAP returns
 - Provisional ballot results
 - Election turnout
 - Run the Enhanced Results reports to ensure accuracy of data entered.
 - Resolve issues, if present.
- Mark local office winners in Enhanced Results.
- Process new voter registration applications.
- Re-seal and deliver materials to clerk of court.
- Upload voter credit data from electronic pollbooks to VERIS.
 - Run the Credit Audit Report in VERIS.
 - Reference ELECT's Post-Election Canvass package.
 - Resolve issues, if present.

10.16 THURSDAY (ELECTION DAY +2)

- Receive copies of ID documents from provisional voters who lacked ID on election day.⁸⁴

⁷⁸ See the Code of Virginia §[24.2-653](#).

⁷⁹ See Chapter 13 Provisional Ballots.

⁸⁰ See the Code of Virginia §[24.2-653](#).

⁸¹ See Chapter 14 Canvass.

⁸² See Chapter 13 Provisional Ballots.

⁸³ See Chapter 14 Canvass.

⁸⁴ See the Code of Virginia §[24.2-653](#).



10.17 FRIDAY [MONDAY IN CASE OF HOLIDAY] (ELECTION DAY +3)

- Receive copies of ID documents from provisional voters who lacked ID on election day until noon.⁸⁵
- Coordinate with local USPS mail contact to ensure delivery of absentee ballots as soon after noon as possible.
- Review returned absentee ballots for post-marks acceptable to be processed as post-election absentee ballots.⁸⁶
- Deliver appropriate absentee ballots to the CAP officers for processing.
- Enter Post-election results in Enhanced Results.
- If possible, make Provisional Ballot Meeting rulings on persons that lacked ID

10.18 SATURDAY (ELECTION DAY +4)

- Review and incorporate ELECT's Final Same Day Registration Duplicate Report into provisional ballot meeting preparations.

10.19 MONDAY OR TUESDAY (ELECTION DAY +6 OR +7)

- Complete Provisional Ballot Meeting.
- Enter provisional election results into Enhanced Results.
- Pull Abstract of Votes from Enhanced Results and have electoral board members sign.
- Upload Election Day EPB voting credit and manually add provisional voter credit within VERIS.

10.20 WEDNESDAY (ELECTION DAY +5)

- Watch State Board of Elections meeting to see if your locality is chosen or approved for a risk-limiting audit (RLA).
- Instructions for locality participation in an RLA will be sent to all affected localities.
- Review the RLA Manual.⁸⁷

10.21 ELECTION DAY + 30

- Deliver absentee ballots received after election to Clerk of Court.⁸⁸

10.22 POST-ELECTION RECOUNT⁸⁹

- Retrieve materials from Clerk of Court.
 - Oath completed by the officers of election.
 - Voting machine keys.
 - Voting machine memory cards.

⁸⁵ *Id.*⁸⁶ See Code of Virginia §[24.2-709](#) and [1VAC20-70-20](#).⁸⁷ See Chapter 19 RLA Manual.⁸⁸ See the Code of Virginia §[24.2-710](#).⁸⁹ See the Virginia Administrative Code [1VAC20-80-20](#) for information about recounts and contested elections.

- If a federal election, make copies of each thumb drive for submission back to the circuit court clerk in Envelope 7FED. Follow security protocols\ELECT guidance\Voting Equipment vendor guidance when copying voting equipment thumb drives.
 - Paper Pollbooks (if used).
 - Pollbook count sheets (if used).
 - EPB thumb drives.
- Voter Credit. Manually enter voter credit from paper pollbooks.
 - Run VERIS report identified in §14.3.3.5 (Voting Credit Audit – by Locality).
 - Review “In Person” and “Absentee” voting credit numbers against the comparable voter turnout numbers entered Enhanced Results.
 - Resolve issues, if present.
 - Electoral Board or, with delegated authority, the general registrar/staff shall send a written explanation of the reason for absentee ballot rejection within 90 days of the date on which the ballot is rejected.⁹⁰

⁹⁰ See Code of Virginia §[24.2-711.1](#).





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 11 Election Day Manual

September 2023

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11. Election Day Manual

<p>REQUIRED FORMS</p> <p>ELECT-Management-Incident-Report.docx HAVA Administrative Complaint Procedure final 05-03-12.docx Emergency Polling Place Relocation Approval Request Form (SBE-310) Town.doc.docx</p>	<p>ADDITIONAL RESOURCES</p> <p>Voter Complaint Form SBE-15512.docx List of Institutions of Higher Education 8.22.xlsx Officer of Election Election Day Oath (SBE-611.1).docx Election Page Oath (SBE-604(H)).docx Oath or Affirmation for Officers of Election SBE-120.docx</p>
<p>REFERENCE</p> <p>ELECT-604G-Management-Guidelines-for-Campaigners-and-Authorized-Representatives (7-17).docx What Ifs.doc ELECT-103CAP Election Day Guide (7-17).docx ELECT-103EDG Election Day Guide (7-17).doc</p>	<p>REGULATIONS</p> <p>1 VAC 20-60-30 Electronic Devices in Polling Places 1 VAC 20-60-40 When Ballot Cast 1 VAC 20-60-50 Overfull Optical Scan Ballot Container 1 VAC 20-60-60 Provisional Votes 1 VAC 20-20-80 Complaints</p>

11.1 CHAPTER ORGANIZATION

This chapter should be a resource for general registrars, local electoral board members, and officers of election. §11.2 addresses common questions and situations that can arise on election days such as general disruptions, campaigning near or in the polling place, voters or elections officials bringing weapons into polling places, electronic devices, authorized representatives, and children in the polling place. This section also addresses the exception in the Code of Virginia permitting a voter on the sex offender registry to go to a public school if that is the voter's lawful polling place.

Read §11.3 before an election day, so that you can be familiar with emergency procedures. However, you can also use §11.3 as a quick resource guide. §11.3 can be used in each polling place by the chief officers of election who are responsible for reacting to emergencies, providing notice, and following emergency protocols. §11.3.1 specifically discusses preparedness planning; §11.3.2 provides guidance for where, when, and how to resume voting if the circumstances require a polling place to be evacuated. Use §11.3.4 as a resource for emergencies that will arise immediately such as the inability to enter a polling place due to high water or locked doors. Refer to §11.3.5 for all other emergency responses.

§11.5 discusses Election Day complaints (both informal complaints and Help America Vote Act complaints). §11.6 covers common Election Day offenses and how to respond appropriately.

11.2 GUIDELINES FOR ELECTION DAY

11.2.1 General Disruption and Campaigning Within the Polling Place

If a voter or any other person is disrupting the polls, or any person is campaigning within the prohibited area or polling place, there are certain steps that can be taken to contain the situation.



As a first step, election officials (preferably two officials) should ask the person to cease the disruption or ask the person who is campaigning to leave the prohibited area and polling place. If the person is entering or inside the polling place to vote, make sure the voter is aware of the prohibition on campaigning in this area. If the person continues to campaign or becomes disruptive, officers of election should call 9-1-1. (Note: If you call 9-1-1, be sure to identify yourself as the chief election officer or an election official.) Remember to **complete an Incident Report**.

Please keep in mind the restrictions applicable to any person in the polling place, outlined in the Code of Virginia §§24.2-604 and 24.2-607, which include the following:¹

- **No person** in the polling place may **hinder or delay** a qualified voter, give, tender or in any manner **try to influence a voter**, be in a position to **see the marked ballot of any voter**, or **otherwise impede** the orderly conduct of the election. Code §24.2-604(D).
- **Do not allow observers to provide any assistance to any voter.** Make sure observers are not wearing any indication that they are authorized to help voters. Code §24.2-604(C).
- **No person can intimidate or interfere** with any qualified voter so as to prevent the voter from casting a secret ballot. Code §24.2-607.

These prohibited activities shall not be construed to prevent a person approaching or entering the polling place for the purpose of voting from wearing a shirt, hat, or other apparel (including a sticker or button) with a candidate's name or slogan on it.²

11.2.2 Weapons in the Polling Place

Virginia law prohibits bringing firearms and other weapons within 40 feet of any building or any part thereof that is being used as a polling place unless otherwise authorized by law such as:³

- any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of §18.2-308.016;
- any person occupying his own private property that falls within 40 feet of a polling place
- an armed security officer, licensed pursuant to Article 4 (§9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a polling place

Officers of election have authority to preserve order in the polling place. If a person in possession of a weapon or firearm is acting in violation of Virginia law, the officers of election may first order the person to stop and leave the prohibited area. If the person does not stop, the officers of election, or most of them, may order the arrest of the individual by a law

¹ See the Code of Virginia §§[24.2-604](#) and [24.2-607](#).

² See the Code of Virginia [§24.2-604](#).

³ *Id.*





enforcement officer. **In no circumstance should an officer of election or other elections official possess any weapon while in the polling place.**

11.2.3 Sex Offender Registry Exception

A voter listed on the sex offender registry normally cannot go near or inside a public school. However, the Code of Virginia §18.2-370.5 provides an **explicit exemption for voters** whose polling location is located inside a school: these provisions “shall not apply to such adult if he is a lawfully registered and qualified voter, and is coming upon such property solely for purposes of casting his vote”.⁴

11.2.4 Electronic Devices in the Polling Place (1VAC20-60-30)

The use of electronic devices in the polling place is generally accepted. However, representatives of candidates and political parties authorized to observe the election are prohibited from taking photos or video within the polling place.⁵

Officers of election may restrict the use of electronic devices *if* such use hinders, delays, or disrupts the voting process. The decision to restrict the use of electronic devices must be agreed to by most officers of election. This decision is immediately appealable to the local electoral board. While an individual may be asked to leave the polling place for being disruptive, no voter may be removed from the polling place until after the voter has cast their ballot.

No electoral board may enact a policy that completely disallows the use of electronic devices by all individuals.⁶

11.2.5 Representatives and Observers

Questions regarding authorized representatives and neutral observers are addressed in the Code of Virginia §24.2-604(C), 24.2-604.4, and 24.2-604.5.⁷ Please remember that no person in the polling place may hinder or delay a qualified voter, give, tender or in any manner try to influence a voter, be in a position to see the marked ballot of any voter, or otherwise impede the orderly conduct of the election.

Do not allow observers to provide any assistance to any voter. Make sure observers are not wearing any indication that they are authorized to help voters.

11.2.5.1 Authorized Representatives

Officers of election shall admit authorized representatives for the Democratic and Republican parties and independent candidates to the polling place as long as the total number of representatives complies with the Code of Virginia §24.2-604.4; this statute limits the number of representatives for each political party or candidate to either one

⁴ See the Code of Virginia [§18.2-370.5](#)

⁵ See Virginia Administrative Code [1VAC20-60-30](#).

⁶ See Va. Att’y. Gen. Op. [16-038](#).

⁷ See the Code of Virginia §§[24.2-604\(C\)](#), [24.2-604.4](#), and [24.2-604.5](#).



authorized representative per pollbook, or up to three representatives for each in the room – whichever number is greater.⁸

Each authorized representative must be a qualified voter in the Commonwealth (of any jurisdiction).⁹ Each authorized representative must present a written statement authorized and signed by the party chair or independent candidate. Photocopies of the written statement are acceptable.

11.2.5.1 Neutral Observers

The local electoral board or general registrar may authorize in writing the presence of additional neutral observers as appropriate.¹⁰ If your locality (whether the general registrar or the local electoral board) grants authorization to additional neutral observers, consider the implications of granting permission to one group without also providing notice and the opportunity to other similar or opposing groups that may wish to be present.

11.2.5.1.1 Must Be Authorized in Writing

The local electoral board or general registrar may authorize *in writing* the presence of additional neutral observers as may be deemed appropriate.¹¹

Local electoral boards and registrars should consider adopting a consistent policy for responding to such requests and objective criteria for deciding. This will help ensure fair treatment of requestors.

11.2.5.1.2 Grant Equal Access

If a local EB or GR grants authorization to neutral observers in addition to the authorized representatives, please keep in mind the optics of granting permission to one group without also providing notice and the opportunity to other similar or opposing groups that may wish to be present. Other factors that may be considered by the electoral board or general registrar are the number of voters expected, the amount of equipment allocated, and the number of officers scheduled to be in each precinct.

While a general policy denying requests from any group not required to have access to polling places is allowable, you should consider if there are other options that would assist in making the election process more transparent. These options include limiting neutral observers to the less busy times of day and/or offering to allow access during a non-presidential election.

11.2.6 Children in the Polling Place

As a rule, a voter may be accompanied into the voting booth by children aged fifteen or younger.¹² Under laws that prohibit disruption of voting, the officers may ask a parent whose

⁸ See the Code of Virginia [§24.2-604.4](#).

⁹ *Id.*

¹⁰ See the Code of Virginia [§24.2-604.5](#).

¹¹ *Id.*

¹² See the Code of Virginia [§24.2-643\(A\)](#).



child becomes unruly to get them under control. **In no case should an officer of election or electoral board member ever touch or discipline the child.** It is the parent's responsibility to control the child he or she has brought into the polling place. If the child feeds the ballot into the tabulator or otherwise casts the ballot and the voter has not completed the ballot, a new ballot will **not be provided**. If a ballot is damaged, the voter may “void” it and a new ballot can be issued. However, children should not be allowed to mark or play with a ballot. While Code language allowing a child to accompany the voter is written in the singular, there is not a one child per voter limit.

The officer should normally assume that the child accompanying the voter is "his [or her] child." No affirmation of kinship is required. Only the most obvious abuses should be questioned. For example, a teacher trying to claim a class of twenty as "his children" obviously does not fall within the intended meaning of the law. The class would fall under the definition of “neutral observers”, which can only be authorized in writing in advance by the electoral board.¹³

11.3 IN CASE OF EMERGENCY

The Code of Virginia states that polls MUST be open for voters to place their vote at 6:00 a.m.¹⁴ Officers of election MUST be present by 5:15 a.m.¹⁵ Officers other than the chief and assistant chief may be assigned to work less than a full election day.¹⁶

11.3.1 Preparedness and Immediate Response

Each Chief Officer of Election should be instructed to divide the below in-case-of-emergency tasks amongst the officers of election *before voting commences at 6 am on Election Day*. If this has not been done, the Chief Officer of Election should assign these tasks by priority prior to announcing the emergency to the public.

Prepare by assigning one of the below mandatory tasks to each officer of election *in advance of the emergency*.

1. Take a headcount of all persons in the polling location.
2. Call the general registrar and/or electoral board.
3. Alert all present individuals of the emergency circumstances as calmly as appropriate and remind them of the predetermined assembly area. All present persons should assemble at a predetermined assembly point at least 300 feet away from the building (or as close to 300 feet as terrain/conditions will allow) and outside of parking areas, if possible.
4. Take quick note of the “Public Counter” number on the machine(s).
5. List the names of those who checked in before the evacuation but were unable to vote.
6. If the emergency permits, all officers of election should be prepared to take the below items out of the compromised polling place:
 - a. Counter
 - b. Ballot container(s)

¹³ See the Code of Virginia [§24.2-604](#).

¹⁴ See the Code of Virginia [§24.2-603](#) (polls must be open by 6:00 a.m.).

¹⁵ See the Code of Virginia [§24.2-639](#) (officers of election must be present by 5:15 a.m.).

¹⁶ See the Code of Virginia [§24.2-115.1](#) (officers other than the chief and assistant may work less than a full day).



- c. Pollbook(s)
- d. Unused ballots
- e. Necessary forms and materials to allow voting to continue
 - i. Affirmation of Eligibility
 - ii. Provisional voting materials
 - iii. Precinct lists
- f. Vital Supplies (cell phone, tape, etc.)

11.3.2 Resume Voting After Evacuation: How, When and Where

General registrars and officers of election should seek to ensure that voting can recommence (outside the polling place) as soon as it is both possible and safe.

11.3.2.1 If the polling place does not have operational voting equipment or sufficient ballots

Use emergency paper ballots as per the Code of Virginia §24.2-642.¹⁷ If electronic pollbooks are used and unavailable, provisional ballots should be issued to all voters.

11.3.2.2 If you cannot re-start voting outside the polling place

Contact your local electoral board to request authorization for an alternative polling location. The local electoral board may authorize moving the polling to another location, but must do so with the Department of Elections' approval. If the relocation is authorized, an election official must leave directions to the new location posted on the doors (post on both regular and handicapped accessible entryways).

The directions should indicate the time this polling place was vacated and on whose authority, e.g., "Vacated by authority of the electoral board, 2 p.m. To vote, please report to _____."

11.3.3 Emergency Polling Place Relocation on Election Day

After receiving notice of an emergency at a polling place, the general registrar or electoral board should

- Contact local law enforcement and local emergency management.
- Contact the Commissioner of the Department of Elections to propose an alternative location. An alternate location must be established within the precinct or within 1 mile outside the precinct boundary. The safest, most efficient shelter should be used to resume voting as soon as possible after the Commissioner has approved the new location.
- Prepare and email or fax the Emergency Polling Place Relocation form (ELECT-310) located in [FormsWarehouse](#) Category *Emergency Procedures* to the Department of Elections as quickly as possible. Links to these forms are also provided on page 3.¹⁸

¹⁷ See the Code of Virginia [§ 24.2-642](#).

¹⁸ See FormWarehouse, [Emergency Procedures](#).



- Advise voters and candidates on the ballot (or their campaigns) must be notified by the most efficient means, such as fliers and the news media (television and radio, if possible), of the new polling location.

The chief officer of election should

- Plan to transport the necessary equipment & supplies to the new location.¹⁹
- Advise voters at the polling location who had not yet voted, of the new polling location.
- Post notices at and outside the old (original) polling place, if possible.

11.3.4 Common Election Day Emergencies

11.3.4.1 *Cannot Enter the Polling Location*

In the case of **high water** before or after the polls open:

- First notify the registrar, who will in turn contact the local electoral board.
- The electoral board must follow the guidelines established in your Election Emergency Procedures.
- After the alternate plans have been finalized, the electoral board and chief election official will notify election officials on how to proceed.

In the case of **locked doors**:

- If the Chief Officer of Election does not have the key for the polls, they should ensure, prior to Election Day, that they has phone numbers for contacting a facility custodian or the management staff.
- If the Chief Officer of Election cannot contact facility staff, they should contact the registrar and begin following the guidelines for an alternate polling location.

11.3.5 Emergencies Involving Election Officials and Supplies

If the **chief election official does not arrive with the supplies by 5:15 a.m.:**

- Any election official present should notify the general registrar.
- The office staff will attempt to reach the chief at their home.
- If the chief cannot immediately get to the polls with the supplies and books, the electoral board will deliver supplies, ballots, and a machine key immediately to the polling place.
- Until the pollbooks (which are in the custody of the chief) arrive, the registrar's office must be called to verify that each voter is qualified. For each qualified voter who votes on the registrar's authorization before the pollbooks arrive, record the voter's full name, street address and pollbook count (PBC) number on a note pad.
- Once the officers have the pollbooks, they record the voters and PBC numbers in the appropriate sections (double-checking names and addresses to make sure the correct voter is marked).
- If there is no phone service, or the registrar is not available, follow the normal procedures for a voter who is not listed on the pollbook, using a paper ballot, and

¹⁹ See the Code of Virginia [§24.2-638](#)(allowing voting equipment to be moved in cases of emergency).



completing the Provisional Ballot envelope. Do not mark these voters on the notepad or pollbook.

If a voter must leave before you receive ballots, take their name and phone number. If the voter returns later in the day, place them at the front of the line, if one exists. However, a voter who has already been checked in on the pollbook as present to vote and then leaves may not return and vote later.

If the chief election official is ill or has a family emergency before the election

- The assistant chief or other designated official will be notified to pick up the supplies and ballots.
- That individual will serve as chief in absence of the originally designated chief.

If the supplies are destroyed, immediately call the registrar so that new supplies may be furnished.

- The supplies and ballots must not be left overnight in an automobile. The chief should ensure the supplies, equipment, and ballots are safely secured both at home and at the polling location when they go to check their equipment. If the supplies are destroyed, the registrar's staff will then replace supplies.

In the event that the **precinct is short of election officials**

- The shortage must be reported as the chief or assistant chief becomes aware.
- The registrar's office will attempt to replace the official.
- The other election officials must proceed in opening the polls.
- If an officer of election is absent or unable to serve and the polls have been open for one hour, the remaining officers of election shall appoint a substitute officer of election for the precinct. The substitute officer shall possess the same qualifications and, after taking the requisite oath, have the same powers as officers appointed by an electoral board.²⁰

11.4 OTHER DIFFICULTIES ON ELECTION DAY

In the event that voting equipment **malfunctions or is damaged**:

- Immediately report to the voting machine technicians or the registrar/electoral board's office.
- Follow procedures in the Code under "Inoperative Equipment."
- When using optical scan ballots, voting will continue normally except for the tabulating.
 - Any voted ballots must be placed in the emergency ballot container. The ballots will remain in that container until the polls close and then the ballots will be fed through the counter.
 - If the officials neglect to place the ballots in the emergency ballot container before running the tapes, the technicians and an electoral board member must

²⁰ See the Code of Virginia [§24.2-118](#).



be summoned to the precinct and observe while all the ballots are run through the counter again before the results can be reported.

- The ballots may have to be read or hand counted if the locality does not have the equipment.

In the event that the **ballot container is damaged or missing**

- Immediately report this to the registrar and a technician will be sent to repair or replace the container.
- If the emergency ballot slot cannot be used, the voters must place their ballots in the black supply container, or other container that is sealed and has a slot on top.
- The ballots must remain in that container until the polls close and then the ballots must be fed through the tabulator.

In the event that the **precinct phone is not working**

- Report the problem to the facility's custodial or the management staff.
- Another phone may be obtained to report the nonfunctional phone or down service to the registrar.
- If needed, a wireless phone may be provided until phone service is restored.

In the event that the **registrar's phones are not working**

- Use wireless phones until service is restored.
- Notify all precincts of the new temporary number at which the registrar's staff may be reached.

In the event of **power failure at the registrar's office**

- Decide if the staff will be relocated.
- Notify election officials of the new location and contact information.

In the event of a **power failure at the polling location**

- Immediately report this to the registrar.
- If multiple outages are reported, the general registrar must report the outages to the Department of Elections.
- Report the problem to the facility's custodial or the management staff.
- Continue voting on available ballots, using provisional ballots as needed if electronic pollbooks are unavailable.

In the event the **ballot box fills**, officers of election may open the ballot container and empty the ballots with the following safeguards:

- The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.



- Any such auxiliary ballot container used shall have a lock and key and an opening of sufficient size to admit a single folded or unfolded ballot and no more.²¹
- At least two officers of election, representing both political parties, must transfer the ballots.²² Two members of one single party may transfer the ballots if the election taking place is a single-party primary.

11.5 ELECTION DAY COMPLAINTS

One of the most important responsibilities of state and local election officials is ensuring the transparent and fair operation of elections. In support of this endeavor, local election officials should ensure that all Election Day workers are trained in Election Day procedures and be prepared with appropriate responses to any complaints or violations. The purpose of this section is to discuss election officials' response to complaints and violations that may occur.

11.5.1 Election Day Complaints

Voters should make complaints directly to the local general registrar or to the Department of Elections at any time. Complaints can range from a polling place having a long line to voting equipment being inaccessible. Election officials should take each complaint seriously and decide what solutions they can provide and be aware of when complaints or conflicts should be escalated to proper authorities. Generally, complaints can be categorized into informal and formal. Election officials that witness Election Day violations or receive complaints should document the incident or complaint using the Incident Report Form supplied in the Forms Warehouse.

11.5.2 Informal Complaints

Local election officials can receive informal complaints from any voter; thus, procedures should be in place to handle complaints or conflicts and officials should aim to resolve these issues on the local level. Voters may also make informal complaints directly to the Department of Elections. Complaints filed online, by e-mail, or received by phone to the Department will immediately be sent to the appropriate election official. The Department will assign the appropriate staff member as expeditiously as possible to resolve informal complaints.

11.5.3 HAVA Complaints

The Help America Vote Act (HAVA) of 2002 made reforms to America's voting process by establishing minimum standards for states regarding election administration. Title III of HAVA contains standards regarding voting systems, provisional voting and voting information, computerized statewide voter registration list, and requirements for first-time voters who register by mail.²³ HAVA standards are critical to the operation of an election.

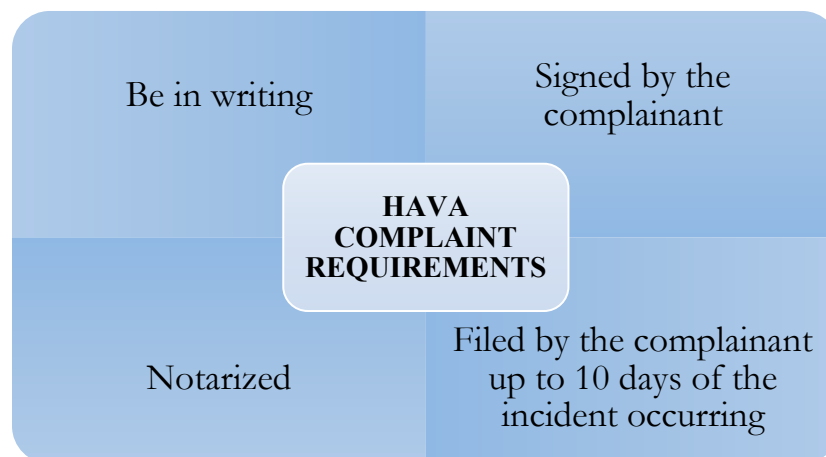
²¹ See the Code of Virginia [§24.2-623](#).

²² See Virginia Administrative Code [1VAC20-60-50](#).

²³ See HAVA, [52 U.S.C. §21081 et. seq.](#)



Section 402 of HAVA requires states to establish a procedure for Election Day complaints. The State Board of Elections developed the HAVA Administrative Complaint Procedure for handling complaints consistent with HAVA requirements.²⁴ HAVA complaints will fall into two categories: informal and formal.



Regulation Note

1VAC 20-20-80: Complaints

A. Any person may make an informal complaint electronically or by telephone. Localities are primarily responsible for responding to all voter complaints they receive and may request board staff for assistance as needed.

B. A person may file a formal written complaint with the board as required by the Help America Vote Act of 2002, 42 USC § 15301 et seq., using the form and instructions available from the board. Formal complaints require review and response by the Commissioner or Deputy Commissioner who may contact local election officials for information. Any complaints not meeting the criteria for formal complaints will be responded to informally by appropriate staff. See the Code of Virginia §24.2-103.

The State Board of Elections adopted a formal grievance procedure to handle HAVA complaints See: SBE HAVA Administrative Complaint Procedure. This procedure has been implemented through State Board regulation 1VAC20-20-80.²⁵ The complaint form is available for printing through the Forms Warehouse and should be available at each polling location for voters.²⁶ A voter may also file a HAVA complaint without a Department complaint form. The general registrar or local electoral board will be contacted for information concerning the complaint and will be allowed an opportunity to review the proposed response.

²⁴ See Formwarehouse, [Election Management](#).

²⁵ See Virginia Administrative Code [1VAC20-20-80](#).

²⁶ See Formwarehouse, [Election Management](#).



A HAVA complaint must be in writing (a complaint does not have to be on the Department’s official complaint form), signed by the complainant, notarized, and filed up to 10 days before or after the incident occurs. If a complaint is improperly notarized, please report the notary to the Secretary of the Commonwealth. The Department of Elections determines the severity of the complaint and whether a complaint is formal or informal. HAVA requires complaints be resolved within 90 days or referred to alternative dispute resolution as per 52 U.S.C §21112.²⁷

11.6 ELECTION DAY OFFENSES

Local election officials may receive complaints regarding violations or witness violations that are outside the scope of their authority. An official should know what situations should be referred to authorities and what situations can be handled within their office.



Best Practice

Properly training Election Day workers is the best way officials can prevent confusion and misunderstandings that might lead to offenses.

11.6.1 Common Election Day Offenses

Loitering within the prohibited 40-foot boundary area of a polling place is probably the most frequent Election Day violation as per 24.2-604.²⁸ Usually, officers of election warn such violators before taking legal action. If a violator repeatedly refuses to heed such a warning, then law enforcement may be requested.

Offenses relating to assisting voters: Any voter who needs assistance in preparing his ballot because of a physical disability or inability to read or write (including those with limited English proficiency) can request such assistance as per 24.2-649.²⁹ The assistant (who can be an officer of election) must cast the ballot for the voter according to the direction of that voter. The assistant cannot in any way influence the decision of the voter. Finally, the assistant cannot divulge how the person voted. Violation of any of these laws related to assistance is punishable as a Class 1 misdemeanor and may be a felony if related to absentee voting or fraudulent as per 24.2-649(D).³⁰

11.6.2 Campaign Finance Related Offenses: Reporting and Advertising

The general registrar is required to perform certain duties relating to the filing of campaign finance reports, assessing civil penalties, and referring matters to the Commonwealth’s attorney. Campaign related offenses are, for the most part, outside the scope of local election officials’ authority.

²⁷ See HAVA, 52 U.S.C. [§21112](#).

²⁸ See the Code of Virginia [§24.2-604](#).

²⁹ See the Code of Virginia [§24.2-649](#).

³⁰ *Id.*



Complaints about campaign telephone calls to solicit or convey information for participating candidates or political parties are also not within the scope of the authority of the local election official.

The local government is responsible for enforcing ordinances such as the placement of campaign signs.³¹ Refer all complaints to the city or county attorney or administrator. Political calls are not covered by the federal or state “Do Not Call” laws and lists. Voters may ask political parties and committees voluntarily to remove the voter’s information from their contact lists.

11.6.3 Violations of Federal Law

Questions or complaints regarding violations of federal laws should be directed to the appropriate United States Attorney for the geographic area ([Eastern](#) or [Western](#) District of Virginia) or to the [United States Department of Justice Voting Rights Section](#).

11.6.4 Severe Offenses

Local election officials often receive complaints regarding issues outside the scope of their authority. When this occurs, the official should refer the complainant to the appropriate authorities. Officials may also witness violations and should be prepared to document and report these violations. The Department of Elections staff, local election officials, or the public may report an alleged violation of any provision of Title 24.2 to the Commonwealth’s Attorney as per the Code of Virginia §24.2-1019.³² Questions regarding state offenses and suspected violations of state law should be directed to the Commonwealth’s Attorney for the locality in which the incident allegedly occurred or may be directed initially to the Virginia Attorney General.

³¹ See the Code of Virginia [§15.2-109](#).

³² See the Code of Virginia [§24.2-1019](#).



APPENDIX A: IVAC20-20-80. COMPLAINTS

- A. Any person may make an informal complaint electronically or by telephone. Localities are primarily responsible for responding to all voter complaints they receive and may request board staff for assistance as needed.
- B. A person may file a formal written complaint with the board as required by the Help America Vote Act of 2002, 42 USC § 15301 et seq., using the form and instructions available from the board. Formal complaints require review and response by the deputy secretary or secretary who may contact local election officials for information. Any complaints not meeting the criteria for formal complaints will be responded to informally by appropriate staff.

Statutory Authority

§ 24.2-103 of the Code of Virginia.



APPENDIX B: EMERGENCY REPRODUCTION OF BALLOTS

SBE Policy 2008-004 defines inoperable or unavailable equipment for the purposes of the Code of Virginia §§ 24.2-642 and 24.2-646.1,³³ which allow for the use of paper ballots, and the reproduction of emergency paper ballots by the officers at the polls in certain emergency situations.³³ SBE Policy 2008-004 “Inoperable Equipment” and 2008-011 “Unavailable Voting Equipment,” are available online.³⁴

The Department of Elections also granted permission to all localities which used optical scan ballots for any precinct (including absentee voting), to use the optical scan ballot or a copy of the optical scan ballot in lieu of the official paper ballot.³⁵

When distributing election materials to the polling locations, ensure each precinct is provided a master copy of form,³⁶ Authorization to Reproduce Ballots. Chief and assistant chief officers should be instructed on the purpose and use of this form in their training, which should also include examples of situations in which such reproduction might be needed. Emergency supplies should include copies of the form and instructions.

Before the election, the electoral board or general registrar for each polling place should determine if a copy machine is available for officer use, and how the officers can obtain access to it, especially before and after normal business hours. If there is no access to a copy machine at the polling location, the Chief should know where the nearest quick copy store is, and its hours.

Such copying capability might also be needed if the polling hours are extended by court order and the number of provisional ballot envelopes runs low and cannot be resupplied in time to continue voting without interruption.³⁷ If additional provisional ballot envelopes are needed, an officer may photocopy both sides of a blank provisional ballot envelope to be attached to a plain envelope or securely wrapped and sealed around the outside of the folded paper or optical scan ballot (with the information normally on the envelope visible, but the ballot kept private) if no plain envelopes are available. Do not staple through any ballot.

³³ See the Code of Virginia [§24.2-642, 24.2-646.1](#) (explaining when emergency equipment may be allowed).

³⁴ Both SBE Policy [2008-004](#) Definition of Inoperable Equipment, and [2008-011](#) “Definition of Unavailable Equipment” are available online.

³⁵ See SBE Policy [2008-005](#), authorizing the Reproduction of Optical Scan Ballots.

³⁶ See [ELECT-646.1](#).

³⁷ See the Code of Virginia [§24.2-653\(C\)](#) (explaining the circumstances in which a court may extend the polling hours).



APPENDIX C: COURT EXTENDS POLLING HOURS

In any situation where the officers of election are notified that the polling hours have been extended by court order, any person who offers to vote after the normal closing time of 7 p.m. must vote a provisional ballot. This does not apply to voters who are in line at 7 p.m.³⁸

- If news of the extended hours did not come from the general registrar or electoral board or via delivery of an official copy of the order from the court, the chief or assistant chief officer should immediately attempt to verify the extension with the registrar or electoral board. If a copy of the order is delivered to the polling place, the chief or assistant chief should immediately inform the general registrar or electoral board of its receipt and contents.
- Estimate the number of extra paper or optical scan ballots and provisional ballot envelopes that will be needed during the extended polling hours (all voters during that time must vote provisional ballots) and ask the general registrar or electoral board to have them delivered to the polling place. If there is not enough time to have them delivered, proceed with the stock on hand and use the procedures for emergency paper ballots, only if approved by the electoral board.³⁹ If additional provisional ballot envelopes are needed, an officer may photocopy both sides of a blank provisional ballot envelope to be attached to a plain envelope or securely wrapped and sealed around the outside of the folded paper or optical scan ballot (with the information normally on the envelope visible, but the ballot kept private) if no plain envelopes are available. Do not staple through any ballot. Provisional voting envelopes can also be printed from SharePoint [FormsWarehouse](#) or stored on a flash drive.
- All qualified voters who are in line when polls would normally close must vote in the usual manner.
- Any voter entering the line after the normal closing time, but before the extended closing time, must vote by provisional ballot. Keep a separate running count of the number of provisional ballots issued after the normal poll closing time. What one judge orders, a higher court may overturn, so the ballots and counts must be kept separate. These voters may also be voting a provisional ballot for any of the usual reasons such as lack of ID and all applicable reasons should be marked. These voters will not be marked with a pollbook count number to indicate that they have voted but will be listed in the same manner as other provisional voters. These ballots will be counted and added to the results by the electoral board; they are not counted at the polls by the officers.⁴⁰
- After all voters in line by the extended poll closing time have voted, proceed to close the polls and report the results normally. If extra lines or comments must be added to the Statement of Results to separately account for the ballots cast after the normal poll closing time, do so before the Statement is signed and the materials are sealed.

³⁸ See the Code of Virginia [§24.2-653\(C\)](#).

³⁹ See the Code of Virginia [§24.2-642](#).

⁴⁰ See Chapter 13 Provisional Ballots.



APPENDIX D: 1VAC20-60-40. WHEN BALLOT CAST

A. A voter, voting in person on Election Day or voting absentee in-person, has not voted until a permanent record of the voter's intent is preserved.

B. A permanent record is preserved by a voter (i) pressing the vote or cast button on a direct recording electronic machine, (ii) inserting an optical scan ballot into an electronic counter, or (iii) placing a paper ballot in an official ballot container.

C. A vote has not been cast by the voter unless and until the voter or an officer of election or assistant at the direction of and on behalf of the voter pursuant to § 24.2-649 of the Code of Virginia completes these actions to preserve a permanent record of the vote.

D. If any voter's ballot was not so cast by or at the direction of the voter, then the ballot cannot be cast by any officer of election or other person present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an undervote or overvote, the officer of election may cast the ballot for the absent voter.

E. An absentee voter who votes other than in person shall be deemed to have cast his ballot at the moment he personally delivers the ballot to the general registrar or electoral board or relinquishes control over the ballot to the U.S. Postal Service or other authorized carrier for returning the ballot as required by law.

Statutory Authority

§ 24.2-103 of the Code of Virginia.



APPENDIX E: IVAC20-60-50. OVERFULL OPTICAL SCAN BALLOT CONTAINER

If an optical scan reader in use in a registrar's office or a polling place malfunctions because the connected ballot container includes too many ballots, election officials may open the ballot container and empty the ballots with the following safeguards:

1. The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.
2. Any such auxiliary ballot container used shall meet the requirements of § 24.2-623 of the Code of Virginia.
3. In a general, special, or dual-party primary election, a minimum of two officers of election, not representing the same political party, shall execute such a transfer of ballots. In a single-party primary election, the transfer shall be conducted by a minimum of two officers of election who may represent the same party.

Statutory Authority

§ 24.2-103 of the Code of Virginia.



APPENDIX F: IVAC20-60-60. PROVISIONAL VOTES

The electoral board or general registrar may attempt to contact an individual who has voted a provisional ballot when required by § 24.2-643 of the Code of Virginia and remind the individual that he is permitted to provide a copy of a form of identification as specified in subsection B of § 24.2-643 of the Code of Virginia to arrive no later than noon on the Friday after election day. However, there shall be no requirement that the electoral board or general registrar contact such individuals.

Statutory Authority

§ 24.2-103 of the Code of Virginia.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 12

Central Absentee Precinct (CAP)

September 2023

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Appendix A: How to Arrange a CAP

Appendix B: In-person Absentee Voting Steps

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12. CENTRAL ABSENTEE PRECINCT (CAP)

<p>FORMS</p> <p>SBE-15 Polling Place Relocation Form CAP Ballot Receipt CAP Counter Record CAP Rejected/Unused Ballot Record SBE-643(PBC)Poll Count 1-1000 form SBE-611.1 Officer of Election Day Oath ELECT-C1289(B6) Ballot Collection from Drop-Off Locations</p>	<p>ADDITIONAL RESOURCES</p> <p>Charter Provisions U.S. Election Assistance Commission Advisory Opinion 2007-001 Virginia's Guide to Hand-Counting Ballots</p>
<p>REFERENCE</p> <p>CAP Election Day Guide What ifs State Board of Elections Policy 2023-001</p>	<p>REGULATIONS</p> <p>1VAC20-70-20 Material Omissions from Absentee Ballots 1VAC20-70-40 Alternative Processing Procedures for Absentee Ballots Returned Before Election Day 1VAC20-70-70 Mandatory Mailing Elements on Absentee Ballot Envelopes.</p>

12.1 Chapter Organization

A central absentee precinct (CAP) is “a precinct established by a county or city [...] for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.”¹ CAPs are used to facilitate the counting of absentee ballots centrally and streamline the process of absentee ballot tabulation. The growing number of voters who choose to vote absentee and the continuing expansion of the number of voters who are eligible to cast absentee ballots make the CAP an increasingly important tool for localities. This chapter provides an overview of why and how CAPs are established, and how they are run.

The Department of Elections Election Day Guide (EDG) for the CAP is an essential resource for planning and operating the CAP. Refer to that guide for more specific information on how to run a CAP.

Section 12.3.1 begins the chapter by providing guidance on how election officials can work with the local governing bodies to establish a CAP. §12.4 discusses the factors to consider when choosing the CAP’s location.

The discussion then turns to how CAPs are run. Section 12.5 discusses staffing and operating hours, including training and the requirement that CAP officers themselves vote absentee. Section 12.6 offers practical suggestions about how to arrange a CAP.

Section 12.7 discusses in-person absentee voting as it relates to a CAP. This begins with an overview of in-person absentee rules generally, followed by best practices and specifics for voting in-person absentee. Other pre-election activities are discussed in §12.8. A planning checklist is provided to aid

¹ See the Code of Virginia [§24.2-101](#).



registrars in thinking about how to prepare their CAP in §12.8.1. Section 12.8.2 discusses pre-processing of absentee ballots. Section 12.8.3 shows how preparing a CAP is essentially the same as preparing any other precinct.

Election Day activities are discussed in §12.9. Section 12.9.1 discusses how to open a CAP for voting, including an explanation of ballot delivery and set up procedures. Section 12.9.2 outlines CAP activities during Election Day: how to split CAP members into processing teams, how to process ballots, and special circumstances that may arise during processing. Section 12.9.3 discusses the option to begin hand counting at 3:00 p.m. The procedures for hand counting ballots are provided. Finally, §12.9.4 discusses closing the CAP.

12.2 How to establish a CAP

CAPs are established for a county or city upon the enactment of an ordinance by the local governing body of a county or city.²

12.3 Preliminary Notes for Running a CAP

12.3.1 LOCAL ELECTORAL BOARD

The local electoral board must take the following steps to establish a CAP:

- Find a suitable location for the CAP and ensure that it will be available whenever needed.
- Determine the projected per election cost of operating the CAP.
- Request that the local governing body of the county or city enact an ordinance establishing the CAP.
- Provide to the local governing body the location of the recommended site and the funding required.
 - If the location of the CAP changes, the relocation of the CAP is considered a covered practice under §24.2-129 (5) and subject to preclearance.³



Law Note

The Attorney General's 2021 opinion 21-40 stated that central absentee voter precincts, voters satellite offices, and the offices of the general registrar that are used as the designated location for early voting are considered "polling places". For more information, see [2021 Op. Va. Att'y Gen. 21-40](#).

² See the Code of Virginia [§24.2-712\(A\)](#).

³ See the Code of Virginia [§24.2-129 \(5\)](#). See also [21-040 Official Opinion of the Virginia Office of the Attorney General, "Locations such as central absentee voter precincts etc."](#) See also GREB Handbook, Chapter 3 Precincts and Polling Places.



12.3.2 LOCAL GOVERNING BODY MUST PROVIDE NOTICE



Before adopting an ordinance, the local governing body must give such public notice as is required for any other ordinance that creates a change in an election district, precinct, or polling place.⁴

- Notice of the adoption of the ordinance must be published in a newspaper with general circulation in the precinct once a week for two successive weeks prior to enactment.⁵
- Forward a copy of the final adopted ordinance to the Department of Elections immediately after enactment.⁶
- Finally, submit a JIRA ticket to the Department of Elections.

12.4 Location of the CAP

Prior to that time, in-person and by-mail absentee voting are conducted in the office of the general registrar and any designated satellite facility.⁷ However, on Election Day, the room in which the CAP will be located should not be in the immediate office of the general registrar. It should, however, be located as close to that office as possible. It must also meet certain other requirements:

- The room must:
 - be large enough to permit the proper organization of the required work and to hear the appeal of any absentee voter who may appear on election day.
 - be equipped, on election day, with sufficient furniture (i.e., tables and chairs) for assigned officers of election and for organizing the precinct lists of absentee ballot applicants and the ballots and accompanying material for each precinct.
 - not be used for any other function at the time of the CAP.
- The CAP must meet the same accessibility standards as any polling place.⁸

12.5 STAFFING AND HOURS

Generally, officers appointed to the CAP must report on Election Day not later than 5:15 a.m.⁹ and must remain until the results have been finally ascertained.¹⁰ **At least three officers of election must be appointed to the CAP.** Additional officers may be appointed by the electoral board as needed.¹¹

- The board may adopt a resolution delaying the opening of the CAP until "after 6:00 a.m. and at any time before polls close" if the CAP is located in the same building as the registrar's office. Officers of election responsible for closing a polling place must arrive at least one hour before polls close.¹²

⁴ See the Code of Virginia [§24.2-306](#).

⁵ See the Code of Virginia [§24.2-306\(A\)](#).

⁶ See the Code of Virginia [§24.2-306\(C\)](#) and [24.2-712\(B\)](#).

⁷ See the Code of Virginia [§24.2-707](#).

⁸ See the Code of Virginia [§24.2-310\(C\)](#).

⁹ See the Code of Virginia [§24.2-639](#).

¹⁰ See the Code of Virginia [§24.2-712\(E\)\(2\)](#).

¹¹ See the Code of Virginia [§24.2-712\(B\)](#).

¹² See the Code of Virginia [§24.2-115](#).



- The office of the general registrar must be available to provide any service to walk-in absentee voters that would otherwise be available to them at the CAP.
- Ballots or other documents brought to the registrar’s office before the CAP opens must be delivered by the registrar to the CAP.
- The Code provides localities with some flexibility in staffing the CAP.¹³
- The chief and assistant chief must be present all times the CAP is open; **other officers may work split shifts.**
- Additional officers may be required to adequately perform all the duties.
 - Officers will be required to work in teams to cast and count the ballots.
 - The chief officer should be free to organize the work of all and ensure that each team follows proper procedures.
- The total number of officers needed is determined by the number of absentee ballots to be handled and/or the number of differing ballot styles.
 - The number of absentee voters in previous, similar elections can help determine the number of officers needed for a given election. These statistics are available on ELECT’s Election Night Reporting page, clicking on the link to access the file for the appropriate election, and clicking “Vote Method” provided by the Department of Elections¹⁴; they should also be on file in the office of the general registrar. *For elections held before June 2023, see the [Election Results](#) page of the Departments Website. Select the “CSV documents” link under the Voter Turnout by Election section.*
- **A given team of officers may process only the ballots of one election district at a time.** Given a sufficient number of different ballot styles, additional teams of officers may be needed.
- If all of the voters in the county or city do not vote in the same Congressional, State Senate or House of Delegates district, multiple ballot styles may be used.
- The number of email ballots and other hand-counted ballots for a given election will impact the number of officers needed.

12.5.1 CAP OFFICERS RECEIVE CAP-SPECIFIC TRAINING

The officers of election appointed to serve in a CAP should be trained specifically for their duties in the CAP.

12.5.2 CAP OFFICERS OF ELECTION MUST VOTE ABSENTEE

The officers of election appointed to serve in a CAP must vote by absentee ballot, as they are not permitted to leave the CAP on Election Day for any purpose, unless they are designated to work a split shift, an option that is not available to chief and assistant chief(s).

They may apply and vote by-mail or in-person **but** must observe the same deadlines for doing so as all other absentee voters.

¹³ See the Code of Virginia [§24.2-712](#).

¹⁴ See the [Election Results](#) page of the Departments Website. Select the election, “results by locality,” the locality name, and then “results by precinct.”





An officer of election who is assigned to serve in a precinct other than the officer's precinct of residence afternoon on the Saturday before the election may apply for and vote absentee in-person before 2:00 p.m. on the day before the election at the office of the general registrar in the county or city in which he lives.

12.6 Before Election Day

12.6.1 PLANNING BEFORE ELECTION DAY CHECKLIST

Absentee voting must begin 45 days before Election Day.

- Ordering Ballots
 - Absentee ballots and Election Day ballots
 - All absentee ballots sent by mail are optical scan ballots.
 - All ballots used at satellite sites are optical scan ballots.
 - All Election Day ballots are optical scan ballots.
- How many pieces of equipment do you need for absentee voting?
 - This depends on the type of the election and the use of satellite sites.
 - Program voting machines for absentee voting.
 - Program voting machines for Election Day voting.
 - When will you program the voting machines for your locality, and will it be in time for absentee voting? If not, equipment for absentee voting must be ready by the deadlines mentioned above.
- How will you track in-person voters who vote on the machines?
 - Record directly into VERIS
 - Use electronic pollbooks.
- Who will conduct absentee voting prior to Election Day?
 - In-person at office of general registrar
 - In-person at satellite sites
 - By-mail voting
 - UOCAVA
 - Voters who are blind, vision impaired, or print disabled and have requested their ballot electronically
- Where will the absentee voting be conducted?
 - Two election officers representing each political party (or the party having a primary) must be present for in-person voting if voting is not in the general registrar's office.



- The general registrar is responsible for determining and implementing alternative procedures to process absentee ballots to ensure the ballots can be counted expeditiously on Election Day.¹⁵

12.6.2 PRE-PROCESSING BALLOTS – ALTERNATIVE PROCEDURES FOR PREPARING AB BALLOTS

Pre-processing absentee ballots is an extension of the CAP that occurs prior to Election Day. All ballots that are pre-processed go to the CAP on Election Day.¹⁶ Pre-processing is performed at the general registrar’s discretion at any time prior to the seventh day immediately preceding Election Day.¹⁷ However, pre-processing becomes mandatory beginning on the seventh day immediately preceding the election.¹⁸

NOTE: For instructions on pre-processing absentee ballots in VERIS, please review the Expedited Processing VERIS Cheat Sheet (Appendix C).



Regulation Note

1VAC20-70-40: Alternative Processing Procedures for Absentee Ballots Returned Before Election Day. 20-70-40 requires general registrars to follow certain procedures when expediting counting absentee ballots returned before Election Day. General registrars are to: ensure that the general registrar staff follow all previously prescribed instructions for processing and verifying absentee ballots (1VAC20-70-40(1)), secure all absentee ballots at the end of each day following principles of dual custody and chain of control (1VAC20-70-40(2)), ensure that the staff are following the requirements of 24.2-709.1 including the requirement that at least 3 officers of election (one from each party plus one) be present during all hours at the expedited procedures are used (1VAC20-70-40(3)), and give notice to the local political party chairs of the time and place for processing absentee ballots with sufficient time to allow these party representatives to be present (1VAC20-70-40(4)).

Supplies and Tools Needed

Pre-processing requires the same supplies and tools needed for any CAP run on Election Day.

Forms

- Final Absentee List
 - Serves as the pollbook.
 - Begins with the earliest date for which absentee ballots could be applied for and runs through to the current date.
- Pollbook Count Sheets for each precinct.
- Oath of Office for election officers
- Pre-Processing Worksheet that you create for your locality.
- Pre-Processing Certification Form

¹⁵ See the Code of Virginia [§24.2-709.1](#).

¹⁶ See the Code of Virginia [§24.2-709.1](#) . See also Virginia Administrative Code [1VAC 20-70-40](#).

¹⁷ *Id.*

¹⁸ *Id.*



- Expedited Processing Cheat Sheet

Pre-processing Schedule

This processing should begin after the registration books close and after registration transactions are for the most part completed. Let the volume of absentee ballots returned determine the starting point and later processing days. However, processing can begin at any time after absentee ballots are received. Remember that due to legislative changes from the 2021 General Assembly session, **your office must begin pre-processing no later than the seventh day before Election Day.**¹⁹

What are the Requirements for Pre-Processing?

The registrar may begin pre-processing returned absentee ballots at any time. However, the registrar *must* begin pre-processing absentee ballots is mandatory beginning on the seventh day immediately preceding the election.²⁰

To pre-process, the general registrar must either:

- open the sealed ballot envelope and insert the ballot in ballot scan counting equipment without initiating vote totals²¹; or
- open the sealed ballot envelope and deposit the ballot into a secured container that the general registrar has designated specifically for pre-processing.²²

Additional requirements:

- At least two officers of election, one representing each political party, must be present during all hours when sealed ballot envelopes are opened for the purpose of pre-processing absentee ballots.
- Administrative code requires that notice be given to **both** political party chairs regarding the times and places for each pre-processing meeting to allow sufficient time for an authorized representative to be present. This applies to all races, even primaries.²³

Parameters to Consider

- Will you process ballots by precinct, district, ballot style or a combination of all?
- How many precincts or districts will you process in any given sitting?

Expedited Processing Team

- Each team must have at least two officers of election²⁴, one from each major political party.²⁵

¹⁹ See the Code of Virginia [§24.2-709.1](#)

²⁰ Id.

²¹ Id.

²² Id.

²³ See Administrative Code [1VAC20-70-40](#)

²⁴ See the Code of Virginia [§24.2-712](#).

²⁵ See the Code of Virginia [§24.2-709.1](#).



- Officers of election do not have to process the ballots but are required to be always present if ballots are being opened and fed into the voting machine(s).
- No hand count, void, or potential provisional ballots may be pre-processed.
- Look for notes on the outside of the return envelope that indicate a problem or issue with a ballot.
- Always date your work.

Action by Registrar's Staff Prior to Expedited Processing

- Date stamp and open absentee ballots received by mail.
- Remove and review the inside envelope.
 - Does Envelope B contain a voted ballot?
 - Is the Statement of Voter properly completed (no material errors or omissions)?
 - Does the return envelope contain unopened Envelope A?
- Enter all returned ballots into VERIS and mark the return envelopes accordingly.
- Proof the Daily Absentee Ballots List to be sure all the ballots were entered.
- Watch carefully for any issue that may require a ballot to be hand-counted or set aside for handling in the CAP on Election Day.

Pre-Processing Steps

1. Select an election precinct or district to process.
2. Gather the absentee ballots for the precinct/district you will be counting.
3. Obtain a daily Pre-Election Absentee Ballot Processing Worksheet (called the "Worksheet") for that precinct/district and fill in the current day's date.
4. Obtain the pollbook section (called the "Final Absentee List") for the precinct chosen. It may be a single sheet or a number of pages, depending upon how many ABs were requested for that precinct.
5. If the precinct already has a Pollbook Count (PBC) form, identify the next unused number and begin your processing with that number. If not, obtain a blank PBC form and fill in the precinct number and name and the date of the pre-processing.
6. Count the ballot return envelopes and date the envelopes in the front, lower left-hand corner.
7. Enter the total number of envelopes on the Worksheet.
8. If not already done, alphabetize return envelopes.
9. Handle one envelope at a time.
10. Read the voter's name out loud. Find voter's name on the precinct pollbook.
11. Pull the "B" envelope from the returned envelope. Check the Statement of Voter for completeness.
12. If the voter is found on the AB List, repeat the voter's name and address; assign and cross off a Pollbook Count Form (PBC) number.
13. Write the PBC number in the "Vote Rec" column next to voter's name in the pollbook.
14. Write the PBC number and initials of one EO below the date in the lower left-hand corner on the Return Envelope for that voter.



15. Carefully open Envelope “B,” pull out folded ballot; place the still-folded ballot into a ballot container or face down in a stack. Do not look at the vote on ballot; just be certain there is only one ballot.
16. Reinsert the empty Envelope “B” Envelope into the Return Envelope and turn upside down in the stack.
17. Band the empty Return envelopes containing the empty Envelope “B” and place in the “Empty Envelopes” container when finished.
18. Place the PBC Form back where you found the ballots with any ballots you could not process.
19. Complete the Worksheet, clip the precinct pollbook to the worksheet, and return it to the assigned staff person.
20. **Repeat these steps until processing for the day is complete.**

After All Envelopes in a Precinct/District Have Been Evaluated for That Day:

1. Count the number of envelopes in the Empty Envelopes box and verify that the total is what is already entered on the Worksheet(s).
2. Count the number of ballots you processed. This number should match the number of empty envelopes.
3. Band together the return envelopes from **processed** ballots by precinct. These will be used to make VERIS entries and will be marked again.

Recording the Daily Processed Ballots Totals

- Record the daily ballot count number as you process ballots for each precinct.
- Total the columns on the Worksheet and transfer them to the Certification form. Be sure to fill in the rest of the data.
- Both forms must be signed by all the officers of election conducting the pre-processing for the day.

Pre-Election Processing Ballots on Equipment Counting or Scanning Device

- Follow all security and chain-of-custody procedures for your voting system.
- Record the following security numbers on the SOR:
 - Machine serial number
 - Security seal number
 - Public count number
- Print and sign the zero tapes.
- Record the following on the Pre-Processing Certification Form:
 - Machine serial number
 - Security seal number
 - Public count number

Using a Counting or Scanning Device for Pre-processed Ballots

- Once all precincts for a session are processed, remove the folded ballots from the Ballot Container. Lay them flat.



- Count the physical number of ballots. Be certain that the total number of ballots is the same as the total number of ballots processed that day, as recorded on the worksheet.
 - If you are unable to find the reason for a discrepancy in numbers, write an explanation on the Certification Sheet and all officers sign the explanation. This will also have to be recorded on the Statement of Results.
- Feed the ballots into the scanning/counting device per your voting equipment manufacturer's instructions.
- Record the following information on the Certification form:
 - Ending public count number
 - Number of rejected ballots
 - Rejected ballot plus the difference between the starting and ending public count numbers should equal the total number of ballots processed for the day.
 - All officers of election sign the Worksheet and Certification Form for each precinct/district in which they participated for the processing.

Ballots Rejected by Scanner/Counter

- These ballots have been processed and received a PBC number but have not been scanned to record the votes because there was a problem on the ballot.
- They must be kept separate from the other ballots counted on Election Day to avoid double counting of ballots.
- Band these ballots together by precinct/election district and place in envelope marked "Pre-Processed Ballots Rejected by Scanner/Counter."
- On Election Day the election officers will follow the instructions set forth by the electoral board for resolving ballots rejected by the voting machine.

Proofread the Daily Absentee Ballots Report

The next day the Daily AB Report must be proofed to be certain that all the ballots that were processed were recorded on VERIS.

- Using the stack(s) of set-aside ballot return envelopes, find each voter on the report to be certain the ballot status has changed from "Marked" to "On Machine."
- Put a red checkmark (✓) beside the "OM" on the Return Envelope.
- Put a red checkmark (✓) beside the Ballot Status Column on the report that now states "On Machine."

Place the checked Returned Envelopes in the Returned Envelopes Box.

Subsequent Processing of a Precinct:

- Retrieve unexamined absentee ballots (excluding those marked as ineligible for pre-processing) for the relevant precinct/district.
- Utilize a different colored ink pen from the previous session to mark off PBC numbers.
- Follow the previously outlined ballot processing procedure.
- Upon each session's conclusion, fill out and sign the Worksheet and Certification Forms.



Maintaining Security of the Processed Absentee Ballots

- Safeguard scanned/tabulated Absentee Ballots within a locked voting equipment counting device. If only scanned, store securely.
- If the counting device needs emptying pre-Election Day, place ballots in a labeled "Counted Ballots" container, specifying the pre-processing dates.
- Affix 3 signed labels from election officers onto the box to reveal any tampering attempts.

12.6.3 PREPARE MATERIALS FOR THE CAP JUST AS YOU WOULD FOR ANY OTHER PRECINCT

The election officers will need:

- Statement of Results
- Envelope 4 for void ballots
- General supplies such as pens, pencils, scissors, rubber bands, scotch tape, letter openers, scratch pads, staplers, rulers, clip boards, calculator, etc.
- White labels to seal the envelopes.
- Other envelopes for the return of election materials
- All the required signs to be posted as for any precinct.
- Pollbook count forms for each ballot style.
- Final Absentee Ballot Report (Pollbook for CAP)
- Strapping tape
- Mail trays, boxes, or containers to hold the ballots while they wait to be counted or scanned.

Pollbook preparation:

- Print the Final Absentee Report
- Print the Pollbook on Saturday night or Sunday morning to go with other precinct supply pick-ups.
- You may print the CAP Pollbook after emergency voting ends on Monday, after the mail has been received and after the returned ballots have been processed in VERIS.
- The registrar or electoral board secretary needs to sign each page of the pollbook.
- Print the Final Absentee Totals Report to go with the CAP Pollbook on election day.

12.7 Election Day

12.7.1 OPENING THE CAP

12.7.1.1 Ballot Delivery on Election Day

The general registrar must deliver all absentee ballot containers of returned ballots to the CAP officers. The chief officer of CAP must sign the receipt for the ballots he/she is accepting from the general registrar.



12.7.1.2 Election Day Set Up

Take the following steps to set up before the polls open on Election Day:

- Welcome authorized representatives.
- Chief election officer must administer the Officer of Election Oath for all the other officers, and they all sign the Oath form. The chief signs at the bottom and completes the information below the signature line.
- Chief will establish and name (A, B, C, etc.) the teams to process ballots.
- Set out election supplies.
- Set out ballot boxes.
- Set up voting equipment.
- Post required signs and posters¹.
- Fill in the number of absentee ballots delivered to the CAP on the Ballot Record Report
- Open the polls at 6:00 am (or later time determined by the general registrar)

12.7.2 During the Day

If any voter enters the CAP while the polls are open, the officers should take care to preserve the privacy and security of any absentee materials they are working on at that time. As a polling place, the CAP is subject to the same requirements and restrictions regarding the presence of authorized representatives as any other polling place.²⁶ Please note, you are permitted to conduct a special Election Day page program for high school students at the CAP.²⁷

12.7.2.1 Processing Absentee Ballots

Teams of officers work together during the day to process paper ballots. Each team consists of three officers and is named (Team A, Team B, Team C, etc.) by the chief. The three officers are the check-in officer, the pollbook officer, and the ballot officer. See the CAP EDG for specific procedures for each station. The station duties listed in the CAP Election Day Guide is best practices. Localities may rearrange the duties to suit their specific needs.

Materials Needed for Each Team

Station One Check-In Officer	Station Two Pollbook Officer	Station Three Ballot Officer
CAP Pollbook (Final AB Report)	Pollbook Count form for each ballot style	Letter opener and stapler
Ballots in return envelopes	Black or blue pen	Ballot Box – one per ballot style

²⁶ See the Code of Virginia [§24.2-604\(C\)](#).

²⁷ See the Code of Virginia [§24.2-604.3](#).



Black or blue pen	Rejected Ballot Count form	Container for empty envelopes of accepted ballots-one per ballot style
Ruler	Unused Ballot Count form	Container to hold rejected ballots-may be in the possession of the chief
Provisional ballot log and Envelope 1	Ruler	Container to hold unused ballots
Rejected ballot log – this may be handled by a separate team	Rejected Ballot Count form – this may be handled by a separate team	Container to hold hand count ballots

12.7.2.2 WHEN A BALLOT IS REJECTED

- Follow the procedures in the CAP Election Day Guide for processing the ballot and determining whether it should be rejected. As a reminder, the absentee ballot cure process applies to any ballot received by the Friday immediately preceding Election Day.²⁸



Regulation Note

1VAC20-70-20: Material Omissions from Absentee Ballots

A timely received absentee ballot is not invalid if it contains an error or omission that is not material to proper processing. See the regulation in 1VAC20-70-20 for a list of material and non-material omissions. The regulation contains the catchall provision that, if there is an omission on an Envelope B that is not addressed in this regulation, then whether this omission is material must be determined by a majority of the officers of the election present.

- At least two officers of election, one representing each political party, should write and sign a statement explaining the reason the ballot was rejected. This should be done directly on the unopened envelope or on an attachment to the unopened envelope.
- Complete the Rejected Ballot Log as each rejected ballot is processed. Record the voter’s name and the Virginia resident address and a detailed explanation of why the ballot was rejected. For rejected UOCAVA voters, list the current military or overseas mailing address.
- Copy the return envelope and envelope B for each rejected ballot and give to the registrar along with a copy of the Rejected Ballot Log.

²⁸ See the Code of Virginia [§24.2-709.1\(C\)](#)



- Within 90 days of the election, the registrar or electoral board must send a letter to each voter, whose ballot was rejected, explaining why the ballot was rejected.²⁹
- Notice is required for a ballot rejected as late.

12.7.2.3 HAVA ID AND OTHER SPECIAL CIRCUMSTANCES

- **HAVA requires** voters who register to vote by mail on or after January 1, 2004, to provide **specific ID** when they vote by mail the first time in a federal election. If the HAVA ID is not provided by the voter, an absentee ballot returned by mail must be set aside as a provisional ballot and sent to the electoral board that will not be able to count the ballot unless qualified ID is provided by the Friday noon deadline.
 - **Federal law** provides limited **exemptions** to HAVA ID requirements for federal elections; state ID requirements must still be met (UOCAVA voters, a handicapped or elderly voter when the Commissioner of Elections determines no accessible polling place is available and voters moving outside Virginia are eligible to request ballots for President and Vice-President only.)
- Since 2011 Virginia has required counting the ballots of any otherwise qualified absentee voter who dies after casting his ballot that is returned before Election Day.³⁰ *Disqualification for other reason, such as felony conviction, requires excluding the ballot from those to be counted, if possible.*

12.7.3 OPTIONAL 3:00 P.M. HAND COUNT



Law Note

Passed during the 2017 legislative session, SBI467 added the language in § 24.2-712 that permits absentee ballots that are counted by hand to be tallied beginning any time after 3 p.m. on the day of the election.

The Code of Virginia §24.2-712 authorizes officers to begin the process of hand counting any ballots that are deemed valid but cannot be counted by voting equipment. Such ballots may include:

- Federal Write-In Absentee Ballots (FWABs)
- Ballots that were rejected by the voting equipment.

The use of cell phones or other communication devices is prohibited during this period once hand counting begins, and the prohibition remains in effect until the polls close. People

²⁹ See the Code of Virginia [§24.2-711](#).

³⁰ See the Code of Virginia [§24.2-709\(C\)](#).



remaining in the CAP during this period must sign a statement under oath that they will not transmit any counts until after the polls close. Violation of this oath is a Class 1 misdemeanor.³¹

Once the CAP has been properly secured and oaths have been administered, hand counting may proceed.

12.7.3.1 HAND COUNTING TEAMS

Hand counted ballots are handled by teams of three officers as follows:

- Tally sheet officer one: records the votes cast for each candidate and write-in as announced by the reporting officer.
- Tally sheet officer two: records the votes cast for each candidate and write-in as announced by the reporting officer.
- Reporting officer three: Reads out loud, in a clear voice, one complete ballot at a time, all the candidates and write-ins receiving a vote on each ballot for each office.

A fourth officer should also be viewing and verifying votes as read.

12.7.3.2 HAND COUNTING PROCESS

At the direction of the chief, and using the guidelines provided in *Ballot Examples: Hand Counting Printed Ballots for Virginia Elections or Recounts*³², begin the hand count ballots using the following procedure:

- Both tally sheet officers will simultaneously record a tic mark on the tally sheet for each candidate or write-in as read aloud.
- Each time a candidate receives the 5th vote, the two tally sheet officers will simultaneously speak out loud the word “Tally.”
 - This indicates that the counts agree.
 - **If the counts do not agree, stop and recount until the error is found.**
- Each time the tally agrees, set the ballots aside to indicate they have been reconciled.
- Begin the process again with the next ballots until you reach “Tally” and they have been reconciled.
- Set aside all “questionable ballots” as the ballots are read aloud.
- Continue counting until all ballots have been completed or set aside for review.

12.7.3.3 QUESTIONABLE BALLOTS

- Examine each questionable ballot to determine which are valid and which are void.
- Tally the valid ballots.
- When a ballot is not marked according to the instruction and the voter’s intent is questionable, the team members should consult with the chief

³¹ See the Code of Virginia [§24.2-712\(D\)](#).

³² See [Ballot Examples: Hand Counting Printed Ballots for Virginia Elections or Recounts](#)



officer. Using the State Board of Elections guidelines, the chief and the officers must agree whether the voter’s intention can be determined.

- If “yes,” place a tic mark for the selected candidate.
- If “no,” process as any other void ballot (see below).

12.7.3.4 HAND COUNTING WRITE-IN VOTES ON PAPER BALLOTS

Election officers must record and count the write-in names **as they are written by the voter**. The officers are **not** to make any decision as to count or not count similarly spelled names as possibly being the same person. It is the responsibility of the electoral board to make that decision.

- Write in the name of each person who received a write-in vote on the Write-In Certification sheet of the Statement of Results and place a tic mark in the vote column.
- Count all write-in votes with the exact-same-spelled name as votes for that same person by adding the tic mark next to his/her name.
- Count similarly spelled names (e.g., Pat Brown vs. Patricia Brown) separately. They must be listed as a separate write-in entry on the Write-In Certification sheet of the SOR.
- DO NOT COUNT a write-in vote cast with a rubber stamp or sticker.
- DO NOT COUNT a write-in vote for any person for any office if that person’s name is preprinted on the ballot for that office.
- DO NOT COUNT any write-in vote that has more votes than the number allowed for that particular office.
- DO NOT COUNT if the voter has voted for the same person for the same office more than one time.³³

12.7.3.5 Hand Counted Void Ballots

There are situations when counting paper ballots that require you to void a part of a ballot or void the entire ballot.³⁴

If a ballot is found to have been voted for a greater number of names for **any one office** than the number of persons required to fill that office, void all votes on the ballot for that particular office only. Use the following procedure:

- Write “VOID” on the front of the ballot over the office section being voided.
- Write a statement on the back of the ballot stating why the office was voided (Sample Statement: “The Office of Mayor section of this ballot was voided because the voter voted for more than one candidate”).
- Place this ballot with all other ballots to be counted.
- Count only the remaining offices that are valid.

³³ See the Code of Virginia [§24.2-644\(D\)](#).

³⁴ See the Code of Virginia [§24.2-663](#).



If you find a ballot which has been over voted for **all offices**, you must void the entire ballot. Use the following procedure:

- Write “VOID” on the front of the ballot over each office section.
- Write a statement on the back of the ballot starting why the ballot was voided (Sample Statement: “This entire ballot was voided because the voter over voted in each office listed on the ballot”). D
- Place the voided ballot in Envelope 4.

12.7.4 Closing the Polls at CAP—Counting Must Start Immediately, if it has not Already.

12.7.4.1 Closing Procedures

Close the polls using the procedures outlined in the CAP Election Day Guide.

12.7.4.2 Hand Count Ballots

If hand counting has not already begun (see Optional 3:00 Hand Count above), begin counting any ballots that need to be hand counted.

12.7.4.3 Pollbook Count Forms

Certify the pollbook Count form, the Unused Ballot Count form and the Rejected Ballot Count form.

12.7.4.4 Reporting Results of Absentee Ballots from Central Absentee Precinct Results



Note Regarding SBE Policy 2023-001 on the Counting and Reporting of Absentee Ballots from a Central Absentee Precinct

[Chapter 152](#) of the 2023 Acts of Assembly directed the State Board of Elections to adopt a policy regarding the counting and reporting of absentee ballots in a central absentee precinct. The policy ensures that results of absentee ballots cast early in person are reported separately from mailed absentee ballots and in accordance with the §24.2-667.1 of the Code of Virginia. The policy directs that these results be posted no later than noon on the seventh calendar day following the election on the State Board of Elections website. You may read the full SBE policy [here](#).

After the polls have closed at 7:00 PM, localities will initiate ballots totals as follows:³⁶

- i. *Early In-Person* machines at **7:00 PM**.
- ii. *Mail-In Ballots* machines at **7:00 PM**, if finished processing, and **8:00 PM**, if not.

³⁵ See State Board of Elections Policy 2023-001 Counting and Reporting Results of Absentee Ballots from a Central Absentee Precinct, https://www.elections.virginia.gov/media/formwarehouse/absentee-voting/cap/CAP_August-15_SBE-FINAL.pdf

³⁶ See the Code of Virginia, [§24.2-712\(E\)](#).



- iii. Any mail-in ballots not processed by 8:00 PM on Election Night can be processed and included in the Post-Election CAP totals.

The *consolidated total* of both in-person and mailed-in absentee ballots, processed as of Election Day, will be entered into the election night reporting system on the night of the election. By Precinct totals will be added as time allows. On the night of the Election and in the days following, the consolidated totals will be separated by precinct as time allows. All absentee ballot totals by precinct will be provided by *no later* than **12:00 P.M.**, on the **seventh day** following the election.³⁷Based on locality inputs, the Department of Elections will post these separated absentee ballot results on its website for the public.³⁸



VERIS Step by Steps

[Absentee Processing](#) explains in detail how to process absentee ballots and applications.

For further assistance, contact [VERIS help](#).

³⁷ See the Code of Virginia, §[24.2-667.1](#). See also 2023 Acts of Assembly [Chapter 152](#).

³⁸ See the Code of Virginia, §§ [24.2-105.1](#) and [24.2-667.1](#).



APPENDIX A

HOW TO ARRANGE A CAP

Officers of election should arrange the necessary furniture, equipment, and materials in the room in which the CAP is located upon the arrival of all the officers. To save time on Election Day, if access is available to the CAP room the afternoon before the election, the officers may arrange their tables and chairs and post their signs. They should not set up the voting machines.

- Tables on which to organize the ballots for each precinct or voting district, both before and after processing
- Tables on which to organize lists of absentee ballot applications, pollbooks, and *Statements of Results* forms, both before and after processing
 - Separate paper pollbooks are required for each election district.
 - Adjust setup accordingly if EPBs are used.
- Tables on which to organize oaths, packing envelopes and other paperwork.
- A table with privacy for any voter who needs to vote in-person on election day.
- A table for the chief officer
- Tables and chairs for each team of officers
- Tables for personal needs during breaks (do not smoke inside the polling place)
- Tables for voting machines (unless the equipment has legs)
- Containers on each team's table for processing ballots and envelopes
- Separate ballot containers for each election district
- Extra chairs as needed.
- Power cords and surge protectors sufficient to operate the equipment.

Since most of these activities are sequential rather than simultaneous, the same furniture can be utilized for several of the various functions.

On Election Day, the registrar should immediately deliver to the officers all applicant lists and voted ballots. The voted ballots should be securely transported in covered, sealed containers. Unless processed earlier according to §24.2-709.1, the voted ballots should be sealed up in their unopened marked ballot envelope **B**. That sealed envelope **B** should be inside the voter's opened return envelope. If necessary, a brief review should be conducted of the procedures to be followed and the materials to be handled. The general registrar may participate in this review provided one or more assistant registrars cover the registrar's office. Generally, however, the chief officer should know the responsibilities, duties, and requirements for the CAP, and should conduct the review.



APPENDIX B

IN-PERSON ABSENTEE VOTING STEPS

We previously stated that a CAP only exists on Election Day. Prior to that time, in-person and by-mail absentee voting is conducted in the office of the general registrar and may additionally be conducted in your locality's voter satellite offices. Because absentee voting is so closely related to the CAP, we provide the following information to help electoral boards and registrars.

The following guidelines are to be followed for in-person absentee voting:

- In-person absentee voting must be available 45 days prior to primary and general elections. The exception to this legal requirement would be for a special election when the ballots must be available as soon as possible. Note: In-person absentee voting begins before the close of registration for that election.
- Identification requirements for in person absentee voting are the same as for voting at the polls on Election Day. See Chapter 7 for further details on administering in person absentee voting.
- Any voting equipment used for in-person absentee voting for this purpose must be programmed and tested in the same manner as voting equipment used on election day.³⁹
- When entering the absentee application into VERIS, you must select the following:
 - **"Application Received By"** method is **"In-person,"**
 - **"Ballot Sent By"** is **"In-person,"**
 - **"Ballot Received By"** method is **"In-person,"**
 - **"Ballot Status"** is **"On Machine."**



This will capture the information that the voter has cast his/her ballot on voting equipment prior to Election Day. It will prevent the voter from voting again either by absentee ballot or in-person on Election Day and will also prevent a voter who transfers his/her registration from voting again in the new locality.

- **An accessible machine is required for in-person absentee voting.**⁴⁰
- **For specific instructions on using VERIS for in-person absentee voters, see the VERIS Step-by-Step instructions for absentee voting located on the VERIS home page.**

³⁹ See the Code of Virginia [§§24.2-632-634](#). See also Chapter 15, Recounts and Contested Elections.

⁴⁰ See the Code of Virginia [§24.2-626.1](#). See also [EAC Advisory Opinion 2007-001](#) (accessible equipment required).



APPENDIX C

Expedited Processing VERIS Cheat Sheet**Batch Ballot Process**

As ballots are received by mail that have a VERIS barcode on the return address label:

1. Note on the outer envelope the date received.
2. Open the outer envelope and remove the inner envelope (B)
3. Examine the inner envelope (B) containing the ballot to verify completion of the required voter information.
4. Note the ballot status on the outer envelope.
5. Save the inner envelopes (B) that can be pre-processed in a separate stack from the inner envelopes (B) of ballots with issues.
6. Note on the outer envelope if an acceptable ID was included in the outer envelope.
7. Batch the outer envelopes by Election, Date Received, Method Received (Mail, Mail (Non-USPS), In Person, Designated Representative), ID Included in the outer envelope or not.

VERIS Process - Individually Entering Ballots Pre-Processed (Not Recommended)

8. Go to "Absentee Search" in VERIS
9. Enter the voter's name or ID number on the return address label.
10. Make sure you have the correct voter.
11. Make sure you have the correct election from the drop-down box. If not, select the correct election from the drop-down box.
12. At the "Absentee Ballots" line (Not the AB Application line) click on the pencil
13. Change the ballot status from "Marked" to "Pre-Processed" in the drop-down box.
14. In the "Status Reason" box type "Pre-Processed" and the date of the pre-processing
15. Scroll down and click "Save."

VERIS Process - Batch Processing * (Recommended for High Volume of ballots)

16. For each batch with IDs, click the link under Absentee from the VERIS Home Page named "AB Batch Receipt – without IDs."
17. For each batch with IDs, click the link under Absentee from the VERIS Home Page named "AB Batch Receipt – with IDs."
18. Enter the Date Received
19. Enter the Received by Method (Mail, Mail (Non-USPS), In Person, Designated Representative)
20. Scan the barcode on the return address label for each outer envelope in the batch.
21. The voters name will list on the VERIS page in the Received Ballots section with Status defaulted to Marked and Status Reason defaulted to Ballot Returned
22. After all the envelopes in the batch have been scanned, changed the Status for each voter as noted on the outer envelope and update the Status Reason as necessary.
23. Click "Save"



- a. This will update the ballot status, status reason, receipt date, and receipt method for the matching ballot records in VERIS.
- b. All entries with a ballot status of Marked, Pre-processed (Early Voting), or On Machine (Election Day or CAP) will record the voter's voting credit for that election.
- c. If the ballots are received using the "with ID" option, the Voter's Personal ID Provided flag is set to "Yes."

Pre-Process Ballots

24. Open the absentee ballot record in VERIS either through batch processing or the individual process and change the ballot status to Pre-Processed. For batch processing, Ballots that were previously entered as "marked" will default to the status "pre-processed" once re-scanned into VERIS through the batch process.

For ballots with errors, each office should set uniform internal procedures to ensure that voters only receive Voter Credit if their ballot is eligible to be counted. See the Pre-Processing Guidance for the Department's recommended procedures.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 13

Provisional Ballots

September 2023

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13. Provisional Ballots

<p>REQUIRED FORMS</p> <p>Provisional Voter Notice (ELECT-653N) Provisional Vote Envelope (ELECT-653) Precinct Provisional Ballots Log (ELECT-653LOG) Provisional Votes Pollbook (SBE-653p) ID Confirmation Statement (ELECT-643ID)</p>	<p>ADDITIONAL RESOURCES</p> <p>Virginia’s What-Ifs U.S. Election Assistance Commission, EAC Advisory 2005-2006: Provisional Voting and Identification Requirements (2005) Department of Elections Voter Identification List</p>
<p>REFERENCE</p> <p>Help America Vote Act (HAVA) 52 USC Chapter 209 Code of Virginia, Chapter 6, Article 4 Code of Virginia §2.2-3700 et seq. (VA Freedom of Information Act) Training Standards for Officers of Elections (SBE Policy 2010-002) Same Day Registration Processes and Procedures (ELECT Guidance) Enhanced Results Virginia Use Procedures: Election Results¹ <i>VERIS Step-by-Step: Voter History</i> (See User Guides page on VERIS)²</p>	<p>REGULATIONS</p> <p>1VAC20-40-10 Definitions 1VAC20-60-60 Provisional Votes</p>

13.1 CHAPTER ORGANIZATION

In simplest terms, provisional voting represents the right of an individual, to reserve their right to vote and postpone the voter eligibility determination to a time when more perfect or complete information may be provided.^{3,4}

Federal and state laws require polling locations to provide provisional ballots on election days to ensure that eligible Virginians have an opportunity to cast a vote. Officers of election should be trained to provide provisional ballots if a voter states, but officials cannot verify, that they are eligible or did not already vote, and in the rare circumstance a court extends polling hours past 7pm.

This chapter provides an overview of the proper provisional ballot procedures to be used before, during, and after Election Day. First, §13.2 discusses preparing provisional ballots for Election Day. Next, §13.3 outlines when a provisional ballot should be issued. §13.4 details the

¹ Contact General Registrar if unable to access.

² *Id.*

³ See *Sandusky County Democratic Party*, 387 F.3d 566, 570 (6th Cir. 2004) (citing *Florida Democratic Party v. Hood*, 342 F.Supp 1073, 1079-1080 (N.D. Fla. 2004)).

⁴ See U.S. Election Assistance Commission, EAC Advisory 2005-006: Provisional Voting and Identification Requirements, p. 1.



specific reasons a provisional ballot may be offered: such as, lack of acceptable ID or the voter's name missing from the pollbook (which includes Same Day Registration). §13.5 outlines general procedures election officials should follow when issuing a provisional ballot. §13.6 discusses the provisional ballot meeting, and how the voter's eligibility to vote will be determined. §13.8 closes the chapter by outlining certain requirements regarding provisional ballot notification and voter credit.

13.2 PREPARATIONS FOR ELECTION DAY

Complete the following the Friday before Election Day:



- **Provide public notice of the date and time of the provisional ballots meeting and canvass**

Notice of the date, time, and location at which the provisional ballots meeting and the canvass will be held must be given by the electoral board at least *three working days* prior to the meeting date.⁵

- **Train officers of election**

Hold the training session for chief and assistant chief officers of election no more than thirty but no less than three days before the election.⁶ The training must include procedures that officers of election must follow to offer an eligible voter a provisional ballot.⁷ All precinct chiefs and assistant chiefs must be trained to:

- offer provisional voting as required pursuant to state and federal law,
- secure additional ballots or envelopes when needed, and
- ask the provisional voter, regardless of reason, to complete a voter registration application.⁸

Resources: You can use the *What Ifs* reference sheet, Provisional Vote Envelope, Precinct Provisional Ballot Log, Envelope 1A, and Envelope #8 to train officers of election.

- **Stock**

Each polling place must have sufficient ballots, Provisional Ballots Logs, provisional ballot envelopes, voter registration applications, and Provisional Voter Notice forms (ELECT-653N).⁹

⁵ See Code of Virginia [§2.2-3707](#).

⁶ See Code of Virginia [§24.2-115](#).

⁷ See State Board of Elections policy 2010-002, Training Standards for Officers of Elections.

⁸ See the Code of Virginia [§24.2-653\(A\)](#).

⁹ See Code of Virginia [§§24.2-643\(B\)](#) (requiring provisional ballots be used at the polls) and [24.2-653\(A\)](#) (requiring provisional ballots, provisional ballot envelopes, provisional ballots log, and written notice be used at the polls).



13.3 WHEN TO PROVIDE A PROVISIONAL BALLOT

The right to cast a provisional ballot is created in Section 302 of the Help America Vote Act (HAVA). Pursuant to HAVA, when an individual declares that he or she is a registered and eligible voter in a federal election, that individual “shall be permitted to cast a provisional ballot” if (1) their name does not appear on the official list of eligible voters or (2) “an election official asserts that the individual is not eligible to vote.”¹⁰

This right to receive a provisional ballot is contingent upon only one thing (per Section 302(a) (2)), the individual’s execution of a written affirmation that he or she is both a registered and eligible voter for the election at issue.¹¹

“[T]he primary purpose of HAVA was to prevent on-the-spot denials of provisional ballots to voters deemed ineligible to vote by poll workers. Under HAVA, the only permissible requirement that may be imposed upon a would-be voter before permitting that voter to cast a provisional ballot is the affirmation contained in [42 U.S.C.] §15482(a): that the voter is a registered voter in the jurisdiction in which he or she desires to vote, and that the voter is eligible to vote in an election for federal office.”¹²

Provisional voting works only if the right to vote a provisional ballot is always available whenever a voter’s eligibility is in question.¹³

13.3.1 Provisional ballots for Split Precincts

Any voter assigned to a split precinct who believes he was provided a ballot for the incorrect election district may request to vote a provisional ballot for the district he was assigned to by the general registrar and the district he believes is the correct election district. This option must be requested prior to casting any vote. The voter will submit a provisional ballot for both election districts. Your election officers should treat the provisional as they would any other provisional ballot. Your electoral board will make the determination as to which provisional vote is valid. The provisional reason code for this situation should be 6: *OTHER*.

13.4 HOW TO COMPLETE A PROVISIONAL BALLOT ENVELOPE

Beginning with the 2023 General Election, a redesigned provisional envelope will be used. The envelope features one side for Same Day Registration (“SDR”) voters (which also serves as a Voter Registration Application) and another side for non-SDR voters. Only one side of the envelope will be used.

¹⁰ See HAVA [§302\(a\)](#).

¹¹ See *Sandusky* at 574.

¹² *Id.*

¹³ See EAC Advisory 2005-006, p. 4.



Below are examples of the sections for completion by the officer of election on the SDR and Non-SDR sides of the provisional ballot envelope. Circled are the listed reasons for the provisional ballot being cast. The officer of election must mark the appropriate reason for issuing the ballot in order for the ballot to be considered complete.

ELECTION OFFICER

YOU MUST SELECT THIS REASON CODE.

#1: Same Day Registration (or not on pollbook)

Did voter show ID or complete ID Confirmation Statement?

YES NO

Comments:

Election Officer: X
Sign Here _____

ELECTION OFFICER

You Must Select a Reason Code.

#3: Voting after hours due to court order

#4: Vote by mail – no ballot to surrender

#5: Shown on pollbook as already voted

#6: Other: _____

#7: Voter does not have required ID and declined to complete ID Confirmation Statement

Comments:

Election Officer: X
Sign Here _____

NOTE: You can mark more than one reason. If the voter who is missing a proper identification document and casting a provisional ballot for:

- Reason #1, the officer of election should answer “No” to the question “Did voter show ID or complete ID Confirmation Statement?”



- Reasons #3-6, the officer of election should also mark reason #7: “Voter does not have required ID and declined to complete ID Confirmation Statement.”¹⁴

13.4.1 Reason #1 – Same Day Registration or Voter’s name is NOT in pollbook

Sometimes an officer of election may not be able to find the voter’s name in the pollbook. When this occurs, the officer of election should double check the voter’s name and precinct.

- **Check the voter’s name.**
 - Ask the voter for correct spelling of name or if there has been a recent name change.¹⁵
 - Check for the voter’s name at the end of the alphabetical section of the pollbook or on any separate listing provided by the registrar.¹⁶
- **Check the voter’s precinct.**
 - Check the street file records, alpha roster, electronic pollbooks, or other such materials provided to determine if the voter is in the correct precinct.
 - If the voter is found to be in the incorrect precinct, inform the voter that the voter file indicates that they are currently registered to vote at {current address}. Advise the voter that in Virginia, a ballot will only be counted at the polling location where she is registered. However, inform the voter that they may cast a provisional ballot at the current polling location.

If confirmed that voter is not in pollbook, officer of election follows *Same Day Registration Processes and Procedures*¹⁷ to determine whether voter eligible to vote under Mover’s Rules, or if the voter should vote provisionally using SDR.

13.4.2 Reason # 3 – Polling Hours Extended by Court Order



A court may issue an order extending the hours the polls are to be open. If this occurs, both the general registrar and chief election officers will be made aware of the court order. **In this circumstance, any voter who was not in line when the polls would have closed (but for the court order, i.e. 7pm) must vote by a provisional ballot.**¹⁸

NOTE: All provisional ballots cast after the normal polling hours for Reason #3 must be kept **separate** from other ballots and recorded in a separate provisional ballots pollbook.¹⁹ Do not record them in the regular pollbook.²⁰ The Provisional Ballot Log will serve as the pollbook for these ballots.²¹ The officers should start a new log page and not mix these entries with those for provisional voters during normal hours.²² You must keep these votes separate so that if a

¹⁴ See *What-Ifs*, Problem 14.

¹⁵ See *What-Ifs*, Problem 14.

¹⁶ See *Id.*

¹⁷ See *SDR Processes and Procedures* §§ 20.3 and 20.4

¹⁸ See Code of Virginia §[24.2-653\(C\)](#). See also HAVA, [52 U.S.C. §21082\(c\)](#).

¹⁹ See Code of Virginia §[24.2-653\(C\)](#).

²⁰ See Code of Virginia §[24.2-653\(C\)](#).

²¹ See *What-Ifs*, Problem 14.

²² See Code of Virginia §[24.2-653\(C\)](#).



higher court reverses the order extending hours, officials can determine which ballots were cast during regular hours and which ballots were cast during the extended hours.

13.4.3 Reason # 4 – Voter on Absentee Ballot List Appears at Regular Polling Place or Central Absentee Precinct; Voter Says Absentee Ballot Lost, not Received, or Returned Spoiled, Damaged, or Unused – On or before Election Day

Sometimes a voter's name may appear on the Absentee Ballot (AB) list. If a voter whose name is on the AB list appears at his assigned polling place or the Central Absentee Precinct (CAP), the officers of election should check the final absentee applicant list to determine whether the voter has *returned* an absentee ballot.²³ The AB list should indicate if a ballot was returned either marked or unmarked.²⁴

- **If the AB list shows *no ballot returned*:**
 - On Election Day, offer the voter a provisional ballot.²⁵ Please note that during the early voting period, this voter could sign and complete the gold form and vote a regular ballot rather than a provisional ballot.²⁶
 - Mark reason #4 on the provisional ballot envelope, which includes the required statutory statement of non-receipt or loss of the absentee ballot.
- **If the AB list shows a ballot *was returned*:**
 - If the ballot was **returned unvoted** to the electoral board or general registrar before Election Day, the voter must be allowed to vote a regular ballot if this information can be confirmed. If the ballot's return cannot be confirmed, the voter may only be provided with a provisional ballot.²⁷
 - **If the ballot was returned with marks and/or unfit for voting to the electoral board or general registrar before or on Election Day** the voter must be allowed to vote a regular ballot.
 - If the ballot's return cannot be confirmed, the voter must vote a provisional ballot.²⁸
 - **If the ballot was returned with marks and/or unfit for voting to the officers of election at the correct polling place or CAP on Election Day**, the voter must be allowed to vote with a regular ballot in his or her precinct.²⁹

²³ See *What-Ifs*, Problem 19.

²⁴ See Code of Virginia §§[24.2-708](#) (requiring general registrar to mark on the absentee list ballots returned unmarked) and [24.2-710](#) (requiring general registrar to mark the absentee list ballots returned marked).

²⁵ See Code of Virginia §§[24.2-653.1](#) (voters who did not receive or lost absentee ballots), [24.2-708](#) (voters who did not receive or lost absentee ballots, or return of unmarked ballot cannot be confirmed), [24.2-711](#) (officers must apply 653.1 and 708 when voter on absentee list who has not returned an unused ballot offers to vote). See also *What-Ifs*, Problem 14.

²⁶ See Code of Virginia §[24.2-708\(B\)\(1\)](#).

²⁷ See Code of Virginia §[24.2-708\(A\)](#).

²⁸ See Code of Virginia §[24.2-708\(C\)](#).

²⁹ See Code of Virginia §[24.2-708\(C\)](#).



- The voter should provide one form of required ID, including the ELECT-643-ID statement. If ID is not provided, the checkbox stating “Voter ALSO did not present required identification” should be marked.
- The officer must select Reason # 4 if the ballot was not received or was lost, if applicable.³⁰
- This provisional ballot should be counted if the voter is still a qualified voter, and the local electoral board verifies the voter *did not also* have a voted absentee ballot *counted*.³¹

13.4.4 Reason # 5 – The Voter is listed in the pollbook as “Having Already Voted”

A person who attempts to vote but is listed in the pollbook as having already voted *must* be given a provisional ballot to vote if the voter insists that they have not already voted during the current election.³²

The provisional ballot should be counted if the local electoral board concludes that the voter is eligible to have their vote counted.³³ This situation most often arises when two persons bear the same name and have the same address (i.e. Zebediah Rutherford Jackson and Zebediah Rutherford Jackson Jr.), but it does also happen in other instances. The provisional ballot should count only if:

- an officer of election is able to attest to the fact that they marked the wrong voter, AND
- no evidence exists that either person attempted to actually vote twice.

13.4.5 Reason # 6 – Other: Casting a Provisional Ballot for a Reason Not Listed

This reason is used in circumstances where an unforeseen circumstance or emergency causes either a regular ballot to be unavailable or it is not clear that the voter should be allowed to cast a regular ballot. Some of the situations that can arise include electronic pollbook failure,³⁴ registration equipment malfunctions, or an insufficient amount of traditional ballots.

The ballot should be counted if the voter should have been permitted to cast a regular ballot when they attempted to vote on Election Day.³⁵

13.4.5.1 Electronic pollbook is inoperable or inaccessible

Provisional voting is required if electronic pollbooks become inaccessible or inoperable at a precinct, and no alternate list or pollbook is available.³⁶ The officers

³⁰ See *What-Ifs*, Problem 14.

³¹ See Code of Virginia §[24.2-663](#) (ballots from voters who have already cast a vote in that election cannot be counted).

³² See Code of Virginia §[24.2-651.1](#).

³³ See Code of Virginia §[24.2-663](#) (ballots from voters who have already cast a vote in that election cannot be counted).

³⁴ See Code of Virginia §[24.2-611\(E\)](#).

³⁵ See Code of Virginia §[24.2-653\(B\)](#).

³⁶ See Code of Virginia §[24.2-611](#).



of election at the location must keep a written list of those who cast provisional ballots due to this occurrence.³⁷

13.4.6 Identification – The Voter Fails to Provide Proper ID



All persons attempting to vote in-person must present identification before being issued a regular ballot.³⁸ Any person failing to present acceptable ID may either sign an ID Confirmation Statement confirming their identity or must be given a provisional ballot.³⁹

Proper ID includes:

- Voter confirmation documents
- Valid Virginia driver's license (expiration date may not be considered)
- Valid Virginia state ID
- Valid United States passport
- Any ID card issued by a government agency
- Valid student ID card issued by an institute of higher education located in the United States (including electronic IDs)
- Valid student ID card issued by a school located in Virginia
- Valid employee photo ID card issued in the regular course of business, and
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document containing the name and address of the voter.^{40,41}

If a voter does not have any of the acceptable ID listed above, the voter may sign an ID Confirmation Form attesting to their identity. If a voter signs this form, they may vote a traditional ballot.

If a voter is designated in the pollbook with an "H" by their name, they must meet the HAVA standard for IDs.

Officers of election should select reason #7 for voters voting provisionally only due to failure to show proper ID and refusal to sign the ID Confirmation Statement. If voter voting provisionally for reasons #1-6 also fails to provide proper ID and sign a the ID Confirmation Statement:

- For SDR voters, officer of election should select reason #1 and answer "No" to question "Did voter show ID or complete ID Confirmation Statement?"

³⁷ See Code of Virginia §[24.2-611\(E\)](#) (discussing form of pollbooks).

³⁸ See Code of Virginia §[24.2-643\(B\)](#).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See Department of Elections Voter Identification List for complete list of acceptable identification.



- For non-SDR voters, officer of election should select reason voter is voting provisionally (#3-6) and reasons #7.⁴²

Provisional ballots cast due to lack of ID will only be counted if the voter submits a copy of the necessary ID or a completed ID Confirmation Statement prior to noon on the third day following the election (if the third day is a holiday, the voter will have until the next business day).⁴³ A voter may submit the required document by USPS or commercial mail delivery, fax, e-mail, or in person.⁴⁴ The voter may also request to extend the provisional ballot meeting to the next day for up to seven calendar days for Reasons #1-6.

13.4.6.1 HAVA ID Required/ID Copy not sent with Absentee Ballot

All voters must provide proper identification if their vote is to be counted. If a voter has a HAVA ID requirement, requested an absentee ballot⁴⁵ and returns the absentee ballot but does not include a photocopy of one of the acceptable forms of IDs described above, the ballot must be treated as if it were a provisional ballot.⁴⁶

Voters are instructed not to seal the copy of their ID inside the oath envelope containing the voted ballot. The officer should check to see if a copy of a HAVA ID is enclosed with the ballot in the B security envelope (but without fully opening the envelope or looking at the ballot).

If no HAVA ID is returned, the officers should reseal the envelopes from the voter (signing and dating the seal) and place the set in the large **1A** envelope to transmit to the electoral board.

The officers may want to attach a note to the outside of the voter's envelope stating "No HAVA ID." In this instance, the voter is not present to sign a statement; thus, the smaller Provisional Ballot Envelope with the voter's statement should not be used.

13.4.7 Voter Who has Moved



An otherwise qualified voter who moves *within* Virginia may return to *vote normally* in his or her former precinct under either of the following scenarios **unless his or her registration has been transferred or cancelled**:⁴⁷

- The voter moved from one precinct to another within the Commonwealth since the last November general election.

⁴² See *What-ifs*, Problem 14.

⁴³ See Code of Virginia §[24.2-653\(B\)](#).

⁴⁴ See Code of Virginia §[24.2-653\(B\)](#).

⁴⁵ See HAVA, [52 U.S.C. §21083\(b\)](#). See also Code of Virginia [§24.2-706\(4\)](#).

⁴⁶ See HAVA, [52 USC §21083\(b\)\(2\)\(B\)](#).

⁴⁷ See Constitution of Virginia [Art. II, §1](#) (allowing voters who moved from one precinct to another in Virginia to continue to vote in their old precinct as provided for by state law).



- The voter moved since the second previous federal general election, and the voter moved within the same locality and within the same congressional district.⁴⁸

NOTE: A move within the precinct does not affect the voter's ability to vote in that precinct as long as that the voter is still registered.⁴⁹

13.5 ELECTION DAY: GENERAL PROVISIONAL BALLOT PROCEDURES

13.5.1 Provide Voter Registration Application

As a best practice, officers of election should offer a voter registration application to each voter voting provisionally, regardless of reason.⁵⁰

13.5.2 Required to Provide Official Provisional Ballot Information



The officer of election must provide certain information to each person who casts a provisional ballot.⁵¹ A supply of Provisional Voter Notice forms (ELECT-653N) should be available at each precinct, and should be preprinted with all the required information:⁵²

- That a determination of his right to vote will be made by the local electoral board;
- The time, date, and location the electoral board will meet to consider provisional ballots;
- That the voter has the right to be present at the meeting;
- The voter's right to request a one day extension of time to provide information to the board on issues other than ID and the noon Friday deadline for ID,⁵³ and
- The email address, fax number, and mailing address of the office which will accept ID submissions, if at issue.

The officer must also check the appropriate reason(s) the ballot was voted provisionally. Any voter without the required identification should be supplied with the Provisional Voter Notice.⁵⁴ This form alerts the voter to the fact, if they did not provide valid identification or sign the ID Confirmation Statement at the polling place, their ballot will not be counted unless a copy of the required identification or completed ID Confirmation Statement is submitted to the electoral board by noon on the third day following the election, and gives detailed instructions on how to make such a submission. Refer to the Forms Warehouse *Election Management, Provisional* folder for an outline of documents.

NOTE: If the third day falls on a holiday, the voter will be given an extension until noon the next business day per Va. Code § 1-210.

⁴⁸ See Code of Virginia §[24.2-401](#).

⁴⁹ See *What-If's*, Problem 5.

⁵⁰ See Code of Virginia §[24.2-653\(A\)](#).

⁵¹ See HAVA, [52 USC §21082\(a\)\(5\)\(A\)](#). See also Code of Virginia §[24.2-653\(A\)](#).

⁵² See Code of Virginia §[24.2-653\(B\)](#).

⁵³ See Code of Virginia §[24.2-653\(A\)](#).

⁵⁴ See Code of Virginia §[24.2-643\(B\)](#).



13.5.3 How-to Guide for Provisional Vote Envelope and Ballot



All provisional voters must provide an acceptable ID or sign an ID Confirmation Statement.⁵⁵ For a voter casting a provisional ballot under Reason #1 who does not provide an acceptable or sign the ID Confirmation statement, the officer of election should select “NO” to the question under the reason code that asks “Did voter show ID or complete ID Confirmation Statement?”. For a provisional voter using Reason #3-6 who does not provide an acceptable ID or sign an ID Confirmation Statement, the officer of election should also select Reason #7: “Voter does not have required ID and declined to complete ID Confirmation Statement.”

The officer of election fills in the number/name of the precinct in the top right corner of the Provisional Envelope on the side determined to be used for that voter (SDR or non-SDR). The officer of election then gives this envelope to the voter and explains that the voter must enter all required information on only that side of the envelope. The officer must verify that the voter has provided all information requested and have the voter fill in any missing information. The officer should request that the voter complete the envelope before giving the ballot to the voter.⁵⁶

Next, the officer of election gives the provisional vote envelope and the ballot (or ballot set) to the voter, instructs the voter to place the voted ballot(s) inside the envelope, seal the envelope and return the sealed envelope to the officer.⁵⁷

When the voter returns the sealed envelope to the officer, the officer must read to the voter the Affirmation/Statement of Voter on the side of the provisional envelope completed by the voter. After the Affirmation/Statement is read, the voter must sign the envelope.

In the section titled ELECTION OFFICER, the officer must check the appropriate reason(s) the voter is casting a provisional ballot and sign where indicated.⁵⁸

⁵⁵ See Code of Virginia §[24.2-653\(A\)](#).

⁵⁶ See *What-Ifs*, Problem 14.

⁵⁷ See Code of Virginia §[24.2-653\(A\)](#). See also *What-Ifs*, Problem 14.

⁵⁸ See *What-Ifs*, Problem 14.



Virginia Provisional Vote and Same Day Registration Application

Only for voters not registered in this precinct.

Precinct # _____

Use blue or black ink

Starred (*) items are required. If you do not complete all of the items that are marked with *, your application may be denied.

1 * I am a citizen of the United States of America YES NO

* Full Social Security Number _____ No SSN was ever issued

* Date of Birth (MM/DD/YYYY) _____ / _____ / _____ * Gender _____

2 * Last Name _____ Jr. Sr. II III IV (Circle one) Other (write-in): _____

* First Name _____ * Middle Name _____ None

* Residence Address (May not be a P.O. Box) _____ Apt. _____

* City/Town _____ * Zip Code _____

Email _____ Phone _____ - _____ - _____

3 * Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote? YES NO

If YES, has your right to vote been restored? YES NO

4 I am an active-duty uniformed services member, spouse or dependent; or an overseas citizen.

I am providing a mailing address (below) because my residence address cannot receive mail or I am homeless.

I am providing a Virginia P.O. Box (below) to protect my residence address from public disclosure because I or a household member is/has:

- An active or retired law enforcement officer, judge, magistrate, U.S. or Virginia Attorney General attorney.
- Been granted a court issued protective order.
- In fear for personal safety from being threatened or stalked by another person.
- A participant in the Virginia Attorney General's Address Confidentiality Program.
- Been approved to be a foster parent.

My mailing address _____

(Complete only if you have checked a box in this section) _____

5 I am currently registered to vote in another state: _____ (Indicate state of previous registration)

6 I am interested in being an Officer of Election (poll worker) on Election Day. Please send me information.

7 AFFIRMATION: I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true and that, to the best of my knowledge, I am eligible to vote in this election. I authorize the cancellation of my current registration and I hereby affirm that I have read the Privacy Act Notice and Warning.
(See back for Privacy Act Notice and Warning.)

▶ * Signature _____ Today's date: _____ / _____ / _____

By checking this box, I affirm both that I am an individual with physical disabilities and the Affirmation Statement above. Pursuant to Article II, § 2 of the Constitution of Virginia, individuals with physical disabilities are not required to sign the application for voter registrations.

ELECTION OFFICER	OFFICE/ELECTORAL BOARD USE ONLY
<p>YOU MUST SELECT THIS REASON CODE</p> <p><input type="checkbox"/> #1: Same Day Registration (or not on pollbook)</p> <p>Did voter show ID or complete ID Confirmation Statement?</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>Comments:</p> <p>Election Officer: <input checked="" type="checkbox"/> _____</p> <p style="font-size: x-small;">Sign Here</p>	<p>Voter ID # _____</p> <p>Adjudication: <input type="checkbox"/> COUNT <input type="checkbox"/> DO NOT COUNT</p> <p>Voter Identification</p> <p>1. If the voter returns with the proper identification, check this box and sign <input checked="" type="checkbox"/> _____</p> <p>2. Attach a copy of the identification document.</p>

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Virginia Provisional Vote (Non-Same Day Registration)

If Same Day Registration, complete only the other side.

Precinct # _____

Use blue or black ink

Starred (*) items are required. If you do not complete all of the items that are marked with *, your vote may not count.

1 *Last Name _____ Jr. Sr. II III IV (Circle one) Other (write-in): _____

*First Name _____ *Middle Name _____ None

2 *Date of Birth / /

3 *Social Security Number - -

Last 4 digits REQUIRED

Providing your full Social Security number, though not required, may prove helpful in determination of your eligibility to vote.

4 *Residence Address (May not be a P.O. Box) _____ Apt. _____

*City/Town _____ *Zip Code _____

If address is different than voter registration record, provide the date you moved: ___/___/____.

Your address information will be used to update your voter registration record.

5 Phone - -

Email _____

6 Statement of Voter

To the best of my knowledge, I am a registered voter of this locality and I am eligible to vote in this election. I hereby affirm that I have read the Privacy Act Notice and Warning.

Voter: **Today's Date:** / /

Privacy Act Notice: This form requires personal information, including information related to your Social Security number, for identification purposes and to prevent fraud. Federal law (the Privacy Act and Help America Vote Act) and state law (the Virginia Constitution, Article II, § 2; Title 24.2 of the Code of Virginia; and the Virginia Government Data Collection and Dissemination Practices Act) authorize collecting this information and restrict its use to official purposes only. Failure to provide the requested information may prevent determining your eligibility to vote and result in your provisional ballot not being counted.

Warning: Intentionally making a materially false statement on this form constitutes the crime of election fraud, punishable as a felony in Virginia. Violators may be sentenced up to 10 years in prison, or up to 12 months in jail and/or fined up to \$2,500.

ELECTION OFFICER	OFFICE/ELECTORAL BOARD USE ONLY
<p>You Must Select a Reason Code.</p> <p><input type="checkbox"/> #3: Voting after hours due to court order</p> <p><input type="checkbox"/> #4: Vote by mail – no ballot to surrender</p> <p><input type="checkbox"/> #5: Shown on pollbook as already voted</p> <p><input type="checkbox"/> #6: Other: _____</p> <p><input type="checkbox"/> #7: Voter does not have required ID and declined to complete ID Confirmation Statement</p> <p>Comments: _____</p> <p>Election Officer: <input checked="" type="checkbox"/> _____ <small>Sign Here</small></p>	<p>Voter ID # _____</p> <p>Adjudication: <input type="checkbox"/> COUNT <input type="checkbox"/> DO NOT COUNT</p> <p>Voter Identification</p> <p>1. If the voter returns with the proper identification, check this box and sign <input checked="" type="checkbox"/> X _____</p> <p>2. Attach a copy of the identification document.</p>

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**Regulation Note**

1VAC20-60-60: Provisional Votes. The general registrar or electoral board may, but is not required to, attempt to contact people who voted provisionally to remind them that they have until noon on the third day following the election to provide a copy of the required identification.

Precinct Provisional Ballot Log



The officer of election must complete the Precinct Provisional Ballot Log, available from ELECT, with all the requested information, marking the box under the number(s) corresponding to the reason(s) the provisional ballot was issued.⁵⁹

If the voter provides additional information, you can include specifics such as the below:

- the person said he or she submitted an application at a DMV location, or submitted a change of address to the registrar's office;
- the date the voter submitted a registration application and method by which submitted; and
- any other information the registrar requests to help research the voter's registration status.⁶⁰

If the voter claims to have submitted an application at a DMV or other NVRA designated agency, the officers should include the agency name, location, and the voter's estimate of the date of submission to enable ELECT to look up the voter's record. If the voter has a receipt for his or her registration from the DMV or the agency, that should also be noted.

The Precinct Provisional Ballot Log must be placed inside the Envelope #8 so that the registrar can use this information to research the claim made by the person offering the provisional ballot. This log will also be used in the days following the election by the electoral board to track the determination of all provisional ballots offered in the locality.

⁵⁹ *Id.*

⁶⁰ *Id.*



Provisional Ballot Log

Place in Envelope 8

GR/Satellite Office:

Election Date: _____ Log Date(s): _____
 Election Type: _____
 Locality: _____

What to do at the end of the day

Enter the total number of Provisional Vote envelopes for each reason code.

			Totals
Voter's name IS NOT on pollbook. Voter:	1	Same Day Registration (or not on pollbook)	
Voter's name IS on the pollbook, and voter:	3	is voting after normal poll closing time due to court order	
	4	applied for an absentee ballot, but does not have the ballot	
	5	is shown in the pollbook as already having voted	
	6	Other (any reason not captured in the other codes)	
	7	Voter did not show required ID and declined to complete ID confirmation statement	

What to do during the day

Copy information from the Provisional Vote envelopes below

1	Voter name	SSN# last 4	Reason code
	Last name _____ Middle _____	_____	1 3 4 5 6 7
	First name _____ Suffix _____	Notes	
	Address	Registrar use only	
City/town _____, State __ Zip code _ _ _ _ _	Was this vote counted? YES NO		
Birth year only _____ Phone number _____	Why not? Date: _____		
2	Voter name	SSN# last 4	Reason code
	Last name _____ Middle _____	_____	1 3 4 5 6 7
	First name _____ Suffix _____	Notes	
	Address	Registrar use only	
City/town _____, State __ Zip code _ _ _ _ _	Was this vote counted? YES NO		
Birth year only _____ Phone number _____	Why not? Date: _____		



If polling hours were extended by court order

After the polls close and the provisional ballot envelopes are removed by the officers from the emergency ballot box, two officers of election representing different parties must complete this process:

- Two officers, one from each party, should separate any provisional ballots with Reason #3 checked (other reasons may also be checked); one stack of envelopes should have reason #3 checked on *all* the envelopes, and one stack should *not* have Reason #3 checked on any.



- Count the number of sealed Provisional Votes (green envelopes) cast during normal hours (i.e. Reason #3 is NOT checked on any of the envelopes) and place in the 1A envelope.
 - Officers of election may want to place a rubber band around those ballots cast in the Provisional Vote Envelope only due to reason #7. These ballots require no further investigation by the registrar.
 - Localities may opt for using separate 1A Envelopes for different categories of provisional voters (e.g., a separate 1A Envelope for SDR voters).
- Put the Precinct Provisional Ballot Log for the provisional ballots cast during normal hours in Envelope #8.
- Enter the number of green envelopes with ballots cast during normal hours on Line 1 on the back of the 1A envelope ("NONE" may be entered if applicable OR officers may be instructed to complete the Officer Certification to Reuse Empty Provisional Ballot Envelope 1A).
- Sign the certification on the back of the 1A envelope (TWO OFFICERS).
- Seal the 1A envelope with a label, signing and dating the label (TWO OFFICERS).

If polling hours were extended by court order, TWO OFFICERS representing different parties must repeat the above procedures to count the green envelopes with Reason #3 checked (other reasons may also be checked); put those envelopes for the provisional ballots cast *after* normal hours in the 1B envelope; complete, sign, and seal the 1B envelope.

13.6 ELECTORAL BOARD'S PROVISIONAL BALLOT MEETING

13.6.1 When to Meet

The electoral board is required to meet at the circuit clerk's or general registrar's office on the day after the election at or before 5:00 p.m.⁶¹ ELECT recommends that the meeting begin by noon on the day after the election to determine the qualifications of persons who cast provisional votes before beginning the canvass. The time selected must be included in the required Provisional Voter Notice form (ELECT-653N) given to each provisional voter at the polls.⁶²

⁶¹ See *What-Ifs*, Problem 14.

⁶² See Code of Virginia §[24.2-653\(B\)](#).



13.6.2 Where to Meet

The electoral board must hold the meeting “at the clerk’s or general registrar’s office of the [locality] for which they are appointed” and they “may adjourn to another room of sufficient size in a public building.”⁶³ You must clearly provide the address of the location selected in the required Provisional Voter Notice given to each provisional voter at the polls.⁶⁴

13.6.3 Who Must Attend



All members of the electoral board should be present for this meeting and the canvass of the election. In the event one member is unable to attend, two members constitute a quorum⁶⁵ and may proceed to determine the qualifications of persons who cast provisional votes.

- Should the secretary of the electoral board be unable to attend the meeting, the two remaining Board members must decide who will serve as “acting secretary.”⁶⁶ Please see Chapter 2 (Local Electoral Boards) for more information.
- All official documents related to processing provisional votes and the canvass must be signed by the Secretary or acting Secretary and all other present board members. Only those members of the board present during the entire process are required to legally sign any official document.
- The general registrar must appear at the meeting with the pollbooks used at all precincts (having picked them up from the clerk of circuit court if applicable).⁶⁷

13.6.4 Who is Permitted to Attend

The provisional ballot meeting is a closed session; thus, only the following individuals are permitted to attend:

- Persons who cast provisional ballots who wish to present evidence or request a one-day extension.
- Legal counsel and representatives of the person who cast the provisional ballot.
- One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election who is a qualified voter of the locality must be allowed to attend the provisional meeting but cannot participate in the process. Each such representative must present a written statement signed by the county or city party chair, the independent candidate, or the primary candidate as appropriate. Such chair or candidate may serve as his or her own representative, and may not be asked to submit a written statement authorizing himself

⁶³ See Code of Virginia [§24.2-671](#).

⁶⁴ See Code of Virginia [§24.2-653\(B\)](#).

⁶⁵ See Code of Virginia [§24.2-107](#).

⁶⁶ See Code of Virginia [§24.2-106](#).

⁶⁷ See Code of Virginia [§24.2-653.01](#).



or herself.⁶⁸ If the representative presents the required documentation, the general registrar must permit them to observe the meeting.

- Appropriate staff and legal counsel of the electoral board.⁶⁹

13.6.5 The Meeting

The provisional ballot meeting is a “meeting” of the electoral board; thus, the Virginia Freedom of Information Act applies. As previously stated, these meetings are “closed” and closed meeting procedures and requirements⁷⁰ should be followed closely by the electoral board members and general registrar.

- Prior to beginning the meeting, the electoral board should have the #1A (and, if used, the #1B) provisional votes envelopes for **all** precincts.
- A provisional voter may ask that the meeting be extended to the next day (for up to three work days for ID provisional voters (Reason #7) and seven calendar days for Reason #1-6 provisional voters) to provide evidence or information. The electoral board may grant an extension that it deems reasonable to determine the status of the provisional vote.⁷¹
- If the provisional ballots meeting is adjourned, the canvass may still proceed on schedule. **The canvass cannot be completed until the provisional ballots meeting is totally completed and adjourned.**

13.7 DETERMINE THE QUALIFICATION OF ALL PROVISIONAL VOTERS BEFORE OPENING ANY INDIVIDUAL ENVELOPES

To protect voter privacy, the local electoral board should determine the eligibility of all provisional voters before opening any of the provisional ballot envelopes.

- The electoral board should open, one precinct at a time, the #1A envelope (and, if used, the #1B envelope) marked “provisional votes.” The local electoral board has the discretion to make a determination as to whether a voter is eligible under Virginia law. The local electoral board should proceed to determine the qualifications, one by one, without opening the green envelopes, of each person who cast a ballot in a green provisional ballot envelope.
 - The first qualification is that the person be registered to vote.
 - Second, the person must have been legally eligible to vote in the precinct in which the vote was cast.⁷²

The general registrar should provide any information available to determine if the voter casting a provisional ballot was legally eligible to vote in the precinct and submitted a copy of a valid ID if required.

⁶⁸ See the Code of Virginia [§24.2-653.01\(B\)](#).

⁶⁹ See the Code of Virginia [§24.2-653.01\(B\)](#).

⁷⁰ See the Code of Virginia [§2.2-3712](#).

⁷¹ See the Code of Virginia [§24.2-653.01\(A\)](#).

⁷² See Code of Virginia [§24.2-653.01](#).



NOTE: The electoral board or general registrar must keep a detailed list of the provisional ballots counted and not counted for three reasons:

1. The general registrar must notify, in writing, those voters whose provisional ballots were not counted, giving the reason the provisional ballot was not counted.⁷³
2. This information will be entered into VERIS in order to apply voting credit for the counted ballots and generate appropriate correspondence.
3. The votes from the counted ballots and turnout data from all the provisional ballots must be entered into Enhanced Results.

The registrar should mark the original Precinct Provisional Ballot Log to indicate if the ballot was counted and the reason for the determination. The registrar should also make and retain a copy of the ballot log for records. The *original* Precinct Provisional Ballot Log must be returned to Envelope #8, to be sealed and stored in the clerk's office.⁷⁴

13.7.1 Person Determined Not Qualified

For persons determined not qualified to have their votes counted, the following steps should be taken:

1. The green envelope must remain sealed.⁷⁵
2. Mark the ballot as disqualified across the front of the unopened green envelope and explain why the ballot has been disqualified (for example: not qualified (felon, etc.), not legally eligible to vote in precinct, voter did not provide required ID).
3. Return the voter's sealed, green envelope to the 1A (or 1B, if used) envelope for that precinct marked "provisional votes."
4. Note on the 1A (or 1B) envelope the number of green envelopes for disqualified persons remaining at the conclusion of the determination for that precinct.

13.7.2 Person Determined Qualified

One provisional vote pollbook is used for the city or county. The pollbook should be marked with the name of the city or county (or town) and the words "provisional votes." Voters who have been determined qualified, should be marked in the provisional votes pollbook.⁷⁶

- **Special Procedures for Provisional Voting Reason #3:** The 1B envelopes should have been used if polling place hours were extended by court order. If the court order has not been overturned when the provisional ballots are otherwise ready to be counted, the provisional ballots counted from the 1B envelope must be entered in a **separate pollbook** marked with the county, city or town name (and congressional district if split) and "votes cast after

⁷³ See Code of Virginia §[24.2-653.01\(C\)](#). See also HAVA, [52 U.S.C. §21082\(a\)\(5\)\(A\)](#).

⁷⁴ See Code of Virginia §[24.2-653.01\(E\)](#).

⁷⁵ See Code of Virginia §[24.2-653.01\(C\)](#).

⁷⁶ See Code of Virginia §[24.2-653.01\(C\)](#).



normal voting hours." Votes cast after normal voting hours (after-hours ballots) must be kept separate and cannot be mixed with ballots cast during normal voting hours.⁷⁷ Ballots cast during normal voting hours should be completed first. The electoral board should both verify that the ballot box is empty and seal the counted ballots cast during normal voting hours for delivery to the clerk (below), before beginning to count the ballots cast after normal voting hours.

NOTE: The general registrar, working with ELECT, may search the DMV or NVRA agency record to determine if the provisional voter has any records pertaining to registration.

If proof is presented that indicates the person submitted an application or attempted to register or change their registration at the DMV or another NVRA agency *prior* to the close of books, the voter submitted a completed application at the polls on election day, and the registrar determines from that application that the voter was qualified to vote in that precinct, the **provisional ballot must be counted by the electoral board.**

13.7.2.1 Steps for Qualified Provisional Ballots

1. Open the green envelope of the voter determined to be qualified.
2. Place the ballot in the appropriate ballot box without any further inspection than to assure that only a single ballot or ballot set has been cast and that the ballot is a genuine ballot, without looking at the printed inside of the ballot.⁷⁸
3. Place the *opened, empty* green envelopes for each precinct in the 1A (or 1B, if used) envelope for that precinct.
4. Note on the envelope the number of green envelopes contained therein for persons determined to be qualified.

13.8 NOTIFICATION AND VOTER CREDIT



After the determination of all provisional ballots by the electoral board, the registrar must enter all provisional ballot information into VERIS for individual voters in order to apply voting credit and issue correspondence to voters whose provisional ballots were not counted.

13.8.1 Enter Results for Provisional Votes

General registrars must report two different totals into the Enhanced Results election results reporting software related to provisional ballots: the total number of provisional voter turnout (counted and not counted); and the number of qualified (counted) provisional votes cast as determined after the provisional ballot meeting. The provisional vote figures must be entered as a separate "Provisional Votes" group/precinct. Please see the Enhanced Results Virginia Use Procedures located in LMS for a step-by-step guide to entering results and turnout into the Enhanced Results reporting software.

⁷⁷ See Code of Virginia §[24.2-653\(C\)](#).

⁷⁸ See Code of Virginia §[24.2-653\(B\)](#).



13.8.2 Enter Individual Voter Information

A provisional voter may have an inactive status, cancelled registration, or not be in VERIS at all. The registrar must search and manually add information regarding the provisional ballots in VERIS for each provisional voter. Refer to *VERIS Step-by-Step Voter History* for more information on modifying voter history.

A voter with a provisional ballot that was not counted must have the reason for this determination entered in VERIS to produce the appropriate required correspondence for mailing.⁷⁹ For persons already registered, VERIS will automatically generate letters when their record is updated to indicate the provisional ballot was not counted. For persons not registered who have not completed a registration application, the notification letter should include a voter registration application and inform the person that if they wish to be eligible to vote in future elections, they must complete the application and return it in the pre-addressed envelope provided before the close of the books for the next election in the county or city.

For a provisional voter with a cancelled registration, the registrar must reinstate the individual's voter registration, enter the provisional voting information, and change any relevant information.

A voter who did not submit an application or the application submitted was incomplete should have a voter registration application included in his/her mailing. To add information regarding non-registrants, the registrar should add the non-registered individual's information under "Non-Registrant Provisional" in VERIS.

Refer to *VERIS Step-by-Step Voter History* for more information on modifying voter history.

⁷⁹ See Code of Virginia §[24.2-653\(B\)](#).





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 14

Canvass

September 2023

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14. CANVASS

<p>REQUIRED FORMS</p> <p>SOR Printed Return Sheet Statement of Results Write-Ins Certification Request to Inspect Sealed Election Materials 24.2-671.2(D) Request for Risk-Limiting Audit Form</p>	<p>ADDITIONAL RESOURCES</p> <p>ELECT-675 Write-Ins Certification/ Continuation Procedures Records for Circuit Court Same Day Registration FAQ Risk Limiting Audit Manual</p>
<p>REFERENCE</p> <p>Enhanced Results Virginia Use Procedures (located in LMS) VERIS Step-by-Step: Voter History Certificate of Election Appointment Template (SBE 109) Landscape Certificate of Election Portrait Certificate of Election</p>	<p>REGULATIONS</p> <p>1VAC20-20-70 Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots</p> <p>1VAC20-60-80 Request for risk-limiting audit for a contested race within a jurisdiction</p>

14.1 Chapter Organization

The process of reviewing, confirming, and recording the official local results of each election is called a “canvass.” Local election officials in each locality conduct a canvass to verify and consolidate election results from the individual precincts. The officers of election, local electoral board, and general registrar are all jointly responsible for conducting an accurate and timely canvass, and then transmitting the results of the canvass to the Department of Elections through Enhanced Results. The requirements for canvassing are codified in the Code of Virginia Title 24.2, §§24.2-671- 24.2-680.

The purpose of this chapter is to provide an overview of the procedures for conducting a canvass in compliance with Virginia Code and is structured into three parts: Preparing for the Canvass, Conducting the Canvass, and After the Canvass.

§14.2 outlines steps to prepare for the canvass. The canvass occurs during a board meeting; thus, §14.2.1 discusses the basics of conducting a meeting, such as the need to follow requirements set in the Virginia Open Meetings and Freedom of Information Act. §14.2.2 discusses attendance and the important role of the secretary of the local electoral board. §14.2.3 lists materials needed to complete a canvass and explains the purpose of each document while §14.2.4 provides information regarding duties and responsibilities the clerk and general registrar have for canvass.

The canvass is an intensive step-by-step process; general registrars and electoral board members must have a sound understanding of how the materials are to be used prior to beginning the canvass meeting. §14.3 provides a guide to conducting the canvass by focusing on the duties and responsibilities of four entities: the officers of election, local electoral board members, the general registrar, and the Department of Elections. §14.3.1 discusses the importance of the officers of election. It is very important that general registrars and local electoral board members are familiar with the duties of the officers of election because this position is critical in verifying results. §14.3.2 focuses on the general registrar whose role for the canvass includes bringing



necessary supplies and ensuring that required documents are provided. §14.3.3 examines how the electoral board members fit into canvassing as their presence is important for counting and verification purposes.

§14.4 concludes the chapter by giving a brief overview of what should occur after the canvass, which is primarily the responsibility of the general registrar and electoral board members. §14.4.1 discusses required filings regarding campaign finance reports, while §14.4.2 dives into the certificates of election which the local electoral board sends out. §14.4.3 closes the canvass chapter by discussing the work of general registrars, such as sending out rejection letters to provisional and absentee ballot voters. While conducting a canvass seems complex, the canvass can be completed smoothly if each entity is aware of how their responsibilities fit within the process.

14.2 Preparing for Canvass

14.2.1 Basics of the Meeting

The canvass is a meeting of the electoral board; thus, the Virginia Freedom of Information Act applies.¹ Refer to Chapter 2: Local Electoral Board for additional information on public meeting requirements. For the most part, the canvass is open to the general public, who may attend all or a portion of the meeting.² The provisional ballots meeting, however, is the only part of the canvass that takes place during a closed session and therefore is not open to the public. Closed session allows for deliberations and the presentation of evidence by a provisional voter for qualification purposes and for this reason is exempt from the Virginia Freedom of Information Act, the vote by the electoral board to approve or reject a provisional ballot is done in open session, pursuant to §2.2-3710(A).³ For additional information on the provisional ballot process, please see Chapter 13 of the GREB Handbook. Notice of the date, time, and location for the provisional ballots meeting and the canvass must be given to the public by the electoral board at **least three business days** prior to the meeting date.⁴ While the canvass is required to begin no later than 5:00 PM on the day after the election, results from the canvass cannot be certified and submitted to the Department of Elections until all provisional ballots have been addressed.

14.2.1.1 When to Meet



The electoral board should proceed with canvassing immediately following adjourning the provisional ballots meeting, which is when qualifications of those persons who cast provisional votes is determined.⁵ The electoral board must begin the canvass no later than **5:00 PM on the day after the election**.⁶ The board may adjourn as needed, not to exceed seven calendar days from the date of the election unless an extension has been granted for a risk-limiting audit (RLA).⁷

Before the electoral board can meet, the officers of election must deliver election materials on

¹ See the Code of Virginia [§2.2-3707](#).

² See the Code of Virginia [§24.2-653\(B\)](#). See also the Code of Virginia [§2.2-3712](#).

³ See the Code of Virginia [§2.2-3710\(A\)](#).

⁴ See the Code of Virginia [§2.2-3707](#).

⁵ See GREB Handbook Chapter 13, Provisional Ballots, for more information on the provisional ballot meeting.

⁶ See the Code of Virginia [§24.2-671](#).

⁷ *Id.*



the night of the election to the clerk of the circuit court's office or the office of the general registrar.⁸ If the officers of election do not deliver the materials before the canvass to the clerk or the office of the general registrar, the clerk of the circuit court must have law enforcement retrieve the materials.⁹ This is discussed in greater detail in 14.2.3.

14.2.1.2 Where to Meet

The electoral board must hold the meeting "at the clerk's or general registrar's office of the [locality] for which they are appointed" and "may adjourn to another room of sufficient size in a public building."¹⁰ The board has some discretion in determining where the canvass should take place; written directions to the location of any room other than the clerk's or general registrar's office where the board will meet shall be posted at the doors of the clerk's and general registrar's offices prior to the beginning of the meeting.¹¹

14.2.1.3 Attendance

No person, regardless of official function or statutory right to be present, may disrupt the meeting or interfere with the canvass in any way. Inform unruly individuals that interruptions can cause errors and explain that questions concerning each precinct will be taken *after* work concludes but *before* the electoral board reseals the pollbooks, pollbook count forms, and the statement of results for the precinct back into Envelope #2.

14.2.1.4 Whose Attendance is Required:



All members of the electoral board *should* be present for the canvass; however, it is only mandatory that two members be present. In the event one member is unable to attend, two members of the electoral board constitute a quorum and may proceed with the canvass.¹² The member of the board that is unable to attend should notify ELECT.

When conducting a canvass, the secretary must be present. If the official secretary is unable to attend the canvass, the board members must elect one of the remaining board members to act as a secretary.¹³ In acting as secretary, the board member must sign any official documents regarding the canvass as "acting secretary." The member must sign the official document only as "acting secretary" and leave the line of their normal official capacity as board member blank.

When conducting a canvass, **only those members of the board present during the entire canvass may legally sign any document concerning it.** If you attach a signature of a member that was not present at the canvass or a member that was present does not sign, the electoral board must reconvene. The clerk of court or the general registrar must provide the pollbooks to the electoral board before the canvass, depending on the option chosen pursuant §24.2-668.¹⁴

⁸ See the Code of Virginia [§24.2-668](#).

⁹ See the Code of Virginia [§24.2-670](#).

¹⁰ See the Code of Virginia [§24.2-671](#).

¹¹ *Id.*

¹² See the Code of Virginia [§24.2-107](#).

¹³ See the Code of Virginia [§24.2-106\(B\)](#).

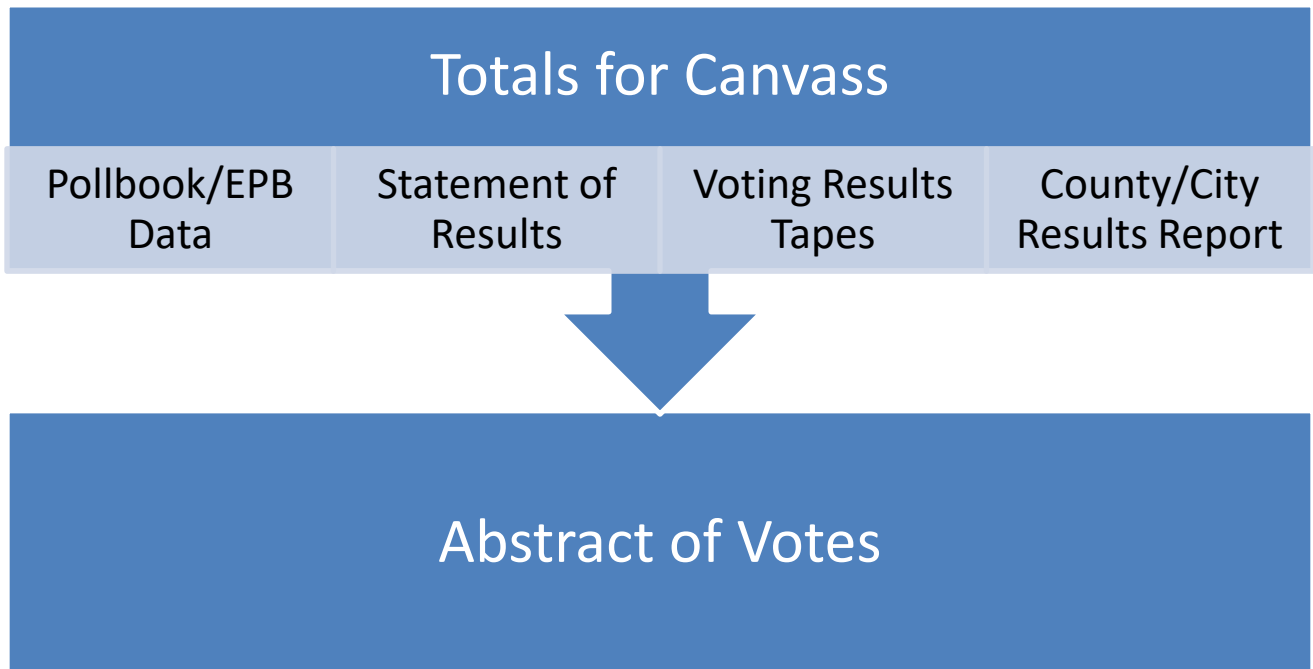
¹⁴ See the Code of Virginia [§24.2-668](#).



14.2.1.5 Whose Attendance is Optional:

During a primary election, each candidate is entitled to have as many representatives as there are teams of officials working to ascertain the results. In a general and/or special election, each political party and each independent candidate can have as many representatives as there are teams working to ascertain the results. The electoral board must use a room of sufficient size to accommodate these individuals. These individuals must be allowed an unobstructed view of the proceedings.

14.2.2 Required Totals for Canvass



14.2.2.1 Pollbook and Pollbook Count Form

A pollbook is either a printed or electronic list of all the eligible voters for a given precinct in a given election. Pollbooks list each eligible voter by last name and includes their ID number, full name, year of birth, town code (if applicable), super-district (if applicable), residence address, and mailing address. Additionally, a voter may have a pre-printed code beside their name to indicate one of the following:

- Voter requested an absentee ballot (AB).
- Individual is a temporary or federal overseas voter (T or F).
- Individual is a permanently registered overseas voter (R).
- Voter moved within the jurisdiction or is inactive (?).
- Voter has assigned number instead of social security number (A).
- Voter utilized Same Day Registration (SDR)

The pollbook count form is a tally sheet used by officers of election to track the number of voters who checked in on election day. If an electronic pollbook (EPB) is used, this count is tracked automatically.



14.2.2.2 Statement of results

The statement of results (“SOR”) is a worksheet officers use to submit the results for each precinct.¹⁵ After polls close, officers of election begin to ascertain the votes by completing the SOR. Officers use materials such as the results tapes to complete the SOR; officers of election must complete certain fields on the SORs such as: the number of voters checked-in at the pollbook, the number of voters that voted outside the polling place, and the number of ballots cast on the voting machine. The electoral board, then, verifies this information.¹⁶ Refer to Forms Warehouse for SOR Templates.

14.2.2.3 Voting System Results Tapes

Optical scanning machines produce tapes prior to an election and once the election is completed. The tapes produced prior to the beginning of the election are known as Zero Tapes while the printouts at the end of the election are the results tapes. Your printouts from the end of the night will have a total number of votes and, if applicable, tapes of any write-in names. Zero tapes and results tapes must be certified by the officials on election night; thus, each officer of election must sign these documents and submit a Printed Return Sheet (ELECT-658) for all machines within the polling place.

Optical scanning machines that are used in the Central Absentee Precinct (CAP) will also produce a result tape with office and issue results listed by the Election Day precincts. This result tape should be provided to the General Registrar so that the effort to confirm CAP by Precinct election results may be verified and corrected as needed. The electoral board should focus its attention on the cumulative results tapes and write in tapes.

14.2.2.4 County/City Results Reports

The county/city results reports may be used to summarize all the statements of results within a locality for all offices or referenda. The reports identify the election, its date, the locality name, code, and precincts involved. Offices and their candidates appear in the same order as they are listed on the ballot. The County/City Results Report captures all offices applicable to a locality’s election while the County/City Referendum Results Report captures all referenda applicable to a locality’s election.

14.2.2.5 Abstracts of Votes Cast

The Enhanced Results “Certification” report (Abstract of Votes) is generated after vote totals for each office or issue are submitted into Enhanced Results from the SOR. Towards the end of canvass, the local electoral board should have the general registrar or staff retrieve the Abstract of Votes. The Abstract may need to be supplemented with the ELECT-675 Write-in Certification and Continuation (available in the Forms Warehouse) if a write-in candidate wins or the total number

¹⁵ See the Code of Virginia [§24.2-654](#).

¹⁶ See the Code of Virginia [§24.2-671](#).



of write-in votes cast is 10% or more of the overall votes cast for the office.

14.2.3 Election Materials Provided to the Clerk of Court and the General Registrar

ELECT provides two envelopes, Envelope 2 or 2B and Envelope 2A, to deliver elections materials to the clerk of court or to the general registrar.¹⁷

The clerk of court must receive a copy of the return sheets, a copy of the inspection sheet, and a copy of the statement of results to comply with §24.2-658, requiring the return sheets be made available the day after the election for 60 days for public inspection and transcription, regardless of the method of delivery chosen from §24.2-668.¹⁸

The Code of Virginia §24.2-668 provides 2 methods for delivering the two Envelopes to the clerk of court and the general registrar.

If the officers of elections are directed to give the clerk of court the election materials outlined in §24.2-668(A), the officers of elections must deliver the materials no later than noon of the day following the election. The clerk of court is to retain Envelope 2A and provide the electoral board with Envelope 2 or Envelope 2B for the canvass.¹⁹

If the officers of elections are directed to give the election materials to the general registrar, as provided in §24.2-668(B), on the night of the election or the morning following the election, the general registrar is to provide Envelope 2 or Envelope 2B and the election materials therein to the electoral board and provide the clerk of court Envelope 2A for the required public inspection and preservation of records.²⁰ All other election materials outlined in §24.2-668(A) shall be provided by the general registrar to the clerk of court by noon of the day following the ascertainment of the results of the elections by the electoral board.

14.3 Conducting the Canvass

The purpose of the canvass is to compile and certify vote totals and voter turnout for each precinct within your locality. The canvass requires actions by the officers of elections, general registrar, and the electoral board, all of which are transmitted by the general registrar or staff to the Department of Elections for website publishing. The purpose of this section is to understand the responsibilities of each entity within the canvass process.

¹⁷ See the Code of Virginia [§24.2-668](#).

¹⁸ See the Code of Virginia [§§24.2-668](#) and [24.2-658](#).

¹⁹ See the Code of Virginia [§24.2-668\(A\)](#).

²⁰ See the Code of Virginia [§24.2-668\(B\)](#).



14.3.1 Duties of the Officers of Election

The officers of election are critical to the canvass process because the officers begin the process by ascertaining, or verifying, vote totals for each machine on election night. Information that is collected and verified by the officers of election will be provided to the general registrar and the local electoral board for certification. For more details, see the Election Day Guide. Officers of election must accurately complete:

- The pollbook count form (except when an electronic pollbook is used),
- Duplicate statements of results,²¹ and
- Produce the voting equipment printouts (e.g., results tapes, precinct consolidation tape or final precinct report).²²



Best Practice

In certifying returns provided by officers of election, the general registrar or electoral board may discover discrepancies in the totals provided. To correct any discrepancies, the board must summon the officers of election to the canvass at which point the discrepancy can be amended and signed by the officers (§24.2-672). The officers should be required to appear either on the day of the canvass or no later than the following day.

14.3.2 Duties of the General Registrar

The duties performed by the general registrar for the canvass break down into two sections: Before the Election and After the Canvass. The specifics of each section are described below.

14.3.2.1 Before the Election

The general registrar should check the County/City Results Reports worksheet or similarly generated spreadsheet to be certain of the following:

- The three required Central Absentee Precinct (CAP) reporting elements are listed, i.e., the ## AB - Central Absentee Precinct, ## EV – Central Absentee Precinct, and ## PE – Central Absentee Precinct.
- The #_Provisional (Vote) Precinct is listed.
- The required lines for each precinct in the locality are provided.
- The offices, districts, candidates, and issues shown on each page are the correct ones for the precincts listed.
- No required office, candidate, or issue is missing.

Additionally, the general registrar should prepare for the precinct level reporting of absentee ballots cast before and during election day.²³

14.3.2.3 After the Canvass

After the canvass is complete, the general registrar should make available for public inspection one copy of the following:²⁴

²¹ See the Code of Virginia §§24.2-657 and 24.2-668.

²² See the Code of Virginia §24.2-657.

²³ See the Code of Virginia §24.2-667.1.

²⁴ See the Code of Virginia §24.2-671.



- County/City Results Report or similarly generated spreadsheet (if applicable),
- Statement of results for each precinct, and
- Statement of Results (SOR) Write-Ins Certification completed by the officers of election for each precinct (if applicable).

These documents may also be copied by the public with their own device or may purchase a copy pursuant to §17.1-275(A)(8).

14.3.3 Duties of the Electoral Board

The electoral board completes and certifies the abstract of votes. To create the abstract of votes, the officers of election supply the statement of results to the electoral board who reviews these documents and certifies them. This process is the ascertainment of results. Much of this process is completed through Enhanced Results by the general registrar or their staff. Refer to the Enhanced Results guidance documents found in ELECT's internal Learning Management System (LMS) in the "2023 Election Night Reporting Webinar" course.

14.3.3.1 Processing the Statements of Results

Officers of election must submit two copies of the statements of results for each precinct. Each copy should be checked for discrepancies by the electoral board members, a Democratic board member and a Republican board member should each check a copy for matching information.

In large localities, it may be necessary to employ teams of two people to perform this function under the direct supervision of board members. In this case, each team should be comprised of one Democrat and one Republican. Each should check one copy of the statement of results to ensure matching information, and all required signatures have been entered.

- Electoral board members should ensure that all voting systems in the polling location are properly accounted for in the statement of results and that all machine tapes from all voting systems in use are present.
- Compare the number of voters voting with the total number shown as voting on the statement of results. This is done by checking either the last page of the pollbook count sheet or the "Checked-In" count from the EPB. If they do not agree and no statement adequately explaining the disagreement has been entered, the officers must be called in to correct the statement of results or to enter the missing explanation.²⁵

²⁵ See the Code of Virginia [§24.2-672](#).



**Law Note**

Never open the sealed envelope or receptacle containing voted ballots unless authorized to do so by the Commissioner of Elections of the Department of Elections, by order of a Court (*e.g.*, in a recount or contest), or as part of a risk-limiting audit pursuant to §24.2-671.2. **Opening the sealed counted ballots envelope or receptacle for any other reason could constitute illegal tampering subject to prosecution as a felony** as per the Code of Virginia §24.2-1009.

- Officers may have to look at counted ballots or examine voting machines to correct discrepancies in the returns, if so; the board must contact the Department of Elections immediately **before** proceeding further with that precinct. The registrar or an electoral board member must complete the ELECT-659 Request to Inspect Sealed Election Materials Formsite form (link to form available in the Forms Warehouse).²⁶ You will receive an email confirmation with the completed, signed form. Permission is not granted until Election Services returns the signed form.
 - Each political party and each independent candidate on the ballot (in a primary, each candidate) is entitled to have a representative during this process.²⁷ Parties and candidates must be provided with a reasonable advance notice of the time and place of the inspection. The representatives must have an unobstructed view of the proceedings but cannot interfere in any way.²⁸

The electoral board is required to notify the Department of Elections when changes are made to the SOR, or later, to its certified abstract and include a reason, which will be posted to the Department of Elections website.²⁹ ELECT's ERS, Election Administration Team should be notified right away of what changes need to be made. They will instruct how to move forward with making the required changes in Enhanced Results and/or submitting the revised abstract.

- Once the results are ascertained, the secretary of the board must return to the clerk:
 - all pollbooks,
 - any printed inspection and return sheets, and
 - one copy of each statement of results.³⁰

²⁶ See the Code of Virginia [§24.2-659](#).

²⁷ See the Code of Virginia [§24.2-671](#).

²⁸ See the Code of Virginia [§24.2-671](#).

²⁹ See the Code of Virginia [§24.2-671](#).

³⁰ See the Code of Virginia [§24.2-671](#).



14.3.3.2 Write-in Votes

Write-in votes cannot be cast for primary elections.³¹ Localities must always report the **total** number of write-in votes for an office.

Currently, an ELECT-675 Write-In Certification form is required when the write-in vote total is 10% or more of the total votes cast for the office, or a write-in candidate wins the election.³²

In each instance, the electoral board must complete the ELECT-675 Write-in Certification and, if applicable, the Write-In Continuation form. The Certification form tallies valid, invalid, and total votes received for the write-in candidate.



Best Practice

Determining what may be counted as a write-in vote for a particular candidate often requires determining voter intent: Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party should be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained. This standard is similar to that defined by SBE Policies 2007-002 and 2005-009 regarding candidate names on ballots which may include a known nickname. Write-in candidates are instructed to educate voters on using the candidate's full name.

The ELECT-675 Write-In Certification and Continuation provides space for reporting all the write-in votes cast. The valid write-in votes should be listed in alphabetical order. These forms are not required, if the electoral board develops its own spreadsheet or program that can print a list of valid write-in votes in a similar way as the Write-In Continuation. The spreadsheet may be used in lieu of the Write-In Continuation. Newer voting systems permit the production of a write-in report from the voting systems themselves. This report is also acceptable and may be used in lieu of the Write-In Continuation.

Accounting for write-ins may be accomplished either manually or by computer. If using a computer, entry is done office-by-office, district-by-district, of the names of persons receiving write-ins and the votes each received. Invalid votes for each office and its district should also be included. A program will then sort the names (including names entered as "Invalid") along with the number of votes received by everyone in each precinct.

In an election for a local office in a locality with a population of *no more than 4,000 persons*:

- if the person having the highest number of votes for the office is elected by write-in votes and is not qualified to hold such office or declines to assume such office, the person having the second highest number of

³¹ See the Code of Virginia [§24.2-529](#).

³² See the Code of Virginia [§§24.2-671](#) and [24.2-675](#).



votes shall be deemed to have been elected to such office and shall receive the certificate of election.

- In the event that the person having the second highest number of votes is not qualified to hold such office or declines to assume such office, the person having the next highest number of votes shall be deemed to have been elected to such office and shall receive the certificate of election.
- In the event that the person having the next highest number of votes is not qualified to hold such office or declines to assume such office, a vacancy shall be declared and filled by special election.³³

14.3.3.3 Processing the County/City Results Report

One member of the board (Democratic or Republican) may complete the county/city results report worksheet or a similar results template and have the completion witnessed by a member representing the opposite party. The worksheet information should be entered into Enhanced Results by the general registrar or staff.

The board member recording data must determine the following:

- The total number of votes cast in the precinct for each candidate or issue response listed,
- The total number of write-in votes cast for each office (if permitted for the election), and
- The number of over-votes cast in the precinct for each candidate.

The total number of votes cast for all candidates, including write-ins (for non-primaries), for any one single-seat office, or responses for any one issue, *must not* exceed the total number of persons voting in that precinct and in that district.

If the number of votes cast for candidates or issue responses is higher than voters voting due to human or machine error, the number on the voting machine must be used. Enter a statement to that effect on the reverse side of each copy of the County/City Results Report or similarly generated spreadsheet on which the precinct is listed.

After these totals are verified as accurate, the general registrar or staff should run a certification report in Enhanced Results.

14.3.3.4 Voter Turnout

“Voter turnout” is the total number of individuals who voted in an election. A voter turnout number must be determined for each precinct involved in an election.

Participation comes in many forms. Election participants include:

³³ See the Code of Virginia [§24.2-673\(B\)](#).



Election Day Voters

- All ballots that are run through the machine or hand counted.

Absentee Voters

- All "accepted" ballots (i.e. ones that can be run through the machine or hand-counted)

Provisional Voters

- All "accepted" provisional ballots (i.e. ones that can be run through the machine or hand-counted)

Voter turnout number should be listed on the precinct's SOR. Once voter turnout has been determined for each precinct, this information should be entered into Enhanced Results.

14.3.3.5 Enhanced Results Data Validation, Enhanced Results and VERIS Reports Available to Confirm Accurate Election Results

After entering the election results and voter turnout into Enhanced Results general registrars should analyze and resolve all data validation errors that are flagged in the Data Validation section in Enhanced Results. There are several reports in Enhanced Results that can be run to help find and resolve any errors. Refer to the Enhanced Results Virginia Use Procedures for more information.

After entering voting credit into VERIS, the Voter Turnout report should be run in Enhanced Results and the Voting Credit Audit by Locality report should be run in VERIS to compare for accuracy. The general registrar and electoral board should analyze the reports and resolve voter turnout/voter credit discrepancies that are flagged by comparing the two reports side-by-side. A JIRA ticket may need to be submitted by the general registrar in case of issues with voting credit.

If the general registrar or board needs assistance in interpreting data validation errors or reports, they may contact the Department of Elections' Elections Administration staff. If the general registrar or board is unable to resolve a discrepancy, an explanation must be submit to ELECT with the Abstract of Votes.

14.3.3.6 Processing the Abstracts of Votes



For each office, complete one *Abstract* and, if write-ins equal 10% or more of the total number of votes cast for the office or a person was elected by write-in vote, the *Write-Ins Certification*. If applicable, complete one *Abstract* for each



referendum issue. Registrars generate the Abstract report in Enhanced Results. Refer to the Enhanced Results Virginia Use Procedures for more information.

Note: If a person is elected by write-in vote, you must create a candidate for that person and distribute their votes from the write-in votes total to the candidate before completing the Abstract. Refer to the Enhanced Results Virginia Use Procedures for more information.

For offices, make **three** copies of each completed and signed *Abstract* and, if required for the office, the *Write-Ins Certification*. For issues, make **four** copies of the *Abstract*. The Secretary must sign each copy, attesting that it is a true copy, and affix the seal of the electoral board.

- All members of the electoral board who participate in the canvass must sign each original *Abstract* and *Write-Ins Certification* (if applicable) **before** the secretary affixes the seal of the electoral board and second signature.
- Preserve one attested copy of each *Abstract* and, if required for the office, the *Write- Ins Certification* as part of the minutes of the meeting at which the results were ascertained.³⁴ Place the originals (unattested) in a file to be kept with the minute book.

A tie may occur when two or more candidates for any such office receive the same (and highest) number of votes. To determine the winner, follow the procedures in *Determination of Tied Results* in this chapter.

Write-ins vote totals may also need to be certified, pursuant to §24.2-675.

- If it is determined that a *Write-Ins Certification* page is necessary, enter the appropriate numbers in the Write-Ins Summary (Lines 1, 2, and 3). Enter, in alphabetical order, the names of persons receiving write-in votes and the number of votes received by each in the “Valid Write-Ins – Detail.” The “Write-Ins Certification – Continuation” will permit a complete reporting of write-in names.
- If a write-in candidate appears to have received the highest number of votes for an office, the general registrar should add the candidate to Enhanced Results, enter the number of votes the candidate received, subtract that number from the other write-in votes, and update the totals in Enhanced Results. Then the write-in candidate should be marked as the winner in Enhanced Results, and a new abstract should be produced. Refer to the Enhanced Results Virginia Use Procedures for more information.
- The other criteria for candidacy still need to be met by a write-in winner, including campaign finance reports.

³⁴ See the Code of Virginia [§24.2-675](#).



14.3.3.7 Where to Send Abstracts/ Write-In Certifications



Place one attested *Abstract* and, if completed at the time of the canvass, each *Write-Ins Certification*, in an envelope labeled *Abstract Envelope For (county or city name)*. **DO NOT** fold the *Official Abstract* or *Write-Ins Certification*. Immediately send it as directed by the Department of Elections.³⁵

As soon as the canvass is concluded and the *Abstracts* are signed and attested, but no later than the time required in the specific instructions for the election, the Department of Elections must receive the following:

- By online submission of one copy of the abstract for each office and issue canvassed, and
- By First Class Mail or as instructed by the Department of Elections, one attested copy of each *Abstract* and each *Write-ins Certification* (if applicable).

Forward a copy of each certified abstract for recording in the record book of the local governing body to the following:³⁶

- To the Clerk of the City Council or Board of Supervisors,
- For town elections, send the documents to the Clerk of the Town Council,
- For local referenda, to the Circuit Court Clerk of the locality.

Abstracts for primary elections for United States President and Senate, Governor, Lieutenant Governor, and Attorney General are sent only to the Department of Elections and not to any political party chair.

14.3.3.8 Requesting a Risk-Limiting Audit for a Local Contest

Pursuant to §24.2-671.2(D) a local electoral board may request a local race be a part of the risk-limiting audits chosen by the State Board of Elections. The local electoral board may hold a vote during the canvass to select a contested race wholly contained within the jurisdiction of the county or city to audit.³⁷ The contest must have a margin greater than or equal to 1%.³⁸

If the local electoral board approves by a majority vote the request for an audit, the local electoral board must submit an SBE-671.2(D) Form to the State Board of Elections for consideration.³⁹ If the request is granted by the State Board of Elections an extension may be granted, up to two weeks, for the electoral board's certification deadline.

14.3.3.9 Special Considerations for Primary Elections

As soon as the canvass is concluded and the *Abstracts* are signed and attested, but by no later than the sixth day after the primary election, the Department of

³⁵ See the Code of Virginia §§24.2-532 and 24.2-675.

³⁶ See the Code of Virginia §24.2-675.

³⁷ See the Code of Virginia §24.2-671.2(D). See also Administrative Code of Virginia [IVAC20-60-80](#).

³⁸ See Administrative Code of Virginia [IVAC20-60-80](#).

³⁹ *Id.* See also [SBE-671.2\(D\) form](#).



Elections must receive the following: by online submission of one copy of the abstract for each office and issue canvassed, and by First Class Mail or as instructed by the Department of Elections, one attested copy of each *Abstract*.⁴⁰

Place one attested copy of each *Abstract* in an envelope labeled *Abstract Envelope For (county or city name)*. **DO NOT** fold the official *Abstract*. Immediately send it as directed by the Department of Elections.⁴¹

For primary elections for all county, city, or local district offices, forward one attested copy of each *Abstract* and certificates to the Department of Elections and to the chair of the county or city of the party holding the primary.⁴²

- For a U.S. House of Representatives primary, send the documents to the congressional district party committee.
- For primaries for the General Assembly, send the documents to the party chair of the Senate or House of Delegates district.
- For constitutional offices including those shared by more than one county or city, send the documents to the party chair of each county or city.

14.3.3.10 Responsibility for Certification of Results

The State Board of Elections is responsible for the final certification of the results of statewide elections, regional referenda, and any constitutional offices shared by more than one locality.⁴³ The electoral board is responsible for the final certification of the results of county, city, town, if applicable, or local election district offices other than shared constitutional offices. The electoral board is also responsible for the final certification of the results for and against county, city, town, if applicable, and/or local election district referendum/bond issues.⁴⁴

14.3.3.11 Determination of Tied Results

If the results of the election for any of the offices certified by the electoral board (those set forth above) indicate that two or more candidates received the same (and highest) number of votes, the electoral board must first check and double check again the total votes cast for each candidate. If no error is found, determine the successful candidate by lot conducted by the electoral board at a meeting open to the public.⁴⁵

Notify the candidates involved so that they or their representatives may be present for the drawing. The board should continue with the drawing even if a candidate's representative fails to show.⁴⁶ In any event, ensure that witnesses are present.

⁴⁰ See the Code of Virginia [§24.2-532](#) and [24.2-675](#).

⁴¹ See the Code of Virginia [§24.2-532](#).

⁴² *Id.*

⁴³ See the Code of Virginia [§24.2-680](#).

⁴⁴ See the Code of Virginia [§24.2-671](#).

⁴⁵ See the Code of Virginia [§24.2-674](#).

⁴⁶ *Id.*



To conduct the drawing, take the following steps:

1. Enter the name of each of the candidates receiving a tie vote on a separate slip of opaque paper.
2. Exhibit the slips, one at a time, to any interested person who is present.
3. Fold each slip and seal it, individually, in an opaque envelope or other small opaque container.
4. Place all envelopes or containers in another opaque container large enough to mix them thoroughly.
5. Shake the container thoroughly and have one of the members of the electoral board draw out one envelope or container to select the winner.

After completing these steps, the general registrar should make sure to mark the winner in Enhanced Results for **all** offices certified by the local electoral board.

14.3.4 Duties of the Department of Elections

To verify the accuracy of the *Abstract*, the Department of Elections will compare the data keyed into Enhanced Results to the totals entered on the *Abstracts of Votes*. The Department of Elections will require the general registrar or the electoral board, as appropriate, to correct any errors found. The Department of Elections may require any general registrar or electoral board member to respond immediately and swiftly to correct any errors found.⁴⁷

The SBE Policy regarding the Counting and Reporting Results of Absentee Ballots from a Central Absentee Precinct directs the Department of Elections to post the results of absentee ballots cast in-person during early voting and all other absentee ballots cast by precinct to its website by no later than noon on the seventh calendar day following an election.⁴⁸ Localities must have all of their results entered by this deadline.⁴⁹ The Department of Elections will post to its website comprehensive reports indicating, for each precinct, the actual election results, and other vital information such as voter turnout percentages and percentages of votes cast for each candidate.

14.4 After the Canvass

14.4.1 Certificates of Election



The certificate of election is made out by the secretary of the electoral board once the board has determined the election results and verified with the general registrar each winning candidate's compliance with §24.2-948.2.⁵⁰ The secretary must make out a certificate for each person who received the highest number of votes. Two sample certificate forms are posted to the Forms Warehouse. The dates entered for the beginning and end of the term of office must be correct for the specific office being

⁴⁷ See the Code of Virginia [§24.2-675](#).

⁴⁸ See [Chapter 152 of the 2023 Acts of Assembly](#)

⁴⁹ SBE Policy 2023-001, Counting and Reporting Results of Absentee Ballots from a Central Absentee Precinct, [CAP_August-15_SBE-FINAL.pdf \(virginia.gov\)](#)

⁵⁰ See the Code of Virginia [§24.2-676](#).



certified. Your local government attorney can be consulted if needed.

The secretary of the electoral board is responsible for issuing the certificates of election for each county, city, town, or district office other than an office shared by more than one county or city.⁵¹ The secretary or acting secretary must sign each certificate of election. If a certificate of election is withheld through §24.2-948.2, the secretary must issue the certificate promptly once such issue is resolved.

The State Board of Elections is responsible for issuing certificates of election to:⁵²

- Members elected to the United States Congress,
- Members elected to the General Assembly,
- Governor,
- Lieutenant Governor,
- Attorney General,
- Constitutional offices shared by more than one county or city, and
- Persons elected to soil and water conservation districts.

For November elections, the State Board of Elections must certify results on the first Monday of December and, in the interim, will verify the accuracy of the results each local electoral boards has certified.⁵³ The electoral board should stand ready to respond immediately to any request from the Department of Elections for correction of any error found in the certification.

The electoral board may deliver certificates in person, by another member of the board or a registrar, or transmitted by certified mail.⁵⁴ Upon delivery, inform the person that the certificate should be exhibited to the officer who administers the oath of office as evidence of their election victory. An oath must be administered by a Clerk of Court of record, by any judge, by a Commissioner or Clerk of the State Corporation Commission or by the Secretary of the Commonwealth.

A certificate of election cannot be provided to the candidate with the highest number of votes until the individual complies with campaign finance reporting requirements.⁵⁵ The following conditions must be met:

- The candidate has filed all campaign finance reports required in §24.2-947.6(A)(3)-(9), §24.2-947.7(A)(3)-(6), and §24.2-947.8(B)(1) & (2), as applicable.
- A final report has been filed, if required by §24.2-948.1(C).
- The candidate has responded to and complied with any notice that additional information is needed to complete any required report.⁵⁶
- The candidate has paid any civil penalty and returned any contribution

⁵¹ *Id.*

⁵² See the Code of Virginia [§24.2-680](#).

⁵³ See the Code of Virginia [§24.2-679](#).

⁵⁴ See the Code of Virginia [§24.2-676](#).

⁵⁵ See the Code of Virginia [§24.2-948.2](#).

⁵⁶ See the Code of Virginia [§24.2-953.3](#).



required to be returned.⁵⁷

Notify candidates for any of the offices who fail to file the required reports of campaign contributions and expenditures that, if such reports are not filed, the electoral board will be required to report to the Commonwealth's Attorney that the candidate has failed to comply with reporting requirements and may be subject to prosecution.⁵⁸ Report to the Commonwealth's Attorney, in writing, any candidate who fails to file any required report by the deadline set in the notification letter.

14.4.2 What to Do with Your Ballots

After completing canvass and all other duties related to closing the election (for example submitting abstracts), you should prepare all records and papers generated in connection with the election for retention. For instance, documents such as voter registration applications submitted during election day, should be entered into VERIS and digitalized or stored. Pursuant to §24.2-669, ballots - both counted and uncounted - are to be delivered to your Clerk of the Circuit Court for retention purposes. Your Clerk serves as the "owner" of the ballots. The length to which your clerk should keep the ballots is dependent on the type of election in which the ballots were generated.

For non-federal elections, your counted ballots will be retained for one year and then destroyed by the Clerk if no election contest or legal proceeding is pending. Your uncounted ballots may be destroyed after the time to call a recount has expired.

About your federal ballots:

- The Help America Vote Act (HAVA) provides federal requirements and prohibitions related to election administration. One such requirement surrounds "all paper and records" generated in relation to voting or voter registration. Your federal ballots will be kept with your Clerk for twenty-two (22) months.
- Some voting equipment creates digital images of the ballots when determining the vote count. Per 52 U.S.C. 20701, these digital ballot images originating from a federal election must be retained for twenty-two (22) months. If your locality's voting system creates digital ballot images, these records must be maintained with the Clerk of the Circuit Court for twenty-two (22) months as mandated by federal law.
- The start time for your ballots' retention period begins on the date of the federal election. These retention requirements are only applicable when a federal office is on the ballot. This requirement is in addition to all other requirements of Title 24.2 of the Code of Virginia to preserve election materials.

If your locality falls under this requirement as it pertains to digital ballot images, you may choose to transfer the records from the original data storage device to another device to ensure compliance with federal law. If your locality chooses to transfer these records to another device, ensure the transfer was properly executed prior to sealing the records. Work closely with your vendor and IT support in your locality.

⁵⁷ See the Code of Virginia [§24.2-948.2](#).

⁵⁸ See the Code of Virginia [§24.2-946.3](#).



14.4.3 Letters to Voters whose Provisional or Absentee Ballots are Rejected

After the canvass, the general registrar must notify, in writing, all persons whose provisional or absentee ballot were not counted because they were determined to be unqualified to have their vote counted in the election.⁵⁹ The reason for this determination must be entered into VERIS; doing so will produce the required correspondence for mailing.⁶⁰ The registrar must search and manually add information regarding the provisional ballots in VERIS for each provisional voter. Refer to *VERIS Step-by-Step Voter History* for more information on modifying voter history.

A provisional voter may be registered, have an inactive status, cancelled registration, or not be in VERIS at all. For persons already registered, VERIS will automatically generate letters when their record is updated to indicate the provisional ballot was not counted. For persons not registered who have not completed a registration application, the notification letter should include a voter registration application and inform the person that if they wish to be eligible to vote in future elections, they must complete the application and return it in the pre-addressed envelope provided before the close of the books for the next election in the county or city.

⁵⁹ See the Code of Virginia [§24.2-653.01\(C\)](#).

⁶⁰ See the Code of Virginia [§24.2-653.01\(C\)](#). See also Administrative Code of Virginia [1VAC20-20-70](#).





ENHANCED RESULTS AND VERIS INFORMATION INDEX

Use this index to find the Enhanced Results and VERIS related information in this chapter by clicking on the section.

Write-in Votes

- See [section 14.3.3.2.](#)

Processing the County/City Results Report

- See [section 14.2.2.4](#)

VERIS Reports Available to confirm Accurate Election Results

- See [section 14.2.1](#)

Processing the Abstract of Votes

- See [section 14.3.3.6.](#)

Letters to Voters Whose Provisional/Absentee Ballots are Rejected

- See [section 14.4.3.](#)

Can't find what you're looking for? See the [Enhanced Results Virginia Use Procedures](#) or [VERIS Step-by-Step](#) guide for a walkthrough of all Enhanced Results or VERIS's processes.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 15

Recounts and Contests

September 2023

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15. RECOUNTS AND CONTESTS

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15.1 CHAPTER ORGANIZATION

Recounts do not occur often enough to be considered a routine part of an election year. Please take the opportunity, however, to refresh your knowledge of the laws and regulations that govern the circumstances and manner in which a recount can occur.

§15.2 outlines that a candidate cannot petition the court for a recount unless the election resulted in a margin of victory not more than 1 percent. (If either the winner or the apparently unsuccessful candidate ran as a write-in candidate, a recount can be requested as long as the difference is not more than 5 percent.)

§15.2.3 discusses the timeline for filing a recount petition, where to file the recount petition, and what components a petition for a recount must contain. §15.2.5 summarizes rules and procedures for conducting the actual recount when authorized.

§15.2.6 applies only to recounts of elections for presidential elections, and §15.2.7 applies only to recounts of referendums. §15.2.8 adds that if the apparent winner subsequently loses as a result of the recount, that apparent winner may contest the election. §15.2.10 provides essential reminders regarding the proper, secure handling of the election records used to conduct the recount.

15.2 RECOUNTS

15.2.1 Recount Laws

The recount laws found in the Code of Virginia¹ apply to “all elections held in the Commonwealth,” which includes primaries, general or special elections for offices, multi-winner races, ranked choice voting races, and referenda or questions before the electorate.²

¹ See Code of Virginia §§[24.2-800 – 802.3](#) (prescribes procedures for recounts).

² See Code of Virginia §[24.2-800\(A\)](#).



Virginia election law does not allow a losing candidate in a party-conducted nomination process (non-primary) to request a recount of non-primary results. The rules or bylaws of that party, or the "Call" and rules for the non-primary nominating event may permit such a process.

15.2.2 Recount Determined by Margin of Victory

15.2.2.1 Recount Only if Difference is No More than 1 Percent

A petition for a recount may be filed only if there is a difference of not more than one percent (1%) of the total vote cast for the apparent winner and any apparently defeated candidate, as certified by the Department of Elections or the electoral board.³

For multi-winner races, the "apparent winner" for purposes of naming the parties to the recount in a petition is the winning candidate with the lowest vote total.⁴

In a ranked choice voting ("RCV") election, a losing candidate must be within the required threshold of a winning candidate in the round of tabulation in which the winning candidate first reaches the required threshold to be elected.⁵

15.2.2.2 Recount for Write-In Candidate Only if Difference Not More Than 5 Percent

A petition for a recount may be filed when there is a difference of not more than five percent (5%) of the total vote cast for the apparent winner and any apparently defeated candidate, if either such candidate was a write-in candidate.⁶

15.2.3 Petition for a Recount



A recount cannot be requested until the election is certified. As per §24.2-801, a "petition for a recount of an election, other than an election for presidential electors, shall be filed within 10 days from the day the State Board or the electoral board certifies the result of the election."

Certified at local level	Deadline is 10 days from the day results are certified
Certified by State Board of Elections (SBE)	Deadline is 10 days from the day the SBE certifies results

15.2.3.1 Where and How to File

For non-statewide offices, the petition must be filed in the circuit court of the county or city in which the candidate being challenged resides. Here, the losing candidate has 10 days from day the results were certified to file a petition with the appropriate court.⁷

³ See Code of Virginia §24.2-800(B).

⁴ See *Recounts Step-by-Step Guide*, p. 4.

⁵ *Id.*

⁶ See Code of Virginia §24.2-800(B).

⁷ See Code of Virginia §24.2-801.



For statewide offices, the petition must be filed in the Circuit Court of the City of Richmond. Here, the losing candidate has 10 days from day the results were certified to file a petition with the appropriate court.⁸

15.2.3.2 What to File

The petition to the appropriate court must contain:

1. The certified results of the election;
2. A request to the appropriate court to have the ballots in the election recounted⁹; and
3. For multi-winner races, a listing of all winning candidates not named as party to the recount in the petition.¹⁰

In a referendum, a copy of the petition shall be served on the governing body or chief executive officer of the jurisdiction in which the election was held.¹¹

In a multi-winner race, a copy of the petition shall be served on all winning candidates not named as party to the recount in the petition.¹² This gives a winning candidate not named as a party in the petition the opportunity to request to be added as a party to the proceedings. The Court may also act on its own initiative to add parties if “full justice cannot be done.”¹³

15.2.4 A Recount Court

15.2.4.1 Selecting the Recount Court

A recount court (hereafter the “Court”) will be established (*see* Va. Code §§ 24.2-801 and 801.1) once the petition is appropriately filed. The Court will consist of three judges: the Chief Judge of the Circuit Court of where the recount petition was filed and two (2) judges appointed by the Chief Justice of the Supreme Court of Virginia. The Court will preside over the entirety of the recount process.

⁸ *Id.*

⁹ *Id.*

¹⁰ See *Recount Step-by-Step Instructions*, p. 4.

¹¹ See Code of Virginia §[24.2-801](#).

¹² See *Recount Step-by-Step Instructions*, p. 5.

¹³ See the Code of Virginia [§8.01-7](#).



15.2.4.2 Standards

As required by the Code, the State Board of Elections adopted standards for the conduct of recounts (Recounts Step-by-Step Instructions)¹⁴. The Chief Judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.¹⁵ These standards include the Recounts Step-by-Step Instructions and Virginia’s Guide to Hand-Counting Ballots. For uniformity, the Department of Elections has directed that the Guide to Hand-Counting Ballots is to be used whenever ballots must be hand counted.¹⁶



Regulation Note

1VAC 20-80-20: Recounts and Contested Elections

The standards for recounts and contests are governed by chapter 8 of Title 24.2.

- The procedures issued by the State Board of Elections are to be implemented as uniformly as possible throughout the entire recount zone.
- The State Board of Elections’ guidelines for hand-counting ballots shall be used when manually counting ballots.
- When a recount request is filed, ELECT must send copies of instructions corresponding to the types of ballots and equipment used in each county or city involved to the appropriate clerk of court and local electoral board.
- To prepare for the recount, circuit court clerks are required to:
 1. Secure all printed ballots and other election materials in sealed boxes
 2. Store these boxes in a vault or room not open to the public or to anyone other than the clerk and his or her staff
 3. Keep the room or vault locked at all times except when necessary for the clerk to access the room, and
 4. Certify that these security measures have been taken.

After a recount has been requested, the local electoral board must recommend to the court a location and estimated personnel for completing the recount, a complete list of all officers of election who served in the election to be recounted, with the political party they represented at that election, the precinct they served at, their address and phone number, and an indication of which officers served as chief or assistant chief officers, and a list of the members of the electoral board and the political parties they represent. The Commissioner of ELECT may provide recommendations and information prior to the preliminary hearing and can request information from the electoral board of the county or city involved, which that board must provide. counting printed ballots (20-80-20(G)). The State Board of Elections and the Department of Elections are to provide any other assistance requested by the court (20-80-20(H)).

¹⁴ See Code of Virginia §[24.2-802\(A\)](#) (requiring creation of standards) and §[24.2-802\(C\)](#) (requiring standards for multi-winner races).

¹⁵ See Code of Virginia §[24.2-802\(D\)](#).

¹⁶ See Virginia Administrative Code [1VAC20-80-20\(G\)](#).



15.2.4.3 Uniform Procedures Required

The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting devices in use in the election district.¹⁷

15.2.4.4 Preliminary Hearing

Within five days (for elections for presidential electors) or seven days (for all other elections) after the petition for a recount is filed, there shall be a preliminary hearing held by the Chief Judge to hear motions and set the recount procedures, subject to review by the full court.¹⁸ At this preliminary hearing, the Chief Judge will also “review all security measures taken for all ballots and voting and counting machines and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount,” as per §24.2-802.1(A). Additionally, for multi-winner races, the Chief Judge should rule on motions regarding the addition of other winning candidates as parties to the recount.¹⁹ It is highly suggested that the general registrar and/or electoral board attend this hearing to provide guidance to the court as necessary.

15.2.4.5 Court Hearing

After the full court is appointed, a hearing will be held to dispose of all motions and make a final determination of the rules of the recount procedures.²⁰ ELECT recommends that the general registrar and/or electoral board attend this hearing to provide guidance to the court as necessary.

15.2.5 Rules and Procedures for Conducting the Recount

The following rules and procedures are presented in summary form and also apply to a recount pertaining to a referendum or question before the electorate as discussed below.



Best Practice

Please also note that you can go online to the Forms Warehouse, in the Recount folder, to access two PowerPoint presentations – “Recounts 101” and “Recounts 201” – which have proven very helpful for learning and training purposes. For a more detailed accounting, please review §24.2-802.2 in its entirety.

¹⁷ See Code of Virginia [§24.2-802.1\(B\)](#).

¹⁸ See Code of Virginia [§24.2-802.1\(A\)](#).

¹⁹ See *Recounts Step-by-Step Instructions*, p. 21.

²⁰ See Code of Virginia [§24.2-802.1\(B\)](#).



15.2.5.1 *How are Ballots Counted?*

First, ballots will be scanned by recount officials. Prior to the recount, the locality was required to program the voting machines to return or set aside ballots with (1) overvotes, (2) undervotes, or (3) write-ins. For RCV races, a cast vote record will be produced to be used later in the RCV tabulation rounds.²¹

Second, these returned ballots will be hand counted. The recount team will also hand count any ballot that was hand counted on election day. For RCV races, hand-counted ballots will be tallied on a spreadsheet (in accordance with guidance from ELECT) that will be used later in the RCV tabulation rounds.²²

Third, if the recount team cannot agree, the ballot will be challenged and handed to the Court for adjudication. When a ballot is challenged by the recount officials, the Court will adjudicate the validity of the ballot and the voter's intent. Additionally, the Court will certify the results of the recount to the State Board and electoral board.²³

15.2.5.2 *Party Representatives*

Each party to the proceeding can choose an equal number of officers of election who served during the election to serve as recount officials and alternate recount officials.²⁴ As per §24.2-802.1(C), this number "is to be fixed by the court and be sufficient to conduct the recount within a reasonable period." On the request of any party to the recount, the court shall allow that party to appoint one representative observer for each team of recount officials. The representative observers must have an unobstructed view of the work of the recount officials. The expenses of its representative observers shall be borne by each party.²⁵

15.2.5.3 *Other Officials*

Teams of recount officials, substitutes, and observers are designated to undertake the count and determine the vote according to the provisions set forth in the code and the SBE standards.²⁶ The Court is responsible for supervising the recount. It may do so by requiring delivery of "any or all pollbooks used and any or all ballots cast at the election" or it may indirectly "assume supervision...through the recount coordinators and officials."²⁷ The Court may select pairs of recount coordinators to serve for each county or city in the election district that shall be members of the county or city electoral board and represent different political parties.²⁸

²¹ See *Recounts Step-by-Step Instructions*, p. 18.

²² *Id.*

²³ See Code of Virginia §[24.2-802.2](#).

²⁴ See Code of Virginia §[24.2-802.1\(C\)](#).

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Code of Virginia §[24.2-802.1\(D\)](#).

²⁸ See Code of Virginia §[24.2-802.1\(C\)](#).



15.2.5.4 Procedures for Different Ballot Types

For **paper ballots**, hand count the ballots using the Virginia's Guide to Hand-Counting Ballots.²⁹

For **optical scan tabulators**, rerun all machine-readable ballots through an appropriately programmed tabulator.³⁰ Any ballots set aside as overvotes, undervotes, or containing write-ins; any ballots not accepted by the tabulator; or any ballots for which a tabulator could not be appropriately programmed must be hand counted using the 'Virginia's Guide to Hand-Counting Ballots.³¹

If the total number of optical scan ballots counted by the ballot reader plus the total number of ballots set aside by the scanner do not equal the total number of ballots rerun through the scanner, the recount officials must count all the ballots by hand using the Virginia's Guide to Hand-Counting Ballots.³²

15.2.5.5 Ranked Choice Voting Tabulation

The recount officials, with guidance from ELECT, will upload the cast vote records produced in the ballot scanning and hand counting stages into the approved RCV tabulation software approved.³³ In general, the RCV process varies depending on the vendor used; this includes the RCV tabulation rounds due to differences in cast vote records produced by various vendors. Since there are multiple vendors used by localities, it is not possible to enumerate all procedural details. Localities will be provided with ELECT guidance for detailed administration of RCV tabulation rounds.³⁴

15.2.5.6 Concluding the Recount

The recount officials must write down and submit to the Court the number of valid ballots cast in the precinct for each of the candidates in the recount, or for or against the question. If the number of votes recorded on the voting machines is greater than the number of names on the pollbooks of persons voting, the figures recorded on the machines themselves shall be accepted as correct.³⁵

15.2.5.7 Certifying the Recount

At the conclusion of the recount, after allowing the parties to visually inspect any questioned ballots and after hearing the arguments of the parties, the Court will rule on the validity of all questioned ballots and votes.³⁶

²⁹ See Code of Virginia §[24.2-802.2\(D\)\(1\)](#) (requiring recount officials count paper ballots according to SBE standards). See also Virginia Administrative Code [IVAC20-80-20\(G\)](#).

³⁰ See Code of Virginia §[24.2-802.2\(D\)\(2\)](#).

³¹ See Code of Virginia §[24.2-802.2\(D\)\(2\)](#) (requiring recount officials count such ballots according to SBE standards for hand counting ballots). See also Virginia Administrative Code [IVAC20-80-20\(G\)](#).

³² See Code of Virginia §[24.2-802.2\(D\)\(2\)](#).

³³ See Virginia Administrative Code [IVAC20-100-50\(E\)](#).

³⁴ See *Recounts Step-by-Step Instructions*, p. 18.

³⁵ See Code of Virginia §[24.2-802.2\(E\)](#).

³⁶ See Code of Virginia §[24.2-802.2\(F\)](#).



By an appropriate order, the Court will certify, to the State Board and other appropriate electoral boards, the vote for each party to the recount or the vote for and against the question. The Court will declare the winning candidate or question accordingly.³⁷ The Certification of Recount 802-CC form should be used.

15.2.5.8 *In the Event of a Tie*

If the certified results of the recount determine a tie, the Court must issue a writ for a special election.³⁸

15.2.5.9 *Appealing the Recount*

The recount proceeding shall be final and not subject to appeal.³⁹ However, a candidate who was originally declared the winner and loses as a consequence of a recount, may file a written complaint or a notice to contest the result, as applicable, within ten days of the entry of the order of the recount Court.⁴⁰ Procedures for contesting the result are set forth under the provisions governing Contested Elections.⁴¹

15.2.5.10 *Costs*



The costs of the recount are assessed against the counties and cities comprising the election district if one of the following occurs:

- The candidate petitioning for the recount wins;
- The petitioners for a referendum win; or
- There is a difference of not more than one half of one percent of the total vote, prior to the recount, between the two candidates.⁴²

When none of the above circumstances occurs, the costs are assessed against the petitioning candidate.⁴³ The manner in which costs can be assessed against the petitioner and are calculated is discussed in detail in the code.⁴⁴ Any petitioner who may be assessed costs must post a bond with the Court in the amount of ten dollars per precinct in the area subject to the recount.⁴⁵

³⁷ *Id.*

³⁸ See Code of Virginia §[24.2-802.2\(H\)](#).

³⁹ See Code of Virginia §[24.2-802.2\(G\)](#).

⁴⁰ See Code of Virginia §[24.2-814](#).

⁴¹ See Code of Virginia §[24.2-803 et seq.](#)

⁴² See Code of Virginia §[24.2-802.3\(A\)](#).

⁴³ *Id.*

⁴⁴ See Code of Virginia §§[24.2-802.3\(A\)](#) and [\(B\)](#).

⁴⁵ See Code of Virginia §[24.2-802.3\(C\)](#).



15.2.6 Special Procedures for Presidential Elections

Because federal law sets a deadline for seating of presidential electors⁴⁶, the General Assembly in 2003 enacted legislation⁴⁷ to ensure that any recount in an election for presidential electors in Virginia would be concluded no later than six days before the date set for the meeting of the presidential electors (so that Virginia's electoral votes could be counted).⁴⁸ Detailed procedures for the filing of a petition for such a recount are set forth in §24.2-801.1. Other deadlines (such as the date for the holding of the preliminary hearing)⁴⁹ are shortened. Most importantly, any contest of such election would proceed concurrently, and not wait upon the results of the recount. The procedures and deadlines for the contest are in §24.2-805.

15.2.7 Referendum recounts

15.2.7.1 Filing the petition

A petition for a recount involving a question or referendum may be filed only in the event that the difference in the vote for and against is not more than fifty votes or one percent of the total vote, whichever is greater, as certified by the State Board of Elections or the electoral board.⁵⁰

Should the vote difference fall within this range, fifty or more voters qualified to vote on the question may appeal from the determination of the State Board of Elections or electoral board by signing and filing a petition for a recount.⁵¹ The petition for a recount must be filed within ten days from the day the appropriate electoral board certified the results of the election.⁵² In the case of a statewide referendum, a petition for a recount must be filed in the Circuit Court of the City of Richmond.⁵³ In the case of any other referendum, a petition for a recount must be filed in the Circuit Court of any county or city comprising a part of the election district.⁵⁴

A petition for a recount must set forth the results as certified by the State Board of Elections or the electoral board and must also request that the Court recount the ballots.⁵⁵ A copy of the petition must be served on the governing body or chief executive officer of the jurisdiction in which the election was held within ten days after the State Board of Elections or electoral board has certified the results.⁵⁶

⁴⁶ See [3 U.S.C. §§5](#) (Requires certificate of ascertainment of appointment of electors to be issued not later than 6 days before the time set for the meeting of the electors) and [7](#) (Sets the meeting of the electors as the first Tuesday after the second Wednesday in December).

⁴⁷ See [HB 2635](#).

⁴⁸ See Code of Virginia [§24.2-801.1](#).

⁴⁹ See Code of Virginia [§24.2-802.1\(A\)](#) (requiring recount preliminary hearing in an election for presidential electors be held within five days of the filing of the petition).

⁵⁰ See Code of Virginia [§24.2-800\(C\)](#).

⁵¹ *Id.*

⁵² See the Code of Virginia [§24.2-801\(A\)](#).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See Code of Virginia [§24.2-801\(B\)](#).

⁵⁶ See Code of Virginia [§24.2-801\(C\)](#).



15.2.7.2 Conducting the Recount

The procedures for conducting the recount with respect to a question or referendum are the same as those set forth above in summary form with respect to elections for office.⁵⁷

15.2.8 Contesting a Recount

Any candidate originally determined the apparent winner in a primary or other election, but who subsequently loses as a consequence of a recount, may contest the election pursuant to the applicable provisions of a contested election discussed below.⁵⁸

15.2.9 Disposition of Election Records After a Recount



Official election records conveyed to the Court in a recount proceeding by election or recount officials or by another Clerk of Court, must be secured and retained by the Clerk who received them, until the recount is concluded, and afterwards until the time for initiating a contest for that same election has expired and no contest is pending.⁵⁹

Afterwards, if the Clerk of the Court where the recount was conducted is in possession of official election records conveyed from another county or city, not normally part of his jurisdiction, the Clerk must return those records to the Clerk of Court for that county or city. The election records should otherwise be handled the same as all other records for that election under appropriate laws or regulations.⁶⁰

15.3 CONTESTS

15.3.1 Overview

§15.3 presents the second part of this chapter; §15.3.2 outlines how unsuccessful candidates can contest the results of an election, §15.2.3-5 cover the exceptions applicable to certain elections and §15.2.6 concludes by explaining the bond requirements for candidates contesting elections for statewide office in the Commonwealth.

⁵⁷ See Code of Virginia §[24.2-802.2](#).

⁵⁸ See Code of Virginia §[24.2-814](#).

⁵⁹ See *Recounts Step-by-Step Instructions*, pg. 20. See also Code of Virginia §§[24.2-668\(A\)](#), [24.2-669](#), and [24.2-802\(A\)](#); and Virginia Administrative Code [IVAC20-80-20\(C\)](#) (detailing procedures for how clerks of circuit courts in possession of official election records and materials should secure them).

⁶⁰ See *Recounts Step-by-Step Instructions*, p. 20.



15.3.2 Applicability and who can contest

An unsuccessful candidate in most general elections, special elections, or primaries can initiate a contest. The rules and procedures governing a contested election vary depending upon the office for which the election was held. Within the Code of Virginia, §24.2-803 relates to contests of elections for General Assembly; §24.2-804 to contests of elections for Governor, Lieutenant Governor, and Attorney General; §24.2-805 to contests of elections for presidential and vice presidential electors, as well as primaries for U.S. Senate and for statewide offices; and §24.2-806 to contests of all other primaries and elections.⁶¹The basic procedures described below apply to General Assembly elections.⁶²

15.3.3 Exceptions

Contests of elections for the U.S. Senate or U.S. House of Representatives are conducted under the procedures of the respective Houses.⁶³ Virginia law does not cover this subject. Additionally, Virginia law does not provide procedures to contest the results of a presidential primary.⁶⁴ More generally, Virginia election law does not contain any provisions for a losing candidate in a party-conducted nomination process other than a primary to contest the results. The Party Plan, rules or bylaws of that party, or the "Call" and rules for the nominating event may provide for such a party-conducted process.

15.3.4 Procedures governing a contested election to the General Assembly

15.3.4.1 How to Initiate Contest

To initiate a contest, the losing candidate (contestant) first must give written notice of his intent to contest the election, both to the party who has been declared the apparent winner (contestee) and the Clerk of the appropriate House. Additionally, the contestant must post a surety bond in the amount of \$100 for each precinct contained in whole or in part of the district contested. If the contestant wins the contest, the bond shall be returned. If the contestant loses the contest, the bond shall be forfeited to the extent of the contestee's actual and documented costs of defending against the contest.⁶⁵

15.3.4.2 Contestant must Provide Notice within 30 days of election or 3 days after recount

Notice must be submitted within thirty days following the date of the election or three days after the conclusion of a recount, whichever is later. The notice must state the grounds upon which the contest will be based. These grounds must include either or both of the following:

- Objections to the contestee's eligibility based on specific allegations

⁶¹ See Code of Virginia §§[24.2-803](#) – [24.2-806](#).

⁶² See Code of Virginia §[24.2-803](#).

⁶³ See [U.S. Const. Art. I, §5](#) ("Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members...").

⁶⁴ Presidential primaries are a fairly recent development in Virginia (first held in 1988 as a one-time event, then put into state law in 1999).

⁶⁵ See Code of Virginia §[24.2-803\(B\)](#).



- Objections to the conduct or results of the election, accompanied by specific allegations that, if proven true, would have a probable impact on the outcome of the election⁶⁶

15.3.4.3 *Contestee Must Answer*

Within ten days of service of this notice, the contestee must file a written answer with the Clerk of the appropriate House. The answer must admit or deny the allegations or state that he has no knowledge of particular allegations. Additional defenses may be included. This answer must be signed by the contestee and verified by oath or affirmation.⁶⁷

15.3.4.4 *Depositions*

Either party, following service of the notice, may take depositions. The contestant must complete depositions within twenty days and the contestee within thirty days, following the date of the notice of intent to contest the election. Written affidavits by a witness may be submitted if stipulated to in writing by both parties. Either party may apply to the Clerk of the Circuit Court of the county or city in which the party resides, or the Clerk shall issue subpoenas for witnesses.⁶⁸

15.3.4.5 *Subsequent Proceedings*

A written petition must be filed with the clerk of the appropriate house within ten days of the filing of the notice of intent to contest the election if contesting a November general election. If the election was held on a different date, the written petition may be filed within ten days of the filing of the notice, or within two days of the commencement of the next General Assembly session, whichever is later.⁶⁹ The Clerk shall refer the record⁷⁰ to the Committee on Privileges and Elections which, unless another Committee is designated, shall hear the contest, conduct an investigation, and report its findings and recommendations to the house for action.⁷¹ The house may declare either party the winner or declare the election void and order a writ of election.⁷² Should it be determined that there is a tie vote, there shall be a determination by lot;⁷³ however, no recount shall be permitted.⁷⁴ Should the house find, by a two-thirds vote, that the contest was brought in bad faith, the contestant shall be ordered to pay the contestee any amount above the posted bond in order to reimburse the contestee for his actual and documented costs in defending against the contest.⁷⁵

⁶⁶ See Code of Virginia §[24.2-803\(B\)](#).

⁶⁷ *Id.*, at (C).

⁶⁸ *Id.*, at (D).

⁶⁹ *Id.*, at (E).

⁷⁰ *Id.*, at (G) (the “record” includes the notice, answer, petition, reply, depositions, and affidavits).

⁷¹ *Id.*

⁷² *Id.*, at (H).

⁷³ See Code of Virginia §[24.2-674](#).

⁷⁴ See Code of Virginia §[24.2-803\(H\)](#).

⁷⁵ See Code of Virginia §[24.2-803\(H\)](#).



15.3.5 Exceptions applicable to contests in other elections

15.3.5.1 Contest of Election of Governor, Lieutenant Governor, or Attorney General

Notice of intent to contest must be filed with the Clerk of the House of Delegates. The filing of a petition to contest must be within two days of either the commencement of a Special Session of the General Assembly convened expressly to hear the contest, or of the beginning of the next scheduled regular session of the General Assembly, whichever occurs first.⁷⁶ At the time of filing the notice, the contestant shall post a surety bond of \$10 per precinct in the state. A final determination will be made by both houses of the General Assembly sitting jointly, presided over by the Speaker.⁷⁷

15.3.5.2 Contest of Election of Presidential and Vice Presidential Electors, United States Senate or, Primary for Statewide Office

The proceedings shall be in the Circuit Court of the City of Richmond before a special court composed as specified in §24.2-805.

Notice of intent to contest an election for presidential or vice presidential electors shall be filed no later than 5:00 p.m. on the second day after the day the Department of Elections certifies the results. A copy of the complaint shall be served on each contestee within five days after the Board's certification. The contestee's answer shall be filed within five days after the complaint is served on him.

The contest shall not wait upon the results of any recount. The proceedings shall be completed at least six days before the fixed time for the meeting of electors.⁷⁸

15.3.5.3 Contest of Primary for the U.S. House of Representatives, State Senate, House of Delegates, or any County, City, Town or District Office, or Contest of Election of any County, City, Town, or District Office

The contest is conducted in the Circuit Court of the county or city in which the challenged candidate resides before a special court composed as specified in §24.2-806. Specific rules governing the procedures for contesting any of these elections are covered in detail under §§24.2-807 - 813.

15.3.6 Bond

Only candidates contesting elections for Governor, Lt. Governor, Attorney General, the House of Delegates, or the State Senate are required to post bond in order to contest the election.⁷⁹

There is no bond requirement for other candidates filing contests.

⁷⁶ The Code includes a two day deadline for these offices because the new terms for these offices begin at noon on the first Saturday after the second Wednesday in January, when the regular session of the General Assembly convenes.

⁷⁷ See Code of Virginia §[24.2-804](#).

⁷⁸ See Code of Virginia §[24.2-805](#).

⁷⁹ See Code of Virginia §§[24.2-803\(B\)](#) and [24.2-804](#) (requiring posting of bonds for contests of elections for General Assembly, Governor, Lieutenant Governor, and Attorney General).





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 16

Candidate Processing

September 2023

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16. Candidate Processing

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16.1 CHAPTER ORGANIZATION

During candidate processing times, elections officials throughout the Commonwealth, at both the state and local level, interact and cooperate in concert for the shared goal of free, fair, open and secure elections. This chapter outlines the process local election officials use to verify candidate eligibility to run for office and appear on a ballot.

§16.2 describes the documents and forms candidates use to qualify for the ballot and provides a process by which local offices should process candidate filings. §16.2.3 focuses particularly on the SBE-501 Certificate of Candidate Qualification, which is a required form for every candidate. Candidates use this form to provide the preferred spelling and presentation of their name on the ballot. Upon receipt, local staff review these preferences to ensure the candidate's preference complies with SBE Ballot Standards. §16.3, in turn, explains the possibility of a ten-day extension for candidates to file either or both the Certificate of Candidate Qualification and Statement of Economic Interests forms.

§16.4 discusses how petitions can be collected, outlines requirements for circulators, and the requirement that each candidate have a Declaration of Candidacy (SBE-505/520) form on file before the petitions can be processed and verified. This section details how to process the petitions required by Va. Code §24.2-506 and 507, including petitions submitted by General Assembly candidates, independent candidates for federal and statewide office, and candidates in a political party primary. §16.5 provides an overview of how to verify the petitions, with reference to the SBE Material Omissions regulation, the petitions checklist, and the VERIS step-by-step. §16.6 explains the appeal process for candidates whose petitions were determined to be insufficient.



Last, §16.7 and § 16.8 focus on two ballot-related aspects of candidacy: how a candidate can withdraw and what information a prospective write-in candidate needs to know. §16.9 briefly considers a few other candidates filing related responsibilities such as the general registrar’s obligation to check petitions for local independent candidates, and the formal certification to the Department of Elections of the number of registered voters who signed petitions for independent candidates for certain offices.

Disclaimer regarding Candidates for Local Offices: Remind candidates for local, city, and town municipal office to review their local city or town charter when considering a run for public office. City or town charters may include candidate qualification requirements in addition to, and/or different from, those present in Title 24.2. Direct questions about charter provisions to the city or town attorney for guidance.¹



Note regarding Records Retention. **All candidate filings, including petitions and copies of statements of economic interest are open to public inspection and copying for reasonable costs.**² You **must redact** all portions of candidates’ social security numbers and other personally identifiable information from these records before releasing them publicly.

16.2 PROCESSING CANDIDATE FORMS

Refer individuals seeking information about running for office to candidate bulletins on ELECT’s website.³

16.2.1 Candidate Forms

16.2.1.1 Certificate of Candidate Qualification (SBE-501)

Each candidate to appear on a ballot must file this form to certify under oath that they are qualified to vote for and hold the office they are running for.⁴ As per Va. Code §24.2-501, “[e]very candidate for election to statewide office, the United States House of Representatives, or the General Assembly shall file the statement with the State Board. Every candidate for any other office shall file this form with the general registrar of the county or city where [s]he resides.”

- Every candidate for **statewide office** (Governor, Lieutenant Governor, and Attorney General), the **US Senate**, the **US House**, or the **General Assembly** files this form with the **Department of Elections**.
- Every candidate for **any other office** files this form with their **general registrar**.

16.2.1.2 Declaration of Candidacy (SBE-505/520)

This form must be filed with the Petition of Qualified Voters.⁵ Va. Code §24.2-505 requires

¹ See Virginia Charters, [Virginia Charters](#)

² See Chapter 2 (Local Electoral Boards) of the Handbook which discusses the Virginia Freedom of Information Act (FOIA).

³ See ELECT, [Candidate Bulletins](#).

⁴ See Code of Virginia, §24.2-501.

⁵ See Code of Virginia, §24.2-505.



that the declaration be “on a form prescribed by the board, designating the office for which he is a candidate,” witnessed by two qualified voters or “acknowledged before some officer authorized to take acknowledgements,” and signed by the candidate. Party candidates nominated by a non-primary method are not required to submit a declaration unless required by their party to do so.⁶

- Independent candidates for **local and constitutional offices** file this form with them. **general registrar.**
- Primary candidates for **General Assembly, local and constitutional offices** file this form with the **party chair** for the district in which they are running.
- All candidates for **President, Commonwealth-wide offices** file this form with the Department of Elections.⁷

16.2.1.3 *Petition of Qualified Voters (SBE506/521)*

The Department of Elections prepares and distributes this form in two sizes: legal and letter. The first submission of a completed petition page must be filed together with the SBE-505/520 Declaration of Candidacy.⁸ Independent candidates for general elections may not circulate petitions until after January 1 of the year in which the election is held. Candidates for special elections may not circulate petitions until after the issuance of the writ or order calling the election. Petition signature requirements are listed in the *Candidate Bulletins*.⁹ Material omissions from candidate petitions and candidate qualification are enumerated in 1VAC20-50-20 of administrative Code.¹⁰

16.2.1.4 *Statement of Economic Interests (SOEI)*

According to Va. Code §24.2-502, a “written statement of economic interests (SOEI) shall be filed by” candidates.¹¹ There are two types of candidates SOEIs; one for General Assembly candidates and one for statewide office and constitutional and local office candidates. A candidate for a statewide office or the General Assembly must file the SOEI with the Department of Elections. A candidate for a constitutional office must file with the general registrar. A candidate for member of a governing body or elected school board of any county, city, or town with a *population more than 3,500 persons* must file an SOEI with the general registrar of the county or city per Code of Virginia §24.2-502.¹²

The SOEI requirement does not apply to federal candidates or candidates for director of Soil and Water.¹³ It also does not apply to incumbents who are a candidate for reelection to the same office.¹⁴ Incumbents file an SOEI annually while in office on or before February 1 with the Ethics Advisory Council per Va. Code § 2.2-3115.¹⁵ Direct questions on how to complete the SOEI form for either incumbents or candidates to the Ethics Advisory Council.

⁶ See Code of Virginia, §24.2-511.

⁷ See Code of Virginia, §§24.2-505 (independent candidates) and 24.2-522 (primary candidates).

⁸ See Code of Virginia, §24.2-506.

⁹ See ELECT, [Candidate Bulletins](#). See Virginia Administrative Code [1VAC20-50-20](#) and [1VAC20-50-30](#). See Code of Virginia §§ [24.2-506](#), [24.2-521](#), and [24.2-543](#).

¹⁰ See Virginia Administrative Code [1VAC20-50-20](#).

¹¹ See Code of Virginia, §24.2-502.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Code of Virginia, [§2.2-3115](#).



16.2.1.5 *For Party Chairs Only: Party Certification (SBE-511)*

This form only applies to political parties who seek to nominate a candidate by means other than a primary. This form is completed and submitted by the party chair. Please note: A candidate nominated by a political party is not required to submit a Declaration of Candidacy or Petitions of Qualified Voters. SBE-511 Party Certification for local and constitutional offices should be filed with both the Department of Elections and the general registrar of the county in which the name of the candidate will appear on the ballot.¹⁶ For all other offices, with the Department of Elections.

16.2.2 General Processing

16.2.2.1 *At a Glance*

When the candidate files documents, review all submitted filings to confirm that all required forms are included and that each is properly signed and notarized. Advise the candidate if you see any deficiencies with the submitted documents. If a required document is missing, you may notify the candidate. Be sure that a candidate has submitted a Declaration of Candidacy before accepting petition pages, as per Va. Code §24.2-506 and 521, which require that petition pages be submitted along with the Declaration of Candidacy.¹⁷

16.2.2.2 *Provide Receipt*

Scan the filed documents and provide the filer with a receipt listing the submitted documents. If documents are mailed in, you may provide a receipt through the mail or email. You can find ELECT's candidate filing receipt ("Elect-Receipt Candidate Filing Receipt") online in Forms Warehouse. Localities can determine what order to process candidate filings. ELECT recommends processing filings chronologically in the order they were submitted.

16.2.2.3 *Document Time of Filing*

Va. Code §24.2-613 provides that all independent candidates for an office "shall appear on the ballot in an order determined by the priority of time of filing all required paperwork for the office."¹⁸

Per Code of Virginia §24.2-613 "time of filing" for independent candidates means when the candidate submits all petition signatures required for the office under Va. Code §24-2.506.¹⁹ Further, "time of filing" for offices with no required petition signatures is when the candidate files the certificate of candidate qualification form.

16.2.2.4 *Simultaneous Filing*

In the event that "two or more candidates file simultaneously; the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office" as per Va. Code §24.2-613.²⁰

¹⁶ See Code of Virginia, §24.2-511.

¹⁷ See Code of Virginia, §24.2-506. See also §24.2-521.

¹⁸ See Code of Virginia, §24.2-613.

¹⁹ See Code of Virginia, §24.2-506.

²⁰ See Code of Virginia, §24.2-613.



16.2.2.5 *Single Candidate Qualifies for Primary*

Any office for which only a single candidate has qualified will not hold a primary as per Va. Code §24.2-526, which states “[w]henever ...there is only one declaration of candidacy in a political party for the nomination of any office, the person filing the declaration shall be declared the nominee of the party for the office ... and his name shall not be printed on the ballot for the primary.”²¹

16.2.2.6 *VERIS*

Add the candidate in VERIS after receiving either the candidate’s certificate of candidate qualification or declaration and petitions. All candidates, including partial filers and late filers, must have a candidate record. The candidate’s VERIS record will allow for additional tracking of required documents. Should the candidate fail to qualify, set the candidate’s status to “Not Qualified” and record the reason in the Comments section of the VERIS record.

16.2.3 Steps to Process the SBE-501 Certificate of Candidate Qualification

Every candidate must file a certificate of candidate qualification; as per 24.2-501, it “shall be a requirement of candidacy ... that a person must file a written statement under oath, on a form prescribed by the State Board.”²² In accordance with State Board of Elections policy, a candidate’s certificate of candidate qualification “shall not be submitted before January 1st of the election year” unless a future election’s filing deadline falls in the current calendar year.²³



Policy (and Law) Note

Va. Code §§24.2-506 and 521 generally requires that candidate petitions be circulated after January 1 of the election year; Va. Code also requires candidates to file other documents to meet ballot access requirements that do not specify a date that it must be prepared or signed by. Therefore, the State Board of Elections adopted a policy to resolve this, stating that “unless Va. Code specifically provides otherwise, documents filed by a candidate to satisfy ballot access requirements shall not be submitted before January 2nd of the election year.”

16.2.3.1 *Verify the SBE-501 Certificate of Candidate Qualification*

Immediately upon receipt of a certificate of candidate qualification, staff should look over the document to verify the following:

- The SBE-501 form specific to the office type was completed.
- The form is complete, signed, and notarized.
- The candidate is registered at the address listed in question 4 on the form, and the address is in the district in which the candidate seeks election, as per the Constitution of Virginia.²⁴
- The candidate’s name matches the candidate’s voter record in VERIS.

²¹ See Code of Virginia, §[24.2-526](#).

²² See Code of Virginia, §[24.2-501](#).

²³ See [SBE Policy 2010-3](#). See Code of Virginia, §§[24.2-503](#), [24.2-507\(5\)](#) and [24.2-510\(5\)](#).

²⁴ See Constitution of Virginia [Art. 2 §5](#).



- The way the candidate has requested the name to be listed on the ballot meets the requirements detailed in the SBE Ballot Standards.



VERIS

If the name matches, enter VERIS. Comprehensive instructions on entering a candidate are available in the **VERIS Election Setup Step by Step**. If the name the candidate wants on the ballot complies with the SBE Ballot Standards, enter it into the “Ballot Name” field. Enter the ballot name in upper/lower case with proper punctuation. Acknowledge receipt of all forms filed by the candidate in the “Candidate Qualifications” section of the candidate’s VERIS record.

16.2.3.2 *Ensure the Candidate Name Complies with SBE Standards*



The SBE adopted new standards for candidate names which are available on the Ballot Standards document or the SBE-501.²⁵ Review the standards carefully to determine if the candidate’s name follows SBE standards. If the candidate’s chosen ballot name does not comply with SBE standards and the general registrar and the candidate cannot come to an agreement on the candidate’s ballot name, direct the candidate to speak with election services at ELECT.

16.3 EXTENSIONS

Under Va. Code §24.2-503, the “State Board (SBE) may grant an extension of any deadline for filing either or both written statements [Candidate Qualification and Statement of Economic Interests forms].”²⁶ The statute requires that “all candidates who have not filed their statements” be notified of the extension. Any extension granted by the State Board of Elections is for a “fixed period of time of **ten days** from the date of the mailing of the notice of the extension.” Previously, extensions were delegated to the Department by the SBE but this was rescinded in October of 2019.²⁷

16.4 PROCESSING CANDIDATE PETITIONS

16.4.1 *Petitions verified by general registrars.*

A general registrar must verify petitions filed by:

1. Independent (non-party) candidates for all offices in general or special elections.²⁸
2. Groups seeking to get a referendum question on the ballot.²⁹
3. Non-primary General Assembly, constitutional office, or local office candidates, if asked by the party chair.³⁰

²⁵ See ELECT, [Ballot Standards](#). See ELECT, [Candidate Forms](#).

²⁶ See Code of Virginia, §24.2-503.

²⁷ See Virginia’s Regulatory Townhall, State Board of Elections, [Delegations of Authority](#).

²⁸ See Code of Virginia, §24.2-506.

²⁹ See Code of Virginia, §24.2-684.1.

³⁰ See Code of Virginia, §24.2-114(17).



16.4.2 Must be filed with SBE-505/520 Declaration of Candidacy

Petitions that are to be verified by general registrars must be accompanied by the filing of an SBE-505/520 Declaration of Candidacy.³¹ This form must be filed “along with” the petitions as per the Code of Virginia §§24.2-506 and 507.³² This does not mean the candidate must turn all his petition forms in at one time. Upon filing, staff should verify that the candidate is a qualified, registered voter or has a voter registration application or change of address/transfer application on file, if the SBE-505/520 Declaration of Candidacy is received after the close of books.

If the Declaration of Candidacy form is witnessed rather than notarized, verify that the two witnesses are also qualified registered voters.³³ If not, the candidate must file a new declaration to file his petitions. If the office does not require petitions and the declaration is found to be deficient in any way, the replacement declaration must be filed prior to the filing deadline.

16.4.3 Timeline and Transmission Requirements



Transmit declarations and petitions filed with the registrar’s office by independent local office candidates to the local electoral board within three days of receipt for certification.²⁰ Timely processing will provide the local electoral board ample time to notify any candidate who requested to be notified in writing of deficiencies in their filings, and to certify qualified candidates to Department of Elections by the required deadline. Further, it will ensure that Department of Elections receives the candidate information necessary to do the following:

- Verify accuracy of electoral boards' candidate certifications and make sure that the information is accurately reflected in VERIS.
- Assemble data needed for candidate processing and ballot designs.
- Provide materials needed by electoral boards for ballot preparation.
- Communicate, as needed, with potential candidates.
- Post a candidate list to Department of Election’s website for access by the general public.

16.4.4 Petitions for Primaries

The political party has sole authority in designating its primary candidates. The Department of Elections strongly prefers that general registrars do not participate in primary petition verification. Checking primary petitions unnecessarily involves the Commonwealth in party processes and creates the possibility of liability in cases of discrepancies.³⁴ In instances where a method other than a primary is used to nominate a candidate, a general registrar may be asked to review any petition required by the party in its nomination process to determine if the those signing the petition are registered voters with an active status (see 16.9.6 for additional information.)³⁵

³¹ See ELECT, [Candidate Forms](#).

³² See Code of Virginia, [§24.2-506](#) through [24.2-507](#).

³³ See Code of Virginia, [§24.2-505](#).

³⁴ See Code of Virginia, [§24.2-527](#).

³⁵ See Code of Virginia, [§24.2-114 \(17\)](#).



16.4.5 Petitions for General Assembly Candidates

VERIS permits the controlling locality (the locality at which the candidate resides) to process all signatures within the district. The controlling locality is responsible for making sure the petitions are processed. The controlling locality may request the assistance of the other localities in the relevant district if necessary. If this distribution is necessary, mail General Assembly petition pages to other district localities immediately. Include with the petitions the name of the contact person for the campaign, the phone number for the contact person, the date the petitions were filed, and the number of petition pages filed so the other jurisdictions may create their own petition under the candidate's master petition.³⁶ The general registrar should use the Petitions Step by Step Instructions in VERIS to create the master petition, petition, and process petition pages.

16.4.6 Petitions for Independent Candidates for Federal and Statewide Offices

The Department of Elections will set up a master petition in VERIS and then forward the petition pages with a cover letter to the appropriate general registrar(s) for verification. The cover letter will provide information needed to create a petition for their locality under ELECT's master petition. The general registrar should use the Petitions Step by Step Instructions in VERIS. A locality must verify the petition signatures on the pages sent by the Department of Elections irrespective of the jurisdictional origins of the petition signer. When verification is complete, the general registrar must return the processed petitions to the Department of Elections.³⁷

16.5 VERIFYING CANDIDATE PETITIONS

16.5.1 Resources

16.5.1.1 SBE 1VAC 20-50-20

Please read the State Board of Elections material omission regulations, 1VAC20-50-20 (candidate petitions) and 1VAC20-60-20 (referendum petitions) before the candidate filing window opens. Download or print the Review of Candidate/Referendum Petition Pages Checklist (hereafter "Petition Checklist") from the Formswarehouse.³⁸ Provide staff members with the Petition Checklist before starting petition verification to review and answer any questions about what constitutes a material omission on a petition page and what constitutes a material omission for an individual signature. If material information, such as that listed in sections B and C of 20-50-20 and 20-60-20, is omitted from a petition page or a signature line, the respective page or signature will not be considered valid.³⁹ Note also that section D of 20-50-20 and 20-60-20 lists several omissions that are classified as "nonmaterial."⁴⁰ A petition or signature may not be invalidated on the basis of one of these omissions, as long as the registrar can "independently and reasonably verify the validity of the petition or signature."⁴¹

³⁶ See Code of Virginia, §24.2-505(B).

³⁷ See Code of Virginia, §24.2-506(B). See also Administrative Code of Virginia, [1VAC20-50-20](#).

³⁸ See ELECT, [Ballot Access Candidate Qualification](#). See Administrative Code of Virginia, [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).

³⁹ See Administrative Code of Virginia, [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).

⁴⁰ *Id.*

⁴¹ *Id.*





Regulation Note

1VAC 20-50-20: Material Omissions from Candidate Petitions and Petition Signature Qualifications.

Some petition omissions that are **always** material include, **but are not limited to**: submitting a petition that is not a double-sided document, or a double sided copy thereof, provided by the State Board of Elections, failing to name the candidate on the front of the form, the petition failing to identify the office sought on the front, the petition failing to identify the applicable election district, the circulator not signing the petition affidavit, the circulator not signing the petition in the presence of a notary, and a notary not signing the affidavit for each petition. Some petition signature omissions that are always material include but are not limited to: the signer is not qualified to cast a ballot for the office for which the petition was circulated, and the signer provided a date that is later than the notary's signature.

16.5.1.2 *Petition Checklist*

Use the Petition Checklist.⁴² Begin with line 1 on the first petition page. Ensure that the page and line number you are working on matches the page and line number in VERIS. The "Petitions" Step by Step Instructions in VERIS are useful to navigate VERIS while you track your work on the paper petition page as you input each signature into VERIS. As you check each name in VERIS, mark the left margin beside the line number for the signer with one or, if necessary, two of the alpha character notations, as appropriate.

16.5.1.3 *Petition Signatures from Voters Whose Registration was Previously Cancelled*

Code of Virginia § 24.2-506(B) and Virginia Administrative Code 1VAC20-50-40 require that if an individual signs a petition and their registration record indicates that the petition signer has been cancelled, the reviewer (general registrar or ELECT) must keep the petition signer's name and the reason for the cancellation on a separate list retained with the petition record.⁴³

16.5.2 Troubleshooting

16.5.2.1 *Affidavit and Notarization*

If the affidavit is complete and notarized, continue to the Verification Steps. If the affidavit is incomplete or not signed by the circulator but it has been notarized, the petition page may not be processed. Proper notarization includes registration number, commission expiration date, and seal.⁴⁴ Notary mistakes may be corrected if time permits. At the general registrar's discretion, the incorrectly notarized forms may be returned to the candidate. Please report notaries who fail to properly execute their duties to the Secretary of the Commonwealth.

Any corrected petitions must be re-filed before the appropriate candidate filing deadline. A receipt itemizing the number of pages being returned to the candidate/campaign should be kept in the candidate's file.

⁴² See ELECT, [Ballot Access Candidate Qualification](#).

⁴³ See Code of Virginia, §[24.2-506\(B\)](#). See also Administrative Code of Virginia, [1VAC20-50-40](#).

⁴⁴ See Administrative Code of Virginia [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).



16.5.2.2 Circulator Eligibility

A circulator can be any person legally residing in the United States who is not a minor nor a felon whose rights have not been restored.⁴⁵ A circulator who signs the affidavit claiming to be a legal resident of the United States, a non-minor and a non-felon will be taken at his word subject to a false statement penalty.⁴⁶ Petition pages with eligible circulators can be processed. Set aside those pages with ineligible circulators. Once the circulator is determined to be eligible, check the rest of the names on that page.

The petition form requires an additional attestation to be signed by nonresident circulators. Any circulator that is not a resident of Virginia is required to sign a statement consenting to jurisdiction of the courts of Virginia in “resolving any disputes concerning the circulation of petitions....”⁴⁷



Law Note

The United States 4th Circuit Court overruled Virginia’s requirement that petitions circulators must live in the Commonwealth. Virginia statute imposes an additional requirement that circulators hold Virginia residency. This cannot be enforced under the U.S. 4th Circuit Court’s ruling in *Libertarian Party v. Judd*. The court’s ruling obviates the statutory requirement that a circulator be a legal resident of the Commonwealth.

16.5.3 Number of Signatures

VERIS will permit a local user to shift the status of a local master petition to “Certified” only after the minimum number of signatures has been added to the master petition. The local VERIS user must shift the status of a local candidate’s master petition to “Certified” before being allowed to shift the status of the local candidate’s record to “Qualified.” If the registrar finds that he made an error and needs to remove one or more accepted signatures, the registrar must go back into VERIS and return the local master petition to “In Process.” This action should also allow a return of the candidate’s record to “In Process.” Once the error is addressed, the local master petition must be returned to “Certified” or “Rejected” and the candidate’s record returned to “Qualified” or “Disqualified” as applicable to the outcome of the review.

16.5.3.1 Measure the Number of Registered Voters to Determine Signature Requirements

Use the number of registered voters as of January 1st to determine all signature requirements that are based on the number of registered voters in any county, city, town, district, or ward.⁴⁸ In a redistricting year, the signature requirement is based on the number of registered voters in any county, city, town, district, or ward at the time the legislation or ordinance is adopted.

⁴⁵ See Code of Virginia §[24.2-506](#). See Administrative Code of Virginia [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).

⁴⁶ See Code of Virginia, §[24.2-1016](#).

⁴⁷ See Code of Virginia, §[24.2-506](#).

⁴⁸ See Code of Virginia, §§[24.2-506](#), [24.2-521](#).



16.5.3.2 *Signature Requirements for Candidate Petitions*

The minimum number of signatures of qualified voters required for candidate petitions shall be as follows:

1. Candidates seeking the nomination of a national political party for the office of the President of the United States, 5,000 signatures, including at least 200 qualified voters from each congressional district in the Commonwealth, who attest that they intend to participate in the same political parties primary for president.⁴⁹
2. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth.⁵⁰
2. For a candidate for the United States House of Representatives, 1,000 signatures.⁵¹
3. For a candidate for the Senate of Virginia, 250 signatures.⁵²
4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures.⁵³
5. For a candidate for membership on the governing body or elected school board of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures;⁵⁴
6. For a candidate for membership on the governing body or elected school board of any town that has more than 3,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures.⁵⁵
7. For a candidate for membership on the governing body or elected school board of any town that has at least 1,500 but not more than 3,500 registered voters, 50 signatures; or if from a ward or other district not at large, 25 signatures.⁵⁶
8. For a candidate for membership on the governing body or elected school board of any town that has fewer than 1,500 registered voters, no petition shall be required.⁵⁷
9. For a candidate for director of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1, 25 signatures; and,⁵⁸
10. For any other candidate, 50 signatures.⁵⁹

⁴⁹ See Code of Virginia, [§24.2-545](#)

⁵⁰ See Code of Virginia, [§24.2-521\(B\)](#).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*



16.6 APPEALS

A non-party candidate has the right to appeal a determination by the electoral board that the candidate's petitions do not contain the minimum number of signatures of qualified voters for the office sought.⁶⁰ Appeals are conducted by the determining body in accordance with regulations set forth by the State Board of Elections as per Va. Admin Code 1VAC20-50-30.⁶¹

Scope of Appeal. As per Va. Code §24.2-506, consideration on appeal is "limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of [Title 24.2 of Va. Code and regulations for petitions set forth by the State Board of Elections]." ⁶²

**Regulation Note****1VAC 20-50-30: Appeals of Petition Signature Insufficiency.**

"[T]he candidate [for office, other than a party nominee,] bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided." To meet this burden, the candidate must provide a list "containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration" at least two business days before the date the appeal is set to be heard. If the candidate fails to submit a list, or "submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate [s petition] was deemed deficient," no hearing will be held, and the earlier decision that the candidate did not qualify will be final.

1VAC20-50-30 also provides that candidates may choose to submit the following additional types of evidence:

- "[D]ocuments clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence"
- Cannot submit documents that demonstrate that a petition signer became registered after the established candidate filing deadline for the office sought.
- "[D]ocuments establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor"
- "[A]ffidavits from persons whose signatures were rejected due to eligibility that attest to their identity. The affidavits should state the person's name, residence address, and, if possible, a reasonable description of the location where approached to sign the petition "

Where and How to File. The appeal must be made in writing, and delivered by mail, email, or fax. The appeal must be notarized and received by the appropriate deadline as per 1VAC20-50-30. A candidate for city, county, or town office files her appeal with the local electoral board. A candidate for any other office files with the Department of Elections.⁶³

When to File. A candidate for an office other than President of the United States must file her appeal within five (5) calendar days of the issuance of the notice of disqualification. A candidate for the office of President of the United States must file within seven (7) calendar days of the issuance of the notice of disqualification.⁶⁴

⁶⁰ See Code of Virginia, [§24.2-506](#)

⁶¹ See Administrative Code of Virginia, [1VAC20-50-30](#).

⁶² See Code of Virginia, [§24.2-506](#).

⁶³ See Code of Virginia, [§24.2-506](#). See Administrative Code of Virginia, [1VAC20-50-30](#).

⁶⁴ See Administrative Code of Virginia [1VAC20-50-30](#).



Finality. The outcome of the appeal is final and not subject to further challenge.⁶⁵

Scheduling. Scheduling will be critical in ensuring that the appeal ends promptly. An appeal may not begin until a decision is rendered regarding a non-party candidate's petition signatures. According to 1VAC20-50-30, the body that received the appeal notice "shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate."⁶⁶ If the candidate provided an email address, an email notification should be sent. If the candidate did not provide an email address, the notification should be sent by first-class mail.⁶⁷ Absentee ballot preparation should not be finalized until all appeals have concluded. The electoral board should consult its county/city attorney to develop a timeline for the appeal and to answer legal questions.

16.7 CANDIDATE WITHDRAWAL

16.7.1 Candidate Steps to Withdraw

Any previously qualified candidate who decides that they no longer want to be a candidate must "submit a signed written notice declaring his [her] intent to withdraw from such election" as per Va. Code §24.2-612.2.⁶⁸ Subsequent procedures for withdrawal of a primary candidate are delineated in §§24.2-536, 24.2-537, and 24.2-538; while procedures applicable to the withdrawal of a general or special election political party nominee are in §§24.2-539 and 24.2-540.⁶⁹ The Department of Elections provides ELECT-612.2 *Candidate Withdrawal Form* for candidates to complete if they wish to withdraw.⁷⁰ This document is not a required document and the candidate may submit *any* written notice of withdrawal. The withdrawal statement must include the candidate's name, the candidate's signature, the office the candidate was seeking and the election date and must specifically state that they are withdrawing as a candidate.⁷¹ Newspaper articles or press conferences do *not* constitute an official notice of withdrawal.

A candidate must send his/her withdrawal notice to the general registrar of the county or city in which the candidate resides. The general registrar should notify ELECT of the withdrawal. For an election held in more than one county or city, the general registrar is required to also notify the other appropriate general registrars. Upon receiving a notice of withdrawal, the general registrar must post the notice on the official website for the county or city, if election information is posted on the website.⁷²

⁶⁵ See Code of Virginia, [§24.2-506](#). See Administrative Code of Virginia, [1VAC20-50-30](#).

⁶⁶ See Administrative Code of Virginia, [1VAC20-50-30](#).

⁶⁷ *Id.*

⁶⁸ See Code of Virginia [§24.2-612.2](#).

⁶⁹ See Code of Virginia, [§§24.2-536](#), through [24.2-540](#).

⁷⁰ See ELECT, [Ballot Access Candidate Qualification](#).

⁷¹ See Code of Virginia, [§24.2-612.2](#).

⁷² See Code of Virginia, [§24.2-612.1](#).



16.7.2 Administrating a Candidate Withdrawal

Frequently Asked Questions



What if a general registrar receives a notice of withdrawal from a candidate certified by the Department of Elections (e.g., General Assembly)? Immediately fax or email the notice of withdrawal to the Elections Administration division at (804) 371-0194 or ea@elections.virginia.gov. Include a comment indicating who received the notice and when.

Will the withdrawn candidates' name remain on the ballot? The Department of Elections determines, based on the time available before the election and the status of the ballots for the election, whether ballots containing the name of the withdrawn candidate must be reprinted. If the Department of Elections decides that the name will remain on the ballot, it will provide to the secretary of the electoral board and the general registrar a notice explaining that the candidate's withdrawal occurred after the ballots were printed and, therefore, the name remains on the ballot.¹ As per Va. Code §24.2-612.1, "if ballots are not corrected to delete the candidate's name, the general registrar shall provide a list of candidates who have withdrawn to be posted in each polling place and to be available to the public. If election information is posted on the official website for the county or city, notice of the candidate's withdrawal shall also be posted on that website."

What if the withdrawal notice is received before ballot preparation begins? Change the candidate's status to "Withdrawn" on the "Candidate Maintain" page in VERIS.

What if a candidate's name remains on the ballot because the candidate died or withdrew after the ballots were printed? The status field must continue to display "Qualified." This will ensure that the candidate's name appears on the election results screen to allow entry of the votes cast for the withdrawn candidate.

16.8 WRITE-IN CANDIDACY

Write-ins are permitted for any office elected in a general or special election.⁷³

16.8.1 Running as a Write-in

Write-ins are not required to submit any ballot access documents.

16.8.2 Voting for a Write-In

The write-in vote must be handwritten by the voter unless the voting system in use provides a means to enter the name electronically.⁷⁴ Pursuant §24.2-673(B), if a write-in candidate for a local office in a locality with 4,000 people or less achieves the highest number of votes but either declines or is not qualified to hold such office then the next candidate with the highest number of votes will be deemed to have been elected to such office.⁷⁵ Write-in candidates, who decline office in this instance, should fill out a Form for Write-In Refusal and this form should be kept for record retention purposes in the general registrars office.

⁷³ See Code of Virginia, §[24.2-644\(C\)](#).

⁷⁴ See Code of Virginia, §§[24.2-644](#), [24.2-648](#).

⁷⁵ See Code of Virginia, §[24.2-673\(B\)](#).



16.9 ADDITIONAL CANDIDATE-RELATED RESPONSIBILITIES

16.9.1 General registrar to run report to determine the offices and order of candidates.

Once the general registrar enters qualified and non-qualified candidates in VERIS, the registrar can run the Certification of Candidates Report to determine the offices and the order of candidates as they should appear on the ballot.

16.9.2 Certify to local electoral board the declaration of candidacy and petitions of all independent candidates

The general registrar must check the declaration of candidacy and petitions, if required, of all independent (non-party) candidates for offices to be certified by the local electoral board. Within three days of receipt, the general registrar must transmit these documents to the electoral board together with the certification of the registration status of the candidate, the completeness of the declaration of candidacy and either (i) that the petitions contained the required number of signatures of qualified voters for the office sought, or (ii) that the petitions did not contain a sufficient number of signatures of qualified voters.⁷⁶ When insufficient signatures are found for a candidate, include the deficient number found.

The general registrar certifies the signatures of registered voters that appear on petitions of independent (non-party) candidates for the following offices:⁷⁷

- Clerk of Court, when not shared with another county or city
- Commonwealth's Attorney, when not shared with another county or city
- Sheriff, when not shared with another county or city
- Commissioner of Revenue
- Treasurer, when not shared with another county or city
- Soil and Water Conservation Director
- Chairman or Member, Board of Supervisors or County Board
- Chairman or Member, School Board
- Mayor, City or Town
- Member, City or Town Council

16.9.3 Certify petition signature filings to ELECT

The general registrar must formally acknowledge to the Department of Elections the number of registered voters in the county or city which appear on petitions for independent candidates for these offices:⁷⁸

- President and Vice President
- United States Senate
- United States House of Representatives
- Governor
- Lieutenant Governor
- Attorney General
- Senate of Virginia
- House of Delegates

⁷⁶ See Code of Virginia, §[24.2-505](#).

⁷⁷ *Id.*

⁷⁸ *Id.*



- Constitutional Offices shared by one or more counties and/or cities

The totals recorded by VERIS are used to certify the number of signatures for all offices. No separate certification is required.

If requested in writing by an independent candidate for the General Assembly or a shared constitutional office, the general registrar or secretary of a local electoral board should notify the candidate of any deficiencies in the declaration of candidacy and petitions that can be corrected prior to the filing deadline.⁷⁹ If so requested, the general registrar may advise the candidate as to the number of valid signatures identified on his petitions.

16.9.4 Local electoral board notifies candidate(s) of deficiencies

After the filing deadline, whenever a candidate for local office must be disqualified because of deficiencies in the candidate's declaration of candidacy or petitions, the local electoral board must notify the candidate of the disqualification in writing.⁸⁰

16.9.5 Local electoral board certifies candidates

Immediately after any filing deadline and the conclusion of any petition signature appeals, the general registrar and secretary of the electoral board must certify all qualified candidates to the Department of Elections using VERIS.⁸¹

You must enter the names of any disqualified candidates along with the reason for disqualification in VERIS.

16.9.6 Review petitions filed by a *non-primary* candidate seeking party nomination

A political party chair may request that the general registrar verify the petitions filed by a non-primary candidate seeking the party's nomination.⁸² If so requested, the general registrar should check these forms and return them to the political party chair as quickly as possible. Include the number of signatures of registered voters that appear on the petitions when returning the forms.

To accomplish the petition verification for local offices in VERIS, create a candidate, create a master petition, and associate your locality to the master petition. For a General Assembly candidate, contact Department of Elections so that staff can create the candidate record and the master petition.

⁷⁹ See Code of Virginia, [§24.2-505\(D\)](#).

⁸⁰ See Code of Virginia, [§24.2-612](#).

⁸¹ *Id.*

⁸² See Code of Virginia, [§24.2-114\(17\)](#).



APPENDIX A

1VAC20-50-20. MATERIAL OMISSIONS FROM CANDIDATE PETITIONS AND PETITION SIGNATURE QUALIFICATIONS.

- A. Pursuant to the requirements of §§ [24.2-506](#), [24.2-521](#), and [24.2-543](#) of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.
- B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:
1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections.
 2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form.
 3. The petition fails to identify the office sought on the front of the form.
 4. The petition fails to identify the applicable election district in which the candidate is running for office.
 5. The circulator has not signed the petition affidavit and provided his current address.
 6. The circulator is a minor or a felon whose voting rights have not been restored.
 7. The circulator has not signed the petition he circulated in the presence of a notary.
 8. The circulator has not had a notary sign the affidavit for each petition submitted.
 9. A person other than the circulator signed the petition affidavit.
 10. The notary has not affixed a photographically reproducible seal.
 11. The notary has not included his registration number and commission expiration date; or
 12. Any combination of the scenarios of this subsection exists.
- C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:
1. The signer is not qualified to cast a ballot for the office for which the petition was circulated.
 2. The signer is also the circulator of the petition.
 3. The signer provided an accompanying date that is after the date upon which the notary signed the petition.
 4. The signer did not sign the petition; or



5. The signer provided an address that does not match the petition signers address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.
- D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:
1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines).
 2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted.
 3. The name of the candidate and office sought are omitted from the back of the petition.
 4. The circulator has not provided the last four digits of his social security number in the affidavit.
 5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system.
 6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert")
 7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or
 8. The signer fails to provide the date but a period that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.
- E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:
1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated.
 2. The signer provides his name; and
 3. The signer provides an address that matches the petition signers address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.



APPENDIX B**1VAC20-50-30. APPEALS OF PETITION SIGNATURE INSUFFICIENCY.**

- A. Pursuant to the requirements of §§ [24.2-506](#) and [24.2-543](#) of the Code of Virginia, a candidate for office, other than a party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.
- B. Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by the deadlines established within this section.
- C. A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.
- D. A candidate for an office other than President of the United States must file his appeal within five calendar days of the issuance of the notice of disqualification.
- E. A candidate for President of the United States must file his appeal within seven calendar days of the issuance of the notice of disqualification.
- F. The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate; otherwise, notice shall be sent by first-class mail.
- G. The candidate bears the burden of proof in establishing that enough signatures from qualified voters were timely provided.
 - 1. The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two business days prior to the date on which the appeal will be heard. If the candidate submits no list or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.
 - 2. The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.
 - 3. The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.
 - 4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. The affidavits should state the person's name, residence address, and, if possible, a reasonable description of the location where approached by the circulator to sign the petition.



5. The candidate may not submit documents establishing that a petition signer became registered or updated his voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought.
- H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.
- I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.



APPENDIX C**1VAC20-50-40. REVIEW OF CANCELLED VOTER PETITION.**

A. Pursuant to the requirements of § [24.2-506](#) B of the Code of Virginia, in the event a petition signer's voter registration status is canceled at the time of processing petition signatures:

1. The petition signer's name and reason for cancelation must be recorded on a list.
2. A list of canceled voter petition signatures must be retained by the reviewing entity with the candidate's petition page.

B. The candidate's petition page and the list of canceled voter petition signatures may be provided to the appropriate authorities pursuant to § [24.2-1016](#) of the Code of Virginia.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 17

Campaign Finance

September 2023

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17. Campaign Finance

<p>REQUIRED FORMS</p> <p>Campaign Finance Disclosure Forms</p> <ul style="list-style-type: none"> • CFDA-947.1 Candidate Statement of Organization • CDFA-948.1 Request for Exemption from Reporting Requirements • CFDA-948.1R Rescind Request for Exemption from Reporting Requirements • CFDA-947.9 Large Pre-Election Contribution Report. • CFDA-945.2 Independent Expenditure Report. • CFDA-948.4 Final Report (cover sheet) 	<p>ADDITIONAL RESOURCES</p> <p>COMET Quick User Guide</p> <p>Campaign Finance Filing Schedules</p> <p>Attorney General’s Explanation of “Personal Use”</p> <p>Campaign Finance Laws and Policies Summaries</p> <p>Library of Virginia General Retention Schedules for Localities - Voter Registration and Elections (GS-01)</p>
<p>REFERENCE</p> <p>Code of Virginia, Chapter 9.3 (Campaign Finance Disclosure Act of 2006)</p> <p>Code of Virginia, Chapter 9.5 (Political Campaign Advertisements)</p> <p>SBE Policy 2010-001 Delinquent Civil Penalties to Commonwealth’s Attorney</p>	<p>REGULATIONS</p> <p>Virginia Administrative Code, 1VAC20-90-10 et seq.</p>

17.1 CHAPTER ORGANIZATION

Chapter 9.3 of Title 24.2 of the Code of Virginia comprises the *Campaign Finance Disclosure Act of 2006* (CFDA). With the exceptions noted below, the CFDA applies to all elections for state and local public office in the Commonwealth and to nominations of political party candidates for those offices, whether by primary, nominating conventions, mass meetings, or other nominating methods.¹ Each general registrar administers the CFDA for candidates as described below.

¹ See Code of Virginia §[24.2-945](#).



First, §17.2 sets out the scope of Virginia campaign finance law. §17.3 distinguishes committees that are required to file locally with the office of the general registrar. §17.4 explains how to determine a committee's election cycle. This is key to determining the committee's filing requirements. §17.5 discusses campaign finance reporting requirements. §17.5.1 discusses the methods by which candidates may file and to whom candidates must submit their filings. §17.5.2 and 17.5.3 provides more details on electronic filing respectively.

§17.6 provides an overview of the forms that committees may be required to file. The statement of organization is discussed in §17.6.1; this is the campaign finance form that committees are likely to have to submit first. A detailed explanation of how to process the form is provided. Scheduled reports are discussed in §17.6.2. This section covers timing of reports and how reports are processed. The rest of the sections in §17.6 discuss types of special reports: §17.6.3 covers large pre-election contribution reports, §17.6.4 covers independent expenditure reports, and §17.6.5 covers final reports. This is followed by a discussion of exemption forms in §17.6.6, which addresses who can file for exemption and the types of filings that are covered.

§17.7 provides a brief note on the retention of reports. In §17.8 the discussion turns to penalties for CFDA violations. Section 17.9 discusses Chapter 9.5 of the Code of Virginia (commonly referred to as Stand by Your Ad [SBYA]), which sets forth disclaimer requirements for campaign advertisements and telephone calls.² Registrars have minimal responsibilities for reporting potential violations under this chapter of the Code. At the end of this chapter of the Handbook, please find appendixes containing templates registrars may use to notify candidates of potential violations.

17.2 EXEMPT FROM VIRGINIA CAMPAIGN FINANCE LAW

Candidates³ for the following offices are exempt from the provisions of CFDA and SBYA⁴:

- Member of the U.S. Congress
- President and Vice President of the United States
- Any town office in a town with a population less than 25,000
 - unless local ordinance provides that CFDA provisions apply OR
 - unless the candidate accepts contributions or makes expenditures in excess of \$25,000 within the candidate's election cycle.
- Political party committee officer

All other candidates in the Commonwealth are subject to the provisions of Chapters 9.3 and 9.5 of Title 24.2.

² See Code of Virginia [§24.2-955 et seq.](#)

³ See Code of Virginia [§24.2-101](#) (definition of "candidate").

⁴ See Code of Virginia [§24.2-945.](#)



Frequently Asked Questions



Who are candidates for the purposes of implementing the CFDA? "Candidate" includes any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, or one of its governmental units, in a party nomination process or general, primary, or special election.

Is a write-in candidate considered a candidate and required to submit reports? Write-in candidates are included in the definition of candidate, and are subject to the reporting requirements under CFDA and SBYA.

The provisions of Chapters 9.3 and 9.5 of Title 24.2 also apply to other political entities defined in Code: political action committees (PACS), out-of-state political committees, political party committees, referendum committees, and inaugural committees.⁵

17.3 WHICH COMMITTEE TYPES FILE LOCALLY?

All of the entities mentioned above that fall under the provisions of Chapters 9.3 and 9.5 of Title 24.2 are required to file campaign finance reports electronically with the State Board of Elections.

17.4 ELECTION AND REPORTING CYCLES

The candidate's election cycle is determined by the office for which the candidate decides to run. The election cycle begins on January 1 of the year the candidate first seeks election to that office through December 31 immediately following the election for such office.⁶ For a candidate who seeks election in successive elections for the same office, the next election cycle shall begin on January 1 immediately following each election for that office and continue through December 31 immediately following the next successive election for the same office.

17.4.1 Cycle is Set with the Filing of the SOO

For administrative purposes, a committee that files a statement of organization has ongoing filing requirements until a final report is filed. A candidate committee is responsible for timely filing all required reports in the intervening period, regardless of whether the candidate is actively seeking office. Candidates and parties can close their committee registration at any time by filing a final report.

⁵ See Code of Virginia [§24.2-945.1](#).

⁶ See Code of Virginia [§24.2-947](#).



17.4.2 Special Elections Campaign Finance Cycles

A candidate may begin campaigning for a special election to fill a vacant seat prior to the special election writ being issued. If the writ for a special election has not been called, then the election date on the statement of organization should indicate the next general election date for the office sought. The statement of organization must be amended to reflect the date of the special election once the writ has been issued and the candidate has decided to run in the special election.

17.5 CAMPAIGN FINANCE REPORTING

17.5.1 How and to Whom Committees File

ELECT is responsible for maintaining a centralized database to receive campaign finance reports and other required filings that are filed electronically⁷; this electronic campaign finance report creation and filing application is known as COMET (COMmittee Electronic Tracking). COMET enables candidates to electronically file (e-file) required disclosure reports.

Candidates for General Assembly and local or constitutional offices must file their campaign finance reports with the State Board of Elections electronically. Registrars should direct candidates to ELECT's *COMET Quick User Guide* to help them get started with online filing. There is no cost for using COMET and all support for this application is provided by ELECT. Additionally, COMET reminds candidates of upcoming reports and prevents them from submitting incomplete reports, which helps prevent candidates from incurring penalties

Candidates for local or constitutional office shall file reports by computer or electronic means.⁸ These candidates *shall not be* required to file reports with the general registrar of the locality in which they reside.⁹

17.5.2 Electronic Filings (through COMET)

Candidates for General Assembly, who e-file through COMET, must send a signed copy of their statement of organization to their local general registrar.

Forms submitted by a candidate for local or constitutional office are e-filed through COMET. ELECT will process and retain those reports, notifying the locality when such reports are filed so that they can be reviewed for completeness by the general registrar.

⁷ See Code of Virginia §[24.2-946.1](#).

⁸ See Code of Virginia §[24.2-947.5](#).

⁹ *Id.*



17.6 DISCLOSURE FORMS

Virginia requires public disclosure of all contributions received and expenditures made by regulated political entities. Virginia does not limit contributions.¹⁰ Below is a list of the types of filings, information about those filings, and procedures for processing them. While most of these filings will be made online through COMET, registrars should be familiar with each of these types of filings and the forms on which they are filed.

17.6.1 Statement of Organization (SOO)

The statement of organization¹¹ is the first document that a committee must file. An SOO establishes the committee, to which all future filings and communications are linked.

17.6.1.1 What the SOO Does (Legally)

The statement of organization creates a candidate campaign committee, which becomes the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election for a particular office.¹²

17.6.1.2 When to File an SOO



All individuals within the scope of Virginia campaign finance law must file a statement of organization **within 10 calendar days** of meeting any one of the following conditions¹³:

- Accepting contribution of any amount
- Spending any funds for the campaign (including personal funds)
- Paying a filing fee for any party nomination method
- Filing an ELECT-501 certificate of candidate qualification
- Appointing a campaign treasurer; designating a campaign committee or bank account

17.6.1.3 How to Amend an SOO



The committee has **10 days** from the date of any change to their current statement of organization to submit an amended statement of organization with new information.¹⁴ A candidate can amend an SOO by filing an amendment in COMET.

¹⁰ Federal law may impose certain prohibitions on state and local elections (e.g., all candidates for elected office in the U.S. are prohibited from accepting contributions from foreign nationals (see 8 USC § 441e). Such prohibitions are enforced by the [Office of the United States Attorney](#), to whom any questions about compliance should be directed.

¹¹ Form CFDA-947.I Candidate Statement of Organization.

¹² See Code of Virginia §[24.2-945.1](#).

¹³ See Code of Virginia §[24.2-947.1](#).

¹⁴ See Code of Virginia §[24.2-947.1\(D\)](#).



17.6.1.4 How to Process an SOO

Upon receipt of the **CDFA-947.1 Statement of Organization form for candidates**, ELECT reviews most of the form for completeness. The general registrar must only review the committee activity dates section to determine the correct start date (and confirm that ELECT has created an accurate filing schedule).

- If the statement is “New,” check to make sure that none of the dates of activity are more than 10 days prior to the receipt of the statement.
- If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.
- If there are no dates provided in the campaign activity sections, the date of submission of the SOO is considered the filing start date, because it is considered the date the campaign treasurer was named.
 - An SOO is not considered incomplete if some or all of the campaign activity sections are missing a date.

17.6.2 Scheduled Disclosure Reports

Scheduled disclosure reports are the most detailed reports that committees must file. These periodic reports disclose contributions received and expenditures made during certain time periods. Virginia laws emphasize transparency and aim to ensure an educated public.

17.6.2.1 When Are Reports Due



The reporting schedule for a campaign committee is determined by the election cycle associated with the office that the candidate is running for and the date of the election. The Code provides generalized reporting schedules for candidates in the November General Election¹⁵ and special elections.¹⁶ The Department of Elections provides a yearly schedule of specific candidate reporting deadlines on its website.¹⁷

Filings on COMET must be made by 11:59 p.m. on the filing deadline date.

If a candidate has more than one candidate committee open, all committees must file scheduled disclosure reports for all open committees on the same schedule as the active candidate committee. ELECT will sync those committee schedules.

17.6.2.2 How to Process Reports

The general registrar receives and reviews campaign finance reports as outlined in this Chapter.¹⁸ Each report should be kept with the statement of organization for the committee to which it is associated along with any other official communications.

¹⁵ See Code of Virginia §[24.2-947.6](#).

¹⁶ See Code of Virginia §[24.2-947.8](#).

¹⁷ See *Campaign Filing Schedule*.

¹⁸ See Code of Virginia §[24.2-946.3\(C\)](#).



E-filed reports by local or constitutional candidates will be forwarded to the appropriate locality. The email will include the date the report was submitted, whether or not it was timely, and a link to the report found on the ELECT website to assist the responsible local election official in cataloging and reviewing the report. COMET automatically acknowledges the receipt of electronically filed reports with an e-mail to the committee.

17.6.3 Large Pre-Election Contribution Reporting

Candidates for local or constitutional offices must file a large pre-election contribution report if they receive a contribution exceeding \$500 in the eleven days before a nomination or election for which the individual is a candidate.¹⁹

Candidates running unopposed in a non-primary nominating event are not required to file large pre-election reports in relation to the nominating event, but still must file such reports required by Code in relation to the date of a primary election, regardless of whether they are on the ballot in the primary election.²⁰

Deadline to file the report is no later than 11:59 p.m. on the day following receipt or 11:59 p.m. Monday if a contribution is received on a Saturday.²¹ If a contribution is received within the 24-hour period before the election, the contribution must be reported by 11:59 p.m. on the day before the election.²² The contributions shown on these reports must also be reported on the candidate's next scheduled report.

17.6.4 Independent Expenditure Reports

An independent expenditure is an expenditure made without coordination or involvement of the candidate supported or opposed. "Coordinated or Coordination" is defined as action taken (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee; or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination or timing of the expenditure.²³ The Code definition does not require that the candidate have knowledge of the expenditure. Independent expenditure reports must be filed on paper.

17.6.4.1 When Independent Expenditure Reports Due

Persons, candidate campaign committees, and political committees are required to submit independent expenditure reports²⁴ after making an independent expenditure that has exceeded the aggregate of \$200 for the election cycle in relation to a local election.²⁵ This is an aggregate of all independent expenditures and not aggregated solely on a candidate-by-candidate basis.

¹⁹ See Code of Virginia §[24.2-947.9](#).

²⁰ *Id.*

²¹ See Code of Virginia §§[24.2-947.9](#) and [949.6](#).

²² See Code of Virginia §[24.2-947.9](#).

²³ See Code of Virginia §[24.2-945.1](#).

²⁴ Form CFDA-945.2 Independent Expenditure Report.

²⁵ See Code of Virginia §[24.2-945.2](#).





Expenditure reports are due within 24 hours after the funds are expended, or 24 hours after advertising materials are published or broadcast to the public; whichever occurs first.

17.6.4.2 *Where to file Independent Expenditure Reports*

Independent expenditures made to support or oppose a candidate for General Assembly or statewide office must be reported to ELECT. Independent expenditures made to support or oppose candidates for local and constitutional offices must be submitted to the local general registrar. Copies of any independent expenditure reports filed locally should be placed in the existing file for the candidate who is indicated on the report as being supported or opposed.

17.6.5 Final Report

A final report closes out a committee and ends all reporting obligations. A committee must continue to file scheduled campaign finance reports on the appropriate schedule until a final report is filed indicating all debts for the committee have been paid and the committee's balance has been returned to zero.²⁶

17.6.5.1 *When to File Final Report*

All candidates are required to file a final report.²⁷ A candidate committee final report is due when one of the following occurs²⁸:

- The candidate no longer seeks election to the same office in a successive election;
- The candidate seeks election to a different office;
- The candidate is deceased; or
- The candidate had filed an exemption from reporting and was subsequently elected.

Prior to being sworn-in to office, successful exempt candidates (see 17.6.6 below) must file a final report through COMET detailing activity since the beginning of the campaign. A final report can be filed at any time. It does not have to be filed during a scheduled reporting deadline. A candidate who is running for the same office in successive elections may keep their campaign account open.

17.6.5.2 *Disbursement of Surplus Funds*

A committee is authorized to disburse surplus funds by the methods listed below:²⁹

- Transfer to a future election for the candidate or to retire the deficit of the current campaign (or transfer to an affiliated organization in the case of a political party committee);

²⁶ See Code of Virginia §[24.2-948.4](#).

²⁷ Form CFDA-948.4 Final Report Cover Sheet.

²⁸ See Code of Virginia §[24.2-948.4](#).

²⁹ See Code of Virginia §[24.2-948.4\(D\)](#).



- Return to a contributor in an amount not to exceed the contributor’s original contribution;
- Donation to any organization described in the Internal Revenue Code;³⁰
- Contribution to one or more candidates or to any political committee;
- Contribution to any political party committee; or
- Defraying any ordinary, non-reimbursed expense related to the committee (or related to the elective office in the case of a candidate campaign committee).

No candidate may convert any contributed moneys, securities, or personal property to his personal use in the context of a final report.³¹ Prohibited personal use extends to immediate family members.³²



Written Explanation prepared by the Attorney General

Shortly after the passage of HB 125 during the 2010 legislative session, the Attorney General’s office provided ELECT with a written explanation of the Campaign Finance Disclosure Act which prohibits “personal use.” The explanation states that “immediately following [the] listed conditions for the disposal of excess campaign funds by a candidate [in § 24.2-948.4], the General Assembly specifically prohibits a candidate from converting “any contributed moneys, securities, or like intangible personal property to his personal use or to a member of the candidate’s “immediate family” as that term is defined in § 30-101. “The General Assembly has clearly prohibited the personal use of campaign contributions by candidates, but only in the context of the filing of the required final campaign finance report.” (See [Attorney General’s Explanation of “Personal Use”](#), p. 2).

17.6.5.3 Termination Statement

When filing a **CFDA-948.4 Final Report Cover Sheet** form, the committee must sign a *Termination Statement* (when e-filing, “signing” this *Termination Statement* is completed when checking the box on the Statement of Treasurer declaration on COMET). This statement is included on the cover sheet. It indicates that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds. The termination statement must be filed on paper even if the committee files their reports electronically.

³⁰ See [26 USC § 170\(c\)](#).

³¹ See Code of Virginia [§24.2-948.4\(D\)](#).

³² *Id.*; See also Code of Virginia [§30-101](#) (definition of “immediate family”).



17.6.6 Local Candidate Reporting Exemption Request

A candidate for local office may request an exemption from filing scheduled campaign finance reports.³³ A candidate wishing to file an exemption must file the exemption form by paper with his general registrar. The general registrar will then scan and email a copy of the exempt form to ELECT where the filing schedule will be reset in COMET to allow for the Final Report to be filed electronically.

Eligibility for Exemption. The exemption applies if the candidate certifies the following:

- Has not and will not solicit or accept any contribution from any other person or PAC during the course of his campaign
- Has not and will not contribute to his own campaign more than \$1,000
- Has not and will not expend more than \$1,000 during his campaign
- Has and will comply with the requirements of CFDA

Other Reports Required by CFDA. Even if a candidate is exempt from filing scheduled reports, (s)he is still required to file certain other reports required by CFDA. The candidate must still create a campaign committee by filing a statement of organization and opening a separate bank account. The committee must still file a special report for qualifying independent expenditures.³⁴ Also, committee must still file a special report for qualifying large pre-election contributions³⁵ by a candidate to his own campaign. A candidate claiming exemption is prohibited from taking office until a final report is filed by his/her committee.³⁶ The final report must show all financial activity of the campaign.

Request to Rescind Exemption. A candidate who has received an exemption may, at any time, request that exemption be rescinded.³⁷ A candidate is required to do so before violating any of the terms of the exemption mentioned above. Once an exemption is rescinded the candidate's campaign committee will follow the appropriate reporting schedule for scheduled disclosure reports. The first scheduled report must show all the receipts and expenditures from the first activity date reported on the statement of organization.

17.7 RECORDS RETENTION



Campaign finance reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a final report. Reports for terminating candidates must be retained at least one year after the final report is filed, or the next general election for the office to which they pertain. After expiration of the applicable retention period, the reports can be destroyed according to the instructions set forth by the Library of Virginia.³⁸ Please see Chapter 9 (Records Access and Retention) for more information.

³³ See Code of Virginia §[24.2-948.1](#); Form CDFA-948.I Request for Exemption from Reporting Requirements.

³⁴ See Code of Virginia §[24.2-945.2](#).

³⁵ See Code of Virginia §[24.2-947.9](#).

³⁶ See Code of Virginia §§[24.2-948.1](#) and [948.4](#).

³⁷ See Code of Virginia §[24.2-948.1](#); see also Form CDFA-948.IR Rescind Request for Exemption from Reporting Requirements.

³⁸ See Library of Virginia General Retention Schedules for Localities - Voter Registration and Elections ([GS-01](#)).



17.8 PENALTIES

General registrars are required to assess penalties for certain violations of Chapter 9.3 of Title 24.2 by candidates required to file locally.³⁹ The Code of Virginia provides a range for the amount of each penalty but requires the State Board of Elections to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations.⁴⁰ You can find schedules of civil penalties for each type of committee on the ELECT website, under Campaign Finance. **No local entity has the authority to waive or reduce these penalties.**⁴¹

Committees must make their checks payable to the treasurer of their locality for deposit to their general fund. The payment does not have to be received from the committee's bank account. Payment can come from any account.

17.8.1 Failure to File Report

The Code provides for a civil penalty not to exceed \$500 for failure to file a required report, and a penalty of \$1,000 for each subsequent failure to file in the same election cycle.⁴²

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate attorney for the Commonwealth by the general registrar.

17.8.2 Late Report

If a required report or statement is not filed at the conclusion of a filing deadline, the general registrar is required to assess a penalty. The State Board of Elections imposes an initial late report penalty of \$100. The Code provides that for each subsequent late report in the same election cycle the general registrar must assess a penalty of \$1000.⁴³

The general registrar must notify the committee of civil penalty and collection procedures via email or regular postal mail (see Appendix A). If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Commonwealth's attorney for collection.⁴⁴

³⁹ See Code of Virginia [§24.2-946.3\(D\)](#).

⁴⁰ See Code of Virginia [§24.2-946.3\(I\)](#).

⁴¹ See Code of Virginia [§24.2-946.3](#) (no election official or staff may waive or reduce such penalties, except as provided in the Code of Virginia §24.2-946.3).

⁴² See Code of Virginia [§24.2-953.1](#).

⁴³ See Code of Virginia [§24.2-953.2](#).

⁴⁴ See SBE Policy 2010-001 *Delinquent Civil Penalties to Commonwealth's Attorney*.



17.8.3 Incomplete Reports

If any required information is not included or the report is not completed properly, the report is incomplete.⁴⁵ However, some missing information does not necessarily mean that a report should be considered incomplete for the purpose of levying a civil penalty. The State Board has adopted a “Best Efforts” policy which holds that campaign finance reports are not considered incomplete if:

Less than 20% of contributors are missing required information on Schedule A or Schedule B; or less than 20% of any other itemized information does not include the required information (For example, if there are 100 itemized contributors on Schedule A, then no more than 20 of those contributors can have missing information).

If this condition does not apply, the report is considered incomplete and the general registrar should proceed as follows:

- Prepare a certified letter to the committee that outlines the omissions found in the report.
 - See Template C in the Appendix below.
 - The letter should state that an amended report must be received within ten days of mailing the letter or a civil penalty of \$100 will be assessed.⁴⁶
 - Due to the short amount of time involved, it is recommended that the general registrar also attempt to contact the committee via email or telephone to ensure they receive the necessary information.
- Send the letter by Certified Mail – Return Receipt Requested.⁴⁷
- Preserve a copy of the letter and the stamped USPS receipt for certified mail.

The committee must amend the report by the due date or request additional time. Extensions of no more than 14 days can be granted by the general registrar.⁴⁸ If the committee fails to amend their report in a timely fashion, a \$100 penalty should be assessed.⁴⁹ The Code provides that for each subsequent incomplete report in the same election cycle the general registrar must assess a penalty of \$1000.⁵⁰ The general registrar should increase the amount of the penalty by \$500 every 60 days until a fully compliant filing is made.⁵¹ However, the civil penalty imposed for incompleteness relative to any single report should not exceed \$500 “unless the total of the filer’s reportable contributions or the total of the filer’s reportable expenditures is \$10,000 or more.”⁵²

⁴⁵ See Campaign Finance Laws and Policies Summaries.

⁴⁶ See Code of Virginia §[24.2-953.3\(B\)](#).

⁴⁷ See Code of Virginia §24.2-101.01 (subsequent identical mail can be sent by regular mail).

⁴⁸ See Code of Virginia §[24.2-953.3\(D\)](#).

⁴⁹ See Campaign Finance Laws and Policies Summaries.

⁵⁰ See Code of Virginia §[24.2-953.3\(F\)](#).

⁵¹ See Code of Virginia §[24.2-953.3\(E\)](#).

⁵² See Code of Virginia §[24.2-953.3\(A\)](#).



17.9 POLITICAL ADVERTISEMENTS

The law commonly known as “Stand By Your Ad” (SBYA) is found in Chapter 9.5 of Title 24.2 of the Code and contains the requirements for disclaimers on political advertisements.⁵³ In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. Please refer those with questions on the content and requirements of the law to Chapter 9.5 of the Code of Virginia and the various campaign finance law summary documents that can be found on the ELECT website.⁵⁴



Policy (and Law) Note

All complaints related to failure to properly disclose political advertisements should be referred to the State Board of Elections which has sole authority to assess civil penalties under SBYA. The State Board may also refer possible willful violations to the appropriate Commonwealth’s attorney for investigation. See the Code of Virginia §24.2-955.3(D).

⁵³ See Code of Virginia §[24.2-955 et seq.](#)

⁵⁴ See Campaign Finance Laws and Policies Summaries.



Appendix A: Letter Templates

The following are recommendations for letters to be sent to delinquent committees.

Template A: Unfiled Statement of Organization

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Filer:

A statement of organization is required to be submitted within 10 days of undertaking any of the actions referenced in § 24.2-947.1 of the Code of Virginia. Our records indicate that your Statement of Organization is past due.

The § 24.2-947.1 also requires that a civil penalty be imposed for failure to file a Statement of Organization within 10 days.

As a result, the [name of locality] general registrar must assess a penalty in the amount of [penalty amount]. Please make your check payable to the treasurer of [name of locality] and forward this payment to the [name of locality] office of the general registrar within 10 business days. If payment is not received within 30 days, [name of locality] general registrar will be required to forward this matter to the appropriate Commonwealth's attorney who must initiate proceedings for its collection. The Statement of Organization must be filed within ten (10) business days from the date of this letter.

If you feel that you have received this letter in error or if you have any further questions, please feel free to contact our office at [phone number].

Sincerely,

Staff Name

Staff Title



Template B: Late Filing

Candidate/Committee
 Address Line 1
 Address Line 2
 City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that [committee name] filed its report on [submission date] which was after the report’s required deadline of [report due date].

According to the civil penalty schedule adopted by the State Board of Elections, the committee must be assessed a penalty of \$100 for not submitting the required campaign finance report by the deadline. Any additional late reports during this election cycle will result in a \$1000 fine.

Finally, the failure to pay the civil penalty within 60 days of the deadline for this filing period will result in the [name of locality] general registrar requesting the Commonwealth’s attorney to enforce collection.

Filing Period Ending	Report Deadline	Assessed Penalty
Invoice Number : TOTAL AMOUNT DUE		

Please make your check in the amount of [amount fined] payable to the treasurer of [name of locality]. Please reference invoice number [fine ID] and forward this payment to the [name of locality] office of the general registrar.

If you feel that you require additional information or have received this letter in error, please contact our office as soon as possible at [phone number].

Sincerely,

Staff Name
 Staff Title



Template C: Incomplete Report

Candidate/Committee
 Address
 City, State Zip Code

Dear Filer:

This letter acknowledges receipt of your campaign's [type of report] dated [date report was submitted]. Though filed timely, this report has been reviewed and found to be incomplete. The report is missing the following information required by Virginia Code § 24.2-947.4:

Incomplete Required Information	Date Amended Report Due
[description of the missing information]	[Month, Day, Year] (10 days from the mailing of the letter)

Your committee has until the date listed above to re-file the aforementioned completed report, or you will be subject to a civil penalty as established in Virginia Code § 24.2-953.3.

Please be advised that the penalties required to be assessed for late or incomplete filings are detailed in the *Candidate Campaign Committee Summary of Laws and Policies* which can be found at the Department of Elections' website: elections.virginia.gov. If you have any questions you may contact this office at [phone number].

Sincerely,

Staff Name
 Staff Title



Template D: Letter to Commonwealth's Attorney

Commonwealth's Attorney

Address Line 1

Address Line 2

City, VA Zip Code

Dear Commonwealth's Attorney:

As required by § 24.2-946.3 of the Code of Virginia, I am hereby notifying you that [name of campaign committee] has failed to file required reports and has not made payment on a subsequently assessed civil penalty after being duly notified and given an extended opportunity to do so. This office assessed the committee a penalty totaling [penalty amount].

This matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by § 24.2-953 et seq. of the Code. Civil penalties collected are to be made payable to the treasurer of the [name of locality] and must be forwarded to this office for deposit.

We appreciate your attention to this matter. If you require further information, you may contact the general registrar's office at [GR office phone number].

Sincerely,

Staff Name

Staff Title





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 18

Satellite Offices

September 2023

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18. SATELLITE OFFICES

<p>REQUIRED FORMS Satellite Early Voting Checklist</p>	<p>ADDITIONAL RESOURCES Virginia Constitution Art. II Sec. 7 Code of Virginia §24.2-129 Code of Virginia §24.2-701.2 Locality Charter Provisions</p>
<p>REFERENCE Virginia Office of Attorney General Opinion 21-040</p>	<p>REGULATIONS 1VAC20-70-60 Security requirements for absentee satellite offices</p>

18.1 IN GENERAL

“The governing body of any county or city may establish, by ordinance, voter satellite offices to be used in the locality for absentee voting in person. The governing body may establish as many offices as it deems necessary. No change in, including the creation or abolishment of any voter satellite office shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the locality once a week for two successive weeks.”¹

As absentee voting increases in popularity, localities may wish to open satellite offices to use for absentee voting in person. The decision whether to open a satellite office or multiple satellite offices should be made by your locality in consultation with both the general registrar and members of the electoral board. Here are some factors to consider when determining whether to have voter satellite offices for in person absentee voting:

- Can your general registrar’s office alone handle the expected volume of in person absentee voting?
- Would opening a satellite office or offices ease the burden on your registrar’s office?
- Are there public buildings in your locality that are ADA compliant and could be used as satellite offices?

If your locality does desire to open one or more satellite offices, here are some additional considerations to make.

- Are you placing satellite offices in high population areas to guarantee maximum value?
- If you have multiple offices, are they in distinct geographical areas within your locality to serve all local communities?
- Do you have adequate staff and volunteers to run the number of satellite offices that you wish to open?

¹ See the Code of Virginia [§24.2-701.2](#).



- Do you have the additional resources required to operate these locations, including voting machines, physical space (for example parking), ballots of every ballot style, and an adequate internet and cyber-security infrastructure?

18.2 ESTABLISHING A SATELLITE OFFICE

As noted above, satellite offices must be established by local ordinance. Your local governing body has its own process for establishing ordinances, and the process for establishing satellite offices should be the same as the process for establishing a polling place location. If you are unsure of your local process, you may wish to contact your city or county attorney's office for further information.

18.3 REQUIREMENTS

Voter satellite offices for in-person absentee voting must meet the following requirements:²

- Must be in a public building owned or leased by the county, city, or town.
- Must have adequate facilities for the protection of all elections materials produced in the process of absentee voting in person, the voted and unvoted absentee ballots, and any voting systems in use at the location.
- Must be accessible to qualified voters and in compliance with the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act.
- The governing body of each county, city, and/or town shall provide funds to enable the general registrar to provide adequate facilities for the conduct of elections.

18.4 NOTICE

Prior to enacting a new satellite office, consolidating, relocating, or changing an existing location, notice shall be provided in a newspaper having general circulation in the locality once a week for two successive weeks.³ Not later than 55 days prior to any election, the general registrar shall post notice of all satellite offices and the dates and hours of operation of each in the office of the general registrar and on the official website for the county or city; this notice shall remain for the duration of the absentee voting period.⁴

18.5 RELOCATION, CONSOLIDATION, AND CLOSURE

Localities may have to move or close satellite offices to suit the needs of their voters. This section covers the requirements for making changes to satellite offices.

² See the Code of Virginia §[24.2-701.2](#).

³ *Id.*

⁴ *Id.*



**Law Note**

Pursuant to [§24.2-101](#), “Polling place” means the structure that contains the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.” In [Opinion 21-040](#) from 2021, the Virginia Office of the Attorney General stated that this definition applies to satellite offices for absentee voting. Therefore, polling place regulations and requirements also apply to satellite offices such as the prohibition of firearms within 40 feet of a polling place, pursuant to [§24.2-604\(A\)\(iv\)](#), and the required “preclearance” process for covered practices, pursuant to [§24.2-129](#).



Because a satellite office is a polling place, establishing, changing, or abolishing a satellite office cannot be done within 60 days of a general election, pursuant to both [§24.2-306](#) and [§24.2-701.2\(A\)](#).

Since a satellite office is treated as a polling place under Virginia Law, the closure, relocation, or consolidation of any voter satellite office is considered a covered practice and subject to preclearance. Pursuant to [§24.2-129](#), there are certain actions that are considered “covered practices”; these covered practices include, “Any change that reduces the number of or consolidates or relocates polling places in the locality, except where permitted by law in the event of an emergency.”⁵ As such, these changes must go through the “preclearance” process as described in the statute.⁶ The local governing body is responsible for establishing and relocating polling places, including satellite offices; this must be done by passing an ordinance.⁷

To enact a covered practice the governing body of a locality must adhere to the following:⁸

- Present the proposed change in advance for public comment for a minimum of 30 days.
- Conduct at least one public hearing.
- Wait an additional 30 days following the public comment period before the proposed change becomes effective.

In lieu of a public comment period, the governing body can receive a certification of no objection from the Office of the Attorney General.⁹ The certificate of no objection indicates the covered practice does not have the purpose or effect of denying or abridging the right to vote based on race, color, or membership in a language minority group.

⁵ See the Code of Virginia, [§24.2-129](#).

⁶ *Id.* See also Virginia Office of Attorney General [Opinion 21-040](#).

⁷ *Id.*

⁸ See the Code of Virginia, [§24.2-129](#).

⁹ *Id.*



18.6 EMERGENCY CHANGES

If an office becomes unusable due to an emergency, the electoral board or general registrar shall provide an alternative location subject to State Board approval.¹⁰ The registrar will provide notice to voters appropriate to the circumstances of the emergency. Generally, this means providing as much notice as possible given the proximity of the emergency to an upcoming election.

18.7 HOURS OF OPERATION

Localities may choose the hours that their satellite offices operate, so long as appropriate notice is given of the times and dates.¹¹ However, satellite offices are **required** to be open a minimum of eight hours between 8:00 and 5:00 pm on the first and second Saturday immediately preceding an election.¹² Localities should operate their satellite offices in ways that are fair to all members of their community, guaranteeing absentee voting access for all voters in the locality.

18.8 CYBERSECURITY EXPECTATIONS

Because voter satellite offices essentially serve as early polling places, there must be measures in place to guarantee the cybersecurity of each satellite office. The State Board of Elections, through the Department of Elections, has promulgated a cybersecurity readiness checklist.¹³ Localities will need to complete this checklist and meet all relevant deadlines before the Department of Elections will allow a satellite office to have VERIS and e-pollbook connectivity.¹⁴ If you are considering opening satellite offices, please complete a readiness checklist for each satellite office that your locality is establishing. The checklist can be obtained through the Department of Elections.¹⁵

¹⁰ *Id.*

¹¹ *Id.*

¹² See the Code of Virginia, [§24.2-701.1\(B\)](#).

¹³ See ELECT, FormsWarehouse, [Satellite Early Voting Readiness Checklist](#).

¹⁴ See the Administrative Code of Virginia, [1VAC20-70-60](#).

¹⁵ *Id.* See ELECT, FormsWarehouse, [Satellite Early Voting Readiness Checklist](#).



APPENDIX A: Commonwealth of Virginia Early Voting Satellite Location Guidelines

Purpose

The purpose of this document is to establish uniform satellite location guidelines for Early Voting in the Commonwealth of Virginia. These guidelines are provided to address the various components and processes involved in the administration of elections.

Overview of Satellite Location

A satellite location(s) is a large polling location provided to have easier access for voters during the Early Voting period, 45 days before the Election. A satellite location(s) will include tables and chairs set up just like a precinct polling location, except that all ballot styles must be provided. Additionally, all voting equipment must be set up like CAP to accept all ballot styles.

Outdoor and indoor signage will be very important for directions on where to enter, check-in, vote, and exit.

General registrars should plan to have extra personnel to utilize as runners to travel to and from their office as needed.

Consider the following components when selecting a satellite location:

1. Traffic flow
 - a. Easy entrance and easy exit
 - b. Evaluate/review need for traffic control.
2. Parking area
 - a. Estimate how many voters anticipated in an hour at the height of voting (10-12 days before the Election); look at your past absentee ballot numbers to make the estimate
 - b. Plan for one voter per car to determine how many parking spaces may be needed.
 - c. Consider other area businesses/offices in the same facility and their parking needs during the same hours as the satellite location.
 - d. Consider the following peak hours for voting:
 - i. From 7 am to 9 am
 - ii. From noon to 1 pm
 - iii. From 4 pm to 5pm
3. Visibility
 - a. Location is easily visible from the road.



- b. Signage can be posted in areas to help direct voters.
 - c. The location is in a secure area.
- 4. Cost
 - a. Monthly and/or bi-monthly lease(s) are available.
 - b. Utilities included in the rent/lease price.
 - c. Government and/or public property
- 5. Facilities
 - a. Public restrooms are available.
 - b. Ramps are provided for wheelchair access.
 - c. Doors meet the HAVA required width and have mechanical switches to open for access.
 - d. Heating and air conditioning in the facility
 - e. Large room area(s) / tables and chairs available / multiple electrical outlets
- 6. Communication
 - a. Access to telephone service, if possible
 - b. Access to internet access through VPN service
- 7. Accessibility

Does the location fulfill all the requirements for the ADA, VDA, §24.2-701.2, and other required accessibility law requirements?



APPENDIX B: Commonwealth of Virginia Off-Site Satellite Early Voting Locations Contingency Plan

Purpose

The purpose of this document is to confirm that each locality may open satellite locations during the Early Voting period prior to Election Day, beginning in November 2020.

Note: If an emergency does occur at a satellite office, please contact and inform the Department of Elections.

Basis for Developing Continuity of Operations Plan (COOP)

Consider the following items in developing a COOP for the Early Voting period:

Loss of Connectivity to State VERIS for Voter Check-in Contingency Plan:

Issue: The loss of connectivity to State VERIS impacts the ability to promptly update voter history, leading to potential multiple voting instances at different early voting sites on the same day.

To address this issue, the following steps must be taken:

- a. Maintain Updated Backup Data:
 - Keep an up-to-date backup data file of all eligible voters on laptops.
 - Update this backup data file on a nightly basis throughout the early voting period.
- b. Provision of Visual Precinct Boundary Maps:
 - If laptops become unusable due to the connectivity loss, distribute visual precinct boundary maps to all locations.
 - These maps will aid in accurately determining the correct ballot style for each voter.
- c. Usage of Provisional Ballot Envelopes:
 - When checking in voters using the backup data file, direct them to use provisional ballot envelopes.
 - Voters will seal their voted ballots in these envelopes, and poll workers will complete essential information on each envelope.
- d. Post-Connectivity Restoration Actions:
 - Once connectivity is reestablished, poll workers will update the voter history in VERIS.



Loss of Electricity in Any Early Voting Location Contingency Plan:

Issue: In the event of power loss, which may result in the inability to check-in voters

To address this issue, the following steps must be taken:

- a. All early voting locations will be equipped with fully charged portable battery packs. These packs will serve to recharge laptops and EPB devices. Additionally, if necessary, these battery packs can be utilized to charge cell phones for poll workers.
- b. Should the battery backup on the voting equipment also fail, an alternative approach will be implemented. Ballots will be placed in the auxiliary bin for scanning once power is restored.

Parking and Traffic Flow Concerns Contingency Plan:

Issue: Not enough parking, traffic is backing up, etc.

To address this issue, the following steps must be taken:

- a. Notify area police and sheriff department officials of peak early voting days. Request traffic control assistance, including potential redirecting of traffic flow during peak voting times
- b. Work with nearby businesses/office complexes to utilize available parking during peak times

Long Lines for Voter Check-in Contingency Plan:

Issue: More voters than expected at satellite office.

To address this issue, the following steps must be taken:

- a. Monitor timing and flow of voters to inform voters in line of approximate wait period. Stage a poll worker to “walk the line” and inform voters of the wait time and other options available to them
- b. Stay in touch with other early voting locations to monitor number of voters in line. Redirect voters to other sites that are experiencing shorter lines



Shortage of Ballots Contingency Plan:

Issue: Not enough ballots at the satellite office.

To address this issue, the following steps must be taken:

- a. Develop a ballot tracking method that provides advance notice of upcoming ballot shortages for certain ballot styles
- b. Designate “ballot runners” to retrieve additional ballots PRIOR to running out
- c. If using a Ballot on Demand printer, have a backup printer or supply of ballots for all precincts in the event of printer breakdowns

Shortage of Workers Contingency Plan:

Issue: Not enough officers of election at satellite office.

To address this issue, the following steps must be taken:

- a. Designate and train backup poll workers to assist during absences and/or peak voting time periods
- b. Reallocate staff from locations with lower voter turnout to the high turnout locations
- c. Train all full-time staff on the early voting check-in process. Utilize the full-time staff when there are no other options

