GREBook Introduction

Welcome to the newly revised general registrar & electoral board Handbook (GREBook). The GREBook has been revised to reflect current Virginia Code, State Board of Election's (SBE) policies, and changes from VVRS to VERIS. Unless noted, all statutory references are to the Code of Virginia, Title 24.2. Although general VERIS information is provided in the GREBook, please refer to the "VERIS Help Files" for detailed data entry and processing procedures.

Furthermore, the GREBook has been reformatted and reorganized for greater usability. Unlike previous versions, this manual is meant to be used online instead of in print format. For this reason, the manual is now outfitted with electronic hyperlinks and cross references. Also, many of the exhibits have been deleted in favor of direct access to online forms. The GREBook is complete with helpful indicators such as:

Notes: ⓘ

Examples: ⚡

The GREBook will be updated every year in the summer following the legislative session.

GREBook

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1 The State Board of Elections

1.1 Member Appointments

The State Board of Elections (SBE) consists of three members who serve for concurrent four-year terms that begin on February 1 of the odd numbered year in which an election for Governor is not regularly scheduled. In other words, the Board takes office roughly 13 months after a new Governor is sworn in. The Governor appoints all three members, subject to confirmation by the General Assembly. He designates which of the three members is to serve as the Secretary and administrative head of the agency. The Board then meets and elects a Chairperson and Vice-Chairperson. No member of the Board, other than the Secretary, can be appointed to more than two consecutive terms. The Governor, subject to confirmation by the General Assembly at its next regular session, fills vacancies for the remainder of any unexpired terms. Two members are appointed to represent the political party of the Governor, and one to represent the political party whose candidate received the next highest number of votes in the most recent gubernatorial election. The party entitled to the appointment may make recommendations to the Governor. There is no requirement, however, that the Governor solicit recommendations, or follow them. If the Governor was not elected as the candidate of a party, representation is given to the parties having the highest and next highest number of members in the General Assembly.

Organizationally, the SBE, as an agency, is part of the executive branch of state government. It reports to the Governor through the Secretary of Administration. The SBE, as a board, is designated an independent board. The agency and its staff are required to perform their duties impartially and fairly.

1.2 The Purpose and Duties

The SBE is charged with supervising and coordinating the work of county and city electoral boards and registrars, so as to obtain uniformity in their practices and proceedings and legality and purity in all elections. It may adopt and issue policies, standards, procedures, and instructions in accordance with the law and with directives from the General Assembly. The SBE is exempt from the Administrative Process Act, through which most agencies issue rules and regulations. Throughout Title 24.2, the Board is given the responsibility to develop and prescribe many and various forms, rules, and regulations for use in the registration and election process.

The SBE is also responsible for:

- providing training to registrars and electoral board members at least once a year (§ 24.2-103)[1];

[1] Unless otherwise noted, all statutory references within this handbook are to the Code of Virginia.

- providing for the continuous operation and maintenance of the Virginia Voter Registration System (formerly VVRS, now called the Virginia Election and Registration Information System or VERIS) (§ 24.2-404);
- overseeing the administration of the Campaign Finance Disclosure Act (§ 24.2-946); and
- meeting on the fourth Monday in November to ascertain the results and "make statements of the votes" (certify the results) of any election for General Assembly or Congressional office, statewide offices, President and Vice-President, and any office shared by more than one locality. It also must meet as soon as possible after any special election for any of the offices listed above in order to ascertain the results (§ 24.2-679).

The SBE has authority to institute proceedings for the removal of any electoral board member who fails to discharge his duties in accordance with law by petitioning the circuit court of the electoral board's locality. It may petition a local electoral board for the removal of a general registrar who fails to discharge his duties in accordance with law and if the local electoral board refuses to remove a general registrar, may institute proceedings for the registrar's removal by petitioning the circuit court of the general registrar's locality. (§§ 24.2-103 and 24.2-234)

The SBE is also charged with reporting state statistics relating to the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA) to the Election Assistance Commission. The Secretary serves as the state coordinator for implementation of the Acts. VERIS gathers the necessary statistics as transactions are processed (i.e., for every registration application and change in a voter's registration). This means that all new voters, denials, cancellations, and changes of status concerning active and inactive voters must be processed through VERIS. (§ 24.2-404.1)

In addition, under the Voting Accessibility for the Elderly and Handicapped Act (42 USCS § 1973ee), the Secretary must approve any waivers for exceptions to the federal requirements for accessible polling places.

1.3 Staff to the Secretary of the State Board of Elections

The SBE staff includes two positions that are appointed by the Governor and serve at his pleasure. These are (1) a Deputy Secretary, and (2) a confidential policy or administrative assistant to the Secretary. All other staff members are hired by the Secretary either on an hourly basis or under Virginia's classified personnel system without regard to political affiliation. The Secretary is responsible under the Code of Virginia and the By-Laws of the SBE with carrying out the administrative duties imposed upon the Board by federal and state election laws. The staff assists the Secretary in carrying out these administrative duties.

The SBE is organized according to functions and is subject to change by the Secretary.

The Strategic Plan of the SBE details the agency's mission, vision, values, goals and performance.

The agency's budget is set by the Appropriations Act, which also sets forth the state-funded salaries for electoral board members and general registrars and the number of days per week the

registrar's offices are to be open. The budget is adopted on a biennial basis, in even-numbered years, and amended in the odd–numbered years.

2 Electoral Board

The electoral board is responsible for the proper and orderly conduct of all elections held in the locality. The information in this Handbook provides assurance that each electoral board complies with the law in organizing and conducting its normal business. Please read it carefully.

The SBE cannot authorize the payment of any compensation to any member of the electoral board until they comply with certain requirements set forth herein.

Throughout these instructions, the phrase "local governing body" means the board of supervisors of a county or the council of a city unless otherwise specifically indicated.

2.1 Organization

Each electoral board consists of three members who are appointed on a staggered term basis. This ensures that a majority of the electoral board is familiar with election procedures and assures uniformity in the conduct of elections. Terms of office, activities that prohibit appointment to the electoral board and party representation are explained below.

2.2 Term of Office

Each year one member of the electoral board in each county or city is appointed (or re-appointed) for a three-year term to begin on March 1 of that year. The term expires at midnight on the last day of February in the third year following appointment. Members can serve an unlimited number of terms.

A majority of the circuit judges of the judicial circuit for the county or city in which the appointment is being made shall appoint the members of the electoral board. If a majority of the judges cannot agree, the senior judge shall make the appointment. The judges act upon the nominations made by the political parties (see Party Representation below).

Should the judges fail to appoint by March 1, the member whose term is expiring would serve until either he is re-appointed or a new member is appointed.

Should any member die or resign during his term, the judges must make an interim appointment for the remainder of the unexpired term.

Any order that specifies an expiration date other than the last day of February (orders specifying March 1 are construed to mean midnight on the last day of February) has not been entered in accordance with law and should be corrected.

2.3 Disqualifications

Article II, § 8 of the Constitution of Virginia and §§ 24.2-106 and 24.2-119 of the Code of Virginia set forth certain circumstances which would prohibit an individual from being appointed, or continuing to serve, as an electoral board Member. No person is eligible whom:

- is the spouse of an electoral board member or the general registrar for the city or the county;
- is the spouse of any person who is the parent, grandparent, sibling, child or grandchild of an electoral board member or general registrar of the city or county;
- is employed by the government of the United States;
- is employed by the Commonwealth of Virginia;
- is employed by any County, City or Town;
- holds an office or post, under any of the above governmental units, for which he is paid;
- holds any elective office;
- offers as a candidate for any elective office to be filled in whole or in part by the qualified voters of his county or city;
- serves as the chairman of a state, local, or district level political party committee; or
- is a paid worker in the campaign of any candidate for nomination or election to an office that is on the ballot anywhere in the locality.

The law prohibits an electoral board member from holding an elective office or from being employed by any government. Acceptance of such employment during a term automatically vacates the office. Any incumbent electoral board member who accepts such employment should immediately notify the judges of the Circuit Court that the office has been vacated and that a new appointment for the remainder of the unexpired term is necessary.

An opinion of the Attorney General of Virginia makes it clear that the above employment situations apply to part-time and substitute work (such as public school teacher or postal worker) as well as full-time positions. (Op. Va. AG 1983-229.)

2.4 Party Representation

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. If the Governor was not elected as the candidate of a party, representation is given to the parties having the highest and next highest number of members in the General Assembly at the time of the appointment.

By statute, the terms of incumbent members are not interrupted to meet this requirement when the newly elected Governor is of a different party than the previous Governor; as to do so would be unconstitutional. Rather, the representation on the electoral board changes as the terms of incumbent members expire and new appointments are made when regularly scheduled, or when it is necessary to make an interim appointment for an unexpired term due to the death or resignation of a member. 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.

The political party entitled representation by the newly appointed member is required to submit a list to the judges of the circuit court recommending not less than three qualified voters of the county or city. The party must submit their recommendations (i) for a full-term appointment, by January 15 or (ii) for a vacancy, within 30 days of the date of the death or resignation of the departing member. If a party fails to meet these deadlines, the judges are required to appoint without the recommendations. Further, while there is nothing to prohibit the party from indicating, if it so desires, which of the persons recommended it would prefer, neither are the judges required by law to appoint any of the persons recommended.

The judges shall promptly make such appointment (i) after receipt of the political party's recommendation or (ii) after January 15 for a full term or after the thirty-day period expires for a vacancy appointment, whichever of the events described in clause (i) or (ii) first occurs. (§ 24.2-106)

2.5 Oath of Office

Any newly appointed (or re-appointed) member of the electoral board must, before entering any term or performing any duties, take and sign the oath of office prescribed in Article I, Section 7 of the Constitution of Virginia. The Clerk or Deputy Clerk of Circuit Court may administer the oath.

The signed oath must be filed with the Clerk of Circuit Court and a copy of it placed with the records of the electoral board. 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. (§§ 24.2-120 and 49-11)

2.6 Training

Section 24.2-106 also provides that at least one member of each electoral board shall attend an annual training program provided by the SBE. The local governing body is required to pay or reimburse the board member or members for any expenses incurred in attending this training. The SBE shall reimburse the locality for the mileage of those board members attending training. Additionally, the SBE provides additional information to board members on a regular basis. A weekly newsletter, "News You Can Use," is sent out electronically each week to all electoral board members and registrars. Printed copies are mailed to those members that do not have regular access to e-mail.

A great deal of general information about elections can be found on the public website at: www.sbe.virginia.gov. This is an excellent source of some basic information about the electoral process in Virginia. The SBE also maintains a website that provides a great deal of information specifically intended to assist registrars and electoral board members in their duties. Copies of many forms used in the electoral process can be found here as well as policies and procedures on a wide range of subjects. Training materials from the training sessions for registrars and electoral board members are also posted on this site for easy access when needed. The web address for the secure site is www.sbe.virginia.gov/gr/. A logon id and password are required for access to this site and is available by contacting the SBE or your registrar.

2.7 Meetings in General

Electoral board meetings must be conducted in accordance with the requirements of the Virginia Freedom of Information Act (FOIA) contained in §§ 2.2-3700 to 2.2-3714 The registrar must provide a copy of FOIA to each electoral board member within two weeks following his appointment or reappointment. The SBE website contains a copy of FOIA at: http://www.sbe.virginia.gov/cms/About_Us/Freedom_Of_Information.html. FOIA requires all members of the board to "read and familiarize themselves with the provisions" of the Virginia Freedom of Information Act.

Meetings of the electoral board must be open to the public. A board may go into executive (closed) session only after beginning in an open meeting and only for an appropriate reason. No decisions may ever be made in closed meeting, only discussion may be held. FOIA prohibits transaction of the electoral board's business in any other manner except by votes at public meetings unless specifically permitted by another law (for example, by particular sections of Title 24.2). All open meetings require that minutes be taken. FOIA defines draft and final minutes as public records and allows people to request them.

Any member of the electoral board may call a meeting. At least three days' notice, except in emergency, must be given to all members by the member calling the meeting or by the secretary. Only an agreement of all members may waive notice to members. The presence of two members at any meeting constitutes a quorum for the conduct of any business. FOIA defines an emergency as "an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which requires immediate action."

Notice of the date, time, place, and general purpose of any meeting is to be posted at "a prominent public location where such notices are usually posted" and in the office of the registrar. Traditionally, public notices were posted "at the courthouse door." Nowadays, such community bulletin boards may also be on the Internet. Use whatever methods your locality normally uses. You may post notices in more locations than the two required by law.

The secretary is required to give at least three days' notice of meetings to any person who requests such notice. In the case of emergency meetings, individuals must be notified at the same time and in the same manner as electoral board members. Such notice may be by e-mail if the recipient has agreed to receive the notices in this manner.

Requests to be notified on a continual basis must be made in writing at least once each year. Such written request must include the name, address, zip code, daytime telephone number, electronic mailing address, if available, and organization, if any, of the person to be notified. (§ 2.2-3707)

Before a public body can close a meeting to the public, it must make a detailed motion in the open meeting's minutes that identifies (1) the meeting's subject matter, (2) the meeting's purpose, and (3) the specific exemption that applies under § 2.2-3711. General references to FOIA or to the subject matter of the meeting do not suffice. Only the matters identified in the motion may be discussed in the closed meeting. Minutes may be taken in the closed meeting, but are not

required. If they are taken, they do not have to be released in response to a public records request. (§ 2.2-3712)

When the body comes out of its closed meeting, § 2.2-3712 also requires the body to immediately reconvene in open session. Each member of the body is to affirm by roll call or other recorded vote that only those matters identified in the motion to close the meeting were discussed. Any member who believes matters outside the scope of the motion were discussed is to say so prior to the vote. Failure to certify in accordance with these requirements does not, however, affect the validity or confidentiality of matter discussed in the closed meeting.

No person present at a meeting of the electoral board may disrupt the meeting. At the discretion of the electoral board, such persons may offer comments during the meeting upon recognition for such purpose by the Chairman. In any case, time should be set aside by the electoral board, following each agenda item or at the beginning or end of the meeting, for brief comments from such persons. An announcement should be made at the beginning of each meeting as to the procedure adopted by the electoral board.

The secretary shall keep an accurate account of all electoral board proceedings in a minute book, including all appointments and removals of general registrars and officers of election.

Books, papers, and records of the electoral board shall be open to inspection by any registered voter either at the office of the electoral board (if applicable) or the office of the general registrar. (§ 24.2-107)

Notice of local electoral board meetings must be given to the public, interested parties and board members as provided in FOIA (i.e. three business days except in an emergency). Meetings are allowed to be called on shorter notice for an emergency as defined in FOIA (see above).

FOIA applies to all electoral board meetings but exempts from the notice requirements only a meeting held on election day to discuss a matter that must be resolved on that day, for the conduct of the election, (provided that if all three members are not present, an effort has been made to contact all members). The secretary (or another member if the secretary is not present) should take notes of any election day meetings that can later be converted to official minutes of the electoral board.

The mere presence of two or more board members during the preparation of ballots, election materials, or voting equipment, inspection of polling places, or training of election officials (which would include training for the board members themselves) does not, by itself, constitute a meeting. (Obviously, if they engage and deliberate or reach decisions, that is a meeting under FOIA.)

2.8 Required Meetings

The electoral board of each city and county shall meet during the first week in February and during the month of March each year at the time set by the electoral board and at any other time on the call of any electoral board member. § 24.2-107 Also, each electoral board shall meet at the clerk's office or the registrar's office of the county or city for which they are appointed on the

day after the election for the purpose of ascertaining the results of the election. The electoral board may adjourn to another room in a public building for this purpose and may adjourn from day to day as needed, not to exceed seven calendar days from the date of the election. (§§ 24.2-653 and 24.2-671)

The electoral board must meet in March each year to elect a chairman, vice chairman and secretary immediately following the appointment (or re-appointment) of a member to a new term. The electoral board must also meet to reorganize following the appointment and qualification of a member to fill a vacancy in an unexpired term.

The electoral board shall elect one of its members as chairman and another as secretary. The chairman and the secretary shall represent different political parties, unless the representative of the second-ranked political party declines in writing to accept the unfilled office.

In the year in which the term of the general registrar expires (1999 and every fourth year thereafter), the meeting must be held in the first week in March and a general registrar must be appointed (or re-appointed) for a four-year term to begin that April 1. (§ 24.2-107)

Each electoral board at its regular meeting in the first week of February shall appoint officers of election, whose terms of office shall begin on March 1 following their appointment and continue for one year or until their successors are appointed. (§ 24.2-115)

2.9 Secretary to Notify State Board

After the electoral board has met and elected its Chairman, Vice Chairman and Secretary, the Secretary must inform the SBE of the names, mailing addresses, telephone numbers, e-mail address and party affiliation of each member, as well as the year in which the term of each expires and the office to which each was elected. (§ 24.2-106) The Secretary notifies the SBE electronically when the general registrar updates the electoral board information in the VERIS Directory. The information must be entered or changed immediately following the electoral board's reorganization meeting. This will assure that no election-related document or information is forwarded to a person who is no longer serving on your electoral board.

ⓘ It is only after the receipt of this information that any annual compensation is authorized by the SBE to be paid to any member.

Electoral board information may be recorded in Exhibit D. Copy it, enter all information requested, and retain the original in the records of the electoral board with the orders appointing members. Complete a copy of the form and have the general registrar update the VERIS Directory each time any change is made in your electoral board's membership. This will assure that SBE's records are always up-to-date. You do not forward this form to SBE. SBE will print the form directly from VERIS, as needed.

2.10 Acting Secretary

It is essential at all times that one member of the electoral board serve as secretary to ensure that the board performs the administrative necessary duties.

Should the member elected as secretary die or 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 must elect another of its members acting secretary until such time as a new member is appointed and the electoral board meets to reorganize. Should the member elected secretary be unable to attend a scheduled meeting due to some unforeseen emergency, or become incapacitated in such a way that makes it impossible for that person to carry out the duties of the position, the board must elect another of its members acting secretary until the secretary is available.

The minutes of any board meeting 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.

Designation of an acting secretary may only be made in an open meeting, and must be recorded in the minutes of the electoral board.

2.11 Absences

Effective August 8, 2000, the SBE, with the support of the Secretary of Administration and the Attorney General's office, directed that:

> Any electoral board member who does not participate all day Election Day and/or for the canvass the following day should provide written or email notice to the Secretary or Deputy Secretary of SBE. The notice should also be sent for any electoral board member who has missed more than two meetings of the electoral board during the calendar year. In the future if an electoral board member misses more than two meetings, this notice is due within a week following the third absence.

Each jurisdiction's general registrar and electoral board secretary are jointly held liable for ensuring that SBE is provided such notification. If an electoral board member or general registrar is out due to unforeseen circumstances, the other person, or staff, should be sure this notification is sent. Notification should be in advance for any absence that is foreseeable.

2.12 Compensation and Expenses

2.12.1 Authorized Annual Compensation

Sections 24.2-108 and 24.2.111 mandate the governing body of each county or city to pay the compensation, expenses, and mileage to their general registrar and electoral board members in accordance with the compensation and expense plan set forth in the general Appropriations Act. The authorized salary rates are computed annually using the most recent population estimates from the U.S. Bureau of Census and the University of Virginia's Center for Public Service.

The year for which compensation is authorized is March 1 through the last day of February of the following year to coincide with the terms prescribed by law for electoral board members.

In recognition of the administrative duties imposed on the member elected secretary, the compensation of other members is required by the plan to be one-half that prescribed for the secretary.

The Appropriations Act prohibits local governing bodies from supplementing the authorized annual compensation of any member of the electoral board except that of a full-time secretary of the electoral board.

The governing body of any county or city may pay the secretary of its electoral board additional allowance for expenses, as it deems appropriate. However, the SBE will not reimburse the locality for the additional allowances.

2.12.2 Notice of Compensation Authorized

The general registrar must notify the SBE when any electoral board member dies, resigns, or is not reappointed and the date on which any newly- appointed electoral board member takes office. The newly constituted electoral board must meet and elect officers as quickly as possible.

Immediately following the appointment of any new or returning member, the secretary must certify to the SBE the reorganization of the electoral board. The SBE will then notify any member whose compensation is affected by the reorganization of the electoral board, the general registrar, and the local governing body of the compensation authorized to be paid. Notice will also be given by the SBE of any change in compensation required as of July 1 each year due to population growth, population increases resulting from annexation or consolidation, or compensation increases that might be authorized by a newly enacted Appropriations Act.

2.12.3 Payment of Annual Compensation

The general registrar, or full-time secretary, must prepare and submit to the local fiscal officer the document, which will activate payment of compensation to each electoral board member. The procedures to be used are set forth below. Form SBE-108 (1) must be used for this purpose if the county or city does not prescribe a form to be used. (See Exhibit A.)

If the county or city administration already has a payment schedule in place which provides for the regular payment of compensation at least once each month to each electoral board member, that schedule and its accompanying procedures must continue to be observed. Otherwise, one of the two optional schedules and the procedures set forth herein must be observed. All members of the electoral board must be paid on the same schedule. Newly appointed electoral board members should check with the general registrar as to the payment schedule in effect.

Payment of compensation must be made on one of the following two schedules:

- Monthly at the end of each month: If this schedule is used, a form must be submitted to the fiscal officer on the first working day of each month for payment by the last working day of the month.
- Three times each year at the end of February, June and October: If this schedule is used, a form must be submitted to the fiscal officer on the first working day of the above months for payment by the last working day of the submission month.

No compensation should ever be paid in advance of the period for which it is paid.

2.12.4 Mileage and Expenses

The local governing body is required to pay to each member, when on official business of the electoral board, mileage at the same rate as authorized for members of the General Assembly. (§ 24.2-108.) It also must pay any electoral board member's expenses that are authorized in the Appropriations Act and sufficiently funded.

Prior to receiving any payment for mileage or reimbursement for expenses, the member requesting such payment must provide to the local governing body a statement under oath of his claim for such mileage and expenses.

These requests should include the date the mileage was incurred, the points between which the travel occurred, the purpose of the travel, the number of miles traveled, the rate to be paid per mile and the amount requested. (If your locality does not have its own form for this purpose, use the form shown in Exhibit B.

Such statements for expenses must include the date the expense was incurred, a brief description of the expense and the reason for it. (See Exhibit C.)

2.12.5 Reimbursement to Local Governing Body

The local governing body is reimbursed once each year by the SBE for up to the full amount of the annual compensation authorized and paid to general registrar, the members of the electoral board and for mileage paid to the members. Final reimbursement amounts are dependent on sufficient available funding. Reimbursement requests may be reduced if the total amount of all requests exceeds the total amount authorized by the Appropriations Act. (See more here.)

Application forms for this reimbursement are provided to local fiscal officers by the SBE each March. All such reimbursements are made to the extent that funds are appropriated and available. Reimbursement is based on a fiscal year of March 1 through the last day of February to coincide with electoral board members' terms of office. Therefore, the locality should be prepared to document expenses and compensation for each electoral board member based on the twelve months of March through February.

The SBE may require that the sworn statements of the members for mileage be submitted with the reimbursement application or it may require that they be kept on file in the county or city in the event of an audit of reimbursement payment made.

2.13 Operating Expenses

The local governing body is required by § 24.2-108 of the Code of Virginia to furnish all necessary postage and stationery, and a bound book for the minutes of the electoral board.
The local governing body is required by § 24.2-600 to pay the cost of conducting all elections other than town elections.

The local governing bodies of towns are required by § 24.2-600 to pay the cost of conducting town elections. The town does not pay any part of the compensation or mileage paid to electoral board members or compensation paid to the general registrar since payment for these items is reimbursed by the state to the county.

The electoral board, in accordance with the local governing body's requirements, should determine its operating needs, submit a realistic budget proposal to that body and offer justification for the funds requested. In most localities, the budgets for electoral board and registrar's office operating expenses are submitted as one budget. Generally, it is easier to submit just one budget, since the registrar and the electoral board usually share many expenses (office supplies, telephone, etc.). However, if you or your locality prefer, you may wish to submit separate budgets. If the holding of any particular election is in doubt (e.g., a possible special election or primary), the electoral board should estimate its cost, if held, and advise the local governing body of the potential need.

Funding for election operations is required to be sufficient for necessary office operations as well as the expenses of running voter registration and elections. If you are having trouble getting sufficient budget for things, you should contact the Secretary or Deputy Secretary of the SBE to assist you in solving this problem. Additionally, an important component of necessary operations is training. Your locality should be providing sufficient money so that at a minimum the general registrar and one member of the local electoral board can attend the SBE' annual two day training.

Bills for operating expenses of the electoral board, including any items purchased for the conduct of the elections, should be submitted directly to the local governing body for payment to the vendor. Such items should never be submitted as personal expenses of a member.

2.14 Records

2.14.1 Minutes vs. Records

The election laws require certain items to be kept with the electoral board's minutes and other items to be kept with the electoral board's records. The SBE has additional requirements concerning what should be kept in the minutes. And finally the Virginia Public Records Act (§ 42.1-76 et. seq.) and federal law (42 U.S.C. 1974) govern the keeping of records.

For items that should be kept as part of the minutes book, simply insert them in the minutes book or, if that is not possible, keep a file folder labeled "Annex to Minutes" with the minutes book. The manner in which you file other important electoral board documents is your choice. Here is a suggestion: For each calendar year, establish a folder labeled "Electoral Board Records" and another folder labeled "Electoral Board Correspondence." You may wish to separate the latter folder into "internal correspondence (i.e. communications between the electoral board and the SBE and registrar) and "external correspondence" (i.e. communications with voters, voting equipment vendors, local governing body, etc.). A copy of the general registrar Performance Review, which the electoral board is required to conduct each year before August 1 must be kept in a separate, confidential file. As a personnel record, it may contain sensitive personal information and may not be released by the electoral board in response to a public records request.

What goes where? The following is a partial list of important items and where you should keep them:

Minutes Book:

- Certificate of number of ballots delivered to electoral board (§ 24.2-618)
- Certificates of person affixing electoral board seal to ballots and of electoral board representative who witnesses affixing of seal (§ 24.2-619)
- Copies of abstracts of results
- All electoral board meeting minutes

Records File(s):

- Oaths of ballot printers and electoral board representatives who witness ballot printing
- Original of each ballot (including machine ballots)
- Originals of abstracts of results (§ 24.2-675)
- Board member and registrar oaths of appointment

2.14.2 Records Management

The records of the electoral board are required to be open to inspection by any registered voter of the Commonwealth. (§ 24.2-107.) For this reason, the records of the electoral board must be maintained in the office of the general registrar. In those cases where the electoral board has an office adjacent to the general registrar's office which is used only when the electoral board is meeting or when the work of the electoral board is being performed, the records of the electoral board may be kept in this office provided that at all times the office is open the general registrar, or, if appropriate, the electoral board staff, has access to it for the purpose of making records available for inspection.

No records that contain any candidate or voter social security numbers can be inspected or copied by anyone from the public or the news media. When a public document contains such social security numbers, these numbers must be covered up before the document can be shown or copied. (§ 24.2-107.) The only exception to this will be if a court requires the document be provided with the social security number shown. If in doubt when you receive a request, call the SBE to discuss the situation.

In no case are the official records of the electoral board to be kept in the home or private office of any member. Records may be copied and the copies so kept if necessary or desired for the convenience of any member.

2.14.3 Records Retention

The Records Retention and Disposition Schedule for election records in your office was jointly issued by the SBE and The Library of Virginia in accordance with the Code of Virginia, § 42.1-76. See The Library of Virginia (LVA) Retention Schedule for the retention and disposition requirements for election records specified in the United States Code and the Code of Virginia.

The schedule will assist you in determining whether the records are permanent or nonpermanent. The Library of Virginia provides archival storage for selected permanent records. Each disposal of nonpermanent public records must be reported thirty days before the planned destruction date to The Library of Virginia on Form RM-3, Certificate of Records Disposal. The Library of Virginia retains a copy of Form RM-3 permanently and a copy is returned to your office for your records.

ⓘ The Library of Virginia no longer provides microfilming service for electoral board minutes. The Library will store, without charge, minutes that have been microfilmed at the locality's own expense.

If any election contest or recount is pending at the expiration of the stated retention period, all records and materials must be retained until the contest or recount is concluded and the appropriate authority has determined the election results.

If you have any questions concerning this procedure, please contact the Archives and Records Division of The Library of Virginia, 800 E Broad Street, Richmond 23219 or visit their website at http://www.lva.lib.va.us. Blank copies of Form RM 3 may be downloaded from http://www.lva.lib.va.us/whatwedo/records/manuals/index.htm

2.15 Voting Equipment Security

Maintaining the security of voting systems is a vital part of the electoral board's task in assuring the integrity and purity of elections. The SBE has adopted a four-part document that establishes policies, standards, and guidelines to be followed in securing the machines, software, and hardware used in the conduct of elections. This document is discussed in detail in Chapter 20.

2.16 Duties of Electoral Boards

The duties of electoral boards are many and varied – they are mentioned almost 400 times in the Code of Virginia. There is no codified list of duties, other than a small section stating that general duties include the preparation of ballots, administration of absentee ballot provisions, conduct of the elections, and ascertainment of results of the elections.
(§ 24.2-109.)

Below is a list of the primary, on-going duties of electoral boards. It is not exhaustive. It does not include some activities that are optional for electoral boards (such as conducting simulated elections) nor many activities and duties that would only arise in special circumstances (such as upon the death of a candidate).

In general, the duties outlined below are the responsibilities of the whole electoral board; in some cases they are responsibilities specifically assigned to electoral board Secretaries. They are grouped according to subject area.

2.16.1 Duties Related To General Organization:

- Electoral board members must take the oath of office. (§ 24.2-120.)
- The secretary must notify the SBE of any changes in board membership or positions. (§ 24.2- 106.)
- The electoral board must provide any information requested by the SBE. (§24.2-103.)
- Members of the electoral board may request official advisory opinions from the Attorney General related to the discharge of the electoral board's duties. (§ 2.2-505.)
- At least one member of each electoral board must attend the annual training provided by the SBE. (§ 24.2-106.)

2.16.2 Duties Related To Registrars:

- The electoral board must appoint the general registrar. The electoral board may remove the general registrar from office for failure to discharge the duties of the office according to law. (§ 24.2-109.)
- The electoral board may prescribe additional duties – beyond those prescribed in the Code – to the general registrar. (§ 24.2-114.)
- The electoral board must determine the number, and set the terms, of assistant registrars. (§ 24.2-112.) 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. The general registrar appoints all assistant registrars and establishes their duties.
- The electoral board must conduct an annual performance review of the general registrar each year for the 12 month period ending June 30 and submit a summary of the review to the SBE by August 1. The electoral board must retain a copy of the complete review document in their files. (§24.2-109.1.)

2.16.3 Duties Related To Officers Of Election:

- The electoral board must appoint all officers of election and designate the precinct in which each will serve. (§ 24.2-115.)
- The electoral board may remove from office any officer of election who fails to perform his duties according to law. (§ 24.2-109.)
- The electoral board must designate a chief officer and assistant for each precinct. (§ 24.2-115.)
- The electoral board must train all chief officers and assistants in their duties between three and thirty days before each election. The electoral board must instruct all other officers of election before the November election. SBE recommends that the electoral board train all new officials before each election and all officials whenever there are major procedural changes in polling place operations. In addition, the electoral board shall conduct special workshops as requested (such as on Statement of Results completion or operation of electronic pollbooks). (§ 24.2-115.)

- The electoral board must instruct, or cause to be instructed, on the use of voting machines, any officer of election who has not been previously instructed on their use. (§ 24.2-636.)
- An electoral board member, or the general registrar, or a designated officer of election must administer an oath to each officer of election before the polls open. (§ 24.2-611.)
- The secretary 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 shall promptly add the name of the appointee to the public list. (§ 24.2-115.) This list is open to inspection and copying by the public.

2.16.4 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 §§24.2-305 through 24.2-310.
- The electoral board must provide adequate facilities at each polling place for the conduct of the election. (§ 24.2-310.)
- 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. (§ 24.2-310.)
- If an emergency makes a normal polling place unusable, the electoral board must provide an alternate polling place. (§ 24.2-310.) Emergency polling place moves must be approved by the Secretary of the SBE, and also submitted to the Department of Justice for approval under the Voting Rights Act unless the locality has been "bailed out" from preclearance requirements.
- The electoral board must provide and have posted at each polling place signs directing voters with disabilities and elderly voters to special accessible entrances. (§ 24.2-604.1.)
- The electoral board must provide voting booths to each polling place, including at least one designed for voting paper ballots. (§ 24.2-609)

2.16.5 Duties Related To Voter Registration:

- The electoral board may set additional hours for the voter registration office to be open. (§ 24.2-411.)
- The electoral board must approve any agreement for ongoing registration sites at businesses or other governmental agencies. (§ 24.2-412.)
- The electoral board may set additional occasional registration sites. (§ 24.2-412.)
- 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. (§ 24.2-413.)

2.16.6 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. (§ 24.2-505.)
- The electoral board must provide to the SBE, after the filing deadline, 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. (§ 24.2-612.)

2.16.7 Duties Related To Primaries And Special Elections:

- The secretary must post or publish any notice of a primary, or writ of special election, that is received from the SBE or other appropriate authority. (§§ 24.2-517 and 24.2-683.)
- 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. (§ 24.2-524.)
- If candidates for a primary file simultaneously, the electoral board must draw lots to determine the candidates' order on the ballot. (§ 24.2-529.)

2.16.8 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. (§ 24.2-601.)

2.16.9 Duties Related To Ballots:

- The electoral board must order the printing of the number of ballots it determines are sufficient for the proper conduct of the election. (§ 24.2-612.)
- The electoral board must make printed ballots available for absentee voting at least 45 days before any November general election and at least 30 days before any other election. (§ 24.2-612.)
- The electoral board must send to the SBE a statement of the number of ballots printed, proofs of each ballot, and copies of each final ballot. (§ 24.2-612.)
- The electoral board, along with the SBE, must design and lay out each ballot as prescribed in the Code of Virginia. (§ 24.2-613.)
- The electoral board must designate one person to be continuously present in the room where and when the ballots are being printed. (§ 24.2-617.)
- The electoral board must designate one of its members, or a registrar, or an employee, to receive the ballots after they are printed and certify the number received. The electoral board must then file the certificate with its minutes. (§ 24.2-618.)
- The electoral board must designate a person to "cause" the electoral board seal to be affixed to each ballot and to sign a statement that he witnessed the affixing of the seal. The electoral board must then file this statement with its minutes. (§ 24.2-619.)
- The electoral board must "cause to be made" by one of its members, or a registrar, or an employee, a package or packages of ballots for each precinct. (§ 24.2-620.)
- The electoral board must designate a member, or a registrar, or an employee, to deliver the packages of ballots to an officer of election in each precinct and obtain a receipt for the packages. (§ 24.2-621.)

2.16.10 Duties Related To Voting Equipment:

- The Board must keep all ballot containers to be used in the precincts. (§ 24.2-623.)
- The Board must furnish properly designed and printed ballots for use on all direct electronic voting machines. (§ 24.2-640.)
- The Board must employ a person or persons (called "custodians") to set up and test each voting machine before each election. A Board member or the general registrar may be

appointed by the Board to serve as custodian without additional pay for that service. (§ 24.2-632.)

- A Board member or authorized representative must be present at the final testing of each machine before each election. (§ 24.2-632.)
- 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. (§ 24.2-633.)
- The Board must retain custody of all voting machine keys after the machines have been sealed. (§ 24.2-634.)
- The Board must deliver the keys in sealed packages to designated officers of election in each precinct before the polls open. (§§ 24.2-634 and 24.2-639.)
- The Board may designate times and places for demonstrating and instructing the public on the proper use of the machines. (§ 24.2-635.)
- The Board must keep custody of all voting equipment and maintain it in proper repair. (§ 24.2-637.)
- The Board must take all necessary steps to assure the security of all voting equipment hardware, software, and firmware. (§ 24.2-625 et. seq.)

2.16.11 Duties Related To Election Day:

- The Board must ensure that all voting equipment, furniture, and materials are at the polling places before the polls open. (§§ 24.2-610 and 24.2-637.)
- The Board must furnish a copy of the Virginia Election Laws (Title 24.2) to each precinct (§ 24.2-610.) The SBE provides copies to the localities for this purpose.
- The Board must furnish, to all polling places using direct electronic voting machines, two sample ballots for posting for public inspection. (§ 24.2-641.)
- The Board 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. (§ 24.2-647.)

2.16.12 Duties Related To After The Election, Primary, Or Referendum:

- The Board may direct the return of all materials from the precincts to the office of the general registrar instead of the Clerk of Circuit Court. (§ 24.2-668.)
- The Board must meet on the day after the election to determine the disposition of any provisional ballots. It must deliver a certification of the count of these ballots, along with the ballots, to the Clerk of Circuit Court. (§ 24.2-653.)
- The Board must meet at or before 5PM on the day after the election to ascertain the results of the election. (§ 24.2-671.)
- 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. (§§22.1-42; 24.2-532, 24.2-671, 24.2-675; 59.1-391; and various sections of 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. (§ 24.2-670.)

- The Board, along with the general registrar and the officers of election, must account for all used and unused paper ballots. (§ 24.2-666.)
- If a local election results in a tie, the Board must draw lots to determine the winner. (§ 24.2-674.)
- The secretary must make out, and deliver, certificates of election to all winners of local offices. (§ 24.2-676.)

2.16.13 Duties Related To Absentee Balloting:

- The Board must provide a ballot and other absentee materials to all qualified applicants who properly complete an application form. (§ 24.2-706.)
- The Board must provide a voter registration application along with the absentee ballot to any applicants in the military or merchant marine, or their spouses or dependents that are not properly registered to vote. (§ 24.2-706.)
- The Board must provide absentee ballots to any persons who are temporarily registered for federal elections only or are temporarily registered as overseas voters for all elections. (§§ 24.2-443 and 24.2-443.4.)
- The Board must send special early absentee ballots for statewide elections to any voters who properly apply for them. (§ 24.2-702.)
- The Board 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. (§ 24.2-704.)
- The Board must rule on any request for an emergency absentee ballot from an incapacitated voter where the cause of the voter's emergency incapacity is not one of the reasons specified in the Code. (§ 24.2-705.)
- The Board must make note of, and preserve, any ballot returned unused. (§ 24.2-708.)
- The Board must provide a new ballot to anyone who lost, did not receive, or accidentally spoiled his ballot. (§§ 24.2-703 and 24.2-708.)
- The Board, or the general registrar, must mark the date of receipt of any absentee ballot and deposit it in an appropriate container. (§ 24.2-710.)
- The Board must deliver, on the day before the election, one attested copy of the absentee applicants list to the chief officer of election for each precinct. (§ 24.2-710.)
- The Board must deliver, before the close of polls on Election Day, containers of absentee ballots to the appropriate precincts and obtain receipts for them. (§ 24.2-710.)
- The Board must deliver to the Clerk of Circuit Court all ballots received after Election Day. (§ 24.2-710.)
- The Board must approve any site for absentee balloting other than the registrar's or Board's office. (§ 24.2-707.)

2.16.14 Duties Related To Recounts:

- The Board must supervise the review of pollbooks, machine printouts, and absentee ballots during any preliminary hearing related to a recount. (§ 24.2-802.)
- The Board must assist and advise the court on establishing procedures for a recount. (§ 24.2-802.)
- Board members must serve as recount coordinators if so requested by the court. (§ 24.2-802.)

2.16.15 Duties Related To Campaign Finance Reports:

- The board is required to administer the Campaign Finance Disclosure Act. (See Chapter 21.)

2.16.15.1

Section 24.2-946.3 authorizes the board to delegate some of the duties assigned to it by the Campaign Finance Disclosure Act to the general registrar. If this is done, the Board should adopt a resolution at a meeting, which should be come part of the minutes, listing those Board duties that are being delegated to the general registrar to perform.

2.17 Exhibits

2.17.1 Exhibit A: Request for Payment of Electoral Board Compensation

Request for Payment
of
ELECTORAL BOARD COMPENSATION

It is requested that payment be made of the compensation indicated to each of the members of the local electoral board listed below. The compensation being requested is for the following period:

☐ the month of _____; or

☐ the months of: ☐ March through June

☐ July through October

☐ November through February

Board Office Held	Social Security Number	Pay to: Name and Address of Member	Authorized Compensation Requested

The amount requested for each member does not exceed the compensation authorized by the State Board of Elections as prescribed by law.

_____
SIGNATURE OF GENERAL REGISTRAR

Date: _____ County/City of: _____

SBE-108(1) 2/94

2.17.2 Exhibit B: Electoral Board Request for Mileage Reimbursement

ELECTORAL BOARD REQUEST FOR MILEAGE REIMBURSEMENT

Month of: _____, 20 ___

Name of Traveler: _____

Address: _____

_____

DATE	TRIP DESCRIPTION (Place of origin and destination)	PURPOSE OF TRIP	NO. OF MILES	CURRENT RATE PER MILE	$ AMOUNT TO BE REIMBURSED
					$ (ENTER TOTAL)

I hereby certify under oath subject to the penalty of perjury, that the mileage listed above was incurred by me on official business as an Electoral Board Member of the County/City of _____ and includes only such mileage which is true and accurate.

_____
SIGNATURE OF TRAVELER

SBE-108(2) REV 3/03

2.17.3 Exhibit C: Electoral Board Request for Expense Reimbursement

ELECTORAL BOARD REQUEST FOR EXPENSE REIMBURSEMENT

Month of: _____

Name of Board Member: _____

Address: _____

_____

Date	DESCRIPTION OF EXPENSE ITEM	REASON FOR EXPENSE	$ AMOUNT TO BE REIMBURSED
			$ (ENTER TOTAL)

I hereby certify, under oath subject to the penalty of perjury, that the expenses listed above were incurred by me on official business as an Electoral Board Member of the County/City of _____ and include only such expenses as are true and accurate.

_____
SIGNATURE OF BOARD MEMBER

SBE-108(3) REV 2/94

2.17.4 Exhibit D: Electoral Board Members

ELECTORAL BOARD MEMBERS

_____
❑ COUNTY ❑ CITY

CHAIRMAN

NAME:		SOCIAL SECURITY NUMBER:
MAILING ADDRESS FOR OFFICIAL COMMUNICATIONS, INCLUDING CITY OR TOWN AND ZIP:		
AREA CODE/TELEPHONE NUMBERS: BUSINESS:	HOME:	
FAX:	E-MAIL:	
POLITICAL PARTY REPRESENTED:	DATE APPOINTMENT EFFECTIVE:	YEAR TERM EXPIRES: Last day of February,

VICE CHAIRMAN

NAME:		SOCIAL SECURITY NUMBER:
MAILING ADDRESS FOR OFFICIAL COMMUNICATIONS, INCLUDING CITY OR TOWN AND ZIP:		
AREA CODE/TELEPHONE NUMBERS: BUSINESS:	HOME:	
FAX:	E-MAIL:	
POLITICAL PARTY REPRESENTED:	DATE APPOINTMENT EFFECTIVE:	YEAR TERM EXPIRES: Last day of February,

SECRETARY

NAME:		SOCIAL SECURITY NUMBER:
MAILING ADDRESS FOR OFFICIAL COMMUNICATIONS, INCLUDING CITY OR TOWN AND ZIP:		
AREA CODE/TELEPHONE NUMBERS: BUSINESS:	HOME:	
FAX:	E-MAIL:	
POLITICAL PARTY REPRESENTED:	DATE APPOINTMENT EFFECTIVE:	YEAR TERM EXPIRES: Last day of February,

I certify that the above members have qualified by taking and subscribing to the oath set forth in Article II, §7 of the Constitution and that the officers indicated were elected at a meeting of the electoral board held immediately following the appointment and qualification of any new (or reappointed) member.

Date: _____ _____, Secretary

SBE-106 REV 1/99 EB_ORG.wpd

3 General Registrar

Virginia has 134 localities, ranging in population from under 3,000 to over 900,000. Every locality has one general registrar and a three-member electoral board. These four individuals are responsible for virtually all aspects of voter registration and election administration in their locality.

The Code, in general, describes the duties of the general registrar and the electoral board. However, it does not discuss in much detail the relationships and understandings that must be between the two parties. Here are some guiding principles:

- The electoral board's main responsibilities are to appoint the general registrar and to administer all elections in the locality. The responsibility to appoint is accompanied by the responsibility for oversight of performance.
- The general registrar's main responsibilities are to maintain the registrar's office and manage all activities related to voter registration.
- Except where authorized by law, the electoral board should not involve itself in the responsibilities of the general registrar; unless requested to do so by the general registrar. There are a few instances where the electoral board is permitted or required by law to be involved in voter registration issues:
    - The electoral board shall determine the number and term of office for assistant registrars. (§ 24.2-112.) However, it is the general registrar's authority to determine who will be hired as assistant registrars, establish their duties, and remove them for failing to discharge their duties.
    - The electoral board may set additional hours, beyond those required by law, for the voter registration office to be open. (§ 24.2-411.)
    - The electoral board may set additional occasional sites and times for voter registration, beyond those regularly used. (§ 24.2-412.) However, only the general registrar has the authority to set ongoing additional registration sites within the locality.
- Except where authorized by law, the general registrar should not involve him/herself in the responsibilities of the electoral board – unless requested to do so by the electoral board.

The code does permit an electoral board to delegate many, but not all, of its duties to the general registrar. The number and type of duties that are 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, the electoral board should work with the local governing body to obtain adequate staffing.

Any delegation of duties to the general registrar should be: (1) clearly spelled out in the minutes or job description, (2) adopted only after discussion with the general registrar, and (3) adopted at an electoral board meeting and included in the minutes of that meeting.

The general registrar and electoral board should meet and develop a list of board duties that are delegated to the registrar. The board should be mindful of the impact that such delegation of duties will have on the staff of the registrar's office. The general registrar and electoral board should meet at least once a year to review this list and determine if changes are needed. Any changes in the duties delegated to the registrar should be adopted at a regular board meeting and included in the minutes of the meeting.

3.1 Appointment

The electoral board for each county and city meets in the month of May or June in 2007 and every four years thereafter 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 shall fill any vacancy for the remainder of an unexpired term. (§ 24.2-110.)

The appointment is for this specific term and is not subject to grievance procedures. The electoral board is not required to advertise the availability of this appointive position if the incumbent general registrar will be reappointed. If the general registrar is not to be reappointed, the electoral board should, at a minimum, advertise the position in a local newspaper. 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. If no specific advertisement is in use in your county or city, you may use the sample advertisement in Exhibit A. All applicants should be required to complete an Application for Employment form whether the electoral board advertises or not. If no specific form is in use in your county or city, you may use the form shown in Exhibit B.
The electoral board should screen the applications to pick the top several candidates. They should meet to interview those selected. Exhibit C contains sample questions to ask prospective applicants.

ⓘ The Freedom of Information Act allows the electoral board to conduct the interviews in executive session.)

Please take a moment to view Exhibit D herein when considering qualified applicants. The electoral board must vote in public session to appoint the best-qualified applicant. By law, a decision not to reappoint or to appoint, a general registrar cannot be based on race, sex, age, religion, national origin, or political party affiliation. These procedures will help avoid a claim that the selection was discriminatory on some unlawful basis. The person appointed general registrar must be a qualified voter of the jurisdiction in which the registrar is appointed at the time of the appointment. Someone who moves into the area may be appointed if they are a resident at the time they are sworn in. Assistant registrars in other localities may be good applicants and should be considered. The law prohibits both General and Assistant general registrars from being:

- 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 who holds an elected office; or
- A chairman of a political party, officer of a state, local, or district level political party committee, or paid or volunteer worker in the campaign of a candidate running for any office anywhere in his/her jurisdiction. (§ 24.2-110.)

3.2 Certification of Appointment

Immediately after its meeting, the secretary of the electoral board must certify to the SBE the name, address and home telephone number of the individual newly appointed or reappointed as general registrar. (See Exhibit E.)

3.3 Oath of Office

Each general registrar must, as soon as possible and not later than March 31, take and sign the oath of office prescribed in Article II, Section 7 of the Constitution of Virginia before the Clerk or Deputy Clerk of Court or a Notary.

The general registrar must file the signed oath with the Clerk of Court. This document is available from the Clerk of Court. If it is not, the oath provided in Exhibit F may be used. A copy of the signed oath also must be filed with the secretary of the electoral board and with the SBE.

The secretary of the electoral board must assure 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. (§ 49-11.)

3.4 The General Registrar and Political Activity

As the above bullets indicate, the registrar is prohibited from volunteering or working in political campaigns affecting his or her locality. When this prohibition was adopted, the General Assembly failed to specify what constitutes "volunteering." There has been some question over the years as to whether this Code section 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 imply that a registrar must be apolitical, it strongly implies that a registrar should do nothing – other than voting – that presents the public appearance of favoring one candidate over another.

3.5 Removal

The electoral board may, by a recorded majority vote, remove from office, on notice any general registrar who fails to discharge the duties of the office according to law. (§ 24.2-109.) The SBE may petition the local electoral board pursuant to § 24.2-103 to remove from office any general

registrar who fails to discharge the duties of the office according to law. The SBE may institute proceedings pursuant to § 24.2-234 for the removal of the general registrar if the local electoral board refuses to act..

3.6 Job Qualifications

The general registrar should be:

- A planner, capable of assessing the needs of citizens and establishing a schedule to meet those needs and managing all phases of the registration;
- An administrator, capable of managing 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 provide justification to the local governing body to obtain the necessary funding and the ability to work with local officials to obtain the necessary funds;
- A human resources officer, capable of assessing the qualifications of prospective assistant registrars, paid or volunteer, and clerical employees who may be needed;
- A trainer, capable of training all assistant registrars, clerical employees, and, if delegated, election officials in the proper and efficient performance of their duties;
- A writer, capable of composing press releases, legal notices, correspondence, and manuals;
- A public relations expert, capable of appropriate and non-partisan dealings with citizens, the press, the local government, the state government, and the federal government;
- A public speaker, able and willing to speak before the public about the election process;
- A technician, 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); and
- A person who is familiar with or capable of quickly becoming familiar with the locality and its citizens in order to establish a registration and voter education plan that meets the needs of the locality;

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

The general registrar holds the key to increasing the number of eligible citizens who are registered to vote. Press releases, radio spots 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. 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.

3.7 Compensation

The General Assembly, in the Appropriations Act, sets the salary of general registrars annually. The current plan is based on population. There is also a cost of living adjustment in certain urban localities.

In administrating its salary determination each July 1, the SBE must use the most recent official population estimate from the United States Bureau of the Census or the Center for Public Service of the University of Virginia. The annual compensation of an incumbent may not be decreased due to declining population during the term or terms of office.

The general registrar must receive the annual compensation set by the SBE and may not be paid less except when taking an unpaid leave of absence brought about by exceptional extenuating circumstances. During any unpaid leave, the chief assistant is appointed the acting general registrar by the electoral board.

Any local governing body may choose to pay the general registrar a salary supplement. 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 the SBE on an annual basis.

The local governing body has discretion to determine for which benefit programs – such as retirement and hospitalization – the general registrar is eligible. Costs of these programs are borne entirely by the locality and/or the registrar, with no reimbursement from the State treasury. The 2003 General Assembly directed that: "The governing body shall be required to provide benefits to the general and assistant registrars and staff as provided to other employees of the locality." (§ 24.2-111.)

The local governing body must reimburse the general registrar for reasonable expenses and for mileage at the rate paid to members of the General Assembly when these are incurred while on official business. These expenses are not reimbursed from the State treasury. (§ 24.2-111.)

3.8 Absences

Effective August 8, 2000, the SBE, with the support of the Secretary of Administration and the Attorney General's office, directed that:

> 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 Secretary or Deputy Secretary of SBE. (Not two weeks, but longer than two weeks.) SBE will need to know whom to contact in the office during the general registrar's extended absence.
>
> Each jurisdiction's general registrar and electoral board secretary are jointly held liable for ensuring that SBE is provided such notification. If an electoral board member or general registrar is out due to unforeseen circumstances, the other

person, or staff, should be sure this notification is sent. Notification should be in advance for any absence that is foreseeable.

3.9 Assistant Registrars

In localities with a population of over 15,500, there must be at least one assistant registrar who serves at least one day a week. In localities with a population less than 15,500, the law requires only that there be one substitute registrar who is able to assume the duties of the general registrar in an emergency and when requested by the general registrar. (§ 24.2-112.)

In 1999, special legislation mandated that there be at least one full-time assistant in the Russell County registrar's office. This provision, for a locality "whose population is more than 28,600 but less than 29,000," does not affect other localities. However, it may be used as a prior legislative determination of staffing needs - for this one office. (§ 24.2-112.)

Meeting this legal requirement obviously does not ensure the availability of a well-trained assistant who is able to assume the duties of the registrar in the registrar's absence and to assist in the daily work of the office. The general registrar must obtain funds from the locality for adequate staffing.

The electoral board sets the number of assistant registrars. The local governing body must fund them.

The general registrar hires and fires the assistant registrars and establishes their duties. The electoral board has no authority to dictate whom the general registrar hires as assistants. (§ 24.2-112.)

3.9.1 Qualifications

Assistant registrars must satisfy the same restrictions and qualifications and fulfill the same requirements as the general registrar, except that an assistant registrar may be an officer of election and must be a registered voter of the Commonwealth but not necessarily of the jurisdiction. (§ 24.2-112.)

Localities may mutually agree to share an assistant registrar among two or more localities. The localities must work out the details of when/where the assistant will work and how the assistant 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 assistant registrar cannot be a spouse, parent, grandparent, sibling, child, grandchild - or spouse of the above - of the general registrar.

3.10 Special Assistant Registrars

The general registrar may appoint, as a special assistant registrar, a person that is not a qualified voter of the locality provided that the person, while a qualified voter of the locality, served continuously for more than ten years as a deputy or assistant registrar. Compensation is fixed and paid by the local governing body.

3.11 Unpaid Assistant Registrars

The general registrar may appoint assistant registrars who agree to serve without pay. Such assistant registrars are not required to be qualified voters of the city or county in which they serve. These volunteer assistants were used extensively before implementation of the National Voter Registration Act, for example to staff registration sites at libraries and other public locations. (§ 24.2-112.)

3.12 Other Staff and Volunteers

The general registrar may decide to use other staff and volunteers in the office, on either an ongoing or an occasional basis. Such staff and volunteers may not exercise the powers of the General or an Assistant registrar. (§ 24.2-114.) For example, they may not make a decision on whether to accept or deny a voter registration application.

3.13 Hiring, Compensation and Benefits

Assistant registrars typically, though not always, are hired as employees of the locality. Where this is the case, hiring should be conducted under the personnel policies of the locality. Likewise, the assistant should be included in the compensation plan of the locality and should be afforded the same benefits as other similar local government employees.

3.14 Term of Office

The electoral board sets the terms for assistant registrars. However, their terms may not extend beyond the term of the general registrar. (§ 24.2-112.) Where the assistant registrars are hired under the locality's personnel plan and policies, this statute provides a potential conflict between the registrar and electoral board on one hand and the locality on the other. If the locality does not permit termination without cause, then failure on the part of the general registrar to reappoint an assistant for a new term may run afoul of local ordinances concerning local government personnel. If the potential for such a situation exists in your locality, then the general registrar should discuss the situation with the personnel director and/or attorney for the locality in order to try to avoid a potentially divisive and litigious situation.

3.15 Typical Tasks of the General Registrar and Assistants

A comprehensive job description for a general registrar should be on file in each county and city. Should you require assistance or clarification relating to the job description, please do not hesitate to contact the SBE.

ⓘ The following is one jurisdiction's listing of activities of its registrar and assistants. This is from a large locality and that all registrars should not be expected to perform all these functions. In addition, some of these functions are obviously delegated by the electoral board.

- Administratively, they:
  - Prepare the office budget;
  - Complete performance evaluations for assistant registrars and other office staff,

    - Interview people to fill vacancies, then hire as needed;
    - Plan staffing needs for the year, order supplies, clean files by archiving or destroying outdated ones;
    - Follow the retention schedule and shred those files that need to be shredded at the end of the year; and
    - Work on various and sundry local responsibilities, such as computer upgrading, and serving on study and personnel panels.
- As part of the outreach program, they:
    - Contact the churches, schools, and civic groups;
    - Give presentations to organizations, such as the local Kiwanis clubs, Rotary Clubs, NAACP, League of Women Voters, etc.;
    - Respond to media questions about the current or past election, election processes, registration procedures, etc.;
    - Plan our outreach strategy for the year;
    - Write press releases;
    - Write public service announcements and get them produced; and
    - Prepare and submit legal advertisements, those required as well as others as needed.
- As part of the legislative program, they:
    - Make certain recommendations for legislative changes are in the legislative package for the local governing body;
    - Ask the electoral board to support the recommendations;
    - Ask the registrars of Virginia to support recommendations; and
    - Work with legislators and others in getting support for these bills.
- As part of the year-round registration program, they:
    - Process voter registration application forms and change-of-address/transfer requests (from DMV, other agencies, in-person, and by mail every day year-round);
    - Process letters and update information received from registered voters;
    - Forward applications and update information to other jurisdictions, including sending national application forms to other states, if needed;
    - Process cancellations of voter registrations received from other states and from voters;
    - Process the prohibited voter list of felons, declarations of mental incapacity and deaths;
    - Process the deaths from the obituaries,
    - Process the NCOA purge list when it comes in;
    - Send voter cards to voters upon request and when a person's registration changes; and
    - Go through active and deleted files to check for filing accuracy.
- As part of the candidate certification process, they:
    - Provide candidate kits to prospective candidates;
    - Brief candidates on filing procedures;
    - Accept and review financial filings as they come in; and
    - Accept and check candidate/referendum petitions
- As part of the delegated Election process, they:

    - Order election supplies;
    - Program voting machines/prepare ballots;
    - Train officers of election; and
    - Process absentee ballots
- Following each election, on election night and after the Canvass, they:
    - Report election results via VERIS Election Results Reporting as directed by the SBE
- As part of the work with the electoral board, they:
    - Serve as liaison between SBE and the electoral board
    - Determine if there is a need to split precincts or change precinct lines;
    - Work within the community in finding polling places and recommend them to the board;
    - Prepare the justification, and make recommendations for the changes;
    - Prepare the requests for changes for the board to present, to advertise the change, and for approval of the change to the staff of the local governing body;
    - Testify before the local governing body as to the reason for the request for the change And when the changes are approved, help draft the submission for the U.S. Department of Justice and submit the package to the locality's attorney;
    - Review the list of election officials and prepare a list for approval by the electoral board;
    - Prepare the letters of appointment, oaths, and election official newsletters;
    - Complete the payroll and compensation work necessary for the election officials and board's salaries and expenses; and
    - Review training materials and write new ones as needed.
- Additionally:
    - Serve on local, state, and federal committees and completing the work these require.
    - Review materials submitted by other registrars and the SBE.

3.16 Prohibited Activities

Registrars are prohibited by law from engaging in certain activities:

- A general registrar may not run for elected office during the term for which appointed, or for six months after the expiration of the term.
- A general registrar may not serve as an officer of election.
- A registrar may <u>not</u> offer legal advice. Often citizens will ask legal questions that should not be answered by a registrar. One of the questions most commonly asked concerns the placement of referenda on the ballot. Such questions should be answered by the registrar <u>only</u> to the extent of the information provided in bulletins published by the SBE. Registrars are <u>not</u> attorneys, and there are many code sections in Titles other than 24.2 that must be taken into consideration. Please refer such questions to the SBE or to your county or city attorney. Registrars want to be as helpful as possible to those who ask for their help. In legal matters, the most helpful thing someone can do is refer the person to the correct source of information.
- The law provides that no private business enterprise may be conducted in the office of the general registrar.

- The general registrar is prohibited by law from serving as the chair or other officer of any political party committee and from campaigning as a worker (paid or volunteer) for any candidate elected in whole or part by the voters of the general registrar's jurisdiction.

  Paid assistant registrars should avoid actively campaigning for a candidate. Any activity that can be construed as a conflict with the nonpartisan manner in which the registrar's office is maintained is to be avoided. The public should never be able to question that the registrar's duties are carried out in a nonpartisan, fair, and legal manner.
- Absolutely no political campaigning is allowed within the office of the registrar.
- A 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. Be sure to express the facts in an unbiased way if compelled to answer.
- In making speeches to groups or lectures to students, registrars should never express an opinion of the candidates, officeholders, or issues. Stick to issues of voter registration and voter participation.
- A registrar may not solicit voter registration. A sworn registrar can only conduct voter registration in public places open to all citizens and publicly announced prior to holding the registration. This is not to say that a registrar cannot address a group about the need to register and vote. However, if a registrar addresses one party's function, that registrar must also be available to any other party.

This also does not prohibit posters or fliers encouraging voter registration. It does not prohibit posting signs encouraging registration. It does not prohibit media advertisement encouraging registration. It does not prohibit placement of application displays in pre-cleared locations.

It does prohibit sworn registrars from registering voters at any other than pre-cleared, public, advertised locations.

3.17 Exhibits

3.17.1 Exhibit A: Sample Advertisement

SAMPLE ADVERTISEMENT

City/County of _____ is seeking applicants for the position of General Registrar, which is a four-year appointment. The General Registrar must be a qualified voter of _____.

The General Registrar must perform the duties outlined in Virginia Code Sec. 24.2-114, as well as those determined by the local electoral board. These include, but are not limited to, the following: (1) timely process registration applications and maintain accurate and current registration records; (2) assure compliance with all laws and regulations regarding voter registration and elections; (3) assist the electoral board to insure the uniformity, legality and purity of elections; (4) provide excellent customer service to all voters and potential voters; (5) manage all personnel, fiscal and physical resources as needed to provide all required and desired services of the office; (6) develop and administer a public information program to encourage registration and voting; (7) deal with inquires and complaints from the general public.

Candidates must possess, or be capable of quickly developing, knowledge of and ability to easily deal with cutting edge technology, including both standard and proprietary computer programs. Candidate must also be able to deal with the public in a polite, courteous, pleasant and professional manner both in person and by telephone. Helpful knowledge or skills include (1) familiarity with the local government, community and political structure; (2) accounting; (3) standard office procedures; (4) federal and state election laws; (5) management skills, including prior supervision of personnel; (6) ability to recruit volunteers; (7) public relations; (8) good oral and written communications skills.

Must be able when necessary to work nights and weekends. Salary range is _____. All interested candidates should send a cover letter, resume, less than two page writing sample (and county/city application?) to:

by February ____ 20__. Call for further information.

3.17.2 Exhibit B: General Registrar's Application for Employment

GENERAL REGISTRAR
Application For Employment

LAST NAME FIRST NAME MIDDLE OR MAIDEN NAME

SOCIAL SECURITY NUMBER

RESIDENT ADDRESS

AREA CODE HOME TELEPHONE NUMBER

CITY STATE ZIP

DATE OF BIRTH

Education

NAME OF HIGH SCHOOL YEAR GRADUATED

COLLEGE OR UNIVERSITY DEGREE YEARS ATTENDING

Work Experience

Please describe all paid, military and applicable volunteer experience starting with the most recent. You should highlight your knowledge, skills and abilities which best demonstrate your qualifications for this position.

a. Job Title: _____

Duties: _____

Length of Employment: _____

Reason for Leaving: _____

Supervisor: _____ Telephone Number _____

b. Job Title: _____

Duties: _____

Length of Employment: _____

Reason for Leaving: _____

Supervisor: _____ Telephone Number _____

(continued on reverse side)

Work Experience (continued)

c. Job Title: _____

Duties: _____

_____

_____

_____

_____

Length of Employment: _____

Reason for Leaving: _____

Supervisor: _____ Telephone Number: _____

Describe your office records management experience

_____

_____

_____

_____

_____

Performance Speed

Words per minute: Typing: _____ Data entry: _____

References

NAME	ADDRESS	TELEPHONE NUMBER

I understand that the position of General Registrar is an appointed position for a term of four years.

_____
SIGNATURE OF APPLICANT

_____
DATE

SBE-43-REV 1/95

3.17.3 Exhibit C: Sample Interview Questions

SAMPLE QUESTIONS

1. Why are you interested in the position of General Registrar?
2. (After reviewing the position description) Describe what in your skills, interests and background makes you qualified for this position.
3. Have you had prior experience with the election process, with the voter registration process, or with the political process? Describe your experience.
4. Have you had prior supervisory or management experience or any knowledge of employment law issues? Please describe.
5. Have you had any prior budgetary or fiscal management experience? Please describe.
6. Describe any volunteer experiences you have had that you feel might be relevant.
7. Describe your computer knowledge and skills. Are you familiar with WordPerfect or Microsoft Word? What about any database or spreadsheet programs? Are you comfortable with computers and new technology?
8. Describe the experience you have had that most clearly shows your ability to simultaneously organize and manage multiple people and tasks.
9. How would the average person describe your manner and style in dealing with them? Have you had experience in dealing with difficult people? Describe such an incident and how you handled it.
10. Describe your familiarity with the local government, community and political structures.
11. Describe any familiarity with state and federal election laws.
12. Describe your most successful efforts to recruit and manage volunteers.
13. Describe your public relations experiences and successes.
14. Describe any experience you have with public speaking.
15. Describe some prior experience that would assure us that you are able to timely process registration applications and maintain accurate and current registration records.
16. Describe any ideas you might have that could assist the electoral board to insure the uniformity, legality and purity of elections.
17. Is there any other relevant information you would like to provide us that would show us that you would be the best candidate for the position of General Registrar?

3.17.4 Exhibit E: Oath

Commonwealth of Virginia

OATH OR AFFIRMATION

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as General Registrar of _____ for the term of four years beginning April 1, 20_____, according to the best of my ability (so help me God).

_____
SIGNATURE OF PERSON TAKING OATH

Subscribed and sworn to before me on this _____ day of _____, 20___.

_____
❑ CLERK ❑ DEPUTY CLERK ❑ NOTARY

This document may be used if the Clerk of Court has no specific form for this purpose. The original must be filed with the Clerk of the Court where the General Registrar resides. A copy also must be filed with the Secretary of the Electoral Board and the State Board of Elections. It may be faxed to the State Board of Elections at (804) 225-3706.

3.17.5 Exhibit F: Certificate of Appointment

CERTIFICATION OF APPOINTMENT

TO: State Board of Elections
200 N. 9th Street, Suite 101
Richmond, Virginia 23219-3497

FAX TO (804) 225-3706
SBE MUST RECEIVE BY MARCH 15

I, the undersigned Secretary of the Electoral Board, do hereby certify that the person listed below has been appointed General Registrar for the county or city indicated for a term beginning April 1, 20 ___ and ending March 31, 20 ___.

_____
NAME OF GENERAL REGISTRAR

_____
RESIDENT ADDRESS

_____
CITY/TOWN ZIP

( ) _____
AREA CODE HOME TELEPHONE NUMBER

_____
DATE OF DAY IN MARCH ON WHICH APPOINTMENT WAS MADE

_____
IF COUNTY, LIST NAME OF THE COUNTY SEAT

_____
SIGNATURE OF SECRETARY

☐ COUNTY ☐ CITY

_____
DATE COMPLETED

4 Officers of Election

4.1 Appointment

At its annual meeting during the first week in February, the electoral board must appoint officers of election for a term **not to exceed three years**. The electoral board establishes the length of the term for **each** officer (one, two or three years - the term can vary from officer to officer). Each officer's term of office shall begin on March 1 following the appointment and end on the last day of February of the year the term ends or until their successors are appointed. Each officer must take and sign the oath of office required by Article II, Section 7 of the Constitution of Virginia before performing the duties of his office. Failure to take the oath before serving is punishable by fine of not less than $100, nor more than $1,000 (§49-11). The signed oath must be filed with the Clerk of Circuit Court. The electoral board should ensure that all Officers take their oath in a timely manner following their appointment. (See Exhibits A, B and C.)

No less than three competent citizens shall be appointed for each precinct. Insofar as possible, each officer shall be a qualified voter of the precinct he is appointed to serve, but in any case, at least a qualified voter of the Commonwealth. No person who holds elective office or who is the deputy or employee of an elected official can serve as an officer of election. In appointing the 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.

ⓘ The SBE encourages localities to recruit college students for officers of election. The Election Assistance Commission has an extensive "College Pollworker" program that provides financial and other assistance to localities who wish to hire college students as officers of election.

The representation of the two parties shall be equal at each precinct having an equal number of officers and shall vary by no more than one at each precinct having an odd number of officers. If possible, officers shall be appointed from lists of nominations filed by the political parties entitled to appointments. The party shall file its nominations with the secretary of the electoral board at least ten days before February 1 each year.

ⓘ Officers of election are not required to represent political parties where it is not feasible to appoint partisan officers of election for the two dominant political parties. (See OAG Opinion 06-058.)

Officers of election shall serve for all elections held in their respective precincts during their terms of office unless the electoral board decides that fewer officers are needed for a particular election, in which case party representation shall be maintained as provided above. However,

for a primary election involving only one political party, persons representing the political party holding the primary shall serve as the officers if possible.

The electoral board shall designate one officer as the chief officer of election and one officer as the assistant for each precinct. The officer designated as the assistant for a precinct, whenever practicable, shall not represent the same political party as the chief officer of the precinct.

The electoral board shall instruct each chief officer and assistant in his duties not less than three nor more than thirty days before each election. Each electoral board may instruct each officer of election in his/her duties at an appropriate time or times before each November general election.

If an officer of election is unable to serve at any election during his term of office, the electoral board may at any time appoint a substitute who shall hold office and serve the unexpired term.

Additional officers may be appointed in accordance with § 24.2-115 at any time that the electoral board determines that they are needed.

Pursuant to § 24.2-115.1, the electoral board may provide that the officers of election for one or more precincts may be assigned to work all or a portion of the time that the precinct is open on Election Day. However, the chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, shall be on duty at all times.

The secretary of the electoral board must prepare a list, by precinct, of officers of election (names and political party represented) that must be made available for inspection and posted in the office of the general registrar prior to March 1 each year. Whenever substitute or additional officers are appointed, the secretary shall promptly add the names of the appointees to the public list. Any other changes made thereafter should be promptly noted on this list. (§ 24.2-115)

Record each officer of election in VERIS in the Pollworker section of the system. VERIS allows you to search by name, date of birth, and precinct. This ensures that no officer who is not a registered voter is entered as an officer of election. Once you locate the officer as a registered voter, you may select "Make Pollworker" in order to enter that officer as an appointed officer of election. You should then record the officer's specific information (e.g., phone number), assign him to specific precincts or specific elections, etc. You must assign each officer to a precinct and election so that SBE may determine the total number of officers utilized in order to complete required reports to the EAC. Tracking your officers in VERIS also allows you to, in the case of a recount, produce a quick and retrievable list of officers.

Any changes concerning an officer must be entered into VERIS (i.e, contact information or party representation). This will ensure that only the officers actually assigned to work in a specific precinct and for an election are entered and assigned to the appropriate precincts and elections.

4.2 Compensation

The governing body of each county, city, or town shall pay its officers of election at least $75.00 for services rendered on election day. In addition, the governing body shall pay each officer of election ten dollars and mileage at the rate payable to members of the General Assembly for each time he delivers pollbooks and ballots to the polling place and each time he delivers returns and ballots to the appropriate official after the polls have closed. Jurisdictions may increase the salary of the officers collecting and delivering materials by at least $10 and the equivalent of mileage expenses from the furthest polling place in the locality in lieu of calculating the mileage and extra pay required by this section. (§ 24.2-116.)

4.3 Removal of an Officer

A candidate may require the removal of an officer of election for the election in which he is a candidate by written request, filed at least seven days before the election with the electoral board appointing the officer. This may be done on the grounds that the officer is the spouse, parent, grandparent, sibling, child, or grandchild of an opposing candidate. The electoral board may appoint a substitute who shall hold office and serve for that election. (§ 24.2-117.)

4.4 Appointment of a Substitute on Election Day

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, the same powers as officers appointed by an electoral board. (§ 24.2-118.)

4.4.1 General Training

4.4.1.1 When to hold training meetings

The law requires that each Chief Officer and Assistant Chief be instructed in his duties not less than three, nor more than thirty days before every election. The SBE recommends that all officers of election are trained at least once a year and preferably before every election.

4.4.1.2 Officer of Election Training Materials

Prior to each training session the officers of election should receive and review the "Election Day Guide for Officers of Election" for the equipment in use in the polling place, the "What If's," and the Provisional Ballot Procedures. These documents will be useful in problem solving; limiting confusion and error in attempting to address issues that may arise at the polls on Election Day. Officers who may be hand-counting ballots should also receive and review the "Ballot Examples for Handcounting Paper or Paper-Based Ballots for Virginia Elections or Recounts" found in Chapter 18 of this manual and on the SBE website.

4.4.1.3 Presence of General Registrar

The general registrar must instruct the officers in the procedures they are to follow in marking the pollbook, handling problem voters, and communicating with the registrar's office.

4.4.1.4 Methods of training

The method of training is at the discretion of the instructor; however, the training materials listed above should all be covered, as well as the statement of results and an explanation of each form used in the polling place, along with the pollbook. Since many officers serve for several years, it is most important to vary methods of instruction in order to keep officers aware. It is also important to cover any new requirements or problems that occurred in previous elections, and if using new voting equipment include a thorough demonstration.

4.4.2 Special Training: Provisional Ballot Procedures

(See Chapter 29.)

All officers of election must be instructed prior to a November election at the time or times established by the electoral board. The general registrar must be present at any instruction meeting since the exact procedures to be followed hinges on communication between the officers of elections and the general registrar.

At the instruction meeting for chief and assistant chief officers of election, required by § 24.2-115 to be held not more than thirty nor less than three days prior to the election, you must include the procedures that officers of election are to follow when a provisional vote must be cast by a voter.

4.4.3 Special Training: Split Precincts

From time to time, it may be necessary to conduct an election in which not all of the voters in a precinct may vote or in which some of the voters in the precinct vote one ballot while others vote a different ballot. When this occurs, special procedures must be implemented to assure that each voter is provided the proper ballot and that the record of the election is complete for each type of voter. These special procedures are as follows:

4.4.3.1 Separate Paper Ballot Sets

Separate paper ballots or, if the election involves more than one paper ballot for each voter, separate paper ballot sets will be provided for each type of voter.

4.4.3.2 Separate Voting Devices or Machines

If the voting device or machines in use in the polling place will accommodate only one ballot style, one or more voting devices or machines will be prepared for each ballot style. The ballots on each different kind of device or machine will contain only those offices and/or questions on which that voter is eligible to vote. When voting devices or machines are in use in the precinct, voters must vote on the correct device or machine. If the machine can accommodate only one ballot style, each voting device or machine must be externally labeled as to the ballot style it contains.

If the voting device or machine in use in the polling place will accommodate multiple ballot styles, the operating instructions specific to that model of device or machine must be followed.

4.4.3.3 Pollbook

The information printed on the pollbook will identify each type of voter for the officer, whether by code or name.

The following are examples of possible split precinct circumstances and procedures:

- In some elections, the voters living in a town may not be allowed to vote; in others, only the voters in the town may vote. In either case, it is the presence or absence of the town code on the pollbook that determines which paper ballot set the voter is given or which machine or device he/she is to use.
- In elections for United States House of Representatives or Senate and/or House of Delegates in Virginia, a separate pollbook is provided for each congressional, senatorial or legislative district contained in the precinct. The district number indicated on the pollbook determines which ballot set on which voting device the voter must use.

In a special district in which elections are not usually conducted, the occurrence of a referendum vote allows for certain circumstances and procedures. Since the district is not normally used for elections, the eligible voters are not identified on the pollbook with any pre-printed code. The general registrar, in these cases, will enter by hand, in the space immediately before the zip code, an abbreviation that denotes that the voter is eligible to vote in the special referendum election.

The entry slip ensures that the voter is eligible to vote and permits the officer of election to direct the voter to the appropriate voting machine or provide the appropriate ballot style to the voter. (See Chapter 14.)

4.4.3.4 Statement of Results

Two separate copies of all statements of results forms must be completed for each ballot combination in the election precinct and placed with the pollbook containing those voters. One set of the two copies will contain all information concerning paper ballots and voting machines or devices used and votes cast by one type of voter; the second set will contain this information for the other ballot combinations.

Two different election officers are to complete each statement of results. The completed statements are to be compared to each other to identify any errors that either officer may make. The two sets are needed because one copy must be made available in the general registrar's office for public inspection after the election and the second copy is sent to the Clerk of Circuit Court.

4.5 Performance Evaluation

Following each election held in a city or county, a performance evaluation form should be completed for each officer who served at the election. (See Exhibit D.) Any member of the electoral board may complete the form.

The information recorded therein should be reviewed prior to appointing officers during the first week in February. These documents should enable the Board to appoint officers who consistently perform at an acceptable level. Also, this data could be used to determine areas in which officers need additional or more detailed training.

These forms are to be retained for three years (two years plus current year) following which they may be destroyed.

4.6 Exhibits

4.6.1 Exhibit A: Notice of Appointment

NOTICE OF APPOINTMENT

TO: _____
NAME OF OFFICER

You have been appointed an Officer of Election for your precinct for a term of _____ year(s) beginning March 1, 20____ (or on _____, 20__ , if appointed after the term begins) and ending on the last day of February, 20 ____. *Article II, Section 7* of the *Constitution of Virginia*, requires you to take the attached oath. The oath should be administered by either the Clerk or Deputy Clerk of Circuit Court whose name and address is indicated below, or by a Member of the Electoral Board, the General Registrar, an Assistant Registrar or a Notary.

Do not confuse this oath with the one required by § 24.2-611 of the Code of Virginia. You will still be required to take that oath on each election day that you serve.

Please arrange to take the oath on the enclosed form **before March 1** and return it to _____, Clerk of Circuit Court, at _____, _____, for filing as required by law. Failure to take and file this oath before serving is punishable by a fine of not less than $100 nor more than $1,000.

The Constitution of Virginia **prohibits any person who holds any elective office or is the deputy or employee of such elected official** under the governments of the United States, the Commonwealth, or any Virginia county, city or town from serving as an officer of election.

Please complete and **return the enclosed response form to me in the enclosed self-addressed stamped envelope no later than February 23.**

Persons appointed after the term begins should take and sign their oath as soon as possible, before performing the duties of the office. They should return the enclosed response form to the Secretary of the Electoral Board as soon as possible.

Sincerely,

ELECTORAL BOARD

_____ _____

DATE SECRETARY

4.6.2 Exhibit B: Oath

Commonwealth of Virginia

OATH OR AFFIRMATION

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as an Officer of Election of _____ for the term of _____year(s) beginning March 1, 20__ (or on _____, 20__ , if appointed after the term begins) according to the best of my ability (so help me God).

_____
SIGNATURE OF PERSON TAKING OATH

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
SIGNATURE OF PERSON ADMINISTERING OATH

_____
TITLE OF PERSON ADMINISTERING OATH
[MUST BE ONE OF THE INDIVIDUALS LISTED BELOW]

.

Take the above oath and sign it before one of the following: the Clerk or Deputy Clerk of the Circuit Court, a Member of the Electoral Board, the General Registrar, an Assistant Registrar or a Notary.
Return it to the Clerk of Circuit Court to be filed as required by § 49-8 of the Code of Virginia.

4.6.3 Exhibit C: Response to Notice of Appointment

Complete the form below and return it in the enclosed stamped envelope addressed to the Electoral Board.

TO: ELECTORAL BOARD

I, _____,
PLEASE PRINT YOUR NAME

☐ do ☐ do not
understand that if a dual primary will be held in my county or city that **all officers of election serving at the primary are required** to attend the training session on dual primary procedures, and that failure to attend any such meeting may render me ineligible to serve at the primary election.

☐ do ☐ do not
hold any elected office, whether paid or unpaid, under the government of the United States, the Commonwealth of Virginia, or any Virginia county, city or town; and

☐ am ☐ am not
the deputy or the employee of an elected official.

☐ I do accept appointment as an Officer of Election, and I agree to **represent** the
[MUST CHECK ONE, BUT ONLY **ONE,** SQUARE]

☐ Democratic Party **OR** ☐ Republican Party

☐ I also agree to represent either Party when so needed at the polls.

☐ I **do not** accept appointment as an Officer of Election.

_____
SIGNATURE

_____
ADDRESS

_____
CITY/TOWN ZIP

_____ _____
DATE SIGNED TELEPHONE NUMBER

4.6.4 Exhibit D: Performance Evaluation

OFFICER OF ELECTION

Performance Evaluation

Date of Evaluation	Election on Which Evaluation is Based	Person Conducting Evaluation

NAME OF OFFICER _____ HOME TELEPHONE NUMBER _____

RESIDENT ADDRESS _____ BUSINESS TELEPHONE NUMBER _____

CITY/TOWN _____ ZIP _____ ASSIGNED PRECINCT _____

. CHIEF OFFICER . ASSISTANT CHIEF OFFICER . OFFICER

DATE OF ORIGINAL APPOINTMENT _____

STANDARD	0	+1	+2	+3	+4	
ATTENDS TRAINING SESSION						
REPORTS TO THE POLLS ON TIME						
FOLLOWS ESTABLISHED PROCEDURES						
DEALS EFFECTIVELY WITH VOTERS						
WORKS WELL WITH OTHER OFFICERS						
CONTACTS GENERAL REGISTRAR AS NEEDED						
CONTACTS ELECTORAL BOARD AS NEEDED						**GRAND TOTAL** ADD COLUMNS 0 THROUGH +4 ☐
PERFORMS WORK NEATLY						
PERFORMS WORK ACCURATELY						
TOTAL EACH COLUMN						

0 = POOR +1 = FAIR +2 = GOOD +3 = VERY GOOD +4 = EXCELLENT

USE SPACE BELOW AND/OR REVERSE SIDE OF FORM FOR COMMENTS OR TO NOTE NEED FOR ADDITIONAL TRAINING.

5 Registrar Office Operations

5.1 The Voter Registration Office

The local governing body is required by the Code of Virginia (§ 24.2-411) to provide the general registrar with 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). In addition, there should be the locality must budget adequate funding to include for computer supplies and support, computer supplies, travel and computer training for the general registrar, electoral board members, and the staff as well as sufficient money for them to attend the SBE's mandatory annual training. The Commonwealth of Virginia does not reimburse the locality for these expenses; nor does the state reimburse for assistant registrars or officers of election. (§ 24.2-111.)

It is the responsibility of the general registrar and electoral board to obtain sufficient funding for the office from the local governing body. When justifying the budget request, remember to point out that although the Code requires that the locality pay the entire "cost of conducting elections" (§ 24.2-600), the locality bears only a portion of the cost of operating the office. Virginia is unique in that the State pays or reimburses all or a portion of the following expenses:

- the general registrar's base salary;
- electoral board salaries;
- electoral board mileage and expenses;
- the VERIS system and related expenses; and
- registration related forms.

5.1.1 Public Access

The general registrar must ensure that the public may, without difficulty, find contact information for their office. For example, it is the general registrar's responsibility to list the office telephone number must be listed in the telephone directory under "Voter Registration" or "Elections." This listing can be either alphabetically within the local government listings, alphabetically within the directory, or both a combination of any of the above.

The general registrar's office must be clearly marked. Both exterior and interior signs should make the registration office easy for citizens to locate.

All voter registration offices must be accessible to the handicapped. 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.

5.1.2 Operating Hours

The general registrar offices in cities with populations under 7,500 and in counties with populations fewer than 10,000 must be open a minimum of three days per week. The SBE has

determined that these offices will be open Monday, Tuesday, and Thursday during the months of January through July and five days per week during the months of August through December. The SBE, when the legislature appropriates funds, may authorize part-time registrar offices to open additional days during January through July. All other offices must be open five days per week. The normal operating hours of a general registrar's office vary by jurisdiction. Hours are listed in the "general registrars' Directory" (using information you enter in the VERIS Directory). All offices are required by law to be open five days a week from August through December. Additional office hours may be required (for voter registration or absentee voting) if you have elections earlier in the year.

If the office has at least one full-time assistant, lunch hours are to be staggered so that the office is open continuously during for each locality. A person who is working alone and who must leave the office unoccupied must put a note on the door giving the time of return. Do not ever say, "Back in 10 minutes"; rather, say, "Back at 1:15 p.m."

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 lection office, from 9:00 a.m. to 7:00 p.m;
- On the twenty-ninth business day prior to a primary or general election (or the normal last registration day for any other election), the registration books will close at your office's normal closing time, but no earlier than 5:00 p.m., and your office must be open a minimum of eight hours; and
- On the first and second Saturdays immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election, 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.

The general registrar's office is to must observe the same holiday schedule as that observed by the local governing body unless that holiday schedule conflicts with one of the mandated dates specified above

5.2 Registration Offices at the Department Of Motor Vehicles

With the advent and maturing of the National Voter Registration Act (NVRA), many registrars are establishing offices within DMV facilities. Since the majority of registrations now come from the DMV, these arrangements have proven advantageous both in to expedite the registration process, and to reduce registration problems.

There are two ways to establish an office at the DMV: co-location and relocation.

- Co-location: A satellite office or space within the DMV that is staffed by an employee of the general registrars' office. Relocation means physically moving the registrar's primary office to the area DMV facility. While there is much overlap in issues involved in co-location and relocation, these methods are discussed separately below:
- Relocation: The general registrar moves the primary office to the area DMV facility.

5.2.1 Co-location

Since many registrars have established satellite "offices" within DMV facilities, the DMV state office and the SBE have established a general framework for such activities. However, in preparing to make such an arrangement, the registrar must establish a good working relationship with the local DMV manager and make sure all details are worked out beforehand. The registrar should contact other registrars who have such an arrangement to ensure that he/she is aware of all the potential issues that may arise.

Benefits of establishing a satellite office in DMV: The voter will be better served because the registrar will be providing the employee(s) who will operate the site and the employee(s) will more knowledgeable about the registration process than DMV employees. The registrar's employee(s) can check to see whether an applicant is already properly registered; DMV employees cannot legally do this. The registrar's employee(s) can prevent unnecessary or incomplete registrations, saving much paperwork and time. They can enter new applicants directly into VERIS. Finally, the registrar's employees can sort applications by locality and send them directly to the receiving locality, thus saving the time it takes for applications to go through the SBE sorting process.

A customer comes to a DMV clerk to apply for a driver's license. The DMV clerk asks the customer if he/she wishes to register to vote. The customer says yes, 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 assistant registrar checks the application for completeness, and checks VERIS to see if the customer is already registered at the same address and, if so, whether all of the information is the same. If so, the assistant processes the application as a duplicate. If this is a new voter or there is any change in the information, the assistant gives the customer an "acknowledgement of receipt of application" and tells him/her approximately when s/he or she will receive a voter card. If the applicant is from the same locality as the assistant registrar, the assistant registrar then may either scan the bar code on the Print-on-Demand application or manually enter the data in VERIS in the normal fashion. If the customer is from a different locality, the application is packaged with similar applications and sent to the appropriate receiving locality. There are variations on this typical process depending on local circumstances.

An assistant registrar at a co-location may do the data entry for changes or new registrants for more than one locality. Both general registrars must agree, sign a written agreement, and forward the signed agreement to SBE. In this case, one general registrar must agree to act as the supervisor and will request routine access for the assistant as an employee of the supervising locality. The sharing agreement should include the roles requested for the assistant in the non-supervising locality. Once SBE receives the signed agreement, the VERIS Help Desk will issue the assistant a second VERIS user name and initial password for the new, non-supervising locality. If more than two localities are involved, the general registrar of the supervising locality must enter into individual agreements with each participating general registrar and the assistant will receive a separate user name and password for each non-supervising locality. The supervising general registrar must instruct the assistant to use separate passwords for each user name.

VERIS user names and passwords are to be protected and never shared. The integrity of the system depends on each individual playing her/his part in adhering to Commonwealth security policies and procedures. SBE trusts each user with log- in information and each user is responsible for keeping that log- in information private. VERIS provides for automatic password resets on the log- in screen, and the Help Desk is available to assist if the automatic reset fails. Evidence of log- in information sharing may be grounds for terminating access to the system if such sharing is found to be deliberate.

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 a 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 provides and maintains the necessary space, and equipment to run the registration site.
- The DMV will provide a computer, while SBE and VITA will ensure access to the VERIS and the SBE website.

ⓘ This is not true for relocations, only co-locations.

The registration function should be in a clearly delineated space clearly delineated from the regular DMV functions. There should be large and clear signage showing that your employee is there for voter registration purposes only. DMV employees are instructed to send any registration applicants to the voter registration desk.

5.2.2 Staffing

Staffing a co-location can be difficult, because it requires more than one employee to staff the site for more than 40 hours a week. There are at least two ways to handle this for localities not necessarily able to provide sufficient staff on their own:

- Multiple staff representing multiple localities: Because most DMV offices serve multiple localities, the registrar may wish to set up the staffing so that each affected locality provides some of the staffing. If there are two major localities that are served by the DMV, then each locality can provide one person, and the two can split the time at the DMV. (These employees may work solely at the DMV or may also work part of the time in the registrar's office.) If there are three localities served, the DMV time may be split three ways, and so on. If the registrars choose this option, then they must ensure that each employee follows the same procedures while serving at the DMV.
- Staff shared by multiple localities:. Alternatively, the registrar may employ staff members who are shared by more than one locality. (§ 24.2-112.) One locality must serve as the administrative “head” for such an arrangement, provide personnel supervision, and pay the employee(s). The other localities in this arrangement will then reimburse the lead locality (pay and benefits) based on a pre-arranged formula. While the shared-staff arrangement has its drawbacks, it may provide an easier way of obtaining funding from local governing bodies for the extra staff required for the co-location.

5.2.3 Pre-clearance

Localities need to apply to the US Department of Justice for pre-clearance in order to establish a co-location, since it involves a change in registration sites.

5.2.4 Relocation

Relocation involves physically moving the primary registration office (and in most cases the electoral board office) to within the DMV facility. To do this, the registrar will need to establish a close working relationship with the state and local DMV officials, since there will be many items to be addressed:

- 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 pre-election preparation.
- On-site storage: Does the DMV facility have adequate additional space for all the materials, supplies, and equipment that were stored at your old space? In some cases, storage may be available in your old location, but it should be easily accessible.
- Parking: The DMV will need to be able to provide sufficient designated parking spaces for voter registration and absentee voters, including handicapped accessible spaces.
- 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 pre-election period.
- Security: Since DMV offices are considered targets for robbery, terrorism and the like, they will have heightened security systems in place. Will these security systems interfere with normal operation of the registrar's office, especially during DMV off-hours? Conversely, will there be adequate security and storage space for voter registration and election purposes?
- Computer System: Unlike a co-location, at a relocation the DMV is not responsible for providing you a computer. Therefore, the registrar will have to make arrangements 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 do you need, and who will provide it?

5.2.5 Establishing an Agreement with 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. (§ 24.2-411.) However, all the particulars in the agreement directly affect the registrar, so he/she should be intimately involved in the details. These include issues such as the length of lease, renewal and termination

provisions, and access provisions. 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 aspects have been considered and included.

5.2.6 Public Notice and Preclearance

The registrar will need to develop a plan for to notifying the public about the move. In addition to public notices, advertisements, and press announcements, one good method for to accomplish this is to send new voter cards to all voters. However, this is not legally necessary. Also, unless your locality has successfully completed the bailout process, your locality it will need to apply to the US Department of Justice for pre-clearance in order to before it can move the registrar's office. Keep the preclearance requirement in mind when planning the timeframe for your move.

5.2.7 Relocation and Co-Location

registrars who have relocated their office to the DMV, will probably want to establish a registration space in the DMV lobby area also. This is much easier to do if the registrar's office is already in the building since it allows for easier staffing arrangements. However, the registrar must consider all the co-location issues discussed above.

6 Files and Records

6.1 Records Retention Generally

Refer to the Library of Virginia Records Retention Schedule for record retention timelines.

6.2 Application Card Files

Registrars must keep completed voter registration applications forms in an easily accessible container with a lock or in a locked room.

Completed application cards are not generally open to public inspection because they contain social security numbers. If a registered voter requests a copy of his own application, the registrar must provide it. Section 24.2-444 states that registration records are maintained by the registrar and must be open to public inspection by any registered voter. The Freedom of Information Act (§ 2.2-3700 et seq.) carries a presumption that all government documents are open to public inspection and copying, but that the provisions of election law in Title 24.2 of the Code of Virginia are controlling in the case of any conflict pertaining to access to of voter registration and election records. An exemption to providing access to records may be claimed if there is any conflict between election law and FOIA. Therefore, the registrar may claim the discretion to withhold registration records from copying, inasmuch as §24.2-44 states that such records shall be open to inspection but does not state that such records are available for copying. If a specific voter registration application or record is provided for public inspection, it must be provided with the social security number covered. If the subject voter is a law enforcement officer, a person under with a protective order, or a person who is threatened or stalked, and has provided a post office box for public disclosure purposes, then the voter's residence address must also be covered before the record is made available for public inspection.

6.2.1 Alphabetical File for Current Registrants

This file contains the applications cards of current registrants, both active and inactive. Documents are filed in alphabetical order by last name. The registrar maintains this file indefinitely.

6.2.2 Alphabetical File of Deleted Registrants, Applications Denied, and Original Applications of Re-registered Voters

This file, organized by year, contains all applications except the most current application forms of registered voters. The registrar enters information from all denied applications, applications for cancelled voters, incomplete applications that were denied, and re-registrations should also be entered into VERIS. After the registrar checks the data against the E & V report, file the card in the appropriate permanent file and retain the record for fours years following receipt.
The VERIS database enables registrars to search these records and provide the required NVRA statistics. Registrars do not need to enter separate statistics for denials and duplicates on a daily, weekly, or monthly basis.

Maintain these files alphabetically by year. Records must be maintained for four years, after which they may be destroyed.

6.2.3 Suspense File

The suspense file organizes all voter application cards from time of receipt until the registrar verifies action holds applications that have been entered into VERIS and that have not yet been verified on the Errors and Valid Transaction (E&V) report. Applications are removed and re-filed after the accuracy of the VERIS entries are verified. The file is divided into seven sections:

- Adds
- Deletes
- Denied
- Pending
- Changes
- Confirmation Notice Requested
- VERIS Applications Sent to Other Localities

Documents are to be filed in alphabetical order within each section.

All registration cards received and awaiting action are filed in the pending file. After the registrar enters the card in VERIS, place it in the appropriate add, delete, denied, or change file until it can be verified in the E & V report.

When a registrar receives an incomplete application from a voter who is registered in another locality, the registrar requests that the other locality send the original alpha card. The sending locality photocopies the alpha card and places the copy in the "Applications Sent to Other Localities" suspense file. When the transfer out record appears on the E & V report, the sending locality processes the photocopy as she would an original alpha transfer out.

6.3 Errors and Valid Transactions (E&V) Reports

The Errors and Valid Transactions (E&V) report, serves as an audit for all updated transactions entered into VERIS. A record will print on the report for all updated. The report provides a record for each transaction, whether accepted or canceled and rejected. Each record will contain data as it was entered into the system. To ensure an accurate database the registrar must compare the source of the data to the report and correct any errors. This process ensures the accuracy and integrity of all data and other reports produced by the system VERIS.

The office must file printed E&V reports and file them in 3-ring binders. Reports are to be separated into sections, and each separate section of the report filed in its own, properly labeled, binder.

The sections of the E&V report are:

- New, Transferred In, & Re-registered Voters
- Reinstated Voters
- Deleted Voters
- Denied Applications

- Pending Applications
- Transfers out (system Generated)
- Changes to Voter Master Records
- Confirmation Notice Requested
- Other Sections
- Locality Recap Summary

6.4 Reports for Public Inspection

The United States Court of Appeals for the 4th Circuit has ruled that the social security numbers provided by applicants for voter registration may not be disclosed. In addition, the General Assembly has directed that the residence addresses of law enforcement officers, persons under with protective orders, or persons who are threatened or stalked, and who have provided a post office box address for public inspection purposes, are not to be disclosed. (See Chapter 26.)

6.4.1 Precinct Record Listing

The "Precinct Record Listing" is produced for public inspection purposes (by persons registered to vote in Virginia only) and therefore contains no social security numbers. It lists all registered voters in alphabetical order within each precinct.

Individuals must be registered voters in Virginia to be eligible to view the "Precinct Record Listing."

The SBE has provided dark blue computer binders for storage of the "Precinct Record Listing." When placing the "Precinct Record Listing" in the binders, do not split precincts and do not include precincts from different local districts in the same binder. Files may either be stored hanging or lying flat. Label each binder to identify its contents.

Choice 1	Choice 2
Precinct Record Listing Election District 01	Precinct Record Listing Precincts 0101 - 0103

Retain these files until SBE issues the next complete listing.

6.4.2 Precinct Record Updates

The "Precinct Record Updates" are open for public inspection by persons registered to vote in Virginia. Updates to the "Precinct Record Listing" include, in alphabetical order by precinct, the complete record for each registrant whose record was added, changed, or deleted during the time period of the update. A message indicating the date and type of transaction will appear with each record.

Updates are printed and shipped to each locality once a month, and weekly during the sixty days preceding any general election.

The SBE has provided light blue binders for storage of the updates. Reports may be stored either hanging or lying down. Binders are to be properly labeled as to their contents. For example, either:

Choice 1	Choice 2
Precinct Record Updates Election District 02 Beginning 8/31/97	Precinct Record Updates Precincts 0203 – 0205 Beginning 8/31/97

Retain these updates until SBE issues the next "Precinct Record Listing" and its first update.

6.5 Monthly Transactions Summary

This one-page summary reports all transactions entered in VERIS by your locality during the month covered. It is a valuable planning tool and will provide concrete proof of workload as justification for your budget requests.

File this document in a standard file folder, labeled with the report's title in chronological order with the latest report on top. Retain these reports for four years plus the current year.

7 List Maintenance

7.1 Definition Of List Maintenance

List maintenance is the process of maintaining an accurate and current list of registered voters. The processes for maintaining this list must be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965. These processes are based on Title 24.2 of the Virginia Code, the National Voter Registration Act of 1993 (NVRA, 42 U.S.C. 1973gg-1 et seq.), and the Help America Vote Act of 2002 (HAVA, 42 U.S.C.S. § 15301 et seq.)

Adding, updating, and deleting records from the rolls comprises maintaining the list of registered voters. List maintenance procedures cover ways to remove names from the rolls in a consistent, non-discriminatory manner.

7.2 Cancellation of Registration

Section 24.2-427 authorizes the registrar to cancel registrations under certain conditions.

- The person is deceased. (42 U.S.C. 1973gg-6(a)(4)(A))
- The person has been convicted of a felony. (42 U.S.C. 1973gg-6(a)(3)(B))
- The person has been adjudicated of incapacity. (42 U.S.C. 1973gg-6(a)(3)(B))
- The person has transferred to another state.
- The registrar receives a notice that the person has registered in another state. (42 U.S.C. 1973gg-6(a)(4))
- The person requests that his/her name be removed from the rolls. (42 U.S.C. 1973gg-68(d)(1)(A))
- The person has indicated that he/she is not a United States citizen to the Department of Motor Vehicles. (§§ 24.2-410.1 and 24.2-427)

Section 24.2-428 authorizes the registrar to cancel a registration after a confirmation notice has been sent and there is no response after two federal elections. (42 U.S.C. 1973gg-6(b)(2) and (c)(1)(B)(ii))

Failure to vote cannot be a reason to remove a person from the pollbook. (42 U.S.C. 1973gg-6(b)(2))

(§§ 24.2-427 through 24.2-435)

7.3 Deceased Registrants

Each month VERIS receives new electronic files from the Bureau of Vital Statistics and the Social Security Administration. The VERIS Hopper and the Agency Updates screens will reflect the new information. Registrars may be able to get the information more quickly by getting these reports monthly from their local health officials.

- Read the obituary column of your local newspapers and use the information found there. You may need to verify the exact identity of the individual with the funeral home.
- Mark the back of the application in the box provided for deceased, the date of death and the source of the information.
- If there is no box, put the information in the back in the lower right corner of the application.
- Staple the information to the back of the application or keep the information in a separate file.
- Cancel the voter registration using the VERIS Hopper or Change Status screens.
- File the application form in the Deleted file.
- VERIS will generate a cancellation letter to "The Family of" the deceased former voter.

7.4 Convicted Felons

- Each month VERIS receives new electronic files from the Virginia State Police CCRE (Central Criminal Records Exchange), as permitted by § 19.2-389 of the Code of Virginia. In addition, United States District Court Judgments are received on paper entered manually. The VERIS Hopper and Agency Update screens will reflect the new information. This information is confidential.
- The information is not always accurate. Citizens have the right to challenge the record. They should contact the State Police. Upon request from the general registrar, SBE will contact the State Police to confirm accuracy of the conviction.
- Should the individual wish to challenge the record, give the individual an S.P. 167 "Criminal Record Name Search" form, so that he/she may request the conviction data maintained on file in CCRE.
- The individual must give you a copy of the correction or receive a correction letter from the State Police to be eligible to be a registered voter. If a correction letter is provided, there are two separate procedures that may be completed in order to register the voter and potentially inactivate the felony record:
  - If the letter from the State Police or other applicable entity simply states the specific individual was not convicted of a felony, but the letter is not sufficient to state that the felony conviction record on file should be inactivated, you must update the voter's status through the Change Status screen on VERIS. This will not remove the felony conviction record on file but will serve to register the voter.
  - If the correction letter states the a specific felony conviction record submitted to the SBE was in error and that the prohibited information in VERIS is therefore incorrect, you must update the Prohibited record in VERIS through the Agency Update Maintain screen by making the conviction record inactive.
- Mark the back of the application form under Convicted of Felony, giving the date of the felony the State Police SID number.
- If there is no box, put the information in the back in the lower right corner of the application.
- Remove the voter from the rolls by using the VERIS Hopper or Change Status screens.
- You must process all Felony Conviction potential matches through the Hopper. Individual voters may also be cancelled through the Change Status Screen. You must determine if a registered voter matches the Felony Conviction information and if so,

approve the match to cancel the voter's registration. VERIS will automatically generate a notice of cancellation to the individual which states the reason for removal and any other comments you entered when canceling the voter. You must also send the Application and Instructions for Restoration of Civil Rights.

- File the deleted application in the Deleted file.

7.5 Registrants Adjudicated Incompetent

- The Clerks of the Circuit Court are required to send a monthly report of all persons adjudicated mentally incompetent to the SBE. The report will be forwarded to you to enter data into VERIS. You must enter this information through the Agency Update Maintain page by filling in all required fields from the report. Entering this information will allow the system to automatically search for potential matches, which can be processed through the Hopper. Individual voters may also be cancelled through the Change Status screen.
- Information about adjudication is not open to the public.
- Adjudication of this type is rare. Simple commitment to an institution for treatment does not constitute adjudication of mental incompetence.
- Mark the back of the application form under Judged Incapacitated, giving the date of the adjudication and the Circuit Court date.
- If there is no box, put the information in the back in the lower right corner of the application.
- After the data has been entered into VERIS, you must process all potential matches through the Hopper. Individual voters may also be cancelled through the Change Status Screen You must determine if a registered voter matches the adjudication information and if so, approve the match to cancel the voter's registration. VERIS will automatically generate a notice of cancellation to the individual, which states the reason for removal and any other comments you entered when canceling the voter.
- File the deleted application in the Deleted file.

7.6 Transfers to Other States

- Each month VERIS receives an electronic file from DMV.
- The system will automatically search the system for any potential matches of registered voters to the electronic file from DMV.
- The potential matches will appear in your Hopper. After reviewing the record, you may select that the record is a match in order to initiate the confirmation process to send notice to the voter.

7.7 Out-of-State Registrations

- SBE sends registrars all cancellation notices received from other states.
- You may receive some cancellation notices and some applications for other states directly from the registrant's new locality.
- Forward any that do not belong to you to the correct jurisdiction.
- Mark the back of the application under Out of State with the date you remove the voter.

- Remove the voter from the rolls by using the VERIS Change Status screen by selecting to cancel the voter for the reason of "Out of State." This will automatically generate the required correspondence to be sent to the voter listing the reason for the cancellation.
- Staple the information to the back of the application form or keep them in a separate file.
- File the application form in the Deleted file.

7.8 Personal Request Cancellations

- Persons who wish to cancel their valid registration for personal reasons must file the request in writing either by mail or in person.
- As long as you do so in a consistent manner, you may send a letter asking for a voter to verify his/her address and use that as the basis for removal for all those who confirm that they moved out of state.
- You must send a letter or card confirming that you have removed the voter from your rolls to all who make the request in writing. Canceling a voter's record through VERIS will automatically generate this required correspondence.
- Mark the back of the application under Personal Request with the date you remove the voter.
- Staple the information for the removal to the back of the application form or keep this information in a separate file.
- File the application form in the Deleted file.
- You may not remove any voter who notifies you of the move by mail in the twenty-nine (29) days before a general election.
- Remove the voter from the rolls by using the VERIS Change Status screen by selecting to cancel the voter for the reason of "Per Choice". This will automatically generate the required correspondence to be sent to the voter listing the reason for the cancellation.

7.9 Error Cancel

- You may need to cancel registrants in VERIS for administrative reasons.
- No notice to the voter is required.
- Cancel the registration using the VERIS Change Status screen.

7.10 Confirmation Process

NVRA requires that states set up a maintenance system to identify voters who have moved (42 U.S.C. 1973gg-6(a)(4)). Many states, including Virginia, use the U.S. Postal Service's National Change of Address system (NCOA) to do this. Section 24.2-428 of the Code of Virginia defines the procedures we use. We call it the Confirmation Process.

The local registrar can also initiate the Confirmation Process.

Once a year SBE runs a program that generates Notices of Confirmation. SBE uses a program called the National Change of Address (NCOA), which matches the records of all registrants on VERIS with the Postal Service addresses for the registrants.

- The program generates a Notice of Confirmation card for each address that is not a match.
- Notices of Confirmation are also generated for registrants that local registrars have added to the list after having mail returned as undeliverable (e.g., a letter or voter card).
- The Notice of Confirmation contains a return, postage paid card and instructions for completing the card.
- The VERIS run that generates a confirmation mailing, puts the registrants selected to receive mail into Inactive status. This applies to registrants that were either identified by the general registrar or identified through the NCOA match as moving to a new locality.
- The VERIS run also generates Confirmation Notice Reports, one for the run generated by changes made by registrars and one for the run based on NCOA.
- Registrars receive two copies of each, one with social security numbers, which is our working document and one without social security numbers, which is the public document.

GREBook 8 Accessibility

8.1 Introduction

Every citizen has the right to vote regardless of whether he or she is affected by a disability. This chapter is designed to help you ensure that reasonable accommodations are made for employees and voters with disabilities in both your office and at the polls.

8.2 Legal Basis

There are six major laws governing accessibility to polling places:

- The Voting Rights Act of 1965 (VRA)
- Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA)
- Title II of the Americans with Disabilities Act (ADA)
- Help America Vote Act of 2002 (HAVA)
- Virginians with Disabilities Act
- The Code of Virginia, Title 24.2

8.2.1 Voting Rights Act of 1965

8.2.1.1 Requirements

This law provides, among other things, that any voter requiring assistance may receive it from a person of the voter's choice (other than the voter's employer or union representative). (42 U.S.C. 1971)

8.2.1.2 VA Policy & Procedure

Localities should make sure election officials and registration staff are familiar with the provisions in this law.

8.2.2 Voting Accessibility for the Elderly and Handicapped Act Of 1984 (VAEHA)

8.2.2.1 Requirements

This law requires all polling places and a reasonable number of permanent registration facilities used in federal elections to be accessible to the elderly (defined as 64 years of age or older) and people with physical disabilities. However, the registration facilities requirement is not binding in Virginia because we allow potential voters to register by mail. It also requires the state to make available registration and voting aids including the large print instruction posters hanging in polling places and registrar's offices as well as telecommunications devices for the deaf. (42 U.S.C. 1973 ee)

8.2.2.2 Enforcement

Localities may be sued in district court by either the US Attorney General or any person who is personally prohibited from registering to vote or casting a ballot. Before a locality can be sued under this law, the complainant must first notify the Secretary of the SBE of the non-compliant

condition and allow 45 days to pass. 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.

8.2.2.3 VA Policy & Procedure

It is the policy of the SBE to address, with all parties involved, any complaint alleging an inaccessible polling place within the 45 day window specified by the law. If a complaint arises under this law at the local level, forward it immediately to the SBE.

8.2.3 Title II of Americans with Disabilities Act (ADA)

8.2.3.1 Requirements

The ADA prohibits discrimination on the basis of a disability in employment, State and local government, telecommunications and other areas. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment.

Title II of the ADA requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Furthermore, it requires public entities to provide opportunities for people with disabilities to request aids and services.

Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided. It also directs that public entities must provide opportunities for people with disabilities to request such aids and services.

Title I of the ADA prohibits discrimination in employment due to a disability. Employers with 15 or more employees are subject to Title I regulations. For more information on Title I contact your local human resources director, the state Department of Human Resources or the US Equal Employment Opportunity Commission. (42 U.S.C. 12131)

8.2.3.2 Enforcement

Complaints of Title II violations may be filed with the Department of Justice 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.

Title II may also be enforced through private lawsuits in Federal court. It is not necessary to file a complaint with the Department of Justice or any other Federal agency, or to receive a "right-to-sue" letter, before going to court.

8.2.3.3 VA Policy & Procedure

The policy of the SBE is to assure programmatic access at every polling place or registration facility and to provide physical accessibility in those locations where this can be achieved without creating an undue burden on the locality. The SBE seeks to avoid litigation by mediating ADA complaints with all parties involved in order to collaboratively reach mutually beneficial solutions.

8.2.4 Help America Vote Act of 2002

8.2.4.1 Requirements

This law requires voting systems to be accessible to individuals with disabilities in a private and independent manner including non-visual access. (More information on accessible voting machines is in Chapter 20.)

It also provides for a grant program through the US Department of Health and Human Services to make polling places accessible, provide information about the accessibility of those polling places and train election officials on how to best promote access and participation among people with disabilities in Federal elections. (42 U.S.C. 15301 et seq.)

8.2.4.2 Enforcement

The U.S. Department of Justice's Civil Rights Division is responsible for the proper enforcement of HAVA. Congress did not intend to authorize private enforcement, via litigation, of the requirements of HAVA, but instead intended to channel private complaints into state administrative processes and to reserve judicial enforcement to the Department of Justice.

8.2.4.3 VA Policy & Procedure

The implementation goal of the SBE is to make 95% of all polling places physically accessible to people with disabilities

8.2.5 Virginians with Disabilities Act

8.2.5.1 Requirements

In general this law prohibits exclusion from, denial of benefits of, and discrimination relating to any program or activity receiving state financial assistance or conducted by or for any state agency. Specifically it states that no otherwise qualified voter with a disability can be "denied the opportunity to register or vote" because of his or her disability. (§ 51.5-1 et seq.)

8.2.5.2 Enforcement

Any person with a disability whose rights guaranteed under this law have been violated can bring a claim in state circuit court. The court can order the defendant to make changes, pay for the plaintiff's legal fees (unless the plaintiff is represented by the Virginia Office of Protection and Advocacy), and award compensatory damages not including payments for pain and suffering.

Localities are liable for violating this law for up to one year from the violation of a person's rights if the action was started or a complaint was filed by registered mail within 180 days of the alleged violation.

8.2.5.3 VA Policy & Procedure

The policy of the SBE is to provide full and free access to registration and voting for all Virginians. The SBE seeks to avoid litigation and collaboratively reach mutually beneficial solutions by mediating ADA complaints with all parties involved.

8.2.6 Title 24.2 Requirements for Polling Places

8.2.6.1 Requirements

This law requires polling places to be accessible as required by the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act and Title II of the Americans with Disabilities Act. It also authorizes local electoral boards to use an alternative polling place if an emergency makes an existing one inaccessible.

Section 24.2-310(B) requires the local governing body to provide "adequate facilities" at each polling place. For the purpose of this law, the SBE interprets adequacy of facilities to include buildings that are physically accessible to people with disabilities.

8.2.6.2 Enforcement

There is no separate enforcement mechanism for this law because it requires compliance with several other laws that each has its own enforcement provisions.

8.2.6.3 VA Policy & Procedure

In accordance with this law, the SBE will provide instructions and resources to local electoral boards and general registrars to assist localities in complying with accessibility requirements. 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. Localities must send a copy of each survey to the SBE, and keep the original on file at the local elections office. The current survey form is available on the SBE's website. When entering polling place information into VERIS, the registrar must check whether the polling place has met ADA standards and not a comment detailing the level of compliance.

8.3 Dealing With Inaccessible Polling Places

Make sure that any new polling places is accessible or can be made so before recommending it for designation by your local governing body.

If you find an existing polling place to be inaccessible, you should:

- Notify your local governing body that the polling place is in violation.
- Determine whether permanent or temporary changes can be made to make the site accessible.

- If the site cannot be made accessible, survey the precinct and the adjoining area within 1,500 yards in an attempt to find an alternative site that is accessible or can be made temporarily accessible on Election Day.
- The accessibility status of each polling place in your locality should be updated in VERIS.
- Exceptions (42 U.S.C. 1973ee-1) (§24.2-310)
  - The Secretary of the SBE can grant an exception to the accessibility requirement in the case of emergency (as defined in §24.2-310). If you can find an alternative site, but it is in a facility normally prohibited from use as a polling place, then you can request that the SBE approve its use on an emergency basis. (§24.2-310) Even if you receive SBE approval, you must still submit the emergency site to the U.S. Department of Justice, unless you have successfully completed bail-out procedures under the Voting Rights Act.

8.4 Best Practices

- The current version of the Virginia Voter Registration Application provides a helpful tool for fulfilling the final right listed above. A box on the application states, "Check here if you have a disability that requires accommodation in order to vote." Registrars should attempt to contact voters who check this box to ask what sort of accommodation is required. Be sure to keep track of this information. Information should be forwarded to your electoral board and, where appropriate, to officers of election.
- Let the public know that your polling places are accessible and that there are assistive technologies available to voters with disabilities. Consider distributing an accessibility scorecard to all disability agencies in your community listing the barrier at each polling place and options to overcome them for people with disabilities.
- Every training session for officers of election should include a section on working with people with disabilities. Your officers of election are the ones who have the most face-to-face contact with voters with disabilities. They must be trained to: (1) look out for – and where possible remove – obstacles in the polling place; (2) provide assistance with door-opening, walking, and other means of helping when needed and requested; (3) be fully aware of the legal rights of persons with disabilities to ask for assistance with ballot-marking; and (4) be sensitive to the needs of voters with disabilities.
- Every registrar and electoral board should actively advertise and promote the availability of absentee ballots, curbside voting, and the right to ask for assistance. Do not forget that it is often helpful to ask the voters what works for them as well.
- 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.
- Be sure to make your office accessible – for both voters and employees. The ADA requires you to make reasonable accommodations in your workplace for your employees. It also prohibits discriminating against people with disabilities in your hiring practices. To find out more about hiring people with disabilities, contact your locality's ADA coordinator or your human resources director.

- Periodically resurvey the accessibility of polling places. Just because a polling place was accessible last year, does not mean it will be so this year. Tree limbs grow back; concrete breaks and parking signs get stolen. Take a little time before each election to make sure a new accessibility barrier has not been created at a previously accessible polling site.

8.5 Dealing with Persons with Disabilities

There are several things you can do – in your office and at the polling place – to make registering and voting easier for citizens with disabilities.

8.5.1 Voters with Hearing and Speech Disabilities

8.5.1.1 Informational Website

Those with hearing and physical disabilities may obtain much of their information from the Internet. Create a website for your office. If that is not possible, make sure that ample information on registering and voting – including links to the SBE downloadable registration and absentee application forms – is included on your local government's website. See section below, "Websites."

8.5.1.2 E-mail

Your email address should be prominently displayed in all media materials distributed or published by your office or your local governing body. This will allow you to communicate on-line with voters with hearing disabilities.

8.5.1.3 TDD

Telecommunications devices for the deaf are another way for people to communicate and obtain information about registering and voting. A telecommunication device for the deaf (TDD) is a telephone system in which a typewritten message is transmitted over telephone lines and is received as a printed message; also referred to as TT or TTY. Many localities have a TDD line for government offices. If yours does, be sure to advertise its availability. If yours doesn't, you can direct voters to use the SBE TDD line to communicate with you. You may also want to advertise the TDD number of the Virginia Relay Center – a service designed specifically for TDD users and government agencies and other service-providers. Speech-to-speech relay enables a person with speech impairment to use a relay system with a trained communication assistant.

State Board of Elections TDD: 1-800-260-3466
VA Relay Center: 1-800-229-5746 or just "711"

8.5.1.4 Pocket-Talkers

A pocket talker is a sound amplification device that consists of a small cell phone-sized box, a cord, and an earplug. These are very useful for holding brief conversations with people with hearing difficulties. They cost about $100 each. Recommendation: purchase one for each precinct, or, at the least, one for each large precinct or precinct with a significant number of voters with hearing disabilities. You may be able to save money by using one of your polling place pocket talkers in your office or by "splitting costs" with other government departments that can use the remaining pocket talkers during the rest of the year.

8.5.1.5 Signage

Signs instructing voters where to park, where to enter and exit the polling place, which table to go to will reduce the amount of verbal communication required for a voter with a hearing disability. It is also required for Election Day. Printed instructions for checking in at the poll book table and the use of voting equipment should be prominently displayed.

8.5.1.6 General Tips for Speaking With a Voter with a Hearing Disability

- Follow the voter's cues to determine whether speaking, gestures, or writing are the most effective method of communication.
- If speaking, speak calmly, slowly, and directly to the voter. Do not shout. Your facial expressions, gestures, and body movements help in understanding. Face the voter (not the interpreter or companion) at all times.
- Rephrase, rather than repeat, sentences that the voter does not understand.
- Paper and pencil notes can be satisfactory.

(From: Voters Who Have Disabilities: A Guide for Election Officials)

8.5.2 Persons with Visual Disabilities

8.5.2.1 Signage

Large print directional and instructional signs should help the voter with limited sight navigate the polling place and the voting process. Pictures or symbols on signs are also helpful.

8.5.2.2 Large Print Versions of Materials

Create large print versions of all brochures and materials that you print for your office. There is no enforceable standard for large print formatting other than the print has to be large enough to be read by the person requesting it. The general rule is to use 18-point type. Colors should contrast as much as possible, i.e. black on white or white on black. The SBE's Accessibility Coordinator can provide you with more detailed information.

8.5.2.3 Tape Recordings

Create tape recordings of all brochures and materials that you print for your office. Make these available in your office and, if possible, in all libraries in your locality. Be sure to update the ones in the libraries every time you update your materials. There are multiple organizations that will make tapes of your documents for free. Contact the Accessibility Coordinator for a listing.

8.5.2.4 Signature Guides

These are usually small business-sized cards with long rectangles cut out of them. If a voter has to sign a document such as a registration or absentee application or a statement at the polling place, a signature guide placed over the signature line will help the voter sign in the right place. Blind voters are not required to sign such documents.

8.5.2.5 Audio Ballots

HAVA requires at least one voting machine in every precinct that provides non-visual access. Voting equipment with audio capability for use by blind voters has been certified for use in Virginia. (See Chapter 20.)

- For those with limited sight, provide magnifiers at each polling place or at each voting station. For most voting equipment, magnifying sheets tend to work better than magnifying glasses with handles. These generally cost fewer than five dollars and are available at many stores or catalogs.
- For blind voters, you can make a template sleeve for use, along with Braille or recorded instructions (on an easy-to-use tape recorder), with paper ballots and optical scan ballots. These templates provide tactile clues to voters that guide them to each office, candidate, and place to mark the "x." Remind voters to be sure that they make careful choices, for they will not be able to review their ballots.
- You may wish to attempt to design a Braille ballot. However, national organizations estimate that only about 10 percent of blind voters can read Braille.

(From Voters Who Have Disabilities; A Guide for Election Officials)

8.5.2.6 General Tips for Working with a Voter Who Has a Visual Disability

- Identify yourself and state your title (electoral board member, registrar, etc.) as soon as you come in contact with the person.
- If guiding a voter who is blind, offer your arm to the voter and walk just ahead of the voter, rather than taking the voter's arm or attempting to push the voter from behind. Tell the person about any changes in direction, curbs, stairs, etc.
- If a person has a guide dog, walk on the opposite side of the voter from the dog. Do not pet or otherwise distract the dog without permission.
- If you are going to leave a person who is blind, let the person know.

8.5.3 Physical Accessibility of Polling Places

When we think of making a polling place accessible, we usually think first of structural obstacles to citizens in wheelchairs. As the previous sections show, there are many other types of disabilities that must also be accommodated. This is not meant to be an exhaustive or technical list. A variety of reference materials are available to provide the technical details for ensuring accessibility. Contact the Accessibility Coordinator for more detailed information about physical accessibility requirements.

8.5.3.1 Parking Spaces

If parking is provided for voters, then accessible parking must also be provided. To be considered accessible, a parking space must be:

- At least 8 feet wide;
- Have its own or share an access aisle that is 5 feet wide for car spaces and 8 feet wide for van spaces. All parking lots must have at least one van accessible space;
- Be marked with an upright sign with the symbol of accessibility on it. The bottom edge of the sign must be between 48 and 72 inches above the pavement. Marking a space on the pavement is often useful, but does not satisfy the federal requirements;
- Located close to entrance;
- Connected by an accessible route to the entrance; and
- Relatively level in all directions and have a firm, stable surface.

Accessible parking spaces may be temporarily created for Election Day using portable signs and traffic cones.

ⓘ The federal requirement for accessible parking will change in the next few years. If you are putting in new permanent accessible parking, make the space 11 feet wide and the access aisle 5 feet wide. This will meet both the current and future guidelines.

8.5.3.2 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 entrance is separate from the main voting entrance, then the following standards apply:

- The accessible entrance must be marked by the symbol of accessibility.
- All other entrances must have directions to the accessible entrance.

8.5.3.3 Curbs and Ramps

Curbs or ramps in the path of travel must generally have the following features:

- Be at least 36 inches wide not including any flared sides;
- Have a stable, firm, slip-resistant walking surface;
- Have a slope that rises or falls no more than one foot in height for every 12 feet in length;
- Have a relatively level cross slope (the slope perpendicular to the direction of the walkway);
- If a ramp is more than six inches off the ground, it must have handrails on both sides; and
- Not have openings greater than ½ inch wide.

You can rent temporary ramps for use on Election Day. A better solution is to work with the owner of the building to establish reasonable accessibility. Ramps are also necessary where there are steps into the building or inside the building. Permanent ramps are obviously the best, but temporary ramps can also work when necessary. They can be purchased or rented from a variety of vendors.

8.5.3.4 Walkways (Inside & Outside)

To be considered accessible, a walkway must:

- Be at least three feet wide;
- Have a slope that rises or falls no more than one foot in height for every 12 feet in length (the "1 in 12" rule);
- Have no edges that people can fall off;
- Have a relatively level cross slope (the slope perpendicular to the direction of the walkway);
- Be made of a smooth, consistent material, i.e. no loose gravel or dirt;
- Not have anything hanging into the path of travel lower than 80 inches from the ground.
- Not have openings greater than ½ inch wide; and
- Not have abrupt changes in level over ½ inch tall.

Sudden changes in height less than ¼ inch tall are acceptable. Between ¼ inch and ½ inch can be beveled at a slope no greater than 1:2. Level changes over ½ inch require a ramp.

ⓘ The “1 in 12” rule applies to all standards of accessibility for walks, ramps, etc.

8.5.3.5 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 can only protrude up to 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.

8.5.3.6 Doors and Doorways

Probably the most common accessibility barrier in polling places is the doors. For people in wheelchairs, it doesn't do much good if they can get out of their vehicle, through the parking lot, and up the walk, but can't get in the door. Several features can make a door inaccessible:

- Round doorknobs are difficult for people with limited use of their hands. They should be replaced with ADA compliant hardware. If they can't be replaced, you can buy levers that fit over round doorknobs.
- Interior doors must be operable with 5 pounds of force or less. As a temporary fix, you may prop the door open or station an election official (or election page) to assist with opening and closing. 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 people with disabilities.
- 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. 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's considered inaccessible. You can either install a new threshold or put a ramp over it.

ⓘ Borrow a wheelchair and take it to your polling place. See if you can navigate to the front door, open it, and drive through it.

8.5.3.7 Stairs

Based on reports to the Federal Election Commission, 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. There must be, elsewhere in or outside the building, a ramp or ramps, or an accessible elevator, or a wheelchair lift that voters with limited mobility can use. If so, be sure that there are large signs directing voters with disabilities to the alternate route.

8.5.3.8 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. You should instruct your officers of election to be sure that hallways and voting rooms are free of such items, and adjustments are made.

8.5.3.9 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 voters who just need to rest.

8.5.3.10 Voting Equipment

Some voting machines are wheelchair-accessible and some are not. Regardless, the law requires you to provide at least one voting "booth" with a writing surface on which a voter can mark a paper ballot in secret. This should be a table that can accommodate a wheelchair. To do so, it should be at least 30 inches wide, no more than 34 inches high, and have an underneath clearance of at least 29 inches. If a voter with a disability wishes to vote on an inaccessible machine instead of at a table, he or she can always ask for assistance. (§ 24.2-609)

8.5.3.11 General Tips for Working with a Voter with Limited Mobility

- Do not push or touch another person's wheelchair without prior consent.
- Ask before helping. The person may not want or need assistance.
- On the other hand, do not be shy about offering assistance. Your courtesy will be appreciated.

8.5.4 Voters with Mental, Emotional or Developmental Disabilities

Polling places and registrar offices must also be accessible – and election officials must be sensitive – to those with mental disabilities. These include people with mental retardation or developmental disabilities, mental illness, and disabilities resulting from head trauma, among others. All citizens of voting age are considered mentally competent unless a court has declared them incapacitated. There are several things that registrars, electoral board members, and officers of election can do to ensure accessibility:

- Work with your local chapter of The Association for Retarded Citizens (there are chapters in all parts of Virginia) to develop training and orientation programs for citizens with mental disabilities. These programs should familiarize citizens with procedures and with voting equipment.
- Promote the fact that citizens with disabilities can ask whoever they want (other than an employer or union representative) to assist them with voting (blind voters can ask anyone). Emphasize this right, and appropriate procedure, to your officers of election.
- Spend the time it takes to effectively communicate and explain procedures and outcomes of registering and voting.

8.5.5 Websites

The issue of accessibility involves all aspects of the elections business, including local- and state-produced election and registration websites. Websites are used by people with hearing, visual, and motor disabilities, so various issues of sight, sound, and maneuverability are important to consider in making your website usable by all.

Standards for making websites accessible have been developed by the World Wide Web Consortium. Check out these standards at the following websites:

- www.w3.org/WAI
- www.webable.com

There is also an authoritative directory on disability-related web resources that may provide some useful tips.

Finally, you should have your website tested for accessibility through a website tool called "Bobby." Check it by logging onto www.cast.org/bobby.

8.6 Funding Accessibility Improvements

Electoral boards and registrar offices (like all public bodies) operate with limited resources. Below are suggestions to help you afford improving accessibility when your local governing body is reluctant to provide funding.

- The Help America Vote Act set aside funds for states to improve the accessibility of polling place used in federal elections. Each locality is allocated a portion of these funds. Contact the Accessibility Coordinator for more information.
- Local Disability Services Boards may suggest grant money that can be used to make such purchases. Contact your local board to find out how to apply for funding.
- The Lions Clubs will often take on projects to provide aids for persons with vision and hearing impairments. Check with your local club to see if they are willing to sponsor an election accessibility project.
- Many other community service organizations – Kiwanis, Rotary, Ruritans, and the like – may be willing to help.
- The Federal Government offers tax incentives for all businesses to make their facilities more accessible to people with disabilities. The Accessibility Coordinator can help you determine which program is available for your polling places located in private businesses.
- Check with any of the agencies listed in the Resources section below. Many of the agencies have funds for purchasing assistive technology or they can direct you to inexpensive sources for these items.
- Consider sharing costs of such items with other government offices that can use them when you don't need them.

8.7 Resources

As a registrar or electoral board member, you are not expected to be an expert on building structural issues, machine technology for those with disabilities, or other assistive technologies. There are several places and agencies to which you can turn for the help with these issues. Following are some resources in Virginia, but this list is far from complete.

8.7.1 Accessibility Coordinator, State Board of Elections

The SBE maintains a staff member, knowledgeable about disability issues, who is ready to assist you. (1-800-552-9745)

8.7.2 ADA Information Line

The U.S. Department of Justice provides information about the Americans with Disabilities Act (ADA) through a toll-free ADA Information Line. 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. ADA specialists are available Monday through Friday from 9:30 AM until 5:30 PM, except on Thursday when the hours are 12:30 PM until 5:30 PM. For general ADA information, answers to specific technical questions, free ADA materials, or information about filing a complaint, call:
(800-514-0301) (voice), (800-514-0383) (TTY)

8.7.3 ADA Coordinators

The ADA requires all local governments with 50 or more employees to appoint an ADA coordinator. This individual is most likely in the personnel or building inspections department of your local government. Your local ADA coordinator may not be an expert on the technical aspects of ensuring accessibility, but he or she should be able to help you with interpreting the law and with surveying potential or existing polling places to assess their accessibility.

8.7.4 ADA & IT Information Centers

The ADA & IT Information Center for the Mid-Atlantic Region provides training, information, and technical assistance on the Americans with Disabilities Act (ADA) and accessible information technology (IT) to businesses, consumers, schools, and government agencies within the Mid-Atlantic Region. (1-800-949-4232 or www.adainfo.org)

8.7.5 Centers for Independent Living

The Virginians with Disabilities Act also provides for the creation of Centers for Independent Living, private non-profit community-based advocacy organizations for those with disabilities. (§ 51.5-23) These consumer controlled (by people with disabilities) agencies can provide advice and assistance with a wide variety of disability issues. There are 16 centers in Virginia. Contact the Accessibility Coordinator to find the one in your area.

8.7.6 Disability Services Boards

Every area of Virginia is required to have a disability services board. (§ 51.5-47) These boards must provide assistance, advice, and information to local governments. In some places, the board may serve several localities; in others, the board is specific to one locality. Appointed by local government bodies, these boards include people with disabilities as well as others with expertise in disability issues. Your local disability services board should be able to help you with suggestions and recommendations on how to increase accessibility to the voting process. In some localities, the board may have funding to assist in projects that will enhance accessibility. To find out how to contact your local/area board, call the Virginia Department of Rehabilitative Services or call your city manager or county administrator to find your local representative(s). (1-800-552-5019)

8.7.7 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)

8.7.8 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)

8.7.9 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. (1-800-552-5019 or www.vats.org)

8.7.10 Job Accommodation Network

This network provides information on vendors and manufacturers of equipment and devices for people with disabilities. (1-800-526-7234)

8.7.11 State Board of Elections Advisory Task Force on Elections Accessibility

This is a committee of registrars, electoral board members, SBE staff, and disability advocates examining various methods to improve election accessibility in Virginia. To obtain a list of task force members, call the SBE. (1-800-552-9745)

9 Voter Registration

9.1 Who Is Eligible?

Article II, § 1 of the Constitution of Virginia governs eligibility for voter registration. Any citizen of the United States who meets the following five requirements is eligible:

1) Age:	Will be eighteen years of age or older by the date of the next general election;
2) Residence:	Has domicile and place of abode in Virginia and in the precinct where he intends to vote;
3) Not Felon:	Has not been convicted of a felony, or if so convicted, has had his civil rights restored by the appropriate authority;
4) Mental Capacity:	Has not been adjudicated mentally incompetent or, if so adjudicated, has had his competency restored; and
5) Registration:	Provides all the information required by law to be entered on the registration application.

9.1.1 Age Requirement

To qualify for voter registration, the applicant must be eighteen years of age or older by the date of the next general election.

If someone's eighteenth birthday falls on the date of the next general election that person is eligible for registration. If otherwise qualified, the 17-year old that will turn eighteen by the date of the next general election should be registered and permitted to vote in any intervening primary election for offices elected at the next general election.

A May election in a town or city is a general election. A person who lives in a locality (or district) that is holding a May general election, and whose birthday falls after that May election, may not be registered until after the books reopen following the May election. VERIS will not permit you to approve a registration until the person meets the age requirement.

9.1.2 Residency

To qualify for registration, a person must have both domicile and place of abode at the address for which he is registering. "Place of abode," means the physical location where someone lives and sleeps. A person can have several places of abode. However, a business address does not constitute a place of abode unless the person stays and sleeps there. "Domicile" means the place one considers his legal, primary residence. A person can have only one domicile. When a person declares a certain address to be his domicile, he is abandoning any previous domicile.

Determining a registrant's legitimate residence is often one of the more difficult challenges for a registrar. Homeless people, college students, military personnel, and people who live in different

locations in different seasons present unique challenges in this regard. In general, this determination is left up to the voter. However, in some cases the registrar must determine if the applicant has the right to register at the address he gives. The registrar must be careful – a decision to deny an application for registration at a certain address cannot be made based on who the applicant is, for example a college student. A denial may only be made because the information presented shows that the address given could not be both the domicile and place of abode of the applicant.

A person demonstrates in the conduct of life which of the available places of abode is the domicile. Section 24.2-101 offers some guidance to this complex issue in its definition of "domicile."

In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal are real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

Obviously, consideration of all these factors need not be made for every applicant, but only in those cases where the registrar or applicant needs guidance. The applicant's responses to the "considerations" above may not be consistent, but a pattern should emerge to indicate which place an applicant intends to call "home." The SBE has developed a questionnaire that may assist the applicant and general registrar to determine the most appropriate residence for registration purposes.

9.1.2.1 Persons Whose Domicile Straddles Two Political Subdivisions

Property boundaries seldom follow election district or locality boundaries. When an applicant's domicile and place of abode straddles two (or more) political entities, 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 determines domicile.

9.1.2.2 Homeless People

A person with no permanent address may choose to list any address that is an approximation of residence.

Examples of possibilities include:

- an address used within the last 60 days;
- a local church address;
- a shelter address; or
- an agency address.

9.1.2.3 College Students

In addition to the issues already discussed, in determining residency for college students, consider the following:

- 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. This may be the residence where his or her family lives, or the city or county and state where the school is located.

Consider the following questions to determine which to declare:

- Do the student's parents claim him or her as a dependent on their income tax return? If yes, then the parents' address is probably the student's legal residence.
- Does the student have a scholarship that would be effected if he or she changed legal residence? Some scholarships require that the student be a resident of a particular town, city, or state. The student should contact the provider of the scholarship to determine if a change in legal residence will affect the scholarship.
- Would the student's health, automobile, or other insurance coverage be effected by a change in legal residence? If covered under the parents' insurance policy, his or her protection could be effected by a change in legal residence.
- If the student is close to graduation, do they intend to live and work in the same community as the college after graduation? If so, then he or she may want to use the college address as legal residence if effected by the issues listed above.

9.1.2.4 People Living In Different Locations for Different Seasons

In addition to the issues already discussed, the residency status of persons who live elsewhere for a portion of the year (such as "snow birds" who spend the winter in Florida, or persons who live part of the year on a sailboat, for example) must be determined on a case-by-case basis. In determining residency for persons living in different locations in different parts of the year, consider the following issues:

- What address is listed when the person files his or her taxes?
- If the person owns a residence in Virginia, but resides elsewhere for part of the year, is the Virginia residence available for him or her for immediate occupation? I.e., is the Virginia residence rented out?
- Where is the person's car garaged for most of the year?
- Where are most of his or her personal possessions located?

9.1.2.5 Military Personnel

Persons serving in the military, and their spouses and dependents, fall into a special class concerning 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. This remains true even if the dwelling he declared his home of record and legal residence no longer exists!

A military member, under federal law, may claim a residence for tax purposes only. The military member may therefore be exempt from paying Virginia state and local taxes if they file a Certificate of Legal Residence form with the state or local government. The filing of such a form for tax purposes does not automatically mean the service member cannot claim Virginia as their legal residence for voter registration purposes. An opinion of the Attorney General (Op. Va. Atty Gen.: 06-048) stated that "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."

All relevant factors must be considered before accepting, denying, or canceling the voter registration of such a servicemember and action can only be taken after weighing all of the factor's that could indicate the persons' residence for voter registration purposes.

9.1.3 Felons

An applicant who has been convicted of a felony in Virginia has lost the right to vote and cannot register until his voting rights have been restored by the Governor of Virginia or other appropriate authority which includes a person's rights being restored by another state. In order to register, the applicant may provide the registrar the documents in which his/her voting rights were restored or the date his/her voting rights were restored by the Governor or other appropriate authority. If only the date of restoration is provided, the registrar shall verify the date with the Clemency Clerk of the Secretary of Commonwealth's Office

An opinion of the Attorney General (Op. Va. Att'y Gen.: 06-048) stated that a general registrar may request documentation to confirm the restoration of voting rights to a person previously convicted of a felony. Therefore, the registrar may request such documentation or may contact the SBE who will contact the Secretary of the Commonwealth to determine if an applicant's voting rights have been restored.

If a felony conviction occurred in another state, it is possible that voting rights were never lost, or that they have been restored automatically. Register the applicant only if that other state's laws either do not remove voting rights or restore rights automatically.

Sometimes, applicants are unsure of whether they have been convicted of felonies or misdemeanors, or whether their rights have been restored. The registrar may, as a matter of courtesy, work with the applicants, the SBE (SBE), or other state authorities in order to make these determinations. However, the responsibility for such determinations ultimately rests with the applicants. The applicant may be able to tell the registrar in which court he or she was convicted, what the specific conviction was for, or other pertinent information that can be utilized to determine if the conviction was for a felony.

If an applicant is not eligible to register, then the registrar should provide appropriate information to the applicant about the restoration-of-rights process.

9.1.3.1 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?"

If the juvenile's case was heard entirely in the Juvenile and Domestic Relations District Court, he/she could not have been convicted of a felony. The person may register to vote (if otherwise eligible), and should answer "no" to the felony question on the application.

If the juvenile's case was transferred to the Circuit Court ("adult court"), he/she was tried as an adult and may have been convicted of either a felony or a misdemeanor.

If a juvenile was transferred and tried as an adult, and convicted of a felony in the Circuit Court, he/she has lost his voting rights until those rights are restored by the Governor. (He/she should answer "yes" to the felony question on the voter registration application.)

Where the juvenile served his sentence (in a Department of Juvenile Justice facility as opposed to a Department of Corrections facility) does not necessarily indicate whether he/she was convicted 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.

9.1.4 Persons Adjudicated Incapacitated

The Constitution (Article II, Section 1) states, "no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished." Section 24.2-101 states, "no person adjudicated incapacitated shall be qualified to vote unless his capacity has been reestablished as provided by law."

Most, but not all, adjudications involve loss of voting rights. Some court orders specify that the finding of incapacity does not affect voting rights. If so, that will be clearly stated on the court order. If loss of voting rights is questionable even after reading the court order, you will need to consult your city or county attorney.

Only the court that made the original adjudication can remove that adjudication, i.e., restore the individual's voting rights.

Likewise, only the court may make the decision to take away a person's voting rights for mental incompetence. A person may be completely unaware of their surroundings, even comatose, but if the matter has not been to court, that person retains their voting rights. If another person attempts to "vote that person" - no matter how noble their aims may be ("I know how my mother would have wanted to vote") - by improperly completing an absentee ballot application for them, signing their name, or otherwise rendering improper assistance, the matter must be referred to the Commonwealth's Attorney in the locality in which the votes were cast or were attempted to be cast.

9.2 Methods of Registration

It is possible to apply for registration in several ways, but an applicant does not become registered until the application is reviewed and accepted by the Office of the general registrar. This is an important distinction. Applications taken by personnel at the Department of Motor Vehicles or other agencies are only applications; they don't become registrations until you accept them as complete and valid. Methods of applying for registration are:

9.2.1 In-Person before a Registrar

Review the application for completeness and legibility while the applicant is still present. Do not leave any spaces blank. Enter "none" or a dash in sections of the application that do not apply. Address eligibility issues with the applicant. There are no ID requirements for applications that are submitted in-person before a registrar or a State Designated Agency under NVRA.

9.2.1.1 In the Voter Registration Office

Residents of Virginia may complete an application for registration in person before any registrar at his office during scheduled and published hours.

The registrar, or the electoral board, may establish additional hours that his office will be open for registration beyond the normally scheduled hours. If additional hours are scheduled, they must be (1) submitted to the U.S. Department of Justice for pre-clearance if the locality still comes under Section 5 of the Voting Rights Act, and (2) advertised to the public.

On the final day of registration preceding an election, applications must be accepted until the office's scheduled closing time. At that time, make a list of all applicants in line and accept as timely applications from all those persons. (§ 24.2-414.)

9.2.1.2 Other Registration Sites

The general registrar or electoral board may establish additional registration sites to meet the registration needs of the locality. The site must be pre-cleared, if necessary, and appropriately advertised to the public.

The SBE encourages each general registrar to establish a time for registration in each local high school on at least an annual basis. High school registration should be held in the spring, when the majority of seniors meet age requirements. Before the high school visit, it is best to contact the government teachers and try to arrange to speak to the students. In the classroom, you can explain the registration and voting process and answer questions. Be sure to let them know that those who will be 18 by the next General Election may register in advance. You can also use this opportunity to educate them on the importance of informing the registrar when they change residences.

9.2.1.3 Pre-clearance

If your locality is covered under Section 5 of the Voting Rights Act, any additional registration site must be submitted for pre-clearance by the U.S. Department of Justice. If you plan to use the same site at the same time year after year, you should request blanket approval of the site so that you do not have to resubmit it each year.

The Department of Justice has 60 days to pre-clear any site after it has received the submission. If a site has been suggested or requested, but the appropriate date for the site comes before the Department of Justice has used up its 60-day clock, you may still wish to hold the site. If you are relatively certain that the Department of Justice will not pose any objection, then it is acceptable for you to submit the site, ask for expedited pre-clearance, and state in the submission that you will hold the site unless you hear otherwise. (See Chapter 24.)

9.2.1.4 Advertising Times and Sites

Any extended public hours in the registrar's office and any additional site must be advertised. There are several laws governing advertising of sites (§ 24.2-414):

- In January, the registrar must give notice of all scheduled dates, hours, and places of voter registration in his locality.

- Ten days before each final registration day, the registrar must give notice of all scheduled dates, hours, and places of voter registration on the final day.
- Both of the above notices must be posted at the courthouse and published in a newspaper of general circulation.
- Any additional sites not announced in the annual notice must be advertised at least three days in advance of holding the site. This may be a newspaper advertisement or an announcement that runs at least twice on a television station serving the locality.

9.2.2 Registration through Agencies

As part of the National Voter Registration Act (NVRA), certain public agencies must offer registration to all of their clients at their state, regional, or local offices. (§ 24.2-411.2.) 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. Agency personnel must provide clients with the same level of assistance, including bilingual services when necessary, in completing a voter registration form as they would for their own forms unless the applicant refuses such assistance.

Agency personnel do not consider issues of client eligibility to register to vote. Eligibility determination is the duty of the Office 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.

The SBE distributes display boxes, application forms, and other needed supplies to all appropriate agencies. Registrars should be prepared to supplement these when needed.

The following agencies have been designated as registration sites by the General Assembly in accordance with NVRA:

- Department of Motor Vehicles
- Department of Health
- Department of Social Services
- Department of Rehabilitative Services
- Department for the Deaf and Hard of Hearing
- Department of Mental Health, Mental Retardation & Substance Abuse Services
- Department for the Blind and Vision Impaired
- Virginia Office for Protection and Advocacy
- Virginia Employment Commission in Northern Virginia (Planning District 8)
- Regional offices of the Department of Game and Inland Fisheries
- Armed Forces Recruitment Offices
- Any other agencies (such as community services boards) whose primary function is to provide state-funded programs to persons with disabilities.

Agencies are required to forward applications within five business days of receipt. The agency can mail the applications to the SBE.

9.2.3 Registration at the Department Of Motor Vehicles

Any person who comes to an office of the Department of Motor Vehicles to apply for, replace, renew, or change an address on a driver's license or special identification card must be given the opportunity to apply for voter registration at the same time. (§ 24.2-411.1.) Although the law does not dictate the form of the voter registration application to be used at DMV offices, it does specify that the form cannot duplicate information required on the license part of the application and should require only the minimal amount of additional information necessary for a registrar to determine the applicant's eligibility to register to vote.

If an applicant does not sign the registration portion of the application, then by law the applicant is considered to have declined registration. All of these unsigned applications are forwarded to each applicable registrar's office to be maintained for 4 years as federal registration records. In addition, § 24.2-422 mandates that each registrar send a new application to any applicant whose application was unsigned. Therefore, each applicant with an unsigned application must be issued a denial notice and be sent a new application. (§§ 24.2-411.1 and 24.2-422.)

As with other agencies, the DMV must transmit the voter registration section of the form within five business days according to directions of the SBE. The SBE must then forward them to the appropriate registrar.

9.2.4 Mail Registrations

There are two ways of applying for registration by mail. One, as the name suggests, is by mailing an application to a voter registration office. (§ 24.2-416.) 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 as received through the mail.

The second way to apply for registration is to complete an application and give it to a third party (someone other than a deputized registrar or state-designated agency employee) to forward to a voter registration office.

Any person who registers by mail and has not previously voted in the locality for which he is registering must vote in person the first time he votes. (§ 24.2-416.1.) However, this does not apply to mail applications received from persons who are already registered in Virginia. This is because these applications are not considered to be registration applications, but transfer applications or updates of information such as name changes or address changes. These individuals are not required to vote in person, provided that they have voted at their previous Virginia address. VERIS will tell you whether the applicant must vote in person.

The following individuals who apply by mail registration are not required to vote in person even if they have never before voted in Virginia:

- Persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (this generally applies to armed forces personnel, their dependents, and persons temporarily residing overseas by virtue of employment;
- Elderly and handicapped voters who come under the Voting Accessibility for the Handicapped Act;

- Full-time students at institutions of higher learning;
- Voters voting only for the President and Vice-President. (42 U.S.C.S. § 1973aa-1, § 24.2-416.1.); and
- Any others entitled to do so by other federal law. (§ 24.2-416.1.)

If VERIS indicates a voter must "Vote in Person," the system will only allow you to process an absentee ballot to be mailed to the voter if the appropriate reason code is selected corresponding to the exceptions listed above. A voter who must vote in person may vote by absentee ballot only if they vote the absentee ballot in person.

Any person who registers to vote for the first time by mail after January 1, 2003, must present one of the following pieces of identification when registering or when appearing to vote for the first time:

- a current and valid photo identification,
- a copy of a current utility bill,
- a copy of a bank statement,
- a copy of a government check,
- a copy of a paycheck or
- other government document that shows the name and address of the voter.

The person may have included a copy of one of these ID's with their voter registration application. If so, the registrar must check the ID provided field when entering the registration into VERIS; this will remove an ID requirements from the system for the voter. If no document is provided with the registration application, VERIS is designed to tell you the person has a federal identification requirement by stating "Verify ID." (42 USCS § 15843 (b))

The following individuals who apply by mail registration are not required to show a HAVA ID the first time they vote, either in person or by returning an absentee ballot even if they have never before voted in Virginia:

- Persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (this generally applies to armed forces personnel, their dependents, and persons temporarily residing overseas by virtue of employment);
- Elderly and handicapped voters who come under the Voting Accessibility for the Handicapped Act;
- Voters voting only for the President and Vice-President. (42 U.S.C.S. § 1973aa-1, § 24.2-416.1.); and
- Any others entitled to do so by other federal law. (§ 24.2-416.1.)

If VERIS indicates a voter has a "Verify ID" requirement, it will generate a voter card with appropriate language on the notes section of the card, mark the pollbook accordingly and automatically generate the notice to be sent to such a voter who is voting by mail absentee ballot.

9.2.5 Third Party Registration Drives

Anyone can distribute and receive registration applications. The SBE is required to furnish a reasonable number of blank applications to any individual or group who requests them. (§ 24.2-

416.3.) Likewise, registrars should be prepared to furnish small quantities of applications to anyone who may request them. If a person or group requests a large number of applications, please refer them to the SBE. Individuals with blank applications can go door-to-door, can set up display boxes with applications at business or other establishments, can distribute applications to members of their organizations, or can otherwise distribute applications however they wish. When the local registrar or electoral board furnishes individuals or groups multiple copies of the voter registration application it must also provide the SBE "Guidelines for Conducting a Voter Drive." (§ 24.2-416.6.) It is a good idea to keep a log of the number, date, and receiver of blank applications distributed. Finally, individuals may download the Virginia application from the State website (www.sbe.state.va.us) and make copies for their own use and distribution.

It is highly recommended that registrars be prepared to offer brief training to individuals or groups preparing to distribute and receive applications. This training should focus on the importance of obtaining accurate and complete information on each application.

Third-party registration applications may be returned to the voter registration office in either of two ways. The third party may simply distribute the applications and put the responsibility on the applicants to mail their applications to the voter registration office or SBE. Alternatively, the third party may offer to return the completed applications to the voter registration office. In either case, the application must be treated as a mail application.

If the third party offers to return a completed and signed application, then he is required to do so and to do it in a timely manner. Failing to deliver a signed application within fifteen days or by the close of registration, whichever comes first, is a Class 1 misdemeanor. (§ 24.2-1002.01.)

9.3 Timeliness of Applications

Voter registration ends at the normal close of business on the twenty-ninth day preceding any primary or general election. It remains closed for the twenty-eight days preceding the election and on Election Day. 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 Election Day and the six days preceding it. For any other special election, registration must be closed for Election Day and the thirteen days preceding it. (§ 24.2-416.)

This does not mean that you cannot accept applications during this time, but only that you cannot approve the registration until registration reopens the day after the election. You may enter all of the information for each application received during the close of books in VERIS and select "Incomplete/Pending." This will save all of the data entry for each such application in order to approve the application after the election. Entering this information and selecting "Incomplete/Pending" will also automatically generate a notice to be mailed to such applicants to inform them that their applications will be reviewed after the election. You may also deny an application while the books are closed for all such applicants who have not met the qualifications to register or have submitted an incomplete application while the books are closed. Once you have denied the application in VERIS, the system will automatically generate a denial notice to be sent to all denied applicants. This gives the applicant additional time to get in a completed application for the next election (and time is particularly critical when the books will only be

reopened for only a few days - for example, between a May general election and the close of books for a June primary). Entering these applications in VERIS will also allow you to include these records in any searches you do on the system close to election day.

Special provisions apply in your determination of whether an application was made in a timely manner:

9.3.1 Applications Received in Person

Any application made in your office, at a special registration site, at the DMV, or at any state-designated agency must be made by 5:00 p.m. and no later on the final day of registration. At that time, make a list of all applicants in line, if any, at any of those sites, and accept as timely applications from all those persons. (§ 24.2-414.)

9.3.2 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, you must accept it as timely regardless of when it was actually received. If an application is received through the USPS and its postmark is missing, illegible, or has no date, you must accept it as timely if you receive it by the fifth day after the day registration closed.

If you receive a mail application by any other means – through another mail system such as UPS or Federal Express or through a third party – you must receive it by the day and time registration closes, regardless of when it was sent. (§ 24.2-416.4)

9.3.3 Exceptions to Normal Application Deadline

There are certain categories of citizens who may apply beyond the normal deadline for applications. Applicants who fall into any of these categories may register in person up to and including Election Day. (§ 24.2-420.1.) They are:

- Active duty members of the armed forces or merchant marines and their spouses and dependents residing with them, who are normally absent from the locality in which they reside;
- Active duty members of the armed forces or merchant marines and their spouses and dependents residing with them, who have been absent from the locality and return to reside there within the twenty-eight days prior to the election;
- Persons who were on active duty in the armed forces, and their spouses and dependents (whether or not residing with them), but were discharged during the sixty days preceding the election;
- Persons who reside temporarily outside the United States, and their spouses and dependents residing with them, who are normally absent from the locality in which they reside; and
- Persons who reside temporarily outside the United States and their spouses and dependents residing with them, who have been absent from the locality and return to reside there within twenty-eight days of election day.

There are also various categories of temporary registrants discussed in Chapter 12.

9.4 Applications

There are several different types of voter registration applications. The SBE must approve all types of applications for use. Where available, application forms may be downloaded from the Internet, printed, and used as if they were 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 five types of official application forms are:

- Commonwealth of Virginia Application;
- Older versions of the Virginia Application;
- Department of Motor Vehicles Application;
- National Application; and
- Federal Postcard Application.

9.4.1 Commonwealth of Virginia Application

These forms are to be used by mail, in-person, and agency applicants, and can be distributed by the general registrar throughout the locality in display boxes. The SBE may provide these boxes, or registrars may design and purchase their own display boxes. Placement of boxes must be precleared.

The version of this application currently in use is labeled VA-NVRA-1 Rev 9/05. It is an 8"X10" form that is perforated twice (2) dividing the form roughly into thirds. When properly completed, the front bottom third contains all the information necessary to process the application, and to note if the applicant is interested in working as an officer of election. The back bottom third contains additional address information as well as spaces for registrars to update the applicant's address or name and to note the reason for cancellation of the registration. The front middle third provides space for the applicant to note his last place of registration. The back top third and second page of the application serves as the address panel listing local voter registration offices' mailing address for applications that will be mailed. In some versions of this form, this panel is preaddressed to the SBE. In other versions, room is provided for entering the address of the registrar to whom it is being sent.

This application usually comes as part of a booklet containing addresses of all registrars in Virginia and instructions on completing the form. The application is also available for downloading from the SBE website. This form cannot be emailed or faxed to registrars or the SBE (unless being used only as a change of address for someone already registered). It must be downloaded, printed, and mailed because an original signature of the applicant must be on the application. Photocopies of this application are acceptable as long as the signature is original.

To reorder this form, fax the SBE. Please allow 30 days for a response.

9.4.2 Older Versions of the Virginia Application

There are various versions of the VA-NVRA-1 form still in circulation. In addition, there remain previous versions of a 5'X11" form (with a 3"X5" perforated tear-off portion on the left side) that was in use immediately before and after the advent of NVRA in 1996. Unless instructed otherwise by the SBE, registrars may still use these older applications. However, note that some

of these older applications ask the applicant for information that is no longer required by law. If using these older forms, registrars should not deny an application simply because the applicant did not provide information no longer required.

9.4.3 Department of Motor Vehicles Application

The Department of Motor Vehicles has several different types of voter applications that, when completed, are sent to the SBE for distribution. They have an existing red and white application (DL1M), VA-NVRA-1, DL1W, and now the Print on Demand voter application.

The DL1M has been used for many years and has been updated throughout the years to include the HAVA requirements along with the Threatened/Stalked language.

The VA-NVRA-1 is the voter application that is printed by DMV and mailed out with the DMV Driver's License renewal application. This application contains a bar code and is scanned at SBE for accountability and mailed to the localities. Scanned applications of this type will appear as records in the DMV Hopper in VERIS. Once you receive the paper application in the mail you will retrieve the record from the Hopper and complete processing (e.g., approve, deny, or save as incomplete).

The DL1W is the voter application that is printed at DMV and is generally mailed to the customer when requested while doing some form of DMV driver transaction over the internet. This application also contains a bar code and is scanned at SBE for accountability and mailed to the localities. Scanned applications of this type will appear as records in the DMV Hopper in VERIS. Once you receive the paper application in the mail you will retrieve the record from the Hopper and complete processing (e.g., approve, deny, or save as incomplete).

The Print on Demand voter application is the newest application that takes the place of the two part DMV application. The top portion was the voter application and the bottom portion was the driver's license part. Now, DMV has their own application for driver transactions and Identification Cards. When a customer goes into a DMV, they are asked about voter registration at the counter. If the customer answers "YES" to voter registration, a Print on Demand voter application is printed immediately with pre-printed customer information. The customer needs to make sure the application is fully completed and signed. The DMV teller will give the customer a DMV acknowledgment form that states, "you have applied to register to vote….." If the customer answers "NO" to voter registration, no voter application printed or given to the customer. This application also contains a bar code and is scanned at SBE for accountability and mailed to the localities. Scanned applications of this type will appear as records in the DMV Hopper in VERIS. Once you receive the paper application in the mail you will retrieve the record from the Hopper and complete processing (e.g., approve, deny, or save as incomplete). In addition, the DMV creates an audit log to indicate whether the applicant answered "YES" or "NO" when asked about voter registration. This audit log can be used to determine that an applicant completed a voter registration application and can be used to determine the status of a provisional ballot as detailed in Chapter 29.

> There are several different types of voter applications printed and used by DMV but they all contain the same information and look virtually identical in format.

These forms can only serve to register a person when the applicant signs the registration oath. Unsigned applications are considered declinations and are sent to the registrar to issue a denial letter. Any application for which the applicant actually wrote "Declined" on the application does not need to be issued a denial notice. All unsigned applications without a "Declined" notation from the applicant must be issued a denial letter and sent a new blank application (unless the applicant is not eligible for registration such as a convicted felon, declared mentally incompetent, etc.) to ensure that the applicant has the opportunity to complete the registration process

9.4.4 National Application

The National application is the mail registration form designed by the Election Assistance Commission (EAC). It is the form commonly used by groups holding voter registration drives at places where applicants are likely to be from more than one state.

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.

The application is also available for downloading from the Internet but cannot be emailed or faxed to registrars or the SBE (unless it is only serving as a change of address). It must be downloaded, printed, and mailed because the original signature of the applicant must be on the application.

The National form and instructional booklet is available in Spanish from the EAC. The EAC also has information about voter registration available in Spanish on their website.

Armed Forces recruitment offices use a variant of the National form. It is printed in red and is labeled "DD 2644" in the corner.

9.4.5 Federal Post Card Application

Overseas citizens and members of the armed forces use this application – commonly called the "FPCA" or "SF-76." It is available in any U.S. embassy or military installation throughout the world.

This application is on a 10"X 8" card printed in red and perforated in the middle. There are various older versions of the card still in existence. These are all still acceptable.

FPCA forms serve as applications both for voter registration and for absentee ballots. Photocopy any form that will be used for both purposes. The original form is the registration application, and the photocopy is the application for absentee ballots.

The application is valid as a voter registration application or absentee ballot application or both.

The application is also available for downloading from the Internet at: http://www.fvap.gov/pubs/onlinefpca.pdf. Unlike the other application forms, the FPCA can be sent by fax to registrars or the SBE, for all purposes. However, the fax must be followed by the original FPCA for the voter registration application to be valid. Please see Chapter 12 for more information about temporary registration.

9.4.6 Application Origin Codes

You will be receiving voter registration applications from several sources. Codes to be used for identifying these sources in VERIS are as follows:

Code	Application Source
A	Public Assistance Agencies
C	Disability Agencies
D	Discretionary Agencies
F	Federal Form (FPCA or SF-76)
I	Voter Card
M	Military Recruiting
N	National Form
P	In-Person Before A Registrar
S	State Mail In
O	Other Document/Information
R	Confirmation Notice
R	Confirmation Transfer
V	Department of Motor Vehicles

9.5 Procedures upon Receipt of Voter Registration Applications

9.5.1 Determine Which Applications Belong To Other Localities

Registrars will likely receive some applications that are not for their locality. The registrar must decide to what locality these applications belong and forward them to the appropriate voter registration office. (§ 24.2-114.) If the registrar cannot decide with certainty the correct locality, call the registrar in the locality where the application may belong and verify that it is the right locality.

ⓘ It is not up to the original registrar to determine if such applications are complete and acceptable. Only the registrar in the locality for which an applicant is applying for registration can make that determination.

Send the original application to the correct locality by first class mail within 24 hours of receipt. You must indicate to the receiving locality the origin of the application. You have two options for doing this: (1) include a cover sheet (similar to that used by the SBE) for each group of applications indicating the origin of the applications or (2) attach a note to each application indicating its origin.

If you are concerned about mail delivery, you may wish to photocopy applications received in your office that you are forwarding to other offices. Some registration offices have an in-house

policy of photocopying only those applications that originate in their office, i.e. mail and in-person applications, before forwarding them to the appropriate locality. Establishing any such policy is your option.

9.5.1.1 Forwarding Applications near the Registration Deadline

Applications received during the final two days before the close of registration that belong to another locality – and those received after the close of registration but that appear to be timely – should be transmitted by using one of the following methods:

- Send via Express Mail or Federal Express or other overnight service for guaranteed next day delivery (or Monday delivery, if sent on Friday). Make a photocopy of each before you send them.
- Arrange to deliver the applications in person.
- Contact the receiving registrar and arrange to fax copies of the applications, followed by mailing the hard copy of the applications.

9.5.1.2 Ensuring Receipt

The purpose of making photocopies of any applications forwarded by mail is to ensure that you have a record of the application in case it becomes lost in delivery. On a regular basis, check the Social Security numbers on these applications by searching for the SSN in the Voter ID field of the "Voter Search" page of VERIS to determine if the receiving registrar has processed the applications. In this case, you may want to search Active, Incomplete and Rejected statuses. If a reasonable period of time has passed and VERIS indicates no record of action by the receiving registrar, call the registrar to determine if the application has been received.

9.5.2 Determine Application Completeness

It is the responsibility of the registrar of the applicant's residence to determine whether all required information has been entered on the application. A completed application is required in order to register a new applicant for voter registration. A 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.

You will receive many applications that do not contain all of the information requested. As registrar, you have the legal right to deny any application from a <u>new</u> applicant (a person who is not already registered) that is incomplete when received. In order to protect the rights of registrars and voters alike, unless excepted below, no registrar may alter any information on the face of the Virginia Voter Registration Application. However, registrars should strive to have exemplary customer service while upholding the laws and regulations. Therefore, where practical, registrars may and should contact the applicant in order to obtain <u>some</u> information that is requested by the form.

In order to provide exemplary customer service, and because the following information is neither a material determination of the qualification of a voter nor required by the Code of Virginia, a registrar shall not deny an application for the failure of an applicant to provide any of the following information:

- their daytime telephone number;
- a description of their rural address;

- their mailing address if different than residence;
- the date of their application;
- whether the applicant is interested in working as an election official;
- whether the applicant is active or retired law enforcement, have been granted a protective court order, or are in fear of their personal safety from someone who has threatened or stalked them and have filed a complaint against that person with a magistrate or law enforcement; or
- whether the applicant has a disability that requires accommodation in order to vote.

If any of the above information is missing, a registrar shall, as far as practical, attempt to contact the applicant and obtain the missing information. If a registrar obtains any missing information, they shall write the information, their name, and date on the reverse side of the form to indicate that the alteration was made by the general registrar.

In order to provide exemplary customer service and because the following information is not a material determination of the qualification of a voter, a registrar shall not deny an application for failure of an applicant to provide their gender.

In the case of an applicant who does not include their middle name, in order to provide exemplary customer service and because the following information is required by the Code of Virginia and may be a material determination of the qualification of a voter, a registrar shall:

- As far as practical, attempt to contact the applicant and obtain their middle name or lack thereof in order to determine if the application is complete.
- If the applicant indicates that they have no middle name, the registrar shall process the application.
- 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, they are therefore unable to determine if the application is incomplete, they shall give the benefit of doubt to the applicant and process the application.

9.5.2.1 How to Process Incomplete Applications

Incomplete applications must be processed in VERIS to update a currently registered voter's record if the application is signed, deny a new or currently registered voter's application because required information is missing, or enter an application as incomplete/pending while you attempt to contact the applicant to gather the missing information.

You may determine that an applicant is currently registered in two ways when processing an incomplete application in VERIS:

1) You can search for the applicant on the "Voter Search" page by a number of criteria including the voter's name, SSN, or portion thereof.

If the voter is currently registered, the application must be accepted and you must update the voter's registration if it is signed. If the application contains new information, then the

application must be accepted and used to update the voter's registration. If the application contains no new application, it should still be accepted which will show as a duplicate or reregistration 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 mental incompetence without a restoration of rights, then the application must be denied and the voter's registration cancelled.

If the applicant is not currently registered in Virginia, you may not "Approve" the registration until complete information is received. You may save the application as "Incomplete/Pending" in order to contact the applicant and retrieve the missing information if you feel this information may be taken over the phone or retrieved; otherwise, you may "Deny" the application. When denying such an application, you must select that the reason for denial is "Incomplete" and then check the appropriate boxes to indicate what information was missing. This will automatically generate a denial notice, listing the specific items that were incomplete, to be sent to the applicant. If the application is unsigned, the new application must be denied regardless of whether the applicant was currently registered. A new application must be sent with the denial notice if the applicant was eligible for registration, i.e. not convicted of a felony.

2) Alternatively, you may begin at the "Add Voters" page of VERIS and enter the information that is present on the application. Once you "Process" the application, the system will search for duplicate registrations and locate any potential duplicates.

If you determine that a potential duplicate matches the voter on the application, you must update the registration of the voter with an incomplete application if the application is signed. If the application contains new information, then the application must be accepted and used to update the voter's registration. If the application contains no new application, 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 mental incompetence without a restoration of rights, then the application must be denied and the voter's registration cancelled.

If the applicant is not currently registered in Virginia, you may not "Approve" the registration until complete information is received. You may save the application as "Incomplete/Pending" in order to contact the applicant in order to retrieve the missing information if you feel this information may be taken over the phone or you may "Deny" the application. When denying such an application, you must select that the reason for denial is "Incomplete" and then check the appropriate boxes to indicate what information was missing. This will automatically generate a denial notice listing the specific items that were incomplete to be sent to the applicant. If the application is unsigned, the new application must be denied regardless of whether the applicant was currently registered. A new application must be sent with the denial notice if the applicant was eligible for registration, i.e. not convicted of a felony.

9.5.3 Information That Is Requested on the Voter Registration Form for New Voters

Article II, § 2 of the Constitution of Virginia requires applicants to provide the following information:

- Full name
- Date of birth
- Social Security number (if any)
- Residence address
- Whether the applicant is a U.S. citizen
- Other information as required by law

Section 24.2-418 requires the following additional information:

- Gender
- Place of last previous registration to vote
- Whether the applicant has ever been adjudicated incapacitated or convicted of a felony, and if so, under what circumstances the applicant's right to vote was restored.

9.5.3.1 Cancellation of Current Registration

In this section, the applicant must indicate whether or not he is currently registered to vote at another address.

If the applicant indicates a place of previous registration in Virginia, you can overlook this information and, if you are using the standard Virginia registration form, you may now discard the top half of the application. You do not need to inform the registrar in the applicant's former locality that the applicant now lives in your locality because VERIS automatically deletes the applicant in the old locality and informs the registrar there of the deletion.

This section does not need to be completed for a person who is already registered in Virginia as any registered voter need only to inform any general registrar with a written, signed notice of an address change in order to transfer to another locality or update an address.

If the applicant indicates a place of previous registration, follow the instructions below for processing an out-of-state cancellation.

9.5.3.2 U.S. Citizenship/18 years old

On the current Virginia Voter Registration Application, as required by HAVA, box #2 asks, "Are you a U.S. citizen?" If the applicant answers "no" but completes the rest of the application and signs it, you must deny the application by selecting the "Deny" button in VERIS and selecting or entering the reason for the denial. This will automatically generate a notice of denial to be sent to the applicant. If the applicant does not answer the question but completes the rest of the application and signs it, you should mark the application as "Incomplete/Pending" in VERIS and contact the applicant (by telephone or letter) in order to determine citizenship. An applicant asserts their U.S. citizenship by signing the registration statement, but experience has shown that many applicants sign the form without reading or understanding the registration statement.

Also contained in this section the applicant is asked "Will you be 18 years of age on or before election day." If the applicant does not answer this question you may always determine if the applicant is or will be 18 years old by the date of the election by reviewing the date of birth located in box 5 of the application. If the date of birth is not completed then you may attempt to contact the applicant by phone or letter to obtain the information. If you are able to retrieve the citizenship information or determine the applicant's age, you may retrieve the incomplete

application in VERIS and enter "Approve" to register the otherwise qualified voter. If you are unable to contact the applicant you must deny the application by selection the "Deny" button in VERIS and selecting or entering the reason for denial. This will automatically generate a notice of denial to be sent to the applicant.

9.5.3.3 Social Security Number

The Social Security Number (SSN) is used in order to track, search, and identify an individual in VERIS. SSNs are not guaranteed to be unique and the Social Security Administration has advised that individuals may share the same valid SSN. VERIS, in order to comply with the requirements of HAVA, will accept the SSN for internal tracking and searching purposes, but will assign a truly unique identifier or Voter ID to each voter registered in the system. This will ensure the protection of each individual's vote and the principle of one man - one vote.

It is extremely rare for a U.S. citizen not to have a SSN. If the applicant not currently on VERIS and has written "none" in the space for the SSN, then you should accept the application, leave the SSN field blank when entering the information in VERIS, and check the "Applicant has not been issued SSN" checkbox after processing the application in order to "Approve" the application and register the otherwise qualified voter. VERIS will generate a unique "Voter ID." If the space for the SSN is left blank, and the applicant is not currently on VERIS, you should deny the application by selecting first the "Deny" button, then selecting the reason for denial as "Incomplete" and checking that box indicating that the SSN is missing. This will automatically generate a notice of denial to be issued 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 you should accept the application and VERIS will generate a unique "Voter ID."

<u>Applicant who Refuses to Provide Social Security Number</u>
Sometime during the course of the year, the general registrar or assistant registrar is invariably confronted by an applicant who refuses to provide his or her SSN in order to register to vote. The applicant might even suggest that it is against federal and/or state law to require disclosure of an individual's SSN.

In fact, the Privacy Act of 1974, (5 U.S.C. 552), requires that such an applicant be informed as to the legal basis for this requirement. He or she must be provided with the following statement:

> "The Constitution of Virginia, Article II, Section 2, effective July 1, 1971, and Section 24.1-22 of the Code of Virginia, as amended to December 1, 1970, requires any applicant for voter registration to provide under oath on the form of the application to register to vote, among other information, his social security number, if any. Therefore, state law makes it mandatory for such an applicant to provide his social security number, if he has one, at the time he applies for registration. The Federal Privacy Act of 1974 permits any federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, which required the disclosure of a social security number to continue to require such disclosure if it was required under statute or regulation adopted prior to that date to verify the identity of an individual."

Remember, our goal is to assist people with voter registration. If this explanation is given in a pleasant and courteous manner, more than likely the applicant will respond positively and provide his or her social security number.

ⓘ The SSN is only required for the voter's original registration. It is not required for a transfer, a change of name/address, or an absentee ballot application. The official forms for those transactions have a space for the SSN because it makes them easier to process. Most voters will provide the number if asked. But, the request from the voter who has left off or refused to provide his SSN for those purposes must still be processed and handled like any other request. It cannot be turned down because it does not have the social security number.

9.5.3.4 Gender

In VERIS, you may enter an applicant's gender as male, female, or unknown. If an applicant has not answered this question, make your best determination based on the first name of the applicant. If you cannot make that determination, you may wish to contact the applicant. If you cannot determine or reach the applicant, you may select "unknown" in order to approve the application and register the otherwise qualified voter.

9.5.3.5 Date of Birth

An applicant must be at least 18 years on or before the day of the next general election. VERIS will automatically alert you if an applicant is not 18 before this date and, if so, you must "Deny" the application. The system will automatically generate a notice of denial stating this reason.

9.5.3.6 Full Legal Name

Many applicants enter their middle initial instead of middle name. For some applicants, the initial is their middle name. Some applicants have no middle name. In order to determine if the applicant has a more complete middle name than appears on the application, you may perform a "Voter Search" first or after entering information on the "Add Voters" page and hitting "Process," the system will search for duplicates. If you determine the applicant is already registered with a middle name, you must simply update that registration. You may also check the DMV screens to see if the applicant has a more complete middle name on file at the DMV. Alternatively, you may try to contact the applicant. If you are able to get a more complete name, you should use it when entering the applicant in the VERIS. If you cannot get a more complete name, then you should accept it as printed on the application.

9.5.3.7 Residence/Home Address

Here, the applicant must supply his house number and street name, or his rural route and box number. A post office box can never be accepted as a home address, nor can the address of a mailing service or a business office (unless the applicant lives in the office).

<u>Rural Applicants</u>
If an applicant lives in a rural area and receives mail at a post office box, he may not have a rural route and box number. In this case, he should enter the number of the highway on which he lives. Any applicant who does not have a house number/street name should, in the space provided, enter enough description of the location of his home to enable the registrar to determine his precise location.

Mailing Address

Any applicant who gives a residence address that does not also serve as a mailing address should supply a mailing address in "Mailing Address" space. While the Code does not specifically require this information, it is needed so that the registrar may send a voter card and other legally required mailings to the applicant. The address of a mailing service is acceptable here.

ⓘ PO 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) or when the applicant is a protected voter (see next section). This address does not have to be in the locality in which the applicant lives.

9.5.3.8 City or County of Residence

The applicant should check either "City" or "County" and write the name of the locality where he is registering to vote. A registrar should not deny an application for the failure of an applicant to provide this information as the box merely serves as an administrative convenience and is not a material determination of the applicant's qualification to vote.

9.5.3.9 Conviction of Felony – Restoration of Rights

This section of the application asks the applicant three questions:

- Have you ever been convicted of a felony?
- If yes, have your voting rights been restored?
- If yes, when restored?

If the applicant answers "yes" to the first question but does not answer the other two, the application must be denied by selecting the "Deny" button and then selecting the appropriate reason for denial. This will automatically generate the notice of denial to be sent to the applicant. If the applicant answers "yes" to the first two questions but does not provide a date of restoration, the application may be denied or may be put on hold until you are able to get further information from the applicant. You may enter the information into VERIS and select "Incomplete/Pending" while you retrieve additional information, which may allow you to then approve the application. If you deny the application, you must select "Deny" and then the appropriate denial reason to generate the denial notice to be sent to the voter. If all three questions are answered, see felons, above.

9.5.3.10 Circuit Court Judgment of Incapacity

Similar to the felony question, this section of the application asks the applicant three questions:

- Have you ever been judged to be incapacitated?
- If yes, has court restored you to capacity?
- If yes, when restored?

If the applicant answers "yes" to the first question but does not answer the other two, the application must be denied by selecting the "Deny" button and then selecting the appropriate reason for denial. This will automatically generate the notice of denial to be sent to the applicant. If the applicant answers "yes" to the first two questions but does not provide a date of restoration, the application may be denied or may be put on hold until you are able to get further information from the applicant. You may enter the information into VERIS and select "Incomplete/Pending" while you retrieve additional information which may allow you to then approve the application. If you deny the application, you must select "Deny" and then the appropriate denial reason to generate the denial notice to be sent to the voter. If all three questions are answered, see Persons Adjudicated Incapacitated, above.

9.5.3.11 Signature and Date

The applicant must sign the application in the box provided. By signing, the applicant is affirming the following registration statement: "I swear/affirm, under felony penalty for making willfully false material statements, that I am a U.S. citizen and a resident of Virginia; the information I have provided on this form is true, I authorize the cancellation (entered in Box 1 above) of my current registration, and I have read the Privacy Act Notice above." Failing to enter a date does not invalidate the application. Failing to sign it does – and it must be denied. However, if the applicant is unable to sign due to a disability, he may make a mark. If the applicant cannot sign the application, then the name and address of the person assisting the applicant in completing the form should be entered below the signature line.

Determine the Date of Registration

When accepting an application for registration, you must enter the date of acceptance on the application form as follows:

- If using the standard Virginia application form: Enter the date of registration in the space provided in the bottom left of the application form. You may also wish to enter the precinct name or number and the town code, if any. However, this is optional.
- If you are using another type of registration form (such as the FPCA or National form): write the date of registration anywhere you can find space on the form.

The registration date in VERIS will automatically default to the date of data entry but may be changed if necessary. In general, this should be the date that you accepted the application and deemed it complete. However, the Code of Virginia provides three exceptions to this rule (§24.2-415.1 and 416.4):

- 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.
- Any timely dated, timely postmarked and valid application received by mail after the close of registration (except for late military an overseas applications) should show the last day of registration as the registration date. An approved late military or overseas application must be entered and the date of registration will default to the date of entry, regardless of the close of books.

9.5.3.12 Information That Is Requested But Not Required:

The following are information that is requested on a voter registration form but are not required information.

Daytime Telephone Number

An applicant is not required to provide this information. However, it is very helpful in case you need to contact the applicant.

Interest in working as an Election Official

If the applicant checks the box at the bottom of the form – expressing interest in working as an election official, you should enter this information into VERIS by checking the "Poll Worker Interest" box when adding the voter to the system. If you to store all interested poll workers in the system, you will be able to locate them quickly later.

Active or Retired Law Enforcement Officers, Persons Under Protective Court Orders, or Threatened or Stalked

Applicants in any of these categories can, by law, have their residence address suppressed on the poll book, registered voter list, the list of those who have voted, and any other registration records available for public inspection. (§§24.2-405, 24.2-406 and 24.2-418) If an applicant has checked one or more of the three boxes on the application form that refer to this ("Active/Ret Law Enforcement", "Protective Court Order" or "Threatened/Stalked") and has supplied a P.O. Box address anywhere in the Commonwealth, then you must indicate this on the "Add Registration" page of VERIS by checking the appropriate box for the applicable category of protected voter. If any box was checked but no P.O. Box address was supplied, you should contact the applicant, explain this provision of the law, and give the applicant the opportunity to provide the needed information. VERIS requires that you enter a P.O. Box in the mailing address field in order to process and approve an application once you have checked that the voter is a protected voter.

The SBE has determined that a spouse and dependents that reside at the same address as a law enforcement officer may also have their residence address suppressed as indicated above. In order to do this, the law enforcement officer must complete a "Household Voter Registration Data" form, SBE 418A.

9.5.3.13 Disability that Requires Accommodation

If this checkbox is checked on the application, the appropriate checkbox on VERIS should be checked to indicate the voter has a disability which requires an accommodation to vote. This will exempt the voter from HAVA ID and Virginia Vote In Person requirements.

9.6 Processing a Valid Voter Registration Application in VERIS

9.6.1 Enter the applicant on VERIS:

If you are processing just one or two applications (i.e., not a stack of applications), start with a "Voter Search." If the voter exists, select that voter and then select "New/Update" from the navigation tree to update the voter's record. If the voter does not exist, select the "Add One" voter to add just the one voter at a time.

If you are processing applications in a batch (i.e., a stack of applications), select "Add Voters" from the navigation tree and add voters in batch mode. Enter all information from the application in the applicable fields on the "Add Registration Screen." You must select the "Process" button before you will be able to approve the application. Processing allows the system to check for felony, incapacitated, death, and duplicate matches and checks as well as attempting to match records with DMV records for mail in applications in order to remove the HAVA ID requirement. Once you are satisfied the voter does not match any of these prohibited or duplicate records, you may select the "Approve" button, which will register the voter, which will generate a voter card.

You may destroy any cover sheet sent to you after entry.

9.6.2 E&V Report

Upon receipt the next day of your Errors and Valid Transactions (E&V) Report, verify the accuracy of the information entered into the VERIS. If the information is correct, file the application in the "Current Registrants" section of your file system. If any of the information is incorrect, you must:

- Correct the incorrect information using the VERIS "Correction" screen after searching for and selecting the appropriate voter. Correct all necessary information, process the application, and then approve the applicant; and
- If you have already printed the voter cards, find the previously generated voter card for the applicant and destroy it.

9.6.3 Correspondence

Once an application is approved, VERIS will automatically generate voter cards and any other information necessary to issue to the voter. This can be printed off in batch mode or one at a time. You should wait until you verify the accuracy of your data entry before printing voter cards. Should you need to remove a card due to an error, you may do so before it prints (i.e., remove the page from the print job). In addition, if you make a correction you can add the revised voter card to the batch print so that only correct voter cards will print in that batch.

9.7 Processing an Out-of-State Cancellation

If the applicant has indicated a place of previous registration in another state, you must notify the election authorities in that state that the individual is now registered in Virginia. (§ 24.2-114) There are several ways you may do this:

(If using the standard Virginia application) Send the upper half of the registration application (containing Box 1) to the election authority in the state or locality in which the applicant was previously registered. The addresses of all state election authorities may be found in the instructions for the Federal Voter Registration Application. It should be accompanied by a short form letter stating that the individual is now registered in your locality in Virginia.

(If using other types of application forms) Photocopy the application, with all but the last four of the social security number hidden. Be sure to include the part where the individual's previous registration address is listed and send it, along with a short form letter, to the appropriate election authority.

You may wish to create a computer program that will produce letters, addressed to the appropriate election authorities, which include the names of the affected individuals and their previous addresses. This method is particularly time and cost-effective in larger localities with numerous out-of-state cancellations to process.

Regardless of the method used, it is important that the appropriate election authorities be notified in a timely manner. These authorities must receive your notification before their next election.

9.8 Denying a Registration Application

There are several reasons for denying an application:

- The applicant has provided incomplete information on the application.
- The applicant has provided information that indicates he is not qualified to register (e.g. too young, convicted felon, or not a citizen).
- The applicant did not sign the application.
- You have reason to believe that the applicant has not yet moved to the address given. You cannot accept a registration application until the applicant has actually taken residence at the address given.
- You have reason to believe that the applicant no longer lives at the address given.

Follow these procedures to deny an application:

9.8.1 Mark Application

If using the standard Virginia application, enter the date you are denying it and the reason for the denial in the space provided at the bottom of the application. The space is small, so you may need to write a fuller description on the back of the form. If using other application forms write the date and reason wherever you can find room on the form.

9.8.2 Enter application into VERIS

Enter the application into VERIS by either first completing a "Voter Search" or by going straight to the "Add Voters" page as mentioned above.

Select the "Deny" button and the appropriate reason for denial on the drop down box and enter any other comments as needed. If the denial reason selected is "Incomplete", you must check the appropriate boxes to indicate what was missing.

The system will automatically generate a denial notices listing the reason for denial you selected and will insert any other comments you provided. You may print these letters individually or in batch mode. You must select batch reporting and then select the appropriate Voter Registration Acknowledgment report and print all letters or select individual letters to print.

By entering all denied applications and entering the Application Origin Code, you do not have 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 you to be able to search for all denied applications.

9.8.3 Copy and File

Make a photocopy of your letter of denial and mail the original to the applicant.

ⓘ If the applicant was denied due to incomplete information, include a new application form with your mailing. If the applicant was denied due to a felony conviction, include an information sheet from the Secretary of the Commonwealth that describes procedures for applying for restoration of voting rights.

File the denied application in the "Deleted and Denied" section of your applicants' file. (You may wish to keep two sections – one for deleted registrants and one for denied applications.)

File the copy of the denial letter in a folder or binder marked "Denial Letters." One file should be kept for each calendar year. You must maintain all such material for four years.

9.9 Exhibits

9.9.1 Exhibit A: Voter Residency Questionnaire

General Requirements and Instructions

Under the Virginia Constitution, a prospective voter must be a resident of the precinct where he seeks to register. In order to establish a residency, a prospective voter must show that (1) he has an actual physical place of abode in the precinct, and (2) he is domiciled there.

To establish a domicile, a person must live in a particular locality with the intent to remain there for an unlimited time. Sachs v. Horan, 252 Va. 247 (1996). Thus, no person can have more than one domicile or vote in more than one locality at the same time. Where a person establishes his domicile may result in consequences unrelated to voting, such as jury duty. The burden of proving domicile rests with the person asserting it. Each person must, however, have some place that they can vote, if they wish to be able to vote. Even the homeless may register by using the site where they lay their head at night.

Registrars in Virginia bear the responsibility of determining the residence of prospective voters. Under Virginia Code §24.2-101, registrars may give consideration to at least the following factors in determining domicile:

- A person's expressed intent, AND
- A person's conduct and all attendant circumstances, including, but not limited to:
  - financial independence
  - business pursuits
  - employment
  - income sources
  - residence for income tax purposes
  - marital status and children
  - residence of parents
  - leaseholds and ownership of real property
  - sites of automobiles (and other personal property) for registration and personal property taxation purposes.

Voter registration for college students can be particularly challenging, as they may live in one locality for most of the year, yet consider the other home. Other students do not intend to return to their parents' home, and while the 9-month dormitory is temporary, there may be no other, more permanent home from which they should appropriately be registered.

If a registrar has reason to question whether a person actually resides in the precinct where he seeks to vote, she should make reasonable inquiries to help her make an accurate determination. No single factor or response should be dispositive of the determination of domicile. On the contrary, each prospective voter should be evaluated on a case-by-case basis, weighing all of the relevant circumstances. The following questionnaire provides a sample of the types of questions that are relevant.

1a. Address Considered Primary Place Of Abode:

_____

_____

_____

b. Length of time applicant has lived at this address :
_____ Months _____ Years

c. Length of time applicant intends to continue living at this address :

_____

2a. (CIRCLE ONE) Former Other Current address :

_____

_____

_____

b. Length of time applicant has lived at this address :
_____ Months _____ Years

c. Length of time applicant intends to continue living at this address :

_____

3a. Is applicant on active duty in the U.S. Armed Forces ?
_____ Yes _____ No

b. If yes, does applicant intend to make (GR LOCALITY) his home of record?
_____ Yes _____ No

4a. Is applicant currently enrolled in an institution of higher learning?
_____ Yes _____ No

b. If yes, does applicant intend to continue living in (GR LOCALITY), return to parent's home, or move elsewhere upon graduation?
_____ GR Locality _____ Parent's Home
_____ Elsewhere _____ Uncertain

c. If yes, is applicant paying out-of-state tuition?
_____ Yes _____ No

5a. Is applicant claimed as a dependent on any individual's income tax return?
_____ Yes _____ No

b. If yes, name and address of taxpayer(s) :

_____
_____
_____
_____

c. If applicant files own income tax return, what address is shown on the return (if different from 1a.)

_____
_____
_____

6a. Name and address of current employer, if any :

_____
_____
_____
_____

b. If employed, does applicant work :
_____ Full-time _____ Part-time

7a. Does applicant own or lease place of abode in (GR LOCALITY)?
_____ Own _____ Lease

b. Does applicant own or lease any other home in another locality?
_____ Yes _____ No

c. If yes, address of other home :

_____
_____
_____

8. For applicant's primary motor vehicle, state :

Locality and state in which vehicle is registered :

_____

Name of person in whose name the vehicle is registered :

_____

Locality in which personal property taxes are assessed/paid :

_____

9. Address shown on applicant's driver's license :

_____

_____

_____

10. Is applicant already registered to vote elsewhere? If so, where :

_____

11. An other information which the applicant or registrar considers relevant, such as where involved in community activities, for example :

_____

_____

_____

_____

_____

_____

10 Candidate and Referenda Processing

Individuals seeking candidate information and forms must be referred to the SBE's web site: www.sbe.virginia.gov. SBE posts updated bulletins and forms to that site as soon as they become available. Candidate packets may be purchased from SBE for a $10.00 prepaid fee. Checks made payable to the SBE should be sent to SBE, along with the purchaser's name, address, office and, if applicable, district sought. Packets are processed upon receipt of the payment.

If the individual has questions that you cannot address and he is outside the Richmond calling area, please provide him with SBE's general public toll-free number: (800) 552-9745.

10.1 Forms to be Filed by Type of Candidate

Where forms are filed, filing deadlines and petition requirements vary from office to office. Refer to the appropriate Candidate Bulletin for details. (§§ 24.2-500 through 24.2-528.) Candidates for local offices file documents relating to their candidacy with the general registrar.

Listed below, by election type, are the qualifying forms and the officer with whom each form is filed:

10.1.1 Party Candidates Nominated for Local Offices by Primary

These candidates must file the following documents with the appropriate political party chair and general registrar no later than the filing deadline set for the primary:

10.1.1.1 With the Political Party Chair:

- Declaration of Candidacy;
- Petition of Qualified Voters; and
- Receipt indicating payment of filing fee.

10.1.1.2 With the General Registrar:

- Certificate of Candidate Qualification for the office sought; and
- Statement of Economic Interests, if required for the office sought.

10.1.2 Party Candidates Nominated for Local Offices by Other Methods

The Party's nominee for each local office must file the following documents with the general registrar no later than the filing deadline for the general or special election:

- Certificate of Candidate Qualification for the office sought; and
- Statement of Economic Interests, if required for the office sought.

10.1.3 Independent (Non-Party) Candidates for Shared Constitutional Offices

These candidates must file the following documents with the general registrar of their county or city of residence no later than the filing deadline for the general or special election:

- Declaration of Candidacy;
- Petition of Qualified Voters;
- Certificate of Candidate Qualification for the office sought; and
- Statement of Economic Interests, if required for office sought.

10.1.4 Independent (Non-party) Candidates for Local Offices

These candidates must file the following documents with the general registrar no later than the filing deadline for the general or special election:

- Declaration of Candidacy;
- Petition of Qualified Voters;
- Certificate of Candidate Qualification for the office sought; and
- Statement of Economic Interests, if required for office sought.

SBE prepares all qualifying forms except the Statement of Economic Interests. The Secretary of the Commonwealth prepares the Statement of Economic Interests for local offices and provides it to the SBE.

10.1.5 Independent (Non-party) Candidates for General Assembly

These candidates must file the following documents with the general registrar of their county or city of residence, the Clerk of the appropriate House and SBE no later than the filing deadline for the general or special election:

10.1.5.1 With the General Registrar:

- Declaration of Candidacy; and
- Petition of Qualified Voters.

10.1.5.2 With the Clerk of the Senate or House (as appropriate for the office sought):

- Statement of Economic Interests (Unless Filed As An Incumbent In January Of The Election Year.)

10.1.5.3 With the State Board of Elections:

- Certificate of Candidate Qualification.

10.1.6 Independent (Non-party) Candidates for U. S. Senate, U. S. House of Representatives and Governor, Lieutenant Governor and Attorney General

These candidates must file the following documents with SBE and, for Governor, Lieutenant Governor and Attorney General, one document with the Secretary of the Commonwealth no later than the filing deadline for the general or special election:

10.1.6.1 With the State Board of Elections:

- Declaration of Candidacy;

- Petition of Qualified Voters; and
- Certificate of Candidate Qualification.

SBE will set up the Master Petition in VERIS and then forward the petition pages to the appropriate general registrar for verification. The general registrar will set up a Petition in VERIS for each candidate and will verify petition signatures. When verification is complete, the general registrar returns the petitions to the SBE.

10.1.6.2 With the Secretary of the Commonwealth:

- Statement of Economic Interests.

10.2 How to Process the Forms

10.2.1 Document Review - Local Offices

When the candidate files his documents in person, the general registrar shall review all documents to ascertain that all required forms are included and that each is properly notarized and signed. If there are any deficiencies, the general registrar must immediately inform the filer so that the individual may complete them properly.

The general registrar also must review mailed documents for completeness and accuracy and advise the candidate immediately of any deficiencies.

The candidate must file the Declaration of Candidacy and petitions together. At the time the candidate files, his petitions must contain at least as many unverified signatures as are required to qualify for the office. The candidate may submit additional petition pages up to, but not beyond, the deadline for filing.

ⓘ If a candidate fails to correct any deficiencies prior to the deadline to file for election, you must disqualify the candidate.

SBE recommends that you provide the filer with a receipt indicating the filing of, or the failure to file, any required document. See Exhibit A (general or special) and Exhibit B (primary) at the end of this chapter. Use of the receipt is optional.

SBE recommends that as soon as you receive the first piece of information on a candidate that you create the Candidate in VERIS. This will allow you to track easily the filing of the required documents.

10.2.2 Turnaround Time

You must transmit declarations and petitions filed by independent (non-party) candidates for local offices to be certified by the electoral board to that board within three days of receipt. Therefore, it is imperative that filings made with you be processed immediately.

Timely processing will provide the local electoral board ample time within which:

- to notify any candidate who requested it in writing, of deficiencies in his/her filings; and
- to certify qualified candidates to SBE by the required deadline.

Further, it will ensure that SBE receives the candidate information necessary:

- to verify accuracy of electoral boards' candidate certifications;
- to assemble data needed for candidate processing and ballot designs;
- to provide materials needed by electoral boards for ballot preparation;
- to communicate as needed with potential candidates; and
- to post lists to our website for access by interested citizens.

10.2.3 Processing the Certificate of Candidate Qualification

The Certificate of Candidate Qualification may be filed no earlier than January 2 of the election year and no later than the filing deadline for the election.

Exception: City Council candidates for a primary election held in March may file it in the December preceding the election year.

Each candidate for local office must file one form. There is a different form for each election type.

10.2.3.1 Verification of Certificate

Immediately upon receipt of a Certificate of Candidate Qualification, the general registrar must verify that:

- the form is complete, signed and notarized;
- the candidate is registered at the address listed on the form;
- the address is in the district in which the candidate seeks election; and
- the manner in which the candidate has requested the name to be listed on the ballot meets the requirements detailed below.
- If the name the candidate wants on the ballot complies with the requirements, enter the information into VERIS under Candidate Maintain. If the candidate does not already exist, add the candidate and choose the office the candidate is seeking (which must already exist in VERIS). Enter the receipt and verification of all forms for the candidate in VERIS in order to qualify the candidate for the ballot.

ⓘ How Name May Appear on the Ballot

Length: The entire name to appear on the ballot must not exceed 25 spaces, including any punctuation and spaces between names.

Titles: No titles [Rev., Dr., Mr., Mrs., etc.] are to be used, either before or following the candidate's name. A woman must use her given name, not her husband's, and without a "Mrs." in front of a name.

Mary L. Jones not Mrs. John W. Jones.

Criteria: First name or initial or familiar form of first name (see example below)
Middle name or initial or familiar form of middle name
Nickname should be other than form of first or middle name and must appear within quotation marks
Last name

Suffix, if one: Sr. is optional. All other suffixes must be used since they appear on a person's birth certificate and are part of the person's legal name.

If the name the candidate wants on the ballot includes either a first or middle name or suffix that is not shown on his registration record in VERIS, you must:

- contact the candidate by telephone;
- verify that the first or middle name or suffix missing from the VERIS record is, in fact, part of the candidate's legal name;
  - ⓘ A nickname can never replace the full name shown on the voter's VERIS record unless the name was changed by order of a Court
- add the missing information to the registrant's record in VERIS; and
- enter the information into VERIS under "Candidate Maintain." If the candidate does not already exist, add the candidate and choose the office the candidate is seeking (which must already exist in VERIS). Enter the receipt and verification of all forms for the candidate in VERIS in order to qualify the candidate for the ballot.

If the name does not comply, you must:

- contact the candidate by telephone;
- explain the deficiency; and
- print the name decided upon above the name entered on form by candidate.

Examples of deficiencies:

- Robert L. Jones registered as Robert Leroy Jones, Jr.
  - Only the name suffix SR. appears at the candidate's option. All other name suffixes must appear on the ballot.

- Spanky Smyth registered as Thomas Wendell Smyth III.
  - Spanky is a nickname that is not a form of his given name. Candidate must appear on ballot either as:
    - Thomas Wendell Smyth III;
    - Thomas W. Smyth III;
    - T. Wendell Smyth III;
    - T. W. "Tom" Smyth III;
    - Thomas W. "Tom" Smyth III;
    - Tom W. Smyth III (Tom is a familiar, commonly used, form of Thomas. He can appear on the ballot in this manner without quotation marks);
    - T. W. "Spanky" Smyth III; or
    - T. W. Smyth III (initials for BOTH the first and middle names may be used ONLY when the initials ARE ALSO the nickname).

The following meets the requirement for how a name may appear on ballot but the name requested does is not valid for this person.

- Mary Ann registered as Mary Mitchell Westmoreland.
  - When called by the registrar, the candidate states that Ann is her middle name even though her voter registration reads, "Mary Mitchell." The candidate name

must match the name on their voter registration. Therefore, this candidate may only appear on the ballot as Mary Mitchell Westmoreland. Alternatively, the candidate may submit an updated voter registration application to change her name to Mary Westmoreland

10.2.3.2 Retention of Forms

Keep the forms in alphabetical order in appropriately labeled file folders. These documents must be retained for the period prescribed in the LVA Retention Schedule and destroyed following the instructions therein.

10.2.4 Processing the Statement of Economic Interests

The Statement of Economic Interests must be filed by:

- all candidates for constitutional offices;
- candidates for school board and local governing body in any city and in any county other than Highland; and
- candidates for other city offices and town offices in the following towns:
    - Abingdon, Ashland, Big Stone Gap, Blacksburg, Blackstone, Bluefield, Bridgewater, Chincoteague, Christiansburg, Culpeper, Dumfries, Farmville, Front Royal, Herndon, Leesburg, Luray, Marion, Orange, Pulaski, Purcellville, Richlands, Rocky Mount, Smithfield, South Boston, South Hill, Strasburg, Tazewell, Vienna, Vinton, Warrenton, Woodstock, and Wytheville.
- Candidates for Soil and Water Conservation Director are not required to file this Statement.

It may be filed no earlier than January 2 of the election year and no later than the filing deadline for the election. However, candidates for party nomination for city offices in a primary election held in March may file it in the December preceding the election year.

Candidates for re-election to the same office need not re-file this form if they met the requirement for filing as elected officeholders in January of the election year. A person who is appointed to fill a vacancy is required to file the Statement as a condition to assuming office. He is not required to file another Statement of Economic Interests if he becomes a candidate in the Special Election to fill the vacancy.

These documents must be retained for the period prescribed in the LVA Retention Schedule and destroyed following the instructions therein.

10.2.4.1 Public Inspection

Copies of Statement of Economic Interests forms without the social security number displayed are open to public inspection.

10.2.5 Verification of Petitions

A general registrar must check petitions filed by (i) groups seeking to get a referendum authorized by law on the ballot, (ii) independent (non-party) candidates for all offices in general or special elections, and (iii) if so requested by the party chair or the candidate, by candidates for

nomination for all offices by political party primary or other nominating method approved by the political party.

The procedures set forth below apply to all candidate petitions. For referendum petitions, follow the procedures in:

- Affidavit
- Circulator
- Number of Signatures; and
- Certification

10.2.5.1 How to Number the Pages

In order to expedite verification of petitions, implement the following procedure:

- When any candidate files a declaration of candidacy and petitions, the receiving registration office must:
  - number the front of first page 1-A

1-A

Jonathan Q. Independent_____
NAME OF CANDIDATE [SHOULD BE AS IT IS TO APPEAR ON BALLOT]

2211 Quiet Place_____
RESIDENT ADDRESS OF CANDIDATE

Somewhere VA_____22193_____
CITY/TOWN ZIP

Member, House of Delegates 86th District
OFFICE SOUGHT
DISTRICT, IF APPLICABLE

COMMONWEALTH OF VIRGINIA
PETITION OF QUALIFIED VOTERS
[Must be filed with Declaration of Candidacy]

When an election district includes more than one county or city, it is suggested that you use a separate petition form for qualified voters in each county or city to facilitate the processing of the filing.

For a statewide office
It is suggested that you file petitions in county/city order to facilitate the processing of the filing. If you track the number of signatures by congressional district enter district no.: ____ [optional].

  - number the back of first page 1-B followed by the candidate's name

CONTINUED FROM REVERSE SIDE **1-B** Jonathan Q. Independent

CIRCULATOR: MUST SWEAR OR AFFIRM IN THE AFFIDAVIT BELOW THAT S/HE RESIDES IN AND EITHER IS, OR IS ELIGIBLE TO BE, A REGISTERED AND QUALIFIED VOTER OF THE DISTRICT IN WHICH THE CANDIDATE SEEKS OFFICE AND THAT S/HE PERSONALLY WITNESSED EACH SIGNATURE.

SIGNER: YOUR SIGNATURE ON THIS PETITION MUST BE YOUR OWN AND DOES NOT SIGNIFY AN NTENT TO VOTE FOR THE CANDIDATE. YOU MAY SIGN PETITIONS FOR MORE THAN ONE CANDIDATE.

OFFICE USE ONLY	**SIGNATURE OF REGISTERED VOTER** [PRINT NAME IN SPACE BELOW SIGNATURE]	**POST OFFICE BOXES ARE NOT ACCEPTABLE** **RESIDENT ADDRESS** House Number.and Street Name **or** Rural Route and Box Number and City/Town	**DATE SIGNED**	*SEE NOTE BELOW **SOCIAL SECURITY NUMBER** [OR LAST FOUR DIGITS]

- number remaining pages sequentially in like manner;
- make copies of those documents;
- set up a Master Petition in VERIS; and
- fax immediately to all other registration offices in the district. Include with the faxed documents a certification of the time and date on which they were filed and a notification that the Master Petition has been established..

10.2.5.2 Declaration of Candidacy

Verify that the candidate is a qualified registered voter, and, if the Declaration of Candidacy is witnessed rather than notarized, that the two witnesses are also qualified registered voters. If not, the candidate must file a new declaration prior to the filing deadline. See definition of registered below.

10.2.5.3 Affidavit

If the affidavit on the reverse side of the petition page is not notarized, then the signatures on that page cannot be counted. If the affidavit is complete and notarized, continue to follow the procedures set. If the affidavit is incomplete or not signed by the circulator but it has been notarized, the petition page must be processed as set forth in Item E below. A candidate cannot be penalized for a notary's failure to ensure that the affidavit has been completed before he notarizes the petition page. (§ 55-118.5.)

10.2.5.4 Circulator

The person who circulated the petitions must be either a qualified voter or qualified to register to vote for the office for which he is circulating the petitions. (§ 24.2-506.) If the circulator fails to meet the requirement, all other signatures on that petition page must be disqualified. See definition of "registered" below.

Check the registration of the circulator who signed the affidavit at the bottom of each petition page. For a statewide or congressional office, the SBE will determine the circulator's eligibility before forwarding the petitions to the general registrars for verification.

10.2.5.5 Verification of Signatures

Once the circulator is determined to be a person who is either a registered voter or who is eligible to be a registered voter, the names of all other persons on that page are then checked.

As each name is checked in VERIS, indicate in the left margin beside the line number for the signer one of the following, as appropriate:

R For a person registered in your county or city and in the election district for which the petition was circulated. The person who signs a candidate's petition, must be a registered voter at the time the petition was filed by the candidate. A person who signs a petition for a referendum must be a registered voter both at the time the petition was signed (see DATE SIGNED column on petition) and at the time you are validating it. (§ 24.2-684.1(7)). The petition search results grid in VERIS will provide you with the voter's registration date so that you can make the proper determination on each signature;

NR For a person who is not registered in your locality;

RNQ For a person who is registered at the address shown on the petition but the address is in another election district, or For a person who registered after the date on which the candidate filed the petition. (See exception for referendum petitions under R above);

I For a person who is on inactive status because he failed to respond to a confirmation notice or whose record is on pending status.

ⓘ If the voter gives an address on the petition that differs from the address where the person is registered to vote, you must initiate a confirmation mailing;

DUP For a duplicate name already counted due to its appearance on a previous page of the candidate's petition; or

CI For a person who cannot be identified because the name is not legible or there is more than one registered voter with the same name and none are at the address shown on the petition.

If the petitions being checked are for a district greater than your locality, leave the left margin BLANK beside any name when the address IS NOT in your county or city.

10.2.5.6 Number of Signatures Required

When the number of names marked with an R equals the number required, no further names need be checked. VERIS will automatically halt further selections and will lock the petition. If you find that you made an error and need to remove one or more signatures, you must contact the VERIS Help Desk to unlock the petition and allow further processing.

The number of registered voters as of January 1 is used for all signature requirements that are based on the number of registered voters in any county, city, town, district, or ward. (§§24.2-506 and 24.2-521.)

General Assembly Candidates:
For Senate of Virginia: two hundred fifty (250) signatures are required.
For House of Delegates: one hundred twenty-five (125) signatures are required.

Local Office Candidates:
One hundred twenty-five (125) signatures are required. Exceptions:

- for membership on a local governing body or the school board of a county or city from an election district not at large containing 1,000 or fewer registered voters, fifty (50) signatures are required;
- for membership on a local governing body or the school board from a ward or other district not at large in a town which has more than 1,500 registered voters, twenty-five (25) signatures are required; and
- for membership on a local governing body or the school board of a town that has 1,500 or fewer registered voters, no petition is required.

Soil and Water Conservation District Director:

- Twenty-five (25) signatures are required.

Local Referenda:
Requirements differ as to the number of signatures needed for the various referenda authorized by law. Call the SBE for information as to the specific number required.

10.3 Required Communications

10.3.1 General Registrar Certification to Political Party Chair

A political party chair may request that the general registrar verify the declaration of candidacy and petitions filed by a candidate for party nomination.

If so requested, the general registrar must check these forms and return them to the political party chair as quickly as possible, certifying the registration status of the candidate, the completeness of the declaration of candidacy and the number of signatures of registered voters that appear on the petitions submitted. To accomplish the petition verification in VERIS, you will create a candidate, create a Master Petition, and create the Petition through which you will verify signatures.

10.3.2 General Registrar Certification to Local Electoral Board

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, listing the number found. See Exhibit C at the end of this chapter.

The general registrar certifies the signatures of registered voters that appear on petitions of independent (non-party) candidates for the following offices:

- 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, School Board;
- Chairman, Board of Supervisors;
- Member, Board of Supervisors or County Board;
- Mayor, City or Town; and
- Member, City or Town Council or School Board.

10.3.3 General Registrar to other General Registrars

Non-party candidates for General Assembly: Within three days of receipt, the general registrar must transmit copies of these documents to the general registrar of each county and city in the Senate or House district. For special elections for such offices called by the Governor, the President Pro Tempore of the Senate or the Speaker of the House of Delegates, copies must be faxed immediately after the filing deadline for the office.

10.3.4 General Registrar Certification to State Board of Elections

The general registrar must certify to the SBE, on the forms provided, the number of registered voters in the county or city, which appear on petitions for independent candidates for these offices:

- Senate of Virginia;
- House of Delegates; and
- Constitutional Offices shared by one or more counties and/or cities.

The totals recorded by VERIS are used for the offices of United States Senate, United States House of Representatives, Governor, Lieutenant Governor, and Attorney General. No separate certification is required.

If requested in writing by a candidate for the General Assembly or constitutional office, the general registrar or secretary of a local electoral board should notify the candidate of any deficiencies in the Declaration of Candidacy which can be corrected prior to the filing deadline. If so requested, the general registrar may advise the candidate as to the number of valid signatures identified on petitions. Otherwise, neither the general registrar nor the local electoral board is to initiate any contact with any candidate for these offices concerning the validity of their petitions.

10.3.5 Local Electoral Board Notification to Candidate of Deficiencies

For the local offices set forth in Certification to local electoral board above, there are certain situations that may require the local electoral board to communicate with the prospective candidate as follows:

10.3.5.1 Prior to Filing Deadline

When requested by a candidate who files prior to the filing deadline, the local electoral board must send notification of any deficiencies or discrepancies in his declaration of candidacy or petitions, which may be corrected prior to the filing deadline.

10.3.5.2 After the Filing Deadline

Whenever a candidate must be disqualified because of deficiencies in his declaration of candidacy or petitions, the local electoral board must notify him of his disqualification in writing.

When the disqualification is a result of insufficient signatures on his petitions, the electoral board must enclose copies of the petitions as marked by the general registrar with the letter. No appeal of disqualification is provided by law. Therefore, no appeal process may be provided by either the SBE or the local electoral board.

10.3.6 Local Electoral Board Certification to State Board

Shortly before the filing deadline for any local office, the SBE will provide to each general registrar and secretary of the electoral board the combined certification form required to certify candidates for each office on the ballot for the election.

Immediately after any filing deadline, the general registrar and secretary of the electoral board must certify to the SBE, on these forms, all qualified candidates. Forms may be faxed to the Election Services Division at (804) 225-3706.

You also must enter the names of any disqualified candidates with the reason for the disqualification in the space provided on the prescribed forms.

10.3.7 State Board of Elections Verification of Candidates for Local Offices

Upon receipt of the local electoral board's certification of qualified candidates for local offices, the SBE uses the information provided by the general registrar to determine whether such candidates have filed other required qualifying forms.

If any candidate for local office has failed to file either a Certificate of Candidate Qualification or a required Statement of Economic Interests, the SBE must notify the candidate of this deficiency and provide ten days in which the missing form(s) may be filed. In lieu of this process, the SBE may ask that the general registrar, as the agent of the SBE, contact the candidate, inform him that he has failed to file either or both of these documents and must file them by the close of business on the day after the call to avoid disqualification.

10.3.8 State Board of Elections Certification to Locality

When all the required candidate forms, certifications, and forms of the official paper ballot (see Chapter 15) are complete, the SBE will certify to each electoral board the names of all candidates for all offices and the order in which they are to appear on the ballot.

10.4 Certification of Local Referenda

An individual or group seeking to place a referendum on the ballot may do so only by following the procedures set forth in § 24.2-684.1.

First, an individual, who is a qualified voter of the county or city, representing either a group or acting alone, must file a copy of the petition form to be used with the Clerk of Circuit Court. The individual must also file a statement that contains his name, address and the group he represents. These documents cannot be filed earlier than the effective date of the law authorizing the referendum for which the petition is to be circulated. The Clerk must certify to the filer, within ten days, that the petition copy and statement have been received and accepted.

The individual then circulates the petitions and files them with the Clerk within nine months of the Clerk's certification. All signatures on the petitions must be dated on or after the date of the Clerk's certification.

In addition, petitioners should be aware that any court order for a referendum must be entered at least sixty days before the date of the election and the court must provide the general registrar sufficient time for verifying the petitions before an order can be entered. It is for this reason that the most recently enacted referendum statute, the one which authorizes petitions to be circulated for the referendum on an elected school board, requires that the petitions be filed with the court at least ninety days before the date of the general election at which this special election would be held.

Persons who sign any referendum petition must have been registered voters in the jurisdiction for which the petition is circulated both at the time they signed the petition and at the time the registrar validates the signatures. The circulator of each petition page must be a person who is, or who is eligible to be, qualified to vote in the referenda election, must witness the signature of each person who signs the page and must sign an affidavit to that effect on each page of the petition.

The SBE provides a petition form but petitioners may choose to develop their own as long as it provides all the information required by law.

The general registrar may be asked to check petitions by the Clerk after they have been filed or by the individual(s) circulating the petitions before filing them. In either case, the general registrar must number the petition pages consecutively in the upper right corner and place his/her initials below each page number and set up a Master Petition in VERIS.

The general registrar must check the petitions as quickly as possible and return them to the group or Clerk as appropriate, providing a written certification of the number of signatures of registered voters that appear on the petitions. See Exhibit D and Exhibit E herein.

Persons seeking any information concerning referenda to be placed on the ballot are to be provided the toll-free number of the SBE.

10.5 Candidate Management

(All of the following tasks were formerly performed in the Candidate Database.)

If local offices do not already exist, the registrar must set up local offices for local candidates in VERIS. Set up includes listing whether the office is a local office, the term of the office, the district the office represents, the number of petition signatures necessary, the next general and primary election dates, and the forms that are required to be filed as qualifications for that office.

The registrar must also create or enter information for each local candidate that files forms and petitions with the local registrar. This will require entering what office the candidate is seeking and therefore, based upon the office qualifications and parameters entered above, what forms are required to qualify as a candidate. The registrar must enter all forms and petitions submitted by the candidate into VERIS that will serve as the candidate database for all offices and elections.

If you have not already created the candidate record in VERIS, you should do so as soon as the Certificate of Candidate Qualification has been reviewed and approved or after resolution of any discrepancies in the manner in which the candidate's name is to appear on the ballot.

Enter the candidate's name in the manner that it will appear on the ballot in the field provided for that purpose as this is used to prepare the candidate certifications that the SBE sends for use in preparing ballots and for the candidate lists posted on the SBE website. Use mixed case (i.e., upper and lower case, not all caps) when entering the candidate's ballot name.

Use the Status field on the Candidate Maintain page to indicate whether your candidate is "In Process" (not yet qualified but in the process of trying to qualify), "Qualified" (qualified for the ballot), "Not Qualified" (failed to qualify for the ballot), "Deceased" or "Withdrawn." Use the check boxes in the Candidate Qualification section of the page to indicate when each of the required qualifications is met. You should not select "Qualified" as your candidate's status unless all of the available Candidate Qualification check boxes are checked as met. It is imperative that all candidate information be entered before the combined general registrar/electoral board candidate certification is provided to the SBE.

10.5.1 Candidate Withdrawal

Any candidate who decides that he no longer wants to be a candidate must withdraw in writing. It must include his name, the office he was seeking and the election date and must specifically state that he is withdrawing as a candidate. It must be addressed to the appropriate authority. Newspaper articles do not constitute an official notice of withdrawal.

When the candidate is a political party nominee, the letter is addressed to the appropriate political party chair. Either the candidate or the party chair should fax a copy of the withdrawal letter both to the SBE and to the secretary of the electoral board at the office of the general registrar. Subsequent procedures for withdrawal of a primary candidate are delineated in §§ 24.2-536 through 24.2-538; while procedure applicable to the withdrawal of a general or special election political party nominee are in §§ 24.2-539 and 24.2-540.

When the candidate filed as an Independent, the letter is addressed to the secretary of the electoral board and given to the general registrar (except in Fairfax and Loudoun Counties where the secretary of the electoral board serves full time).

When you receive a notice that one of your candidates has withdrawn, change the candidate Status to "Withdrawn" on the Candidate Maintain page in VERIS.

The SBE determines, based on the time available before the election and the status of the ballots for the election, whether or not ballots containing the name of the withdrawn candidate must be reprinted.

If the SBE 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. This notice is provided in two sizes. One will be of a size that fits inside the envelope transmitting ballots by mail to an absentee voter; the other is 11 x 8-1/2" and must be posted within the confines of the voting booth to advise in-person voters of the withdrawal.

ⓘ Votes cast for the withdrawn candidate whose name remains on the ballot must be counted and, if he receives the most votes, must be certified by the electoral board as the person elected to the office.

10.6 Exhibits

10.6.1 Exhibit A: Receipt for Candidate Filing for General or Special Election

Independent Candidate
for the ☐General **OR** ☐Special Election
to be held on

_____
ELECTION DATE

DOCUMENTS PRESENTED

_____ _____
NAME OF CANDIDATE DATE FILED

_____ ☐INCUMBENT _____
OFFICE SOUGHT DISTRICT, IF APPLICABLE ☐NON-INCUMBENT TIME OF FILING

☐= **RECEIVED**	**NR/I = NOT REQUIRED TO BE FILED BY INCUMBENT** **NR/O = NOT REQUIRED FOR THE OFFICE SOUGHT** **NR/PE = NOT REQUIRED – POPULATION EXEMPTION**	**P/F = PREVIOUSLY FILED** **R/NF = REQUIRED BUT NOT FILED**

PART 1 **STATUS**	**DESCRIPTION OF DOCUMENT**	ENTER BELOW THE DATE ANY FORM MARKED AS **R/NF** IN **PART 1** WAS SUBSEQUENTLY FILED
	Declaration of Candidacy [MUST BE FILED WITH PETITIONS]	
	Petitions [MUST BE FILED WITH DECLARATION OF CANDIDACY]	
	Certificate of Candidate Qualification	
	Statement of Organization – Candidate	
	Statement of Economic Interests	
PART 2 **PETITIONS**	**Total Number of Petition Pages Filed:** _____	☐ RECEIVED FROM CANDIDATE OR ☐ RECEIVED FROM PARTY CHAIR

This form acknowledges receipt of, or indicates failure to file, the required documents indicated above.
It does not certify the adequacy of the documents filed or the qualification of petitions.

ACKNOWLEDGED BY FILER:

SIGNATURE OF ☐CANDIDATE OR ☐POLITICAL PARTY CHAIR

DAYTIME TELEPHONE INCLUDING AREA CODE

☐ADDRESS OF SIGNER OR ☐CAMPAIGN HEADQUARTERS ADDRESS

CAMPAIGN WEB ADDRESS, IF ONE

CITY/TOWN ZIP

CAMPAIGN E-MAIL ADDRESS, IF ONE

☐CANDIDATE OR ☐CAMPAIGN TELEPHONE NUMBER, IF ONE

SIGNATURE OF ☐GENERAL REGISTRAR OR ☐EMPLOYEE RECEIVING FILING

10.6.2 Exhibit B: Receipt for Candidate Filing for Primary Election

Primary Candidate
for the ☐Democratic Primary **OR** ☐Republican Primary
to be held on

_____
ELECTION DATE

DOCUMENTS PRESENTED

_____ _____
NAME OF CANDIDATE DATE FILED

_____ ☐INCUMBENT _____
OFFICE SOUGHT DISTRICT, IF APPLICABLE ☐NON-INCUMBENT TIME OF FILING

☐= **RECEIVED**	**NR/I = NOT REQUIRED TO BE FILED BY INCUMBENT** **NR/O = NOT REQUIRED FOR THE OFFICE SOUGHT** **NR/PE = NOT REQUIRED – POPULATION EXEMPTION**	**P/F = PREVIOUSLY FILED** **R/NF = REQUIRED BUT NOT FILED**

PART 1 **STATUS**	**DESCRIPTION OF DOCUMENT**	ENTER BELOW THE DATE ANY FORM MARKED AS **R/NF** IN **PART 1** WAS SUBSEQUENTLY FILED
	Declaration of Candidacy [MUST BE FILED WITH PETITIONS]	
	Petitions [MUST BE FILED WITH DECLARATION OF CANDIDACY]	
	Certificate of Candidate Qualification	
	Statement of Organization – Candidate	
	Statement of Economic Interests	
PART 2 **PETITIONS**	**Total Number of Petition Pages Filed:** _____	☐ RECEIVED FROM CANDIDATE OR ☐ RECEIVED FROM PARTY CHAIR

This form acknowledges receipt of, or indicates failure to file, the required documents indicated above.
It does not certify the adequacy of the documents filed or the qualification of petitions.

ACKNOWLEDGED BY FILER:

SIGNATURE OF ☐CANDIDATE OR ☐POLITICAL PARTY CHAIR

DAYTIME TELEPHONE INCLUDING AREA CODE

☐ADDRESS OF SIGNER OR ☐CAMPAIGN HEADQUARTERS ADDRESS

CAMPAIGN WEB ADDRESS, IF ONE

CITY/TOWN ZIP

CAMPAIGN E-MAIL ADDRESS, IF ONE

☐CANDIDATE OR ☐CAMPAIGN TELEPHONE NUMBER, IF ONE

SIGNATURE OF ☐GENERAL REGISTRAR OR ☐EMPLOYEE RECEIVING FILING

10.6.3 Exhibit C: Sample Certification to Electoral Board

Certification of Candidate Filing
for Local Office

TO: Secretary of the Electoral Board

I, the undersigned, do hereby affirm that I have checked the Declaration of Candidacy and, if required, the Petitions filed with me by the independent (non-party) candidate for the office and, if applicable, district listed below:

Candidate Name	**Office Sought and District, if one**	**Date/Time Filed**

The candidate ☐ is ☐ is not registered in the election district.

I further certify that: [CHECK ONE]

☐ The Declaration of Candidacy is properly completed. No petitions are required for this office.

☐ The Declaration of Candidacy and Petitions are properly completed and that the Petitions **contain** the required number of signatures of registered voters of the election district.

☐ The Declaration of Candidacy and Petitions are properly completed but Petitions **do not contain** the required number of signatures of registered voters of the election district.

Only _____ registered voters were found.
ENTER NUMBER

☐ Although the petitions contain sufficient signatures of registered voters, the Declaration of Candidacy is not properly completed. [LIST DEFICIENCY BELOW]

_____ _____
DATE SIGNATURE OF GENERAL REGISTRAR

10.6.4 Exhibit D: Sample Certification to Circuit Court

Certification of Petitions
for Local Referendum

TO: The Circuit Court

I, the undersigned, do hereby affirm that I have checked the Petitions filed with the Circuit Court for the issue listed below and forwarded to me by the Court for verification:

REFERENDUM ISSUE: _____

Number of Signatures Required: _____

This equals _____ % of _____
ENTER CRITERIA REQUIRED BY ISSUE

I further certify that: [CHECK ONE]

- ❑ The petitions contain the required number of signatures of registered voters of the election district.

- ❑ The petitions lack sufficient number of registered voters of the election district.

  Only _____ registered voters were found.
  ENTER NUMBER

_____
SIGNATURE OF GENERAL REGISTRAR

_____
DATE COMPLETED

10.6.5 Exhibit E: Certification to Individual or Group Representative

Certification of Petitions
for Local Referendum

TO: _____
ENTER NAME OF INDIVIDUAL OR REPRESENTATIVE OF GROUP CIRCULATING PETITION

I, the undersigned, do hereby affirm that I have checked the Petitions for the local referendum listed below as requested by the aforementioned individual or representative of group circulating them:

REFERENDUM ISSUE: _____

Number of Signatures Required: _____

This equals _____ % of _____
ENTER CRITERIA REQUIRED BY ISSUE

I further certify that: [CHECK ONE]

- ❑ The petitions contain the required number of signatures of registered voters of the election district.
- ❑ The petitions lack sufficient number of registered voters of the election district.

  Only _____ registered voters were found.
  ENTER NUMBER

The petitions were returned to him/her together with this affidavit. This person has been advised that these documents must be filed by him/her with the Clerk of Circuit Court.

_____
SIGNATURE OF GENERAL REGISTRAR

_____
DATE COMPLETED

11 Absentee Voting

Absentee voting is an electoral board responsibility, but most duties may be delegated to the general registrar and the registrar's staff. Any such delegation must be in writing and filed in the minutes of the electoral board.

11.1 Ballots

11.1.1 Ordering Printed Ballots

As soon as the electoral board receives the "Certification of Candidates" from the SBE, the board should verify that their printer has all the information required to print the ballots. Information about ballot format is included with the "Certification of Candidates" for localities using paper ballots. Absentee ballots shall be ready:

- 45 days prior to a November election;
- 30 days prior to any other general, special, or primary election; or
- in the case of a special election, if time is insufficient to meet the applicable deadline established herein, then as soon after the deadline as possible

(§ 24.2-612.)

11.1.2 Ballots Received From Printer

The electoral board or their designee must certify the number of ballots received from the printer, including those to be used for absentee voting. File a copy of this receipt in the electoral board minutes. (§24.2-618)

Begin the absentee voting process as soon as the ballots are received. If you have a large volume of applications, you may want to start entering them into the VERIS before the ballots are ready to be mailed.

11.2 Eligible Applicants

Qualified voters who cannot go to the polls on election day are eligible to vote by absentee ballot if they are: (§24.2-700):

- Students at a school or institution of learning, or their spouses who will be absent from the locality on election day;
- Absent from the locality on business;
- Absent from the locality on personal business or vacation;
- Unable to go to the polls due to a physical disability or illness;
- Family members and primary caretakers of an ill or disabled person;
- Confined awaiting trial or serving a sentence for a misdemeanor charge;
- A member of an electoral board, a registrar, an officer of election, or a voting machine custodian.
- Unable to go to the polls because of a religious obligation.

- Active-duty members of the uniformed services or merchant marine, or spouses or dependents residing with them who will be absent from the locality on the day of the election;
- A person who will be at work, or at work and commuting, for a total of 11 or more of the 13 hours the polls are open;
- A person who is temporarily residing outside the United States;
- A person who is hospitalized on election day; (§ 24.2-705)
- Business/personal/medical emergency; (§ 24.2-705.1.) and
- Persons who are confined by the state because of their mental illness.

11.3 Permissible Forms and Their Procedures

Virginia allows six different applications for an absentee ballot. The procedures differ for these six different forms as well as the type of ballot that each applicant is eligible to receive and the method by which each applicant may vote (in-person, by mail, or by their designee).

1. Virginia absentee ballot application (§ 24.2-700.);
2. Federal Post Card Application (FPCA) (§ 24.2-703.);
3. Special annual application (§ 24.2-703.1.);
4. Emergency application (§ 24.2-705.);
5. Late application for business or medical (§ 24.2-705.1.); and
6. Federal write in application (§ 24.2-702.1.)

11.3.1 Virginia Absentee Ballot Application

A Virginia absentee ballot application (SBE-701) is given to anyone upon request. Those who need a large number of applications to conduct an absentee voter drive must print their own applications. These applications should be photocopies of the current Virginia application on 8½ x 11 paper. The form may be amended to include the mailing address and fax number of the general registrar. The form may not be amended in any other way. The form may be printed from the SBE website.

The earliest an application for absentee ballot may be filed is twelve months prior to an election. (§ 24.2-701.) Completed and signed absentee ballot applications may be returned to the office of the general registrar by mail, in person or by fax. If the application is obtained electronically by downloading it from the SBE or other web page, it must be printed out, completed, and then returned to the office of the general registrar via any of the above stated methods. An e-mailed application as an attachment may be submitted, as long as it is printed, signed, and scanned into an attachment.

Ballots are mailed to all eligible applicants except those who apply in person at a time when the ballots are available and the applicant chooses to vote in person at the time of completing the application. Applicants who have applied using the FPCA are required to have their ballots sent to them automatically through and including the next two federal general elections (November). When entering all ongoing applications in VERIS, you will enter a ongoing ballot expiration date. Through VERIS, you will be able to process all such applications entered through the ongoing absentee page and will not have to enter each application for each qualifying election. Once ballots are available, the ballots must be mailed within 24 hours of receipt of the

application, typically the day after the application is received and entered into the VERIS All applications for ballots to be mailed must be received by no later than 5:00 p.m. on the Tuesday prior to the election. A timely, eligible application is handled as follows:

11.3.1.1 Eligibility

The Virginia absentee ballot application is available for

11.3.1.2 How to Process the Application

- Check each application for completeness. All appropriate data must be completed.
  - A reason for voting absentee must be indicated in part A and the required information for the reason provided.
  - An address must be given where the ballot is to be mailed in part B. It can be the applicant's residence address or mailing address recorded in the applicant's registration record on the VERIS, or the address where the applicant is while absent from the locality. Ballots cannot be mailed in care of another individual.
  - Part D must include each applicant's signature, a date, and a valid residence address for the locality.

  (§ 24.2-701.)

ⓘ See below for handling of incomplete applications.

- If the application is complete, use the VERIS "Voter Search" engine to determine whether the applicant is registered in your locality or if the applicant is registered in another locality and listed as an absentee voter. You may also proceed directly to Absentee Search in VERIS and search for the voter and determine if the voter is in your locality. If the applicant is registered in your locality at the residence address provided on the application, complete the "Office Use Only" block in the top right corner of the form. If the applicant is listed as an absentee voter for another locality the absentee ballot application can serve to transfer the voter into your locality as it is a signed statement indicating the voter's change of address. If the applicant did not specifically request a change of address to your locality by checking the applicable box on the application, you must attempt to contact the applicant to verify that the voter wanted to update his or her registration. VERIS will indicate whether an absentee ballot was issued to the voter in the voter's former locality, whether that ballot was returned, or whether the voter voted on voting equipment by stating "On Machine." If a ballot has been returned marked, that ballot cannot be counted in the old locality once that voter's registration is transferred to your locality. If the voter voted an absentee ballot with a status of "On Machine" the voter has already cast a ballot and will be marked on the pollbook in your locality as having voted,. If this is the case, you must make a list by precinct of all such individuals in order to mark them on the pollbooks as previously voted in order to bar them from voting in the new locality. Officers of election should be instructed to challenge any voter so marked who attempts to vote in person at the polls. You must transfer the voter's registration as normal that will void any ballot not voted on machine before or after the transfer is complete. VERIS will automatically generate correspondence to such a voter advising them of their absentee ballot status.

First time Virginia voters who registered to vote by mail must vote in person if reason code 1B, 1C, 1D, 1E, 2B, 3A, 3B, 4A, or 5A, unless they are entitled to vote under UOCAVA, the Voting Accessibility for the Elderly and Handicapped Act including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee for one of the above reason codes, is a full time student at an institution of higher learning, or requests an absentee ballot for presidential elections only for whatever reason (no reason) . One of these must be selected or noted on their absentee ballot application.

- Once you process the applicant in VERIS, you will be notified if the applicant is required to vote in person. You must notify the applicant that the application cannot be accepted, except as an "Application for Presidential Ballot Only," and the applicant is required to vote in person at the polls or absentee in person.
- In addition, first time Virginia Voters who registered by mail after January 1, 2003, must present a specific identification the first time they vote in a federal election. Permissible ID's include:
    - A copy of a current and valid photo identification; or
    - A copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter (this includes the voter registration card).
- A number of voters are exempt from this federal ID requirement. In order to be exempt from submitting a copy of one of these ID's with the absentee ballot, the voter must meet one of the following criteria:

    - Submitted a copy of one of these ID's with their registration application or absentee ballot application. If an ID is provided, you must update the voter's record to indicate an ID was provided which will remove the HAVA "Verify ID" requirement.
    - The voter's name, social security number, and date of birth were matched with an existing record with DMV or SSA. VERIS will attempt to perform such a match when registering the voter. If a match is found, the HAVA "Verify ID" requirement will be removed from the voter.
    - The voter is entitled to vote absentee under UOCAVA, the Voting Accessibility for the Elderly and Handicapped Act including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee for any reason, or requests an absentee ballot for presidential elections only for whatever reason (no reason).

For any voter who is not exempt for one of these reasons who is eligible to vote by absentee ballot, you must send the HAVA ID notice with the absentee materials. When the ballot is returned and opened on election day, the officers of election must check to verify that a copy of an acceptable HAVA ID is returned. If so, you must edit the absentee ballot information in VERIS to indicate the type of ID provided in the ID Document for HAVA dropdown box. If no HAVA ID is present, the officers must follow the procedures to consider the absentee ballot a provisional ballot. (See Chapter 29.) If the ballot is considered a provisional ballot, you must edit the Absentee Ballot Status in VERIS by selecting "Provisional" in the Ballot Status

dropdown box. If this ballot is counted by the electoral board at the provisional ballot meeting, you will need to manually assign voting credit to this voter in VERIS as well.

11.3.1.3 Incomplete Application Received

If required information is missing other than the signature of the applicant (such as the reason for voting absentee or the address to mail the ballot to), the voter may be contacted by telephone, fax or e-mail and asked to provide the missing information. Indicate the name of the person providing the information and date and initial the form. If no one can be reached, however, you must return the application to the applicant with a letter requesting the missing information.

If the applicant has provided a fax number, you can save time by faxing a new application to the applicant and requesting the completed application be faxed back to you.

ⓘ The law no longer requires a witness signature for the application for an absentee ballot. A witness signature is still required on the ballot envelope.

ⓘ The voter's social security number (or voter registration number) is requested in the absentee application to assist you in finding the voter's record, but it is not required. A voter cannot be denied an absentee ballot for failure to provide their social security number.

11.3.2 Federal Post Card Application

The Federal Post Card Application (FPCA, or Standard Form 76) can serve as both a registration application and an application for absentee ballot for qualified active duty uniformed services personnel or overseas citizens and spouses or dependents residing with them.

There have been several revisions to the FPCA. All versions containing the required information are acceptable. Unregistered applicants must provide all the information required for new registrations. Applicants who are already registered must provide all information required on a Virginia Absentee Ballot Application. (§ 24.2-701.) The form was last revised in 2005, but earlier versions are still used and may still be accepted. For purposes of this document, we will assume the 1995 version is used as this one is still widely circulated.

11.3.2.1 Eligibility

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 USC 1973ff et seq.) and subsequently enacted Virginia laws (§ 24.2-440 - 443) permit citizens residing overseas, whose last residence in the U.S. was in Virginia but who no longer maintain an abode in Virginia and who therefore do not qualify for permanent registration, to receive absentee ballots for elections for federal elections only. In addition, Virginia law allows certain Virginia voters who have moved overseas for reason of employment to receive full ballots for all federal, state, and local elections. (§ 24.2-443.1 - 443.4) (See Chapter 12.)

Duration of Eligibility: The filing of a single FPCA will result in the applicant receiving ballots for all elections for which the voter is eligible through and including the second federal general

election (November). The FPCA may be filed at any time after the November general election for any remaining special elections for which the applicant is eligible during that calendar year and through the second federal general (November) election after receipt. The FPCA is valid for any election conducted seven or more days after the receipt of the application by the general registrar. (§ 24.2-703) The form may be printed from the website of the Federal Voting Assistance Program (FVAP), http://www.fvap.org/.

11.3.2.2 How to Process the Application

The completed and signed FPCA may be returned to the office of the general registrar by mail, in person, by fax, or e-mailed as long as it has been printed, signed, and scanned as an attachment. If the application is obtained electronically by downloading it from the FVAP web page, it must be printed out, completed, and then returned to the office of the general registrar via any of the above stated methods. If it is sent by fax or e-mail, the original should (but is not required) be mailed to the registrar; use a copy of the FPCA as the absentee ballot application.

Qualified Virginia registered voters who need to vote absentee because they are abroad on vacation or business trips, and not temporarily residing abroad, should use the "Virginia Absentee Ballot Application" to apply for an absentee ballot, not the FPCA.

Do not wait for the original, mailed form to process the application or send the ballot. If the voter is registering for the first time, and his original application does not arrive by election day, the ballot cannot be counted. If a military voter, who is registering, emails or faxes the FPCA, process the application using the Military Incomplete procedures.

- When the application is received, first look at part 8 to see if the applicant has checked 8a as the reason for voting by absentee ballot. All voters with that reason are eligible for permanent registration in Virginia. Applicants checking 8b, 8c or 8d may be eligible for permanent registration or for temporary registration for either full or federal only ballots. Once the application has been processed in VERIS, and all information entered including that the voter is overseas, temporarily overseas, and the last residence date (see Chapter 12), you will be prompted as to what ballot type will be sent to the applicant.
- Next, look to see if the applicant has signed the form. If the signature is missing, the applicant must be contacted immediately so you can advise him that a new, fully completed application must be submitted before you can issue a ballot.
- If the signature is present and the proper reason for voting absentee is checked, you may either perform a "Voter Search" in VERIS to determine the applicant is registered to vote at the address listed in Part 3, "Voting Residence", or you may simply begin by performing an Absentee Search. If the vote exists as a registered voter in your locality, you may begin to process the absentee application.
- If an unregistered applicant applies on a properly completed FPCA while the registration books are still open, or if the applicant is eligible for late military registration by mail, enter the voter as a new registrant on the VERIS. Photocopy any FPCA that will also serve as a registration application. The original FPCA remains in the active registration file. The photocopy is used as the absentee ballot application.

Late military registration: Persons fulfilling all of the requirements listed below may apply for permanent registration for all elections, by mail or in person, up to and including the day of the

election. (§24.2-419, §24.2-420.1.) (See "Procedures upon Receipt of an In-person Absentee Application" for other categories eligible to register in person after the books have closed.) The application for registration may accompany the application for an absentee ballot. The person being registered after the books have closed must be given a registration date equal to the final day of registration.

The applicant must:

- Be eligible to register,
- Be normally absent from the county or city in which he resides, and
- Be a member of the uniformed services of the United States on active duty, or a member of the merchant marine, or the spouse or dependent residing with an active duty military or merchant marine member.

ⓘ The Attorney General concluded in a 1971 opinion that service members who had a Virginia place of abode before assignment to active duty elsewhere retain that place of abode, unless they choose to change their place of abode, even if they no longer have a residence in Virginia.

If the request for registration and an absentee ballot from any person meeting these requirements is incomplete, follow the procedures for "Military Incomplete" applications.

- If ballots are not yet ready to be mailed, and the information matches and the FPCA is correct and in good order, complete and mail the return post card attached to the FPCA indicating that a ballot will be mailed or you may use the SBE FPCA acknowledgment form. This form informs the military member the type of ballot he will receive, when he will receive it, how he will receive it, the voter's category, and what is required of him if his status should change. Since an FPCA application does not have an "Office Use Only" block, attach it to a blank Virginia application or to a sheet of paper on which the "Office Use Only" section has been printed, and complete the information in this section.

- Process this application by entering the applicant's information in Absentee Search engine. If the voter is currently registered in the system, VERIS will self populate the voters information. VERIS will also indicate whether the voter has currently applied for an absentee application. If the voter has not applied for an application, you will select the "Add Application button."
    - You will than be brought to the "Add Application" screen. You will than enter the applicants information in to VERIS for processing. There are drop down boxes for application types. The application types are listed by name and code section.
    - Once you select the application type, the reason will self populate. The reasons are listed in numerical order and indicate the reason for voting absentee. The only reasons that will populate are the ones that are eligible to receive the application type that was previously selected.
    - Select and enter data that reflects what has been completed on the absentee ballot application. Boxes that have the * beside them, must have data entered or your application will not be processed.

Using FPCA for Multiple Elections: An FPCA application is good for all elections in which they are otherwise eligible to vote through the second federal general election (November). You will enter an ongoing ballot expiration date. Through VERIS, you will be able to process all such applications entered through the ongoing absentee page and will not have to enter each application for each qualifying election. For the annual application due to disability, enter a new application for each year, if submitted by the voter.

- The applicant must specify by party designation any primary ballots he is requesting.
- The application should be copied and processed for each additional election. You do not need to add the application for each successive election; you may process all ongoing applications through the "Ongoing ABS Ballots" screen.
- The application for the calendar year may be submitted at any time after the previous year's November general election, and is good for any election held at least 7 days after receipt, if the voter is military, or already permanently registered or at least 28 days after the date of receipt if the voter is a temporary registrant or non-military registering permanently for the first time.

ⓘ If a special election is held in your locality during November or December, voters who previously submitted FPCAs are eligible to receive ballots in that election as well. In addition, any voters sending in the FPCA after the November general election for the next year, and at least 7 days before the special election, are also eligible to receive ballots for that special election, provided they have met the applicant 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 ballot for any subsequent election may be sent to the voter until a new application is filed and accepted.

11.3.3 Annual Absentee Application for Certain Ill or Disabled Voters Received (703.1)

Section 24.2-703.1 allows any person who is eligible for an absentee ballot under subdivision 4 of § 24.2-700 because of a physical disability or physical illness, and who is likely to remain so disabled or ill for the remainder of the calendar year, to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year.

- Use the Annual Application for an Absentee Ballot Due to Physical Disability or Illness (SBE-703.1)
- The voter's first such application must be signed by the voter and his physician or accredited religious practitioner, attesting that the voter is eligible for an absentee ballot under subdivision 4 of § 24.2-700 because of a physical disability or physical illness and likely to remain so disabled or ill for the remainder of the calendar year.
- Subsequent annual applications from the same voter (even if not in consecutive years) do not require the physician's signature.
- The application should be copied and processed for each succeeding election in the calendar year. The applicant must specify by party designation any primary ballots he is requesting.
- Keep a separate file with copies these applications for reference in future years; VERIS has a feature that will notify the registrar of applicants that fit this scenario.

- The law requires the general registrar to send each such enrolled applicant a blank application by December 15 for each ensuing calendar year.
- When entering all ongoing applications in VERIS, you will enter a ongoing ballot expiration date. Through VERIS, you will be able to process all such applications entered through the ongoing absentee page and will not have to enter each application for each qualifying election. For the annual application due to disability, you will need to enter a new application for each year, if submitted by the voter.
- If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted.

11.3.4 Emergency Absentee Ballot for Persons Hospitalized

The Code of Virginia provides a method for certain voters who are hospitalized just prior to an election to obtain and vote an emergency absentee ballot. (§ 24.2-705.) These voters may request at any time prior to 2 P.M. on the day preceding the election that an "Emergency Absentee Ballot Application" be delivered to him in the hospital.

The eligible qualified voter is one who becomes hospitalized:

- on or after the seventh day preceding an election; or
- on or after the fourteenth day before the forthcoming election in a condition that made the voter unable to request an absentee ballot sooner than the seventh day before an election.

11.3.4.1 Definition of a Hospital

The Code of Virginia defines hospital as any facility licensed in Virginia pursuant to that Article. (§ 32.1-123.) Further, the facility must be one in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or non-surgical, for two or more non-related individuals, including hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums and general, acute, rehabilitation, chronic disease, short-term, long-term, outpatient surgical, and inpatient or outpatient maternity hospitals.

This definition is extended by §24.2-705 of the Code to include any comparable hospital in the District of Columbia or any state contiguous to Virginia.

ⓘ This definition does not include a nursing home.

11.3.4.2 Request for Emergency Application

The hospitalized voter must ask the general registrar to provide an "Emergency Application For Absentee Ballot" by telephone or in writing at any time prior to 2:00 p.m. on the day before the election. In either case, the voter must provide the name of the person selected to be the representative designated to pick up and return the application and ballot.

A qualified voter's designated representative must be eighteen years of age 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.

The "Emergency Absentee Ballot Application" (SBE-705) is given to the hospitalized voter's designated representative for transmittal to the hospitalized voter.

This form is printed, front and back, on green paper.

11.3.4.3 Return of Completed Application

The blank application may be faxed to the designated representative or to the voter, but must be returned in person in order for the representative to pick up the ballot.

When the hospitalized voter's designated representative returns the completed "Emergency Absentee Ballot Application," the secretary of the electoral board, the registrar or the assistant registrar must verify:

- that the applicant is a qualified voter;
- that the name of the designated representative is listed;
- that the completed application is received no sooner than the seventh day preceding the election and no later than 5:00 p.m. on the day preceding the election;
- that the certificate portion has been completed and signed by a hospital official or licensed physician;
- that the hospitalized voter has properly completed and signed the application;
- that the designated representative has signed and completed the witness portion of the form; and
- that the information provided indicates that the voter was hospitalized on or after the seventh day before the election; or
- that the voter was hospitalized on or after the fourteenth day before the election in a condition that made the voter unable to request an absentee ballot sooner than the seventh day before the election.

11.3.4.4 Providing Absentee Ballot

Prior to providing the hospitalized voter's designated representative with an absentee ballot, the secretary of the electoral board, the registrar or the assistant registrar <u>should</u> request identification from the designated representative to assure that he is the person designated by the voter. Although a form of picture identification would be preferred, any item bearing the representative's name is acceptable.

ⓘ Failure to provide identification will not disqualify the application.

The secretary of the electoral board, the registrar, or the assistant registrar prepares the absentee ballot in the same manner as a mailed absentee ballot but includes the "Instructions For Emergency Absentee Voting" and hands the sealed envelope to the hospitalized voter's designated representative for delivery to the voter. Be sure to include the correct version of the emergency instructions; that is:

Advise the designated representative that the properly executed absentee ballot must be delivered to the registrar's office prior to 7:00 p.m. on election day and enclose those instructions with the ballot(s). Any "Emergency Absentee Ballot" received after the required deadline must not be counted.

If the hospitalized voter indicates that assistance will be needed in the preparation of the ballot due to a physical or educational disability, be certain to include the "Request For Assistance Form" (SBE-649), with the absentee voting materials.

The hospitalized applicant's name must be entered on the "Emergency Absentee Ballot Applicants List." (SBE-710-1.)

11.3.4.5 Affidavit of Designated Representative

Upon returning the absentee ballot, the hospitalized voter's designated representative must complete an affidavit (SBE-705-1), under oath, stating that he:

- is the designated representative;
- meets the qualifications of a representative;
- personally delivered the ballot to the voter who applied for it;
- was in the presence of the voter when the voter marked the ballot, that it was placed in the envelope provided, the envelope sealed, and the statement on its reverse side subscribed by the voter; and
- returned the ballot, under seal, to the electoral board at the registrar's office.

11.3.4.6 Registrar's Certification

After the hospitalized voter's designated representative has executed the affidavit, the registrar or assistant registrar must complete the lower portion of the form by inserting, as appropriate:

- Application number;
- Precinct name and number;
- Date ballot returned; and
- Time ballot returned.

The registrar or assistant registrar must then sign the form and attach it to the "Emergency Absentee Ballot Application" completed by the hospitalized voter.

The appropriate information is then recorded on the "Emergency Absentee Ballot Applicants List."

11.3.4.7 Delivery of Ballots

Electoral boards must deliver the ballots to either the appropriate precincts or the CAP immediately after 7:00 p.m. on election day. A copy of the "Emergency Absentee Ballot Applicants List" must accompany these returned ballots.

11.3.4.8 Entering into VERIS

These applicants can now be entered in VERIS. Emergency application is now listed as an application type in the drop down application type list. Once the emergency application type is selected, the received by method will populate and only the designated representative method will be available for selection. The reason type will populate as well and only illness or

disability will be allowed for selection. The ballot sent by method will self populate and only the designated representative will be available for selection. Continue to process application as normal.

11.3.5 Emergency Ballot Applications

This section permits any person to vote absentee who finds out after noon on the Saturday immediately before election day that he will be away from his county or city of residence on election day for one of the four following reasons:

- Absent for a purpose relating to his business, profession, or occupation. Must provide the name of his employer or business;
- Due to impending hospitalization either later on the day before the election or on election day;
- Due to the hospitalization of a member of his/her immediate family;
- Due to the death of a member of his/her immediate family defined as the children, grandchildren, grandparents, parents, siblings, and spouse of the applicant; or
- To serve as an officer of election in another precinct.

This voter must:

- Apply in person at the office of the general registrar of his county or city of residence before 2:00 p.m. on the day before the election.
- Complete and sign the Business/Personal/Medical Emergency Absentee Ballot Application.
- Vote in the same manner as any other in-person absentee voter.

These applicants can now be entered in VERIS. Business/Personal/Medical Emergency application is now listed as an application type in the drop down application type list. Once the Business/Personal/Medical Emergency application type is selected, the received by method will populate and only the in-person method will be available for selection. The reason type will populate as well and business, illness, disability, and election official reasons will be allowed for selection. Please select election as the reason for voting absentee. The ballot sent by method will self populate and only the in-person method will be available for selection. Continue to process application as normal.

11.3.6 Application for Federal Write-In Absentee Ballots

Federal law requires all states to accept federal write-in ballots (FWABs) in all federal general elections for U.S. citizens who:

- are outside the U.S.; and
- have applied for a state ballot so that their local electoral board receives the application request at least 30 days prior to the election.

All of the following must be true for a voter to be eligible to vote on a federal write-in ballot under Federal Law. The qualifying conditions are:

- The voter must be a qualified registered voter and have applied for a Virginia ballot, using either the Virginia application or the FPCA;
- The electoral board must have received the application for the absentee ballot at least 30 days prior to the general election;

- The write-in ballot must have been mailed from outside the United States; and
- The oath on the back of the mailing envelope must have been properly completed and signed by the voter, and the voter's signature must be witnessed.

FWABs are typically used when the overseas voter believes his or her regular voted ballot may not be received by local electoral board in time to be counted in the election. Often an FWAB is mailed at about the same time at a regular absentee ballot application. Provided the application is received at least thirty days before the election, you may retain the FWAB and process the application as usual, mailing the applicant a regular ballot. The voter is obligated to vote and return the full ballot, even though the FWAB has been filed. If the full voted ballot is returned by Election Day, it is counted as usual. However, if the full ballot is not returned, the FWAB is counted.

If any of the conditions listed above are not true, then the ballot is not qualified as a ballot.

- Write "void" on the Federal Ballot.
- Place the ballot in the Federal Write-In Absentee Ballots Voided envelope provided for your locality.
- Effective July 1, 2002, the electoral board is required to send a written explanation of the reason for rejection of an absentee ballot to the voter within 90 days of the date of rejection. (Notice is not required if the ballot cannot be counted because it is received after the election.)

If the ballot qualifies to be counted, then it is qualified.

- If you have not previously received an absentee application from the voter and the voter is already on your permanent registration rolls, the ballot qualifies under the new law allowing the completed FWAB envelope to simultaneously serve as an absentee ballot application.
- If the voter is eligible for late military registration and has included a completed Virginia Voter Application or FPCA with his FWAB (but not inside the "ballot within" envelope
- Enter the application information on selecting Write-in Absentee Ballot as the application type.
- Select the appropriate reason from the drop-down selection box.
- Place a Federal Write-In sticker on the ballot. The SBE issues these stickers. Fill in the precinct code and the date and time received.
- Place this ballot with all other ballots for the precinct.

ⓘ If you receive a Virginia ballot from a voter whose record on VERIS indicates that a prior Federal Ballot has been returned, then:

- Write "void" on the FWAB;
- Place the FWAB in the "Federal Write-In Absentee Ballots Voided" envelope that has been provided for your locality; and
- Enter that the Virginia absentee Ballot Status is returned "Marked" in VERIS which will supersede the FWAB.

Virginia law is more permissive than Federal Law. Virginia allows FWABs to be used in primaries and special elections for federal offices. Registrants eligible for temporary registration for federal elections may also use FWABs. (§ 24.2-702.1)

Effective July 1, 2002, under Virginia law the FWAB may serve as both the application and the completed ballot for federal elections (including primary and special elections) under the following conditions:

- The voter is already permanently registered to vote in Virginia.
- The ballot is received not less than five days prior to the election in which the voter offers to vote (not 30 days as required for the application).
- The application on the envelope contains the following information:
    - the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box;
    - the voter's printed name;
    - the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; and
    - his current military or overseas address.
- The envelope must be witnessed, and the witness shall provide his signature, printed name and address in the witness signature box. (§ 24.2-702.1.)

11.4 Procedures for Mailed Absentee Ballots

After ballots are available to be mailed, VERIS will produce several reports for the applications that were entered the previous day or you may elect to run these reports at a time of your choosing. (See here for more information about each report.)

- Daily Absentee Applicants List
  ⓘ Use this report to proof your daily data entry against the application forms.
- Certificate of Mailing List
- Absentee Ballot Mailing Labels

ⓘ If voter applies in person and would like their ballot mailed enter the applicant information in VERIS and make sure the Ballot Sent by is "Mail."

11.4.1 Assemble The Following For Each Ballot To Be Mailed On The Certificate Of Mailing:

- The "Instructions For Absentee Voting" (SBE-706-4) for the appropriate ballot type used in your locality.
- A ballot set sealed in the "Ballot Within" envelope (SBE-706-1). (This should be referred to as "A" envelope.)
- A "Marked Ballot" envelope (SBE-706-2). (This should be referred to as "The Statement of Voter" or "B" envelope.) There are currently two versions of the "B" envelope. The one titled "UOCAVA Statement of Voter" is to be used by UOCAVA citizens (including uniformed members and their families stationed in the continental United States) only.

The one titled "The Statement of Voter" is to be used by all other Virginia residents voting absentee.

- A "Return Envelope" addressed to the electoral board secretary (SBE-706-3A) with a return address label. A return address label will be produced by the printer and will include the applicant's precinct and district code numbers.
- If the application indicates that the voter will need assistance marking the ballot, a "Request For Assistance In Voting an Absentee Ballot" form (SBE-649 (AB)).
- If the applicant is eligible for a "Military Incomplete" ballot, a Federal Post Card application and a letter or the FPCA acknowledgement forms.

Remove the left-hand label for each applicant and affix it to a "Return Envelope." Insert all of the above into a "Mailing Envelope" (SBE-706-5B), affix the right-hand label to the front of the envelope, and seal the envelope.

Overseas applicants are eligible for postage-free absentee mailing. In this case, substitute postage-free return envelope (SBE-706-3B). Mail ballots to these applicants in postage-free envelope (SBE-706-5B). No "Certificate of Mailing" is required.

Absentee ballots that are not postage-free must be mailed using the "Certificate of Mailing." The certificate provides the electoral board with proof that the ballot was mailed and the address to which it was mailed. If three or more absentee ballot applications are entered into VERIS throughout the day, a "Certificate of Mailing" will be available for printing the following day. The number of ballots mailed must equal the number of names on the "Certificate of Mailing." Any errors in data entry must be corrected by hand on the "Certificate of Mailing" and totals must be adjusted accordingly.

11.4.2 Emailing or Faxing the Ballots

The SBE conducts two programs to assist our military voters. An emergency military absentee voting program was established in 2002 following President Bush's Declaration of a State of Emergency for 9/11. Governor Warner directed the Secretary of the SBE to establish an e-mail absentee voting program for active duty military deployed outside the continental United States. These military voters may e-mail a request for an absentee ballot, receive the ballot and return envelope via e-mail, print and vote the ballot and return by mail. This method has dramatically reduced the time it takes for our military voters to cast an absentee ballot. All Virginia localities are required to participate.

A pilot program initiated in 2001 and continued in the 2002, 2003, and 2004 November general elections permits both military and other qualified overseas voters to request an absentee ballot by the method described above. The program is limited to counties or cities which have established central absentee voter precincts and whose electoral board chooses to participate.

After ballots are available to be sent, each morning VERIS produces the "Daily Absentee Applicant list" for the applications that were entered the previous day. It is recommended you use this report to proof your daily data entry against the application forms.

11.4.2.1 Assemble the Following for Each Ballot to Be E-Mailed or Faxed

- VotingInstructions.pdf (Contains instructions to the voter on how to assemble
- BallotWithin.pdf (Contains your localities ballot in a scanned pdf format)
- ABEnvelope.pdf (Contains the Security Envelope ‘’Envelope B” template)
- If the applicant is eligible for a “Military Incomplete” ballot, a Federal Post Card application and a letter or the FPCA acknowledgement form.

11.4.3 Procedures upon Receipt of a Mailed Absentee Ballot

Absentee ballots may only be returned by mail or in person by the voter. No other person may deliver an absentee ballot on behalf of the voter with the exception of medical emergency applicants. Upon receipt of the ballot:

- If the ballot is returned by the general registrar to the electoral board, the board shall give the general registrar a receipt showing the time and date of the return.
- Complete the “Electoral Board Use Only” section on the top of the outer envelope.
- Slit open the outer envelope to determine whether the ballot was returned used or unused. Do not open the “Marked Ballot” envelope or remove the contents from the outer envelope.
- Perform an “Absentee Search” in VERIS and update the record by entering the date the ballot is received. Enter the “Ballot Received by Method” and the “Ballot Status” to indicate if the ballot was returned marked or unmarked.
- Deposit the ballot, used or unused, in an appropriate locked container or secured location.

The following morning, the “Daily Absentee Applicant List” will include all applicants whose records are updated with returned ballots. Check your work against the printout to assure all records are properly updated.

Absentee ballots may be returned to the office of the general registrar or electoral board before the close of polls. (§ 24.2-709.)

11.5 Procedures for In-Person Absentee Voting

Any qualified voter who is eligible to vote by absentee ballot, and who applies in person at a time when ballots are available, may vote in person at the time of application or request that the absentee ballot be mailed to him (provided the voter applies by the deadline for requesting ballots to be mailed). The deadline for appearing in person to vote absentee is 5:00 p.m. on the Saturday prior to the election. Procedures for an in-person application are:

1. Have the voter complete the “Virginia Application for Absentee Ballot.” Provide any assistance necessary. The “mail to” address is not necessary on an in-person applicant who chooses to vote in person if the ballots are available. If the voter requests the ballot to be mailed, the address listed must be the address in VERIS or the address at which the voter will be while absent from the locality. The absentee ballot may not be sent “care of” any other person.

2. Determine if the applicant is registered in your locality and at the address provided. If the registration books are still open for the election, or if the applicant is eligible for registration after the books have closed, the applicant may apply for registration and vote immediately thereafter. To register or update his registration, the applicant must complete the "Virginia Voter Registration Application" or FPCA. If the registration books are closed and the applicant has moved, you must determine if the applicant is eligible under §24.2-401, or §24.2-402, to vote in the particular election.
3. The following persons are eligible to register while the books are closed, up to and including the day of the election. They must be given a registration date equal to the final day of registration. (§24.2-419, §24.2-240.1)
    - Those normally absent from their county or city who are members of the uniformed services of the United States on active duty, members of the merchant marine, or their spouses and dependents residing with them (these individuals may apply either by mail or in person, and their application for registration(FPCA) may be mailed with their application for an absentee ballot (FPCA));
    - Those, who have been absent from their county or city and who have returned to reside there during the 28 days immediately preceding the election, who were residing temporarily outside the United States by virtue of employment, and their spouses and dependents who were residing with them (these individuals must apply in person if applying while books are closed);
    - Members of the uniformed services of the United States who were discharged during the 60 days immediately preceding the election, and their spouses and dependents residing with them (these individuals must apply in person if applying while books are closed).
4. If all is in order, complete the "Office Use Only" section on the top right corner of the application.

Effective July 1, 2002, all in-person absentee voters must produce one of the specified forms of identification, or sign an "Affirmation of Identity" before being allowed to vote. (§ 24.2-643.) Acceptable forms of identification include:

- Commonwealth of Virginia Voter Card
- Social Security Card
- Valid Virginia driver's license
- Any other ID issued by a government agency of:
    - the Commonwealth of Virginia,
    - one of Commonwealth's political subdivisions, or
    - the United States
- Any valid employee ID card containing your photo and issued by your employer in the ordinary course of the employer's business

ⓘ A voter who can provide no identification is required to sign the "Affirmation of Identity" form.

6. When the voter indicates on the application that assistance is required to vote, provide the voter with a "Request for Assistance" form. The voter who is not blind may choose anyone to assist with voting the ballot except the voter's employer or union official. A

blind voter may choose anyone. You must provide assistance if that is the voter's choice. A blind voter need not sign the assistance form. Fill out the form completely and enter the words "blind voter" on the voter's signature line.

ⓘ The law was changed effective July 1, 2005 to require that the assistant to the blind voter sign the assistance form.

7. If paper or marksense ballots (marksense ballots not fed into the counter by the voter which constitutes voting on machines listed below) are used, provide the voter with a private place to vote and issue a ballot set sealed in a BALLOT WITHIN (envelope "A") envelope and the Statement of Voter (envelope "B") envelope.
8. When voting is completed, witness the voter's signature on the back of the marked ballot envelope. Place the marked ballot envelope inside an envelope addressed to the electoral board and deposit the ballot in a locked container. You must enter that the Ballot Issued was "In Person", Ballot Received by Method was "In Person" and the Ballot Status" was "Marked" in VERIS.
9. If voting machines are used for in-person absentee voting, follow the proper control procedures established for the equipment used in your locality, including instructing the voter on how to use the voting machine. You must enter that the Ballot Issued was "In Person", Ballot Received by Method was "In Person", and the Ballot Status was "On Machine" in VERIS.

Regular polling place rules apply to in-person absentee voting. The voter may not be accompanied by anyone other than an authorized assistant or his or her child age 15 or younger. No political activity is permitted within 40 feet of the polling place.

11.5.1 Inspection and Retention of Absentee Ballot Application Copies

The registrar retains all Absentee Ballot Applications in a file. When copying these applications for inspection by registered voters, the social security number must be covered so that it is not visible on the copy. These copies must continue to be available until after the time has expired for initiating any contest of the election or other such proceeding or after such contest or proceeding is no longer pending if one is initiated, and then should be destroyed.

11.5.2 Transmission of Original Applications to Clerk of Court

The registrar is required to transmit original applications for absentee ballots, under seal, to the Clerk of Circuit Court before noon on the day following the election. The SBE provides an envelope for this purpose.

11.6 Military Incomplete Applications

An incomplete FPCA or "Virginia Absentee Application" from a voter who meets the requirements for late military registration is to be treated as a military incomplete application. These procedures also apply if the FPCA is needed for registration and only a faxed copy has been initially received.

1. Enter this applicant for voter registration into VERIS and select "Incomplete" as the application status. This applicant will be in a holding status until the required information is returned
2. Mail the ballot as usual, along with a blank "Virginia Voter Registration Application" or FPCA and a letter of instruction. The letter should explain that the ballot will only be counted if the application is returned along with, but not inside, the "Marked Ballot" envelope. Explain that the voter must fill out the application completely, leaving no blank spaces, and entering "none" if a question does not apply.
3. When the ballot is returned, if there is a properly completed registration application enclosed (or the signed, original FPCA has been received in the meantime), may locate the application in the hopper by clicking on the "Incomplete" file. If the registration is being completed after the books have closed, the voter must be given a registration date equal to the final registration date.
4. If the registration application is not enclosed or is incomplete, the applicant is not registered and the ballot cannot be counted. Send the applicant a "Denial of Registration" and a blank Virginia application or FPCA.

11.7 Special Ballots

Virginia provides special ballots to certain voters in certain situations. The four special ballots are:

- Statewide early absentee;
- Federal-only absentee;
- Presidential-only absentee; and
- Federal write-in absentee.

11.7.1 Statewide Early Absentee Ballots

Virginia provides an early absentee ballot for the elections for governor, lieutenant governor, or attorney general to any person voting from overseas who is unable to vote in any other manner due to overseas military service or due to living in an isolated or extremely remote overseas area. (§§ 24.2-700(2), 24.2-702.) The Voting Assistance Guide for uniformed and overseas citizens directs applicants to place this statement in Item 7 of the FPCA.

The early absentee ballot must be requested not later than 90 days before the statewide election. A voter may request a statewide early absentee ballot using either the Virginia absentee ballot application or the FPCA. On receipt of the application, the electoral board shall issue, at least 90 days before the election, the printed ballot only for the elections for Governor, Lieutenant Governor, or Attorney General. No additional ballot or ballots shall be provided to such applicants for that election date. If the voter who has been sent the statewide only early absentee ballot attest that he has not received or has lost the ballot, (under normal processes for doing so), he may be issued a replacement statewide only ballot, but not any other ballot.

Select the early absentee ballot as an absentee reason in VERIS.

11.7.2 Federal-Only Absentee Ballot

Some overseas voters only qualify for ballots for Federal Offices. (See Chapter 12 to determine the type of registration and ballots for which the applicant qualifies.)

Federal-only ballots are issued to applicants residing overseas who:

- No longer have a Virginia place of abode (but their last place of residence in the US was in Virginia), and
- Are not military voters (including spouses or dependents residing with the member of the military), and
- Do not qualify for temporary registration for all elections under the procedures contained in §§ 24.2-443.1 through 24.2-443.4

A voter may request a federal-only absentee ballot using either the Virginia absentee ballot application or the FPCA. Mark these application forms with the words "Federal Ballots Only" in the upper right corner of the form.

These applicants can now be entered in VERIS. Select the applicable temporarily reason code from the drop down list when processing the absentee application through VERIS. Enter all information concerning their registration such as Overseas, Temporary, and if so, the last date of residence. VERIS will limit the ballot to federal only for those required voters. Entering this information when processing the absentee application will also update the voter's registration. Enter the applicable registration end date for temporary registered voters as well. (See Chapter 12.)

11.7.3 Presidential-Only Absentee Ballot

There are three types of situations in which an absentee voter is to be issued only the ballot for Presidential and Vice-Presidential electors. These situations are:

1) A person who desires to vote absentee but is required to vote at the polls or in person absentee due to status as a first vote mail applicant. Such a person would only be voting absentee for reason codes 1B, 1C, 1D, 1E, 2B, 3A, or 3B, and would be under age 65.

ⓘ The law allows a full ballot to be voted, regardless of mail status, by persons who vote absentee under the provisions of UOCAVA or the Voting Accessibility for the Elderly and Handicapped Act (including any voter age 65 or older applying to vote absentee for one of the above codes) and full-time students at an institution of higher learning

2) A registrant whose reason for wanting to vote absentee is not one found on either the Virginia Application for Absentee Ballot or the Federal Post Card Application. This applicant is required to write "Request Ballot for President Only" on the ballot application, and does not enter a reason for voting absentee.

3) A registrant who has moved from the Commonwealth fewer than thirty days before a presidential election. This type applicant is required to write "Request Ballot for President Only" on the ballot application. (This is the category of voters who, when

voting in person, must be challenged by an officer of election and issued the pink form, Affirmation of Eligibility to Vote a Presidential Ballot Only. The pink form is not sent if these persons apply to vote absentee, as absentee voters are not subject to challenge.) After the election, the registration for these voters should be cancelled. (§24.2-402)

A voter may request a Presidential-only absentee ballot only by using the Virginia absentee ballot application.

Mark these application forms with the words "Presidential Ballots only" in the upper right corner of the form. These applicants can now be entered in VERIS. This will be listed as a reason code in the drop down box and it will only be available for selection during the Presidential Election.

11.8 Absentee Voting Reports

The following absentee reports are generated in VERIS:

- Daily Absentee Applicant List-applicants added: An alphabetical listing by precinct and/or district of all absentee records entered or modified in VERIS the previous working day. Proof data entry work by checking the actual application forms entered in VERIS against this printout. Two copies are provided. The document that contains voters' Social Security numbers is <u>not</u> available to the public while the version that omits Social Security numbers <u>is</u> available to the public.
- Daily Absentee Applicant List-applicants added: Produced if any absentee records were deleted the previous day. This report contains Social Security numbers and is not available for public inspection.
- Certificate of Mailing: An alphabetical listing of applicants with ballots to be mailed entered in VERIS the previous working day, including the voter's name and mailing address and the postal amount to be paid for both the postage and the certification. This report is produced only for those ballots to be mailed in the domestic postage envelopes, or all applicants whose reason for voting absentee is other than 6A, 6B, or 6D. This report is not produced if less than three applications for ballots to be mailed were entered the previous day. This is your proof of mailing, and is the equivalent of the Postal Service's Receipt for Certificate of Mailing.
- Mailing labels: Two labels are printed for each applicant with a ballot to be mailed. One is used to mail the ballot to the voter, and the second is used as a return mailing label on envelope SBE-706-3A or SBE-706-3B. Labels are printed alphabetically by precinct and district, and the domestic mail labels (for those whose names appear on the certificate of mailing) are produced before those mailed in the postage-free envelopes. After the three digit locality code, the applicant's identification number is printed on the return mailing label.
- Weekly Cumulative Absentee Report: Cumulative weekly listing of all persons who have applied for or voted absentee ballots. Alphabetical by precinct and district. This report is available for public inspection.
- Statistical Report produced weekly following the Cumulative Absentee Report. Lists by precinct the number of ballots applied for, the number of ballots returned marked or voted in person, and the number of ballots returned unmarked.

- Final Absentee Applicant Report: Produced for all valid applicants/voters added to VERIS by the application deadline of 5:00 p.m. on the Saturday before the election. Available for public inspection.
- Final Absentee Totals
- New Absentee Applications
- Overseas Voter Report
- Ballot Application taken in another locality
- Cumulative Control Totals

11.9 Deadlines

The following are important deadlines to remember about absentee ballots:

Date	Deadline	Task
		Deadline to register to vote.
	12 months prior to election	Earliest that an application for absentee ballot may be filed.
	90 days before election	Last time to request a statewide early absentee ballot.
	90 days before election	Deadline for EB to issue statewide early absentee ballots.
	45 days before election	Absentee ballots must be ready for any November general or special election held at the same time.
	35 days before election	Absentee ballots must be ready for any general, special, or primary election.
	30 days before election	Deadline to request a federal write-in absentee ballot.
	5:00 pm on the Tuesday prior to the election	Deadline to request a mailed absentee ballot.
	5 days before election	Deadline for FWAB to be received and also count as the application.
	Noon on Saturday before election day	Earliest that a person can learn of their need for an emergency absentee ballot.
	2:00 on the day before an election.	Deadline to request an emergency absentee ballot.
	Immediately after noon on election day	EBs must deliver all returned emergency absentee ballots to precincts (if no CAP).
	Close of polls on election day	All absentee ballots must be received by the office(s) of the electoral board or general registrar.
	Immediately after 7:00 pm on election day	EBs must deliver all returned emergency absentee ballots to CAP
	Noon on the day following the election.	Registrars must transmit original absentee ballot applications to the Clerk of the Circuit Court.
	After the November election, but 7 days before a special election	Deadline to submit a FPCA for an absentee ballot for a special election in November or December.
	10 days after SBE certifies the election.	Registrars no longer must allow absentee ballot applications to be available for public inspection.
	December 15	Registrars must send enrolled applicants a blank annual application for an absentee ballot due to physical disability or illness.

GREBook 12 Temporary Registration

12.1 Definitions

Military Voter: Any member of the uniformed services of the United States on active duty or any member of the merchant marine, and spouses and dependents residing with them, may retain their residency for voting purposes even if they no longer have a physical place of abode in the state. This category of voter is known as the military voter. The term military voter does not include all federal employees, but only active duty military and members of the merchant marine and accompanying spouses/dependents. Non-uniformed federal employees, and military employees not on active duty, are **not** military voters.

Overseas Voter: A voter residing temporarily overseas that retains a place of abode in Virginia. This is usually known due to an application for an absentee ballot (most commonly the Federal Post Card Application, or FPCA), on which the voter does not list a last date of residence. The overseas voter maintains a place of abode in Virginia and is therefore eligible for full registration. If an existing voter's FPCA or absentee ballot application indicates that the voter is overseas (e.g., through the reason code) and the application does not contain a last date of residence, the voter is considered an overseas voter.

Temporary Voter: A voter residing overseas that has given up their place of abode in Virginia. This is usually known due to an application for an absentee ballot (most commonly the FPCA), on which the voter lists a last date of residence. The temporary voter does not maintain a place of abode in Virginia but could be eligible for either full registration or for federal-only registration. This chapter deals exclusively with the rules for handling temporary voters of both full and federal-only registration types. (See Chapter 11 for federal only registration.)

12.2 The Two Types of Temporary Registration

Many overseas voters will be eligible to maintain their permanent registration in Virginia. Use temporary registration only for those who do not qualify for permanent registration. Any voter residing overseas that does not list a last date of residence (which means the person has not given up his or her place of abode in Virginia) is eligible for permanent registration as an overseas voter. The chart at the end of this chapter summarizes the qualifications for permanent and temporary registration.

There are two types of temporary voters:

1) Temporary Full Ballot Voter: The temporary full ballot voter may vote in any election.
2) Temporary Federal-Only Ballot Voter: The temporary federal-only ballot voter may only vote in federal elections (i.e., elections for federal office).

The qualifications for federal ballots are the broadest. Most overseas citizens who cannot qualify for permanent registration as overseas voters will qualify to receive ballots for federal elections as temporary federal-only ballot voters.

12.3 Temporary Full (Federal, State and Local) Ballot Voter

12.3.1 Eligibility

Temporary full ballot voters are residents of Virginia living outside the U.S. by virtue of employment and the spouses and dependents living with them who:

- registered to vote before the move overseas;
- moved after July 1, 1999; and
- no longer have a Virginia place of abode.

The overseas employee, accompanying spouse or accompanying dependent must have registered to vote in Virginia before moving overseas. They do not need to have actually voted in Virginia before the move.

Duration of eligibility: The temporary full ballot voter remains registered in the precinct in which he was previously registered, and shall be eligible to vote in all elections held in that precinct. If the absentee application is made using SBE Form 443, it is only valid for the next election.

The temporary full ballot voter remains registered so long as the he votes at least once every five years after moving overseas. If the voter fails to vote at least once in any five year period, the voter will lose full-ballot status, and will only be eligible for federal-only ballots (i.e., will become a temporary federal-only ballot voter) while they remain overseas.

Eligibility for Absentee Ballots: The temporary full ballot voter must still apply for absentee ballots. When this type of voter applies for absentee ballots on the FPCA, the absentee application remains valid for all elections for which the voter is eligible through the second federal general election (November) after the most recent FPCA was received. If the voter applies for an absentee ballot using the Virginia temporary registration form (SBE Form 443) or the Virginia absentee ballot application (SBE Form 701), the absentee application is only valid for the next election.

Students residing temporarily overseas because of enrollment in a regular, organized course of study are deemed to have employment. Similarly, citizens volunteering in the Peace Corps as volunteers, or missionaries are deemed to have employment.

12.3.2 Required Forms

Citizens may apply to be a temporary full-ballot voter in two manners:

- Completion of a Federal Post-Card Application (FPCA); or
- Completion of a Virginia absentee ballot application (SBE-701).

If the voter applies for an absentee ballot using an FPCA, the voter should:

- Check box 1(b) indicating that they are a U.S. Citizen residing outside the U.S. temporarily;
- List a last date of residence (on or after July 1, 1999) in box 6; and
- List the name of an employer in box 6.

If the voter applies for an absentee ballot using the Virginia absentee ballot application (SBE Form 701), the voter should:

- Check the box next to reason 6D, "I am temporarily residing outside the continental limits of the U.S. for the purposes of employment or I am the spouse or dependent thereof;" and
- In the same box on the form, provide the last date of residence in Virginia. If the last date of residence is before July 1, 1999, the voter is not a temporary full ballot voter.

ⓘ You must check the **Temporary Checkbox** on VERIS when registering this voter. You then must fill in the date of last residence as it is listed on the FPCA. VERIS will state that this voter is eligible for federal only ballots on the voter's registration.

ⓘ When processing the absentee application in order to send the voter a ballot in VERIS, the system will limit the ballot type to federal only ballots.

12.3.3 Application Procedures

If the application meets the requirements, start processing by entering the applicant's information into the "Absentee Search" page of VERIS.

ⓘ If the voter is not registered in the system, check your files. Either there is an error that must be corrected (and thus the voter should be in the system) or the voter is not a temporary full-ballot voter.

If the voter is currently registered in the system, VERIS will populate the voter's information and will indicate whether the voter has previously applied for an absentee ballot. If the voter has not previously applied for a ballot, you will add this application by selecting the "Add Application" button. You will than be brought to the "Add Application" screen where you will enter the applicant's information for processing.

Once you select the application type, the permissible reason codes will populate. The reasons are listed in numerical order and indicate the reason for voting absentee. The only reasons that will populate are the ones that are valid for the specific application type. Only reason "6D Overseas for reasons of employment" will allow this voter to receive full ballots in local and state elections. Check the "Temporary" checkbox and then enter the last date of residence for the voter. Only when the correct reason code is entered, the "Temporary" checkbox is checked, and a last date of residence on or after July 1, 1999 are entered will the system assign full ballots to the voter.

Entering this information on the Absentee screen will update the voter's registration as well. You must also enter the registration end date by calculating out five years from the registration date. As long as the voter votes once every five years, the registration remains valid. You must also enter the ongoing expiration date in order to indicate the ongoing status of an absentee ballot

request. This date must be calculated to go through the next two regularly scheduled Federal elections.

Alternatively, update the voter's registration on the "Registration Maintain" screen before processing the absentee request. On that screen select the "Temporary" checkbox, and enter the last residence date and the registration end date. If you update the registration record, the information will automatically carry over to the absentee record.

Finally, enter or update the address to which the absentee ballot is to be mailed. If the voter has voted absentee since moving overseas, verify that the overseas address on file for them is correct.

12.3.4 Special Filing Instructions for First-Time, Temporary Full Ballot Voter

As temporary full ballot voters must be registered to vote,

- Pull their original voter registration application from your files;
- Mark on the back that the status has been changed to "Temporary Full Ballot" with the date; and
- File the original voter registration application in a drawer adjacent to but separate from your active applications.

Since first-time, temporary full ballot voters will be maintained in VERIS after taking the steps above, follow the normal instructions for processing the absentee applications under Chapter 11.

12.3.5 Registration End Date

VERIS will alert you when a voter reaches their registration end date. Check the voter's history to determine whether the voter has voted at least once in five years for the voter to remain a "Temporary Full Ballot Overseas Voter." If the voter has voted, update the registration end date to five years from the date the voter last voted. If the voter has not voted, then the registration must be cancelled and the absentee ballot application must be denied for state and local ballots, but will still qualify to receive federal ballots.

ⓘ If, in the future, the individual reapplies for registration, the voter, if otherwise qualified, will be a temporary federal-only ballot voter.

12.3.6 Applications That Are Incomplete or Late

An FPCA received from an overseas or temporary (either type) voter received through the United States Postal Service shall be deemed to have been made as of the date of the postmark affixed to such application by the United States Postal Service. If there is no such postmark affixed or if the post mark affixed by the United States Postal Service is unreadable or bears no date, the application shall be deemed on time if received through the United States mail no later than five days following the close of the registration books.

If an application from an otherwise qualified applicant is received after the deadline, send the applicant a letter explaining why you must and will send a ballot for the next election. Let them know for what elections the application has been accepted. For example, an application for temporary registration received October 20, 2004 is too late for the November 2004 election, but will be honored for all elections for which the voter is eligible through November 2008.

If an application is incomplete and there is adequate time before the registration deadline, send the applicant a denial form along with a new application form.

12.3.7 Mail The Following To The Voter:

In addition to the material listed in Chapter 11, you may include the following in your mailing to the voter:

- Information about the voters registration status, provided by registrar, may be included with ballots for overseas or military voters
- Information concerning the voting rights process for overseas citizens provided by SBE. (If available)

VERIS will produce mailing labels either singly or in batch mode for all processed and approved absentee applications. Select the appropriate batch from the Batch Reporting page in VERIS to print labels whenever you determine labels should be printed.

If an applicant applies in person before the books are closed and after the ballots are ready, and the voter wishes to vote at that time in person, process the voter's absentee ballot application as detailed previously and provide the voter with the same material you would any other in person absentee voter (see Chapter 11). The only difference between this voter and any other in person absentee voter is that the temporary full ballot voter is exempt from the HAVA ID requirements. Since this voter is voting in person, the exemption from the in person voting requirement of Virginia law is immaterial.

After the voter places the marked ballot in the "Marked Ballot" envelope, witness the voter's signature on the outside of the envelope and sign as the witness. Place the Marked Ballot envelope inside the pre-addressed envelope, and place the envelope in a secure, locked container. In VERIS, enter that the Ballot Sent By method is "In Person," the Ballot Received by Method is "In Person," and that the Ballot Status is "Marked."

If using machines for in-person absentee voting, follow the normal procedures for the equipment except make sure that you have set the machine so that ballots can be cast for all offices and issues (federal, state and local). In VERIS, enter that the Ballot Sent By method is "In Person", the Ballot Received by Method is "In Person", and that the Ballot Status is "On Machine."

12.4 Temporary Federal-Only Ballot Voters

12.4.1 Eligibility

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 USC 1973ff et seq.) and subsequently enacted Virginia laws (§§ 24.2-440 - 24.2-443) permit any citizen residing overseas, whose last residence in the U.S. was in Virginia but who no longer maintains an abode in Virginia to receive absentee ballots for elections for federal elections only. Federal-only ballot voters do not qualify for temporary full ballot registration in all elections under Virginia law and do not qualify for permanent registration as overseas voters.

A voter is eligible to receive federal-only ballots in either of the following circumstances:

1. The applicant is not currently registered**,** submits an FPCA in order to register and apply for absentee ballots and lists a last date of residence on the application.

   Check the Temporary checkbox on the VERIS Voter Maintain screen when registering this voter and fill in the date of last residence as it is listed on the FPCA. VERIS will state that this voter is eligible for Federal-Only ballots on the voter's registration. When processing the application for an absentee ballot, VERIS will carry the Federal-Only designation to the absentee screens.

2. A currently registered voter submits an FPCA or a Virginia application to update registration and apply for absentee ballots and:

   - Lists a last date of residence on or after July 1, 1999 and the reason code is not "6D Overseas for reasons of employment." Check the Temporary checkbox when updating this voter's registration on VERIS. Then fill in the date of last residence as it is listed on the application. VERIS will state that this voter is eligible for Federal-Only ballots. When processing the Absentee Application, the system will limit the ballot type to Federal-Only ballots if a reason code is selected other than "6D Overseas for reasons of employment." If the voter is not overseas because of employment, he or she is not eligible under state law to receive full ballots and therefore must receive federal ballots only.

   OR

   - Lists a last date of residence before July 1, 1999. Check the Temporary checkbox when updating this voter's registration on VERIS. Then fill in the date of last residence as it is listed on the application. VERIS will state that this voter is eligible for Federal-Only ballots. When processing the Absentee Application, the system will limit the ballot type to Federal-Only ballots regardless of what overseas reason code is selected, including 6D overseas for reasons of employment. If the voter moved overseas before July 1, 1999, he or she is not eligible under state law to receive full ballots and therefore must receive federal ballots only.

ⓘ Federal elections are defined as: any general, special, or primary election for President, Vice-President, presidential electors, or a member of the U.S. Senate or the U.S. House of Representatives.

12.4.2 Required Forms

Applications for Temporary Federal-Only Ballot registration should be made on:

The Federal Post Card Application or FPCA (federal Standard Form 76 and its precursors), Applicants no longer have to apply separately for each election in which they want to vote. If the application is made on the FPCA, temporary registration is valid for all elections for which the voter is eligible through and including the second federal general election (November) after the most recent FPCA is received. The applicant will continue to receive all ballots for which he is eligible through and including the second federal general (November) election. The registrant will need to send a new FPCA after that time to continue to receive absentee ballots. If the applicant's FPCA reply card is properly addressed and attached, use it to notify the applicant that

he will receive an absentee ballot through and including the second federal general election, and that he must reapply no later than the second federal general election held after the date of his initial application, in order to continue to receive ballots. If the FPCA reply card is not attached, and the applicant has provided a Fax number or Email address, either method of communication may be used. For other temporary registrants, send a separate mail notice to the applicant (a postcard is sufficient). Effective 4/12/04, the notice of registration status may also be sent with the absentee ballot itself.

or

The Virginia Application for Temporary Registration (SBE Form 443 and it precursors). As of July 2002, SBE Form 443 was phased out. Please tell your overseas voters to use the Federal Post Card Application. Any old Form 443 received may be accepted, but do not distribute additional form 443's. In VERIS, treat SBE Form 443 as if it were an FPCA except that it will only be valid for one election. In this document, assume that procedures for processing SBE Form 443 are the same as for processing the FPCA except where otherwise noted.

The general registrar must determine, based on the information available, whether the applicant is Military, Overseas, or Temporary. If the application lists a last date of residency, the otherwise qualified voter must be registered as a Temporary voter (either a Full Ballot or Federal-Only Ballot). VERIS will assist you in this determination, as once the information received from the FPCA is entered and the application is processed, VERIS will determine the proper ballot type for the voter.

12.4.3 Receipt of Application

Upon receipt of a Virginia Application for Temporary Registration (Form SBE-443), enter the date the application was received and the precinct and district codes in the "Registrar Use Only" space provided in the upper right corner of the form. If the application received is on a FPCA, attach it to a blank Form SBE-443 or a piece of paper on which the "Registrar Use Only" block has been copied, and complete the information.

Enter the temporary federal ballot overseas voter into VERIS.

Enter the registration end date by calculating out and entering the date after the next two regularly scheduled federal elections from the registration date. Enter the ongoing expiration date in order to indicate the ongoing status of an absentee ballot request. This date must be calculated to go through the next two regularly scheduled elections. VERIS will alert when the impending registration end date is reached for the voter.

12.4.4 Photocopy the Application

- The original is used as the registration application and is filed alphabetically.
- The photocopy is used as the absentee ballot application and will be filed by precinct after you have finished processing it.

ⓘ If the FPCA is faxed or sent as an emailed attachment, the applicant is required to also mail the original for your files, if the applicant is also using the FPCA to register or to update his registration. Place the fax or email copy of the FPCA in your registration files

until the mailed FPCA arrives. Then destroy the fax or email. Use a copy of the FPCA as the Absentee Ballot Application.

Do not wait for the original, mailed form to process the application or send the ballot. If the voter is registering for the first time and his original application does not arrive by election day, the ballot cannot be counted.

The registration application is to be made available for public inspection. Proceed to process the application based on the email or fax and issue the ballot. However, if the voter is not already registered and the FPCA (the old Virginia Application for Temporary Registration) with the original signature does not arrive on/by election day, the ballot cannot be counted. Take appropriate steps to protect the privacy of the SSN by making a copy, with the SSN blocked, for public inspection if anyone asks to see the forms.

ⓘ The Code requires localities to have a list of such voters available for public inspection. VERIS can complete a report listing all such temporary overseas voters if any public request is made. The list, without social security numbers, must be made available for inspection by any registered voter. The Code also requires that the applications for temporary registration be made available for inspection. If anyone asks to inspect the applications, make a copy for examination purposes, with the social security number covered so that it is unreadable on the public inspection copy.

12.4.5 Applications That Are Incomplete or Late

Refer to the above rules to determine if a FPCA received through the USPS is late.

12.4.6 Processing the Absentee Ballot Applications

Ballots for the offices of President and Vice President must be available for absentee voting at least 45 days before the election (§ 24.2-614). Ballots for other offices must be available for absentee voting at least 45 days before any November general election or special election held at the same time, or 30 days before any other general, special or primary election, or as soon after the deadline as possible for any special election when time is insufficient to meet the deadline (§ 24.2-612).

Once ballots are ready, they should be mailed immediately to all applicants whose applications have previously been filed and to all subsequent applicants within 24 hours of receipt of their applications.

1. Enter on form SBE-710 the date the ballot is being issued, and an X in the "by mail" box for each ballot mailed.
2. Mail the following to the voter:
    - A ballot set for federal offices only sealed in a Ballot Within envelope.
    - The Instructions for Absentee Voting.
    - A marking tool, if appropriate, for the particular type of ballot in use.
    - A Marked Ballot envelope.

- A Return Envelope, addressed to the secretary of the electoral board.
- If so requested by the applicant, a Request for Assistance form.
- Information about the voter's registration status, provided by the registrar, may be included with ballots for overseas or military voters.
- Information concerning the voting rights and process for overseas citizens provided by SBE.

Place all the above in an envelope to mail to the applicant. VERIS will produce mailing labels; operator will have if the labels will be printed singly or in batch. VERIS will produce mailing labels either singly or in batch mode for all processed and approved absentee applications. Simply select the appropriate batch from the batch reporting page in VERIS to print labels whenever you determine labels should be printed.

If an applicant applies in person before the books are closed , ballots are ready, and the voter wishes to vote at that time in person, process the applicant's registration and absentee ballot application as detailed above. When you issue the ballot, mark an X in the "in person" box on form SBE-710.

- Provide the voter with a federal ballot set sealed in the Ballot Within envelope, Instructions for Voting, a Marked Ballot envelope, a marking tool, if appropriate for the particular ballot type in use, and a return envelope addressed to the secretary of the electoral board on which you have written the voter's name and precinct number. Provide the voter a secure location to mark his ballot. After he places the marked ballot in the Marked Ballot envelope, witness the voter's signature on the outside of the envelope and sign as the witness. Place the Marked Ballot envelope inside the pre-addressed envelope, and place the envelope in a secure, locked container. You must enter into VERIS that the Ballot Sent By method is "In Person," the Ballot Received by Method is "In Person," and that the Ballot Status is "Marked".

If using machines for in-person absentee voting, follow the normal procedures for that equipment except make sure that you have set the machine to a "federal ballots only" option if the election also includes state/local elections or issues. You must enter into VERIS that the Ballot Sent By method is "In Person", the Ballot Received by Method is "In Person" and that the Ballot Status is "On Machine".

12.5 Preparing Precinct Rosters

§§ 24.2-436 – 24.2-439

If a central absentee precinct (CAP) is used, a listing of absentee ballot applicants for each precinct is delivered to the CAP chief officer by no later than 6:00 a.m. on election day. If no CAP is used, the copy is delivered to each precinct's chief officer on election day, along with the voted absentee ballots. Absentee applicant listings may no longer be *posted* in the polling places, but must be available for public inspection upon request. (§§ 24.2-440, 443, and 612.)

The application for temporary registration also serves as an application for an absentee ballot. The FPCA must be honored through the second federal general election (November) after the receipt of the voters most recent FPCA. An application made on the old Virginia application for temporary registration (which is no longer issued) or the Virginia absentee ballot application is only good for the next election. These applications must be maintained in your offices while they are valid and for two years thereafter.

ⓘ Send a photocopy instead of the original to the clerk of court.

12.6 The Permanent v. Temporary Reference Charts

The permanent v. temporary reference charts are to be used as an additional point of reference. VERIS will analyze the information that is imputed in to the system and will notify the operator of which ballot type the absentee voter is eligible to receive. This chapter includes two charts. The first chart is for the FPCA that was revised August 2005; the second chart is to be used for the FPCA that was revised August 1995.

Category	Registration Status			
	Last Date of Residency Given	Permanent: Full Ballot	Temporary:* Federal Full Ballot	Temporary:** Federal Only Ballot
Member of the Uniformed Services or Merchant Marine on active duty: OR Spouse or dependent residing with member of U.S. uniformed services or merchant marines, regardless of last date of residency. Spouse/Dep: (Item 1a on FPCA Rev. 10-2005.)	n/a	X		
U.S. Citizen residing outside the U.S. Temporarily currently registered to vote in Virginia for purposes of business, profession, or occupation. (Item 1b on FPCA Rev. 10-2005.)	Yes		X	
	No	X		
U.S. Citizen residing outside the U.S. Temporarily not currently registered to vote in Virginia for purposes of business, profession, or occupation. (Item 1c on FPCA Rev. 10-2005.)	Yes			X
	No	X		
U.S. Citizen who has never resided in U.S. (For example, born overseas to parents from Virginia.)	n/a	Not eligible to register to vote in Virginia for any office.		
* Temporary registration is valid for all elections for which the voter is eligible through the second federal general election (November) after the most recent FPCA was received. If the voter uses the old Virginia Temporary Registration Form, the voter's registration is good for one election only. (Temp Federal only.)				
** If a last date of residency is entered, the individual no longer maintains a residency in Virginia. This information should be placed in box 3. If no date is entered, the individual maintains a residence.				

(Effective September, 2004 for FPCA Rev. 10-1995.)

Category	Registration Status			
	Last Date of Residency Given	Permanent: Full Ballot	Temporary:* Federal Full Ballot	Temporary:** Federal Only Ballot
Military Voter: Active duty in U.S. uniformed services or merchant marine; regardless of last date of residency. OR Spouse or dependent residing with member of U.S. uniformed services or merchant marines, regardless of last date of residency. (Item 8a on FPCA)	n/a	X		
Employed in a business, profession, or occupation outside the U.S. or accompanying spouse or dependent and <u>currently registered to vote in Virginia.</u> (Item 8c on FPCA.)	Yes		X	
	No	X		
Employed in a business, profession, or occupation outside the U.S. or accompanying spouse or dependent and <u>not currently registered to vote in Virginia.</u> (Item 8c on FPCA.)	Yes			X
	No	X		
U.S. citizen temporarily residing outside the U.S. (Item 8b on the FPCA.) Other U.S. citizen residing outside the U.S. (Item 8d on the FPCA.)	Yes			X
	No	X		
U.S. citizen who has <u>never resided in U.S.</u> (For example, born overseas to parents from Virginia.)	n/a	Not eligible to register to vote in Virginia for <u>any</u> office.		
* Temporary registration is valid for all elections for which the voter is eligible through the second federal general election (November) after the most recent FPCA was received. If the voter uses the <u>old</u> Virginia Temporary Registration Form, the voter's registration is good for one election only. (Temp Federal only.)				
** If a last date of residency is entered, the individual no longer maintains a residency in Virginia. This information should be placed in box 3. If no date is entered, the individual maintains a residence.				

GREBook 13 Establishing A Polling Place

13.1 Legal Requirements

The Virginia Code sets requirements for polling places in §§ 24.2-306 through 24.2-310.1. Polling places also must meet accessibility standards in the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act (ADA) related to public services. (See Chapter 8 on Accessibility.) Any changes, even generally within a building, must receive Department of Justice pre-clearance under Section V of the Voting Rights Act of 1965. (See Chapter 24.)

Virginia law requires that there be one, and only one, polling place for each precinct. (§ 24.2-307.) Each locality's City Council or Board of Supervisors must establish the district, precinct lines, and the polling place for each precinct. No precinct can have fewer than 100 (for a county) or 500 (for a city) or over 5,000 registrants at the time the precinct is established. (§§ 24.2-101 and 24.2-307.)

The electoral board shall notify the governing body if the number of voters who voted in a Presidential election exceeded 4000. At the time any precinct is established it shall have no more than 5000 registered voters. (§ 24.2-307.)

Towns shall only have one precinct, unless more are established by ordinance. Each precinct shall be wholly contained within any election district used for the election of one or more council or school board members. (§ 24.2-308.)

13.2 Electoral Board Duties

13.2.1 Gathering Information

If a polling place must be created or moved and there are at least three and a half months before the election, the electoral board shall notify their City Council, Board of Supervisors, or Town Council. They must establish the precinct lines and establish the polling place by ordinance. The electoral board should assist the local governing body in finding new polling places by looking for a site that meets all the criteria under §§24.2-310 and 24.2-310.1. The electoral board or their representative should present the desired location to the governing body so that they can advertise a public hearing at least twice before the hearing.

The electoral board should assist the local governing body in finding new polling places. Among the considerations are:

- The polling place must be accessible to all voters with particular consideration given to the needs of the elderly and handicapped. While the general site may be accessible, is the voting area accessible? Local election officials 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. (§ 24.2-310.) (See Chapter 8.);

- The polling place should have electricity, adequate heating and lighting, phone availability, and restroom facilities;
- The polling place should be available for all general, special, and primary elections;
- Wherever practicable, the polling place shall be located in a public building. (§ 24.2-310.);
- Where possible, it should be in a location that provides maximum ease of access for all the voters in the precinct. Ideally, 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; and
- No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the SBE has approved the use of the building because no other building meeting the accessibility requirements is available. (§ 24.2-310.1.)

Where an ideal building and location do not exist, you must balance the need for maximum ease of access with the need for a structure of adequate size and design to accommodate Election Day voter traffic. In some cases, the best location may be outside the boundaries of the precinct. The Code allows several exceptions to the principle of establishing a polling place within the precinct it serves:

- A polling place may be located within one mile of the precinct it serves. (§ 24.2-310.)
- A town polling place may be within one mile of the town precinct it serves. (§ 24.2-310)
- A county polling place may be within a city, as long as the city is completely surrounded by the county election district served by the polling place. (§ 24.2-310.)
- More than one polling place may be in the same building, as long as each polling place is in a separate room or defined area and is adequately marked on Election Day. (§ 24.2-310.)
- A precinct that is smaller than the required size may be established in order to allow all voters in it to vote the same ballot. (This situation would arise where redistricting has created a split precinct.) The polling place for such a precinct must be within one mile of the precinct boundary. (§ 24.2-309.)

Other important issues to consider when choosing a polling place include:

- Is it convenient for the voters? 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 20 minutes, under normal traffic and weather conditions, driving to the polling place from home. Voters become particularly aggravated if they have to drive past other polling places to get to their polling place, so driving patterns should also be considered when drawing precinct lines and choosing polling places.
- Is the facility conducive to protecting the integrity of the process (for example, is it secure if you must leave machines there overnight)?
- Can you ensure the safety and comfort of election officials at that site (for example, does it have heat; AC for summer elections; available from 5 AM until 9 PM)? Does it have adequate lighting? Where are the restroom facilities?

- Can voting be conducted with a minimum of disruption to the activities that normally take place at that location?
- Look at the overall facility and the actual polling place during a time of normal activity. For example, if a school, visit on a day school is in session. (This should be done even if your locality normally does not have class on November election days because there are elections throughout the year.) Be careful with the use of gymnasiums in educational facilities. You may have to negotiate with building owners to ensure that no sporting or other events are scheduled for the evening of election day, particularly for special elections.
- Have you had problems with that location, type of location or building "owner" in the past?
- Consider the logistics of storage, parking, phones, etc.

13.2.2 Presenting To Local Governing Body

The electoral board should present the desired location to the governing body. Make sure your County Administrator or City Manager is notified and you are on the agenda. The locality must advertise prior to the enactment so that the public can be heard. (§ 24.2-307.)

13.2.3 U.S. Department Of Justice Preclearance

Unless the locality has completed "bailout" (See Chapter 24), any new or changed polling place must be submitted for pre-clearance under the Voting Rights Act to the U.S. Department of Justice. In almost all situations, this includes something as trivial as changing a polling place from one room to another in the same building. Only by reference to the earlier preclearance for the polling place can the county or city attorney determine that a submission is not required. The general registrar or the county or city attorney should make this submission. The locality must receive approval from the Justice Department before the registrar may notify voters of the polling place change.

13.2.4 Notifying the Voters

All voters in a precinct that is new or whose polling place has moved must be notified by mail at least 15 days prior to the next election in which voters will be voting. (§ 24.2-306.) The general registrar must notify voters by means of a new voter card if they are placed in a new precinct, who have a new polling place, or whose polling place has moved. When the polling place change is permanent, the general registrar can request voter cards for this purpose from the SBE. The electoral board should anticipate the mailing and include postage expense in the budget request.

13.3 Emergency Changes of Polling Place

If an emergency makes a polling place unusable or inaccessible, the electoral board shall find an alternate polling place site. (If a permanent building is not available as an alternate site, the electoral board may erect or rent a temporary building – such as a mobile home – as the temporary site, as long as it is generally accessible to the voters.) Whether the new site is within the same building or at another location, the electoral board shall:

1. Notify the SBE and secure their approval and assistance. (§ 24.2-310.);

2. Request pre-clearance from the Department of Justice; and
3. Notify the voters (see Emergency Polling Place Relocation Form). At least 15 days before the next election, voters must be sent new voter cards and a notice that explains why the change of polling place is necessary. If there is not enough time to send voter cards, the electoral board must put large advertisements in local papers.

When emergencies arise on Election Day, understand that the locality will receive preclearance from DOJ in a timely fashion, but may proceed based on approval by the Secretary of the SBE. On Election Day, such voter notification may be by notice in the media and other means of communication. Should this situation arise, talk with SBE about how to notify the affected voters under the circumstances.

(See Chapter 24 and Exhibit A.)

13.4 Entry into VERIS

Approved polling places must be entered into VERIS. This will serve as a database of each polling place approved for use for each precinct in an election. This information includes: address, telephone number, etc. VERIS requires polling places to be attached to a precinct. Finally, polling places must be attached to each election in which they are used, although after the initial setup, polling place will not need to be re-attached to a precinct or specific election. VERIS allows users to copy an election that has already been set up to include specific precincts and polling places which, will automatically update previous precincts and polling places and assign them to a scheduled election.

13.5 Exhibits

13.5.1 Exhibit A: Emergency Polling Place Relocation

Emergency Polling Place Relocation Form

Name of County/City: _____

Name of Precinct: _____

Name and Address:
of Polling Place
Required to be moved _____

_____

Reason for Move:

Polling Place is: ☐ **burned out** ☐ **flooded**; or

The access road to polling place is washed out; and the alternative access, if any, to the polling place is too far using normal means of transportation to make it reasonable for voters to use the alternative route.

Other (specify): _____
_____

Notice of Move will be:

☐ Posted at each polling place being moved to a new location

☐ Made to each Officer of Election; and

☐ Given to the Chairman of the respective parties and to any independent candidate for local office; and

☐ Given to the public through all available news media, radio – and TV, if possible

Notice of Move will include:

☐ Name of old precinct and name and address of its old polling place; and

☐ Reason for moving the polling place; and

☐ The precise location (name and address) of new polling place; and

☐ The phone number of the General Registrar's office with a statement that any voter may call the Registrar for clarification.

Identification of news media to be used for notice _____

_____

Identification of notice to voter: ☐ New Voter card ☐ Correspondence ☐ Neither

SBE Use:
Move of the above polling place is ☐ approved ☐ disapproved:

_____
Secretary
State Board of Elections

GREBook 14 Managing Split Precincts

14.1 Introduction

A split precinct is one where not all voters are voting for the same set of offices. Split precincts arise when the boundary lines adopted by the General Assembly – House of Delegates, State Senate, and/or congressional district lines – do not coincide with election district lines adopted by the locality. Usually this occurs when, during the flurry of post-census redistricting, the General Assembly does its work using existing boundary lines while the local government body is abandoning those lines and adopting new ones. Sometimes it occurs when the General Assembly creates new boundary lines in order to meet its "one person one vote" redistricting mandate.

A split precinct may also occur when a town is part of a larger precinct and a town election is being held simultaneously with a county election.

Split precincts are to be avoided whenever possible. They can cause great confusion in the registrar's office and at the polls and often result in some voters receiving the wrong ballot. However, in many cases they are unavoidable. This chapter provides information on how to manage them and minimize the problems they create. It also provides some guidelines for avoiding them or getting rid of them once you have them.

Two rules of thumb may be helpful for those dealing with split precincts for the first time: (1) Throughout the election process, visualize a split precinct as if it were actually two (or more) precincts operating in the same polling place, i.e. think in terms of "split precinct segments." (2) Remember that a split precinct may not always operate as a split precinct. If your locality is wholly within one congressional district, then you will have no split precincts during regular even-year elections (when we don't have General Assembly elections).

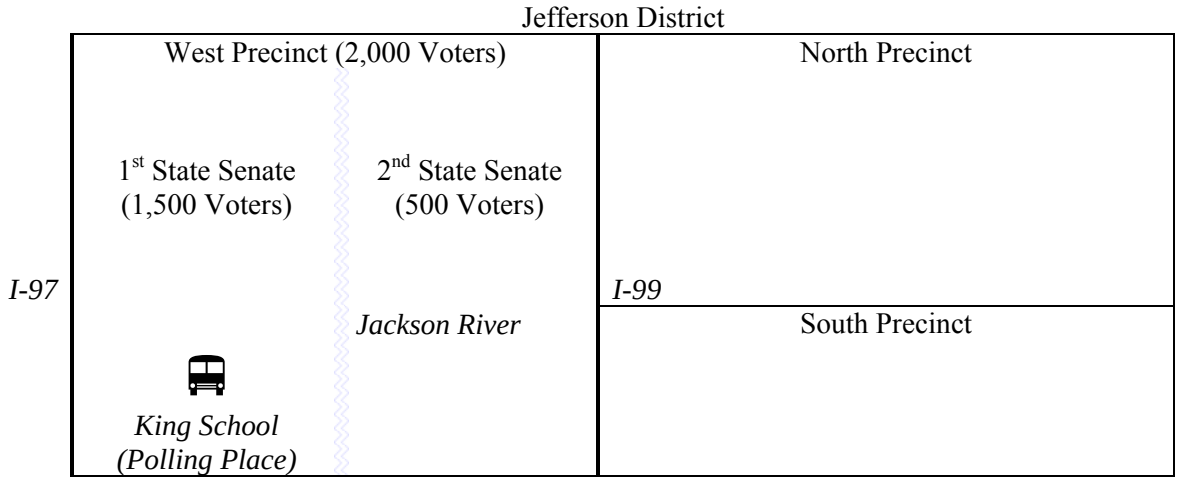
ⓘ Most of the discussion in this chapter makes the following premises:

- Your split precinct(s) are split two ways. In actuality, you may have a precinct split three or four ways. If so, just double or triple the formula used below!
- You use direct recording electronic (DRE) equipment. Directions for polling place operations will differ if you use paper ballots- or optical scan equipment in your polling places. Adjust these instructions accordingly.

14.2 A Sample Split Precinct

Registrars and electoral board members who have not dealt before with split precincts often have a difficult time visualizing what is happening in a split precinct. To help "bring to life" the processes and tactics needed to work with split precincts, here is a hypothetical split precinct situation:

Example Split Precinct



Example County elects one member of the Board of Supervisors from the Jefferson District. The Jefferson District includes the South, North, and West precincts. Prior to redistricting, the West Precinct had 1,500 registered voters and ranged from Interstate 97 to the Jackson River. In the 2001 redistricting process, the local Board had to equalize precinct sizes. They did this by expanding the size of the West Precinct (and decreasing the size of the other districts). The new precinct ranges from I-97 to Interstate 99. The new part of the West Precinct – that area between the Jackson River and I-99 – has 500 registered voters. The new West Precinct now has 2,000 voters.

Prior to redistricting, the 2nd State Senate District's western border was I-97. But the General Assembly (also in order to equalize district sizes) had to move the boundary line between the 1st and 2nd State Senate districts. The new line runs along the Jackson River (the old West Precinct boundary line).

The polling place for the West Precinct remains at the King School.

The new West Precinct is now a split precinct. Of its 2,000 voters in the precinct, 1,500 reside in the 1st State Senate District election and 500 reside in the 2nd State Senate District election. There is, of course, only one polling place, because the code only permits one polling place per precinct. (§ 24.2-307.)

14.3 In the Registrar and Electoral Board Offices

There are several issues and tasks concerning split precincts that registrars and electoral board members need to address before Election Day:

- Registrars must enter precinct changes into VERIS;
- Registrars must properly notify voters by mail of permanent changes;
- Registrars must properly inform voters of their new district;
- electoral board must properly order ballots; and
- Registrars must ensure that voters receive the proper ballots.

These items are discussed below.

14.3.1 Notifying Voters of Changes

After redistricting has been completed, all active voters who are affected by any change in their polling place, precinct, election district, or House, Senate or Congressional District must receive a new voter card at least 15 days before the next election in which the voters will be voting. (§ 24.2-306.) The registrar must accurately utilize the GIS and mapping functions of VERIS to redraw the new precinct boundaries as a "Planned" precinct in VERIS. Once you have accurately created the new precinct boundaries in VERIS, you must set the precinct to "Current" in order to have the new precinct boundaries set as an active or live precinct in VERIS. This process will allow you to pull all voters who are affected by the new precinct boundaries into a batch file in order to send each voter the required correspondence and new voter card. You will need to print the bath file from the Batch Reports page of VERIS.

In our hypothetical precinct, all active voters in West Precinct must be notified. Voters to the west of Jackson River must be notified that they are now in State Senate District 1; voters to the east of Jackson River must be notified that they are now in the West Precinct and have a new polling place (King School). A new voter card will be generated and then mailed to each affected voter.

Registrars should consider including an insert with the mailed voter card. The insert can alert voters to changes in their polling place or representation and provide a brief explanation of why the change was made. If thousands of voter cards are involved, the insert should be a generic explanation. If the number of new voter cards is small, you may be able to customize the insert to fit the voter's new information. However, it is probably best not to try to explain a split precinct in such an insert, since split precincts are confusing and difficult to understand.

14.3.2 Verifying Information for Voters

Voters are notoriously bad at looking at and/or understanding the information on their new voter card. As a result, calls from voters to the registrar offices requesting information multiply in the year or two after a major redistricting. If your locality has new split precincts, you should provide supplementary training to any office personnel who handle "customer service" calls from voters. Staff knowledge of which precincts are in which districts – and good memory of that knowledge – is no longer sufficient when split precincts come into play. Indeed, operating from memory may be dangerous. Train your staff (and yourself) to look at all districts not on a voter's record on the VERIS screen or on the alphabetical printout before responding to a voter's request for information.

14.3.3 Ordering Ballots

Ordering both paper and voting equipment ballots will take some extra work where split precincts are involved. Creating a table or spreadsheet may be the most efficient way to accomplish this. ("Spreadsheet" does not imply that you must be literate with computer spreadsheet programs. A hand-drawn spreadsheet can work just as well.) On the spreadsheet, list the name or number of each of your precincts. Where you have a split precinct, list each segment of the precinct as if it were a precinct unto itself. Then for each precinct or split

precinct segment, list the number of registered voters. Then list all the districts to which each belongs. Next, list the number of machines you will need for each precinct or split precinct segment. Next, list for each the number of paper ballots you will need for emergency and curbside voting at the polling place. Next, list for each the number of absentee ballots you will need – based on whatever formula you use for projecting absentee ballot needs. (When there have been major changes to your precincts after redistricting, it is probably best to use a locality-wide percentage projection for absentee ballots rather than try to determine historical usage for individual areas.)

In our hypothetical county a spreadsheet would look something like this:

Precinct/ Segment	Mag. Dist.	House Dist.	Sen Dist.	Cong Dist.	Reg'ed Voters	Machines Needed*	At Polls Ballots	Absentee Ballots**
South	South	20	2	5	2,000	3	100	40
North	North	20	2	5	500	1	100	10
West – 1st	West	20	1	5	1,500	2	100	30
West – 2nd	West	20	2	5	500	1	100	10

* In this example, we are using DRE-type machines.
** In this example, we have determined that our absentee voters will number about two percent in each precinct.

Using a spreadsheet such as this should suffice for your voting equipment vendor to determine the machine and, if used, paper ballots that need to be printed.

14.3.4 Giving Absentee Voters the Proper Ballots

Ensuring that voters receive the proper ballot in localities with multiple split precincts and multiple ballot styles is one of the most challenging tasks in the registrar's office. Keep in mind that a voter given a wrong ballot will most likely not notice the mistake and that in a close election, a few erroneous ballots could affect the outcome – as well as make for a very embarrassing recount!

Some registrars/electoral boards prepare and store absentee ballots by ballot style. Where there are few ballot styles and no split precincts, this usually works well. But when you have many ballot styles and split precincts, it is much safer to prepare and segregate absentee ballots by precinct and split precinct segments. The suggestions below should safeguard you and your staff from providing erroneous ballots:

- When preparing ballots or ballot sets (where the ballot involves more than one piece of paper), make sure that the preparer works on only one precinct or precinct segment at a time. Spot-check his/her work.

ⓘ Registrants' district information is printed on VERIS AB labels.

- Heavily label the file drawer or envelope in which you keep the prepared ballots for each precinct or precinct segment.
- Provide extra training to all personnel who will be handling absentee ballots – making sure that they check and recheck the information on the voter record before selecting the appropriate absentee ballot.
- If the absentee voter is voting in person, recheck the ballot (or ballot set) once the voter has opened the envelope. Ask the voter to show the unmarked ballot in order to verify that the voter received the correct ballot.
- It is helpful to have a crib sheet listing the split precincts at the counter where ballots are given to in-person voters and at the table where mail ballots are prepared for sending. This will provide yet another reminder to be careful!

ⓘ When enclosing ballots in "Ballot Within" envelopes, it is helpful to label the outside of the "Ballot Within" envelope with a code that clearly shows which ballot style is within. (This is just another safety check that he voter receives the correct ballot.) This could be a precinct code plus, if it is a split precinct, a code for the precinct segment. Some may argue that the voter may protest that this is some device for tracking his/her particular ballot, thus eliminating the secrecy of the ballot. If this occurs, explain to the voter that the "Ballot Within" envelope is discarded before the ballot is returned to the registrar's office.

14.4 At the Polling Place

First, electoral boards must train their chief officers and other officers on the workings of a split precinct. Then electoral boards must set up the polling place for efficient conduct of the election.

14.4.1 Training Officers

Pre-election training sessions should include a special "class" for officers working in split precincts. It is important that these officers completely understand the concept and functions of a split precinct.

First, familiarize them with the geography of the split precinct. Which voters are voting in which election? While the voters' names will be on separate lists, 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 confused voters (of which there will be many) why they can only vote on certain machines or ballots.

Second, guide them through the sign-in process, the use of separate entry slips, how to handle voters who are in the wrong line, when to call the registrar's office, etc. Emphasize that the pollbook will be marked the same as always.

Finally, training must include a segment about filling out the Statements of Results; since two Statements must be completed for each precinct split.

(Suggestion: Officers of election are often confused about the difference between a pollbook split and a precinct split. Use these terms on a day-to-day basis. They may be hearing them for the first time.)

14.4.2 Polling Place Operations

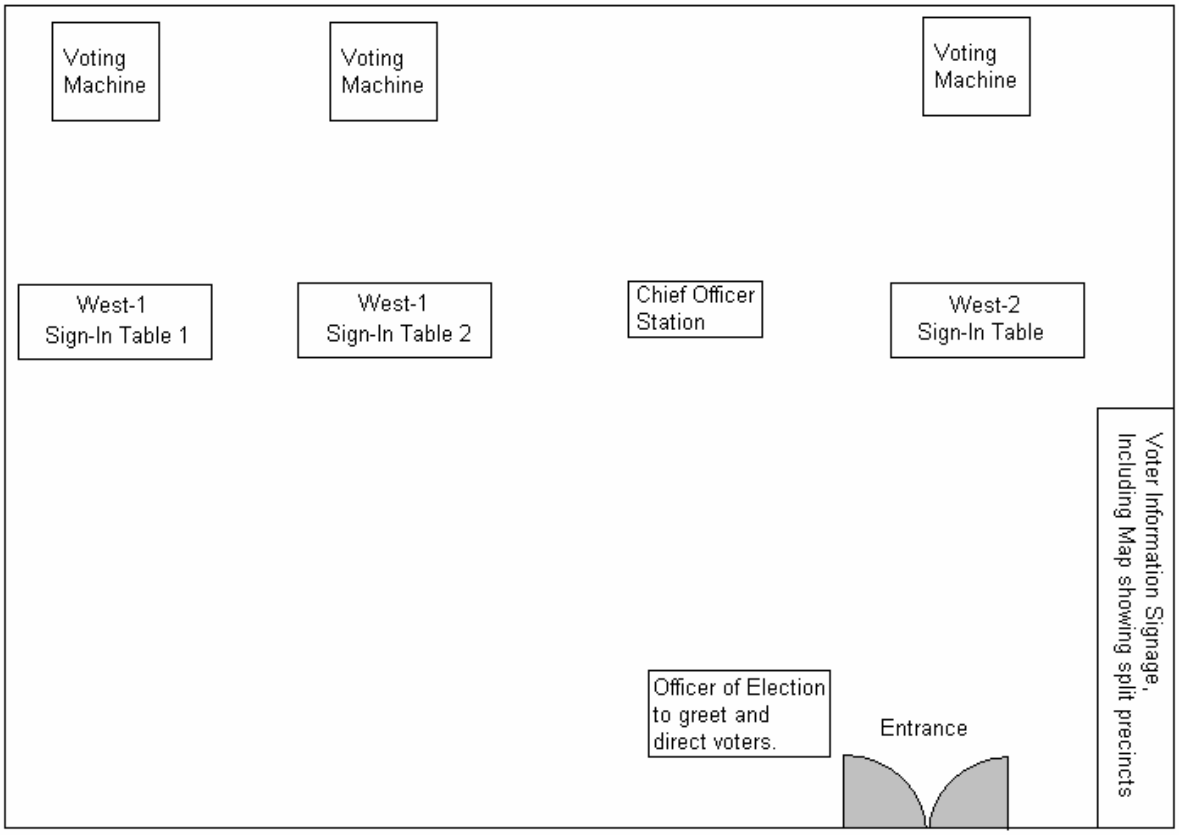
For a split precinct, the layout and staffing of the polling place are or prime concern. If people can visualize the facility as two polling places, then half the battle is won. (If the precinct is split three or four ways, then think of it as three or four separate polling places.) Keep in mind that separate pollbooks will exist for each split.
As much as space will allow, segregate operations into the two parts of your split. Visual cues are helpful here, so use them whenever possible. In our hypothetical precinct, the West Precinct - 1st State Senate District is on the west – or left – side of the map. Set up the left side of the room for this segment of the split (voters on the left side of the map go to the left side of the room).

Inside the room, set up tables for each respective split segment as far apart from each other as possible. In our hypothetical precinct, "West-1" is larger and has two alpha splits, so it will need two check-in tables. "West-2" only needs one table. Post alpha signs for "West-1" and "West-2," a large map showing the areas covered by each segment, and a sign saying something like "If you live here, vote here."

There are two machines for voters in "West-1." Place these machines in close proximity to the West-1 check-in tables. Likewise, place the one machine for West-2 voters near its respective check-in table. Place the West-1 machines as far away as possible from the West-2 machine! Make a small sign to hang or paste on the front of each machine showing whether it is a machine for the 1st District or 2nd District.

Be sure to prepare entry slips for your voters. Color-code them according to which segment of the split precinct will be using them – or stamp or print on them the district designation.

If possible, station the chief officer between the two parts of the room so that he/she can observe the conduct of the election in both segments.



14.4.3 Political Party and Candidate Representatives

The chief officer or their designee will need to explain to party/candidate representatives how the split precinct operates. If possible, give these representatives the choice of where they will sit. If they wish to sit in the middle so that they can observe both segments of the precinct, it is their right to do so.

For a general election, the Code permits observation of the conduct of the election by one authorized representative for each party or independent candidate for each section of the pollbook up to a maximum of three for any party or independent candidate. (§ 24.2-604) In our hypothetical precinct, there are two sections of the pollbook for "West-1" and one for "West-2." Therefore, three representatives should be allowed for each independent candidate or party.

14.4.4 Conducting the Election

An officer of election should reside at or near the entrance to the voting room, greet voters, and direct them to the correct table(s), i.e. the correct split precinct segment. This officer should have, at minimum, a large detailed map of the split precinct segments. A list of street names, house number ranges, respective district designations, and a full alphabetical roster for the precinct showing the district representation of each registered voter are all helpful. (The registrar has access to a complete alphabetical roster electronic data for your locality and can produce an alpha list for individual precincts.) Using these aids, the greeter should be able to send voters to the proper side of the room.

After the voter has been checked in on the pollbook, the officer of election should give them an entry slip that clearly shows which machine type or ballot style to use. (See above.)

Follow these steps if a voter cannot be found on the pollbook:

- Inform the chief officer or his/her designee.
- This officer should try to determine if the voter is in the wrong segment of the split precinct. It may be helpful to supply the chief officer with a complete alphabetical roster for the entire precinct to use in making this determination.
- If the officer finds that the voter is properly on the pollbook for the other segment of the precinct then send the voter to the front of the line at the appropriate table in the other precinct segment.
- If the voter cannot be found in any segment of the precinct, call the registrar's office and follow normal procedure.

Finally, the machine officer must allow only those voters with the proper color or coded entry slip to use his/her machine.

Optical scan ballots do not need separate counters for each precinct segment. The machine technician should have programmed the counter to accept and properly tabulate multiple ballot styles.

14.4.5 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 must be completed for each precinct segment.

The Statement of Results (SOR) should be labeled to show which precinct segment it covers. In our hypothetical precinct, there will be a total of four SOR's: two for "West-1" and two for "West-2." Everything entered on the Statement should apply only to the precinct segment it covers. Be particularly careful to enter the "number of voters voting" only for the relevant segment.

There is no need to separate each segment into separate envelopes for packing election materials 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) should be separately banded and bundled according to split precinct segment. Label each bundle with a piece of notepaper noting the precinct segment from which it comes. Then put the bundles in the appropriate envelope. There is no need to bundle separately items that are not germane to a canvass or recount, such as the Code of Virginia, officer of election buttons and the like.

ⓘ If it seems easier to use a separate set of envelopes for each precinct segment, then do it. But the registrar must be sure to order a sufficient supply of extra envelopes.)

14.4.6 Reporting Results to the Registrar or Electoral Board Office

Localities that assemble their unofficial results on election night by calling them in to 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 will only confuse the media representatives.

Avoiding Split Precincts

This section discusses ways you can avoid split precincts or get rid of them once you have them. Sometimes they are simply unavoidable, but, as the above discussion hopefully shows, a lot of time and effort can be saved by avoiding split-precincts.

14.4.7 Let the General Assembly Finish Its Redistricting Work before Localities Being Their Redistricting

Localities that have local elections in November of a redistricting year, i.e. 2011, 2021, etc., cannot wait this long to do their work. The election calendar and time clock for redistricting force these localities to do their work while the General Assembly is doing its work. But if localities that don't have local elections during a redistricting year can wait and run their November general elections using "old" precinct lines; the same ones the General Assembly used (most likely) in its redistricting. Local redistricting does not need to be completed until December 31 of the redistricting year. (§ 24.2-304.1)

Even localities that do have local elections during the redistricting year can monitor the General Assembly's work by contacting the Division of Legislative Services. There may be cases where advance knowledge of what the General Assembly is about to draw can be used to draw local lines to coincide with the state legislative district lines.
(See Chapter 25.)

14.4.8 "Fixing" Split Precincts the Following Year

The Code and accepted practice allow for adjustments in lines following the decennial redistricting; for the express purpose of making local lines coincide with state legislative or congressional lines. (§ 24.2-304.1) Localities that want to try this will need to work with the Division of Legislative Services and with your state representatives. In some cases, localities may be able to change their local precinct lines through local ordinance. In others, localities may successfully lobby the General Assembly to adjust some of its lines to coincide with new precinct and/or local district lines.

14.4.9 Creating New Precincts

When the methods discussed above simply won't work, localities may wish to create new precincts out of their split precinct segments. This will probably add some expense in terms of number of election officials, machines, etc. but it is often preferable to living with split precincts.

15 Managing Ballots

These instructions are issued to assist you in performing the duties required for the printing and management of all ballots.

15.1 Preparation of Layout

Using the candidate certifications, forms of ballot, and the Guide to Printing Paper Ballots, prepare a layout of each ballot for your printer.

Ballot heading, office titles, ballot squares, candidate names, and write-in space must be shown on this layout as specified in the guide. The spacing and type sizes specified in the guide must be indicated on your layout. (See Exhibit A.)

In this example, the SBE's drawing for ballot position for the two parties resulted in candidates of the Republican Party appearing first, followed by candidates of the Democratic Party. Candidates of these two parties are always followed by independents, if any, in alphabetical order.

On this layout, you must indicate clearly the spacing as required in the guide as well as the type styles and sizes. Use abbreviations as follows:

- ulc: Upper and lower case
- uc: ALL UPPER CASE
- bf: Bold face type
- pt: The point size of type

15.2 Sample Paper Ballots

If your county or city has precincts using only paper ballots, your Board should always order sample paper ballots (See Form 616) to be printed since one must be provided to any candidate or other individual or organization requesting it. Observe the following procedures:

1. Sample ballots printed by electoral boards must be a duplication of the official ballot for the election except that:
    a. Samples of paper ballots must be printed on yellow paper.
    b. The word "OFFICIAL" in the heading of the ballot must be replaced with "SAMPLE" in upper case, bold face, and twenty-four-point type.
    c. At the bottom of the ballot must be printed the following disclaimer:
        i. Authorized by Electoral board of
        ii. (name of county or city)
        iii. (address of Board)
2. The copy provided to the printer for the sample ballot must be accurate.
3. Check the proofs carefully before authorizing printing since the SBE will not check the accuracy of any sample ballot.

4. Advise any candidate or other individual or organization printing their own sample ballots that the disclaimer of the electoral board must be replaced with one of their own which must read as follows: Authorized by (insert name of candidate or name of political party committee or, for committees required to file a statement of organization with the SBE, name of committee and registration number assigned by the SBE or, if not one of these, name and home address of person).
5. Also, remind them that samples of paper ballots must be printed on a paper color other than white or yellow.

ⓘ For the purposes of ballots, canary is considered the same color as yellow.

15.3 Selecting a Printer

The printer you select must understand and agree:

1. that he must meet your deadlines;
2. that there will be a delay of several days after he provides proofs while they are sent to the SBE for verification;
3. that he will take and sign any required oaths (see Oaths To Be Taken); and
4. that the specifications in the SBE's Guide to the Printing of Paper Ballots must be met.

Determine that the printer has the required type styles in the sizes specified. Determine whether the printer can affix the required seal. (See Affixing Seal to Ballots.)

If you expect the printer to layout the ballots rather than just typesetting from your layout, be sure he understands this before he is given the job. You will pay extra for this service.

15.4 Verifying Ballot Proofs

It is the duty of the electoral board to carefully check the ballot proofs provided by the printer.

If any errors are found, they must be corrected and new proofs prepared for submittal to the SBE.

15.4.1 Submit Proofs to State Board

You or the printer must submit paper ballot proofs to the SBE. One copy of each proof must be submitted. The SBE will verify the accuracy of each paper ballot proof and, when approved, will fax a copy to either the secretary of the electoral board or to the general registrar for review and final approval. If the paper ballots are correct, the locality must sign the fax transmittal sheet and refax it to the SBE at 804-225-3706. Further, the locality immediately must notify the printer to print the ballot order.

15.4.2 Deadlines

The deadlines for submitting paper ballot proofs and for having final official paper ballots ready for absentee voting will be set forth in the letter with which the SBE transmits the certification of candidates and ballot forms.

ⓘ These deadlines must be met! Be sure to set a schedule with the printer.

15.5 Affixing Seal to Ballots

The official seal of the electoral board must be affixed to each official ballot directly behind the ballot heading. This seal may be a printed seal or an embossed seal.

If it is a printed seal, the printer should affix it as the ballots are printed.

If it is an embossed seal, it should be affixed by the printer if he has the capability to do so; otherwise, it must be affixed to each ballot by a member of the electoral board or the board's designated representative.

In either case, any person who participates in affixing the seal and packaging the ballots must sign an affidavit on the form provided by the SBE. (See form SBE-619(2).)

15.5.1 Witness to Printing and Sealing

A member of the electoral board or their designated representative must witness (i) the printing of the ballots, and (ii) the affixing of the seal and packaging of the ballots. The same or different persons may perform these two tasks.

The electoral board may designate as its representative a person provided by the vendor with whom the vendor contracts for the layout and printing of ballots. There is usually an extra fee for this service.

Any person who is to witness the printing of the ballots must take the required oath. Any person who witnesses the affixing of the seal must complete and sign the required affidavit. (See forms SBE-617 and SBE-619(1).)

15.6 Quantity Ordered

You are required to certify to the SBE the number of paper ballots ordered. (§ 24.2-612.) (See form SBE-612.)

ⓘ If the SBE determines the quantity you have ordered to be insufficient, you will be required to order an additional quantity.

You must order enough paper ballots to:

1. Supply each precinct, if any, using only paper ballots;
2. Supply each precinct using voting equipment with paper ballots to be used if equipment fails and to be used by voters who are physically unable to enter the polling place; and
3. Assure an adequate supply for absentee voters.

15.6.1 How Packaged

Plan and order official ballots packaged in quantities that will make the task of counting and dividing them into packages for each precinct easier. Label each package as to its quantity and type of each ballot.

A locality decides to provide each precinct using voting equipment and containing no more than 2,000 registered voters with 200 ballots for emergency use and 25 ballots for use with the handicapped and elderly who cannot enter the polling place. It is easier if the ballots are packaged in these quantities so they need not be opened and counted.

Understand, however, that costs increase as packaging and labeling requirements increase.

In addition, if the electoral board, rather than the printer, affixes the seal, you will have to package the ballots and label them yourself.

15.7 Delivery to Electoral Board

Official ballots may be delivered to the electoral board by the printer (via whatever method agreed upon) or may be picked up from the printer and delivered by a representative designated by the electoral board. The printer or your designee must complete and sign the required certificate as to the number of ballots delivered. (See form SBE-618(1).)

The electoral board must meet to receive the ballots and verify the number received. All members must sign the required certificate as to the number of ballots received. (See form SBE-618(2).)

15.8 Official Ballot to Be Submitted and Filed

One copy of each final official paper ballot must be immediately forwarded to the SBE. Write the word "void" through the seal on the back of the ballot; do not put any marking of any kind on the front of the ballot.

The accuracy of your final ballot will be determined. If it is accurate, you will be so notified. If errors are found, you will be advised of the errors and required to reprint the ballot.

Enter one copy of each official ballot in the minute book of the electoral board.

15.9 Preparing Ballots for Use

The electoral board must prepare packages of official ballots for use by the general registrar for in-person absentee voting and for each polling place.

With proper planning, this is a simple process. If not, the electoral board must count individual ballots, package, and label themselves.

Using a list that you have developed of the number of ballots required for each purpose, proceed as follows:

1. Count out in packages or, if necessary, individually the number of ballots needed for:
    a. In-person absentee voting (to be given to the general registrar). It is helpful to package these in quantities not greater than 50 so that large numbers of ballots are not stored loose;
    b. Each polling place, if any, which uses only paper ballots;

c. Each polling place using voting equipment for emergency use in the event the equipment fails;
d. Each polling place using voting equipment for use by the handicapped and elderly to whom ballots must be delivered by an officer of election outside the polling place. Packages of 10 to 25 may suffice for this purpose.

2. Package the ballots and seal each package in such a manner that any tampering with the seal will be immediately obvious;
3. Label each package as appropriate:
   a. Identify the name of the precinct in which the ballots is to be used (or enter "general registrar" on the package(s) to be used for in-person absentee voting);
   b. Identify the number of ballots contained in the package; and
   c. If more than one ballot type is in use, identify the type of ballot.

15.9.1 Receipt for Ballots

The officer of election to whom the ballots are delivered or, in the case of ballots for in-person absentee voting the general registrar, must sign a receipt for the ballots. (See forms SBE-621 and SBE-621(T).)

15.9.2 Oaths to Be Taken

There are a number of oaths and affidavits required to be executed by various individuals in the course of work performed on paper ballots. The SBE prescribes and provides all required oath and affidavit forms. Localities must order additional supplies using the SBE secure website. A brief explanation and link to examples of the forms are included.

- Statement of Printer
  - The printer with whom the local electoral board contracts for the printing of any ballot must, before the work is commenced, take and sign the oath prescribed by § 24.2-616 on the appropriate form provided by the SBE. Form SBE-616 is to be used for all elections except town elections. This form is on 8 ½" x 11" white paper.
  - For town elections only, use form SBE-616(T) for the oath to be taken by the printer. This form is on 8 ½" x 11" white paper.
- Statement of Electoral board Representative
  - The electoral board member or their representative who witnesses the printing of the paper ballots must take and sign the oath prescribed by § 24.2-617. Use Form SBE-617. This form is on 8 ½" x 11" white paper.
- Statement of Person Affixing Seal and Packaging Ballots
  - The person(s) who affixes the seal of the electoral board to the ballots must complete the affidavit and take and sign the oath prescribed by § 24.2-619. Use Form SBE-619(2). This form is on 8 ½" x 11" white paper.
- Statement of Electoral board Representative who Witnessed the Affixing of Seal on Ballots
  - The representative of the electoral board who witnesses the affixing of the seal must complete the affidavit and take and sign the oath prescribed by § 24.2-619. Use Form SBE-619(1). This form is on 8 ½" x 11" white paper.
- Certificate of Number of Ballots Delivered to electoral board

- The representative of the electoral board who delivers the printed ballots to the electoral board must certify the number delivered on the certificate prescribed by § 24.2-618. Use Form SBE-618(1). This form is on 8 ½" x 11" white paper.

- Certificate of Number of Ballots Received from Printer
  - The electoral board must meet to receive the ballots and certify the number delivered as prescribed by § 24.2-618. Use Form SBE-618(2). This form is on 8 ½" x 11" white paper.
- Receipt for Ballots
  - When the paper ballots to be used at each polling place are delivered, the officer of election receiving the ballots must sign a receipt as prescribed by § 24.2-621. The electoral board should enter all required information on this form so that it is ready for the signature of the officer upon delivery. The general registrar must also sign this form when ballots for in-person absentee voting are delivered. Use Form SBE-621. This form is on 8 ½" x 11" white paper.
  - For town elections only, use Form SBE-621(T) shown below for the receipt signed by the officer of election receiving the ballots delivered to the polling place. This form is on 8 ½" x 11" white paper.

15.10 Signed Oaths to Be Filed

The originals of all of the required oaths, affidavits, and receipts, when properly completed and signed, must be filed in the records of the electoral board for the election and retained for two years following the election. At the end of this retention period, they may be destroyed. File copies in the minutes of the electoral board.

15.11 Disposition of Unused Ballots

Any official ballots remaining unused after the election and in the possession of either the electoral board or the general registrar must be packaged under seal and delivered to the Clerk of Circuit Court by noon on the day following the election.

15.12 Preparation of Paper Ballot Reconciliation Form

The paper ballot reconciliation form (SBE-666) must be completed for each type of paper ballot used in each election held in your county or city. (See Exhibit B.) It is to be prepared as follows:

15.12.1 Ballot Type

The ballot type refers to the office(s) displayed on the ballot and vary from election to election.

In the November 7, 2006 election there were at least two types used in each locality.

1) U.S. Congress: Senate and House of Representatives; and the
2) Proposed Constitutional Amendments.

Some localities used additional ballots, such as:

- Soil and Water Director;
- County Board;
- School Board;

- City Council offices;
- Town Council offices;
- Local Vacancies; and/or
- Local Referenda.

15.12.2 Fill In

- Date of election; and
- Items 1 through 7 with the appropriate figures.

15.12.3 Sign and Date

This form is to be completed by the secretary of the electoral board who must sign and date it. The form then must be placed in an "Unused Ballot" envelope together with the unused ballots. All completed forms and unused ballots may be placed in one "Unused Ballot" envelope. It is not necessary to place each ballot type in a separate envelope.

15.12.4 Seal Envelope

The "Unused Ballot" envelope must then be sealed and a white label placed across the flap. The secretary of the electoral board must then sign and date the label.

15.12.5 Transmit To Clerk of Circuit Court

The sealed "Unused Ballot" envelope containing the proper reconciliation form(s) and unused ballots must be transmitted to the Clerk of Circuit Court no later than noon on the day following the election.

ⓘ Reconciliation forms are not required by localities using DRE or marksense voting systems.

15.13 Form SBE-612

The form is to be used to certify to the SBE the number of paper ballots you have ordered. It is on 8 ½" x 11" white paper. (See Exhibit C.)

15.14 Guide to Printing Paper Ballots

The following provides all information necessary for the layout and printing of paper ballots. These specifications must be used when designing a ballot for your printer and when reviewing the ballot proofs prior to submission to the SBE for verification. If followed carefully, there should be no need for the SBE to require correction of ballots.

15.14.1 Camera Ready Copy

When the SBE provides a camera-ready copy of ballots for an upcoming election, the typesetter must simply strip the name of the locality onto the ballot heading, cut away above the black rule, shoot 100 %, and run. Use an upper case, twelve-point type, in a style similar to that used throughout the heading. No other type on camera-ready copy may be re-set.

15.14.2 Type

All type used for any ballot must be in a style which is clear and easy to read. It should approximate the styles used in the examples provided in this guide. Bold face type is used throughout this guide to denote copy that must appear on ballots. In typesetting the ballot, however, bold face type is to be used only when specified herein.

15.14.3 Ballot Heading

1. With the exception noted for primary elections, one-quarter inch of space must be left between each line in the heading of the ballot.
2. Each line of the heading must be centered.
3. The first line of the heading of any official paper ballot must read "COMMONWEALTH OF VIRIGINIA" and must be in upper case, twelve-point type.
4. The second line of the heading must read "OFFICIAL BALLOT" and must be in upper case, bold face and twenty-four-point type.
5. The third line must read "COUNTY OF," "CITY OF," or "TOWN OF," followed by the name of the locality. This line must be in upper case twelve-point type.
6. For a general or special election:
    a. The fourth line must read either "GENERAL ELECTION" or "SPECIAL ELECTION," whichever is applicable, and must be in upper case, eighteen point type.
    b. The fifth line must indicate the day and date of the election and must be in upper and lowercase, bold face fourteen point type.
7. For a primary election:
    a. The fourth line must indicate the day and date of the election and must be in upper and lowercase, bold face fourteen point type.
    b. The fifth line must indicate the party for which the election is held; either "DEMOCRATIC PARTY" or "REPUBLICAN PARTY" in upper case eighteen point type.
    c. The sixth line must be set immediately below the fifth line and must read "PRIMARY BALLOT" in upper case and eighteen point type.
8. Leave one-half inch of space between the bottom of the last line of the ballot heading and the top of the first line of the first office title or referendum caption.

15.14.4 Office Title

1. Office titles must appear on the ballot in the manner and style in which they are shown on Exhibits C, D, and E at the end of this chapter.
2. If there is more than one line in the office title, one-eighth inch of space must be left between each line.
3. Each line in the title of each office on the ballot must be centered and must be in upper and lower case, bold face fourteen-point type.
4. For a special election to fill a vacant seat:
    a. The following statement must be set one-eighth inch below the office title in eight point, medium face type: "For Unexpired Term To End."

b. The appropriate date, as certified by the SBE, must be set one-eighth inch below this line in eight-point, medium face type; the month must be spelled out. (For example, December 31, 2006.)

15.14.5 Note Indicating Number of Candidates to Be Voted For

1. One-eighth inch below the title of each office on the ballot the following statement must be set in ten point type: (For example, "Vote for not more than.")
2. Only the word "Vote" is to be capitalized.
3. The applicable number must be spelled out (as "one," "two," etc.) and inserted at the end of this statement.

15.14.6 Ballot Squares

1. The first ballot square for an office must appear one-quarter inch below the "Vote for not more than" statement. In the case of a referendum, the first ballot square must appear one-quarter inch below the last line in the text of the question.
2. Each side of the ballot square must measure one-quarter inch as measured from the inside of each rule.
3. The square must consist of one-point rules.
4. For general and special elections:
   a. One-eighth inch space must be left between all ballot squares for a referendum or for an office when there is only one candidate representing each party or when all the candidates are independent (non-partisan) or when the same party nominated all.
   b. When there is, running for the same office, more than one candidate of the same party, one-quarter inch space must be left between ballot squares for candidates of different parties or candidates of parties and independents and one-eighth inch space between ballot squares for candidates of the same party or for each independent.
5. For primary elections: One-eighth inch space must be left between all ballot squares for an office.
6. All ballot squares must be aligned with the ballot squares adjacent to the longest candidate name; thus, by centering the longest candidate line (the "candidate line" includes both the ballot square and the name of the candidate) on the ballot, the position for the remainder of the ballot squares is established.
7. In the event that there are more available votes for an office than there are candidates, the number of ballot squares must equal the number of votes each voter may cast for the office. The required number of additional ballot squares must appear aligned below the ballot squares adjacent the name(s) of the candidate(s) for the office. These ballot squares allow the voter to write in, if he so desires, names of candidates not appearing on the ballot. (See Exhibit E.)
8. If there are no candidates for an office, ballot squares equal in number to the number of votes available for the office are required to be printed on the ballot. The ballot square(s) must appear one-quarter inch below the "Vote for not more than…" statement, one-half inch to the right of the left edge of the ballot. (See Exhibit F.)

15.14.7 Candidate Names

1. Begin each candidate's name one pica to the right of the corresponding ballot square.
2. Candidate names must be set in upper and lower case in twelve-point type.
3. When nicknames are used, they must be enclosed in quotation marks.
4. For all general or special elections:
    a. Candidates of political parties will appear on the ballot in the order determined in a drawing conducted by the SBE and are certified by the SBE in this order.
    b. If there is more than one candidate representing the same party for any office, the names are shown alphabetically within their party group.
    c. The names of independent candidates are shown alphabetically following the last party group.
    d. The name of the party represented by the candidate appears on the ballot only for federal, statewide and General Assembly offices.
5. For primary elections:
    a. The names of candidates appear in the order in which the candidates filed and are certified by the SBE in this order.
    b. If two or more candidates filed simultaneously, the order of the names of those candidates is determined as follows:
        i. For statewide, congressional, state legislative, and shared constitutional offices, by a drawing conducted by the SBE.
        ii. For all other offices, by a drawing conducted by the electoral board.

15.14.8 Write-In Space

1. For each office for which the voter may vote for only one candidate, leave three-quarters inch space below the ballot square for the last candidate for the office and above the next office title (or the end of the ballot). This space allows the voter to write in, if he so desires, the name of a candidate not appearing on the ballot.
2. If the voter may vote for more than one candidate for an office, add an additional quarter-inch space to the minimum three-quarter inch space for each additional possible vote. (See Exhibit G.)

15.14.9 Paper Color and Cut

Official ballots must be printed on white paper and cut four inches wide and no less than six inches long unless otherwise specified by the SBE.

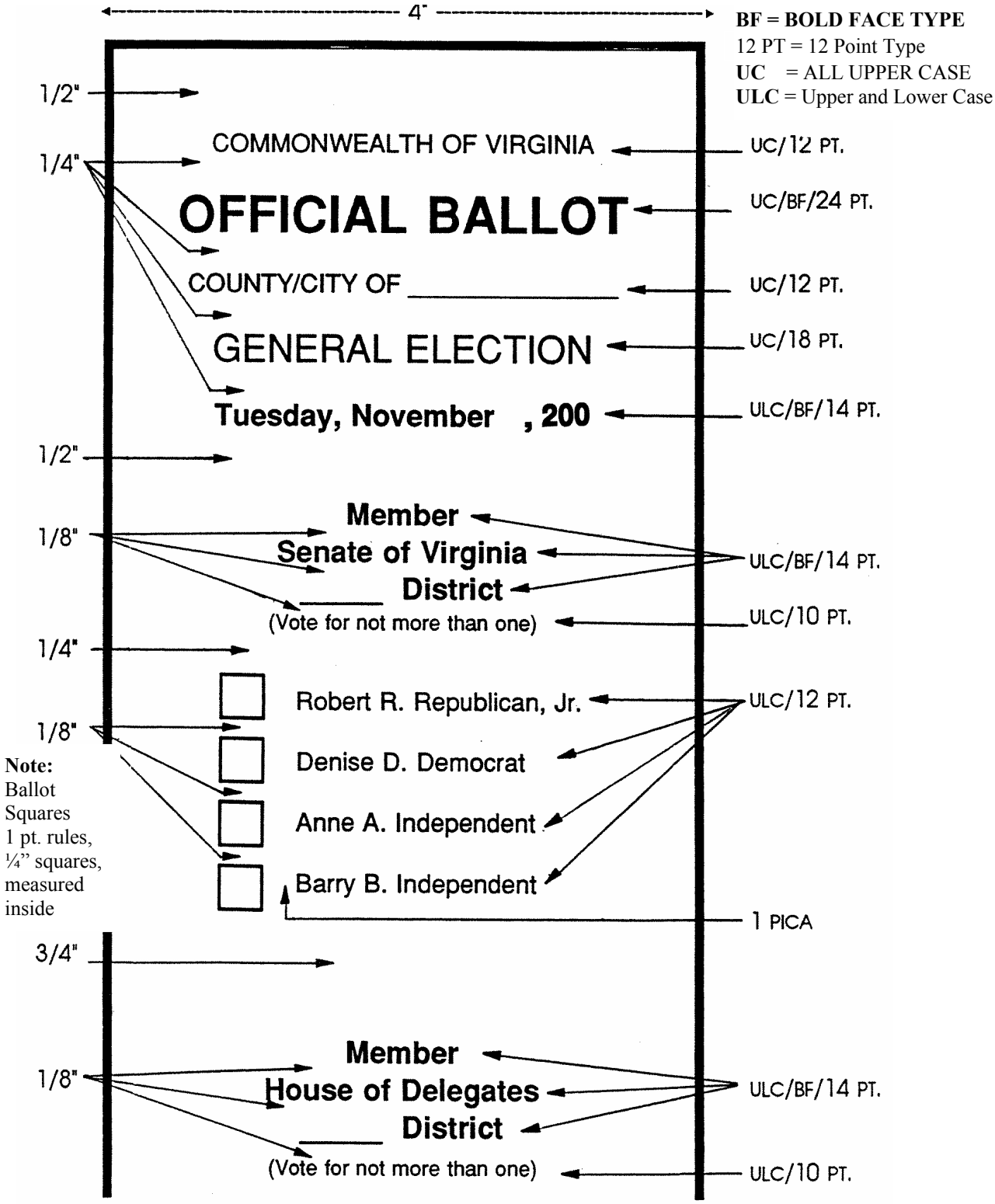
15.14.10 Referenda

1. The ballot for a referendum must be a separate ballot and must use the ballot heading designated for a special election.
2. One-half inch below the day and date of the election in the ballot heading must be printed the caption for the referendum, exactly as certified by the SBE.
3. The caption must be centered and set in upper case, bold face twelve-point type.
4. One-quarter inch below the caption must appear the text of the referendum exactly as certified by the SBE.
5. The text of the referendum must be printed in upper and lower case, twelve point type, with one point spacing between lines of the text.

6. One-quarter inch below the final line of the referendum text, and one pica to the right of the left margin of the text of the referendum, must be printed a ballot square one-quarter inch in size.
7. One pica to the right of this ballot square must be printed the first response, either “YES” or “FOR,” whichever the SBE has certified as appropriate to the election.
8. One-eighth inch below this ballot square must be printed a second ballot square of the same size, one pica to the right of which must be printed the second response, either “NO” or “AGAINST,” again whichever the SBE has certified as appropriate.
9. Responses must be set in upper case, bold face fourteen-point type.
10. More than one referendum may appear on a single ballot unless the court orders otherwise. If there is more than one referendum to be placed upon a single ballot, a space of at least one-half inch must be provided between the bottom of the ballot square for the last response for one referendum and the top of the caption for the next.
11. At least one-half inch must be provided between the last response on the ballot and the lower edge of the ballot.

15.15 Exhibits

15.15.1 Exhibit A: Official Ballot Requirements



15.15.2 Exhibit B: Paper Ballot Reconciliation

COMMONWEALTH OF VIRGINIA

PAPER BALLOT RECONCILIATION

Ballot Type _____

for

_____
DATE OF ELECTION

This form must be prepared for **each ballot type** used in the election, inserted in an Unused Ballot envelope and returned to the Clerk of Circuit Court.

1.	Number ballots received from printer		_____
2.	Number filed with State Board[1]	1	
3.	Number filed in Electoral Board minutes[1]	1	
4.	Number used for absentee voting	_____	
5.	Number sent to all precincts	_____	
6.	**Total** (Add lines 2 through 5)		_____
7.	Number returned by Electoral Board to Clerk of Circuit Court (Subtract line 6 from line 1)	*	_____

_____
DATE

_____
SIGNATURE OF SECRETARY OF THE ELECTORAL BOARD

[1]The word *Void* must be written through the seal on the **back** of these three ballots.
*This should equal the actual number of ballots returned in the envelope to the Clerk of Circuit Court's office.

SBE-666 REV 5/02

15.15.3 Exhibit C: Certificate of Number of Ballots Ordered to be Printed

COMMONWEALTH OF VIRGINIA *FORM SBE-612* STATE BOARD OF ELECTIONS

CERTIFICATE OF NUMBER OF BALLOTS ORDERED TO BE PRINTED
for the _____ Election
This form is required by law to be on file with the State Board of Elections.

TO: State Board of Elections

Our Electoral Board has determined that the following ballots in the amounts indicated below will be printed for this election:

☐ Paper

☐ Accu-Vote ☐ Ballot Now ☐ Insight ☐ iVotronic M 100

☐ Optech IIIPE ☐ Patriot ☐ Punchcard ☐ WINscan

PLEASE INDICATE BELOW THE BASIS USED TO DETERMINE THE NUMBER ORDERED FOR USE AT THE POLLS:
[CHECK ONLY ONE BOX; PROVIDE DETAILS IF **OTHER** IS SELECTED.]

☐ _____% of total number of registered voters in the election district.

☐ number of voters voting in the previous like election.

☐ other (specify) _____

	NUMBER ORDERED	
County/City-wide ballots	**FOR USE AT POLLS**	**FOR ABSENTEE VOTING**
District/Town ballots		

_____ DATE COMPLETED

_____ SIGNATURE OF SECRETARY

SBE-612 REV 11/04
04Generic612.wpd

_____
❒ County ❒ City

15.15.4 Exhibit D: Office Titles

1. **President**
and
Vice President
(Vote for not more than one)

2. **Member**
United States Senate
(Vote for not more than one)

3. **Member**
House of Representatives
4th District
(Vote for not more than one)

4. **Governor**
(Vote for not more than one)

5. **Lieutenant Governor**
(Vote for not more than one)

6. **Attorney General**
(Vote for not more than one)

7. **Member**
Senate of Virginia
18th District
(Vote for not more than one)

8. **Member**
House of Delegates
59th District
(Vote for not more than one)

9. **Clerk of Court**
(Vote for not more than one)

10. **Commonwealth's Attorney**
(Vote for not more than one)

11. **Sheriff**
(Vote for not more than one)

12. **Commissioner of Revenue**
(Vote for not more than one)

13. **Treasurer**
(Vote for not more than one)

14. **Chairman**
Board of Supervisors
(Vote for not more than one)

15. **Member**
Board of Supervisors
At Large
(Vote for not more than)

16. a.

Member
Board of Supervisors
Annandale District
(Vote for not more than)

OR
b.

Member
Board of Supervisors
District Four
(Vote for not more than)

OR (Arlington County only)
c.

Member
County Board
(Vote for not more than)

17. **Tiebreaker**
Board of Supervisors
(Vote for not more than one)

18.

Mayor
(Vote for not more than one)

19.

Member
City Council
At Large
(Vote for not more than)

20.

Member
City Council
District 1
(Vote for not more than)

21.

Member
School Board
At Large
(Vote for not more than)

22.

Member
School Board
District 9
(Vote for not more than)

23.

Member
Town Council
At Large
(Vote for not more than)

24.

Member
Town Council
District Five
(Vote for not more than)

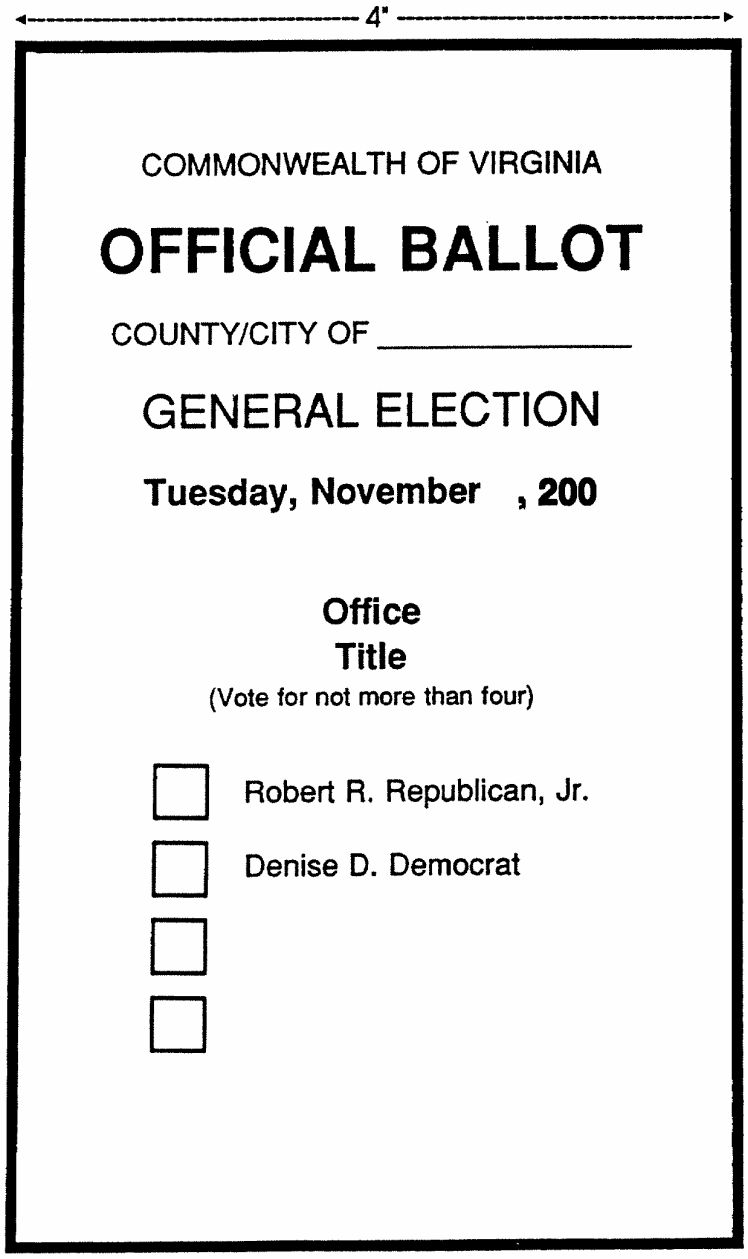
25.

Recorder
(Vote for not more than one)

15.15.5 Exhibit E: Ballot Squares

In the event that there are more available votes for an office than there are candidates, the number of ballot squares must equal the number of votes each voter may cast for the office. The required number of additional ballot squares must appear aligned below the ballot squares adjacent to the name(s) of the candidate(s) for the office. These ballot squares allow the voter to write-in, if he so desires, names of candidates not appearing on the ballot.

Example:



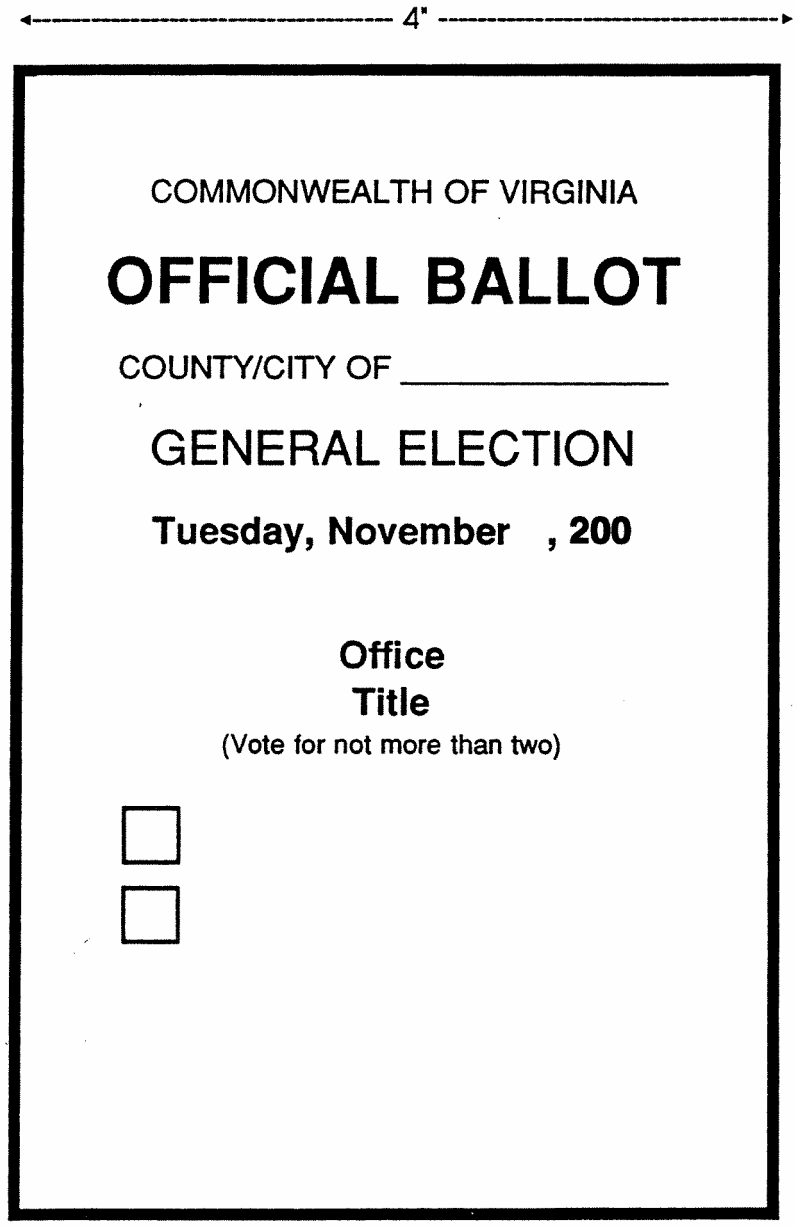
The number of ballot squares must be equal to the number of votes each voter is eligible to cast for the office.

Because there are already two write-in spaces available opposite ballot squares, the space below the final ballot square need account for only two write-in spaces:

$\frac{3}{4}" + \frac{1}{4}" = 1"$

15.15.6 Exhibit F: Ballot Squares: No Candidates

If there are no candidates for an office, ballot squares equal in number to the number of votes available for the office are required to be printed on the ballot. The ballot square(s) must appear one-quarter inch below the "Vote for not more than . . ." statement, one-half inch to the right of the left edge of the ballot.



15.15.7 Exhibit G: Write-In Space

If the voter may vote for more than one candidate for an office, add an additional quarter-inch space to the minimum three-quarter inch space for each additional possible vote.

4"

COMMONWEALTH OF VIRGINIA

OFFICIAL BALLOT

COUNTY/CITY OF _____

GENERAL ELECTION

Tuesday, November , 200

Office
Title
(Vote for not more than four)

- ☐ Robert R. Republican, Jr.
- ☐ Denise D. Democrat
- ☐ Anne A. Independent
- ☐ Barry B. Independent

Three-quarter inch write-in space for the first possible write-in plus three-quarter inch additional space allotted for the remaining three possible write-ins for this office.

16 Central Absentee Precinct (CAP)

16.1 Reasons for Establishing the CAP

The purpose of a Central Absentee Precinct (CAP) is to record, cast, and count all absentee ballots for an election in one central place rather than distributing them to each of the polling places.

Section 24.2-712 provides that central absentee precincts may be established for a county or city upon the enactment of an ordinance by the local governing body of a county or city. From time to time, local electoral boards inquire as to guidelines for establishing and operating such precincts. These procedures are provided in response to those inquiries.

A CAP is normally established for one or more of the following reasons:

- The number of absentee ballots to be handled is usually so great that processing them seriously delays the completion of required work at polling places;
- The distance to be traveled in distributing ballots to polling places is so great or the terrain so difficult that ballots received on election day cannot be delivered before the polls close;
- Better control over the security of the ballots is accomplished when it is necessary to transport them to only one nearby location and they are handled only by officers of election working at that central location; and
- The secrecy of the ballot of the voter who is the only absentee voter in his precinct is preserved because his ballot is cast and counted with the ballots of all others in the county or city, who are voting like ballot types.

ⓘ Cost reduction is never a reason, as the establishment of a CAP will usually increase the cost of an election. Electoral board members should travel the county or city on each Election Day to monitor the performance of officers of election at polling places. Therefore, the only possible cost savings might be mileage incurred for extra trips to deliver late-received ballots; this saving normally would be more than offset by the cost for additional officers to man the CAP.

16.2 Use Not Allowed For Town Elections unless established prior to 1993.

Section 24.2-712 only empowers the governing body of each county or city to establish a CAP for counting absentee ballots cast in the county or city. This section was amended during the recodification of election laws in 1993 to specifically remove the power of a town to establish a CAP.

16.3 Location of the CAP

The room in which the CAP will be located must **not** be in the Office of the general registrar. It should, however, be located as close to that office as possible. It must be:

- A room being used for no other purpose on election day;
- A room 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; and
- Equipped, on Election Day, with sufficient furniture (tables and chairs) for assigned officers of election and as necessary to organize the precinct lists of Absentee Ballot Applicants and the ballots and accompanying material for each precinct; plus one or more ballot containers.

For details, see Staffing the CAP and Equipment Requirements.

16.4 How to Establish A CAP

The electoral board should:

- Determine that the CAP is needed and for what elections. For instance, you may decide that the CAP is needed only for Presidential elections; for all November general elections; for all countywide or citywide elections; or for all elections held in the locality (excluding town elections);
- Find a suitable location for the CAP and assure that it will be available whenever needed;
- Determine the projected cost of operating the CAP per election;
- Then request that the local governing body of the county or city enact an ordinance establishing the CAP and provide to the local governing body the location of the recommended site and the funding required. The ordinance enacted should state the elections for which the CAP is established; in the absence of this designation in the ordinance, the CAP would be required to be used in all elections except town elections;

  The local governing body must give such public notice as is required prior to the adoption of this ordinance just as for any other ordinance.

- After enactment, assure that the ordinance is submitted immediately by the county or city attorney to the United States Department of Justice pursuant to the Federal Voting Rights Act (not required for a county or city with "bail out" status). When a response interposing no objection is received, the CAP may be implemented;
- Forward immediately after enactment, to the SBE a certified copy of the ordinance; and
- Forward, immediately upon receipt, to the SBE, a copy of the letter from the United States Department of Justice interposing no objection to the CAP (not required for a county or city with "bail out" status).

16.5 Staffing the CAP

A minimum of three officers of election must be appointed to serve in the CAP.

- A greater number of Officers may be required to adequately perform 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 assure 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 like November elections is available on the election results by precinct which are provided to you by the SBE which should be on file in the office of the general registrar.)

- The number of ballots to be handled by a locality that uses paper ballots for absentee voting will be influenced by the number of ballots that make up the ballot set given each absentee voter. For instance, a given November election may require four (or more) ballots per voter in a county: e.g., one for the Senate and the House of Delegates of Virginia; one for county constitutional officers; one for board of supervisors; and one for the statewide referendum questions. If a special election to fill a vacancy in local office is ordered, this could require a fifth ballot; if an order is received for a local referendum, this would require a sixth ballot. One team of two officers may count only one ballot at a time. Thus, the number of ballots in a ballot set will influence the number needed.

  Localities that use optical scan ballots should not have this issue with multiple ballot sets and therefore will not require as many officers of election.

- If all of the voters in the county or city do not vote in the same Congressional or State Senate or House of Delegates district, then paper ballot sets of different styles or optical scan ballots are used for each district or different combination of districts.

A given team of Officers may process only the paper ballots of one style or optical scan ballots of each district at a time. Given a sufficient number of different paper ballot styles, additional teams of Officers may be needed.

16.6 Equipment Requirements

The electoral board must determine the equipment needed in a **CAP**. In doing so, consider:

- Table(s) on which to organize the ballots for each precinct, both before and after processing;

- Table(s) on which to organize lists of Absentee Ballot Applicants, Pollbooks and Statements of Results forms, both before and after processing (separate Pollbooks are required for each ballot style);

- Table(s) and chair(s), on which to organize oath forms and un-voted paper ballot sets and at which any voter who appears to appeal his right to vote in person on election day will be handled;

- Table(s) and chairs for each team of Officers;
- Containers for each officer table for processing applications and envelopes; and
- One ballot container for each different style of paper or optical scan ballot.

Since most of these activities are sequential rather than simultaneous, the same furniture can be utilized for several of the various functions.

16.7 Officers to 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.

They may apply and vote by mail or in person but must observe the same deadlines for doing so as all other absentee voters.

ⓘ An officer of election who is assigned to serve in a precinct other than his precinct of residence after Noon on the Saturday before the election may apply for and vote absentee in person before 2:00 PM on the day before the election at the office of the general registrar in the county or city in which he lives.

16.8 Pre-Election In-Person Absentee Voting on Voting Equipment

An electoral board may choose to allow for the casting of ballots for in-person absentee voters on voting equipment if a CAP is used for that election. A person who votes using either a DRE or by inserting a voted ballot into the counter for optical scan equipment has cast his ballot prior to election day pursuant to §24.2-707. Full prescribed procedures for the actual administration of voting on voting equipment may be found as an addendum to this chapter in order that they may be printed separately in order to provide them to officers at the CAP or satellite voting locations. The following guidelines are to be followed for in-person absentee voting:

- DRE or optical scan equipment may be used for in-person absentee voting at the registrar's office once absentee voting is available even before the close of books 29 days before the election.

- 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. Please follow the procedures in Chapter 20 and refer to §§ 24.2-632 – 24.2-634.

- When entering the absentee application into VERIS, you must select that the application "**Received by Method**" is "**In Person**", that the "**Ballot Sent By**" is "**In Person**", that the ballot **"Received By"** method is "**In Person"**, and that the "**Ballot Status**" is "**On Machine**". This will capture the information that the voter has cast his ballot on voting equipment prior to election day and prevent the voter from voting again either by absentee ballot or in person on election day and also prevent a voter who transfers his registration from voting again in the new locality.

- At this time, DRE or other accessible machines are not specifically required for in-person absentee voting. There are a number of benefits of allowing for the use of a fully accessible piece of voting equipment such as a DRE and other considerations if DRE's are used for in-person absentee voting such as:
    - Allowing for any voter with a disability the same opportunity for access (including the ability to vote in a private and independent manner) as for any other voter.
    - The ability to have multiple ballot styles loaded onto one machine for congressional district splits or precinct splits.
    - Having one machine provide totals for all in person absentee voters.
    - If a DRE is used, your electoral board should set policies concerning its use based upon your locality's specific factors. This would include factors such as if DREs are the sole voting equipment in use at your normal precincts and thus what voters are familiar with using, whether or not the DRE will be used only by person's with a disability, if voters may have a choice of which type of equipment they use, etc. It is essential that you ensure a sufficient number of voters use the DRE to guarantee the secrecy of any one voter's vote. Therefore, you must ensure that if only persons' with a disability are allowed to use the DRE, that more than one voter votes on the equipment.

  The SBE has no formal policy concerning who must or can use a DRE if one is used for in person absentee voting. This is a decision left to each local electoral board at this time.

- At least two officers of election representing each political party must be present if in person absentee voting on voting equipment is taking place at any location other than registrar's or secretary of the electoral board's office. If the in person absentee voting on voting equipment is completed at the registrar's or secretary of the electoral board's office no officers of election are required but a registrar, assistant registrar, or the secretary of the electoral board must be present.

16.9 Training Officers of Election

The officers of election appointed to serve in a CAP must be trained specifically for their duties that differ from all Officers in in-person voting precincts.

For localities using optical scan voting equipment, the procedures these officers must follow are detailed in the Election Day Guide for the Central Absentee Precinct.

16.10 Polling Place Arrangement

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. The electoral board should immediately deliver to the Officers all applicant lists and voted ballots in their **unopened marked ballot** envelope in their opened return envelopes. 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 his office.

The electoral board (and general registrar) should then leave the CAP and proceed to their other Election Day duties.

16.11 Hours to Be Observed

Generally, officers of election serving in a CAP must report on Election Day to the room in which the CAP is located (the polling place) no later than 5:15 AM and must remain until the results have been finally ascertained. However, §24.2-639 provides that the local electoral board may allow that officers of election at a CAP "may be assigned to work all or a portion of the time that the precinct is opened." This provision does not apply to the Chief Officer and Assistant Chief Officer who are ". . . on duty at all times".

The Registered Voters Lists (lists of Absentee Ballot Applicants) may be marked, names entered into Pollbooks, and ballots cast into ballot containers throughout the day.

Ballot containers may **NOT** be opened and ballots counted until **after** 7:00 PM.

Addendum

Prescribed Procedures: Voting Equipment Use for In-Person Absentee Voting

Section 24.2-707 of the Code of Virginia provides that any county or city using a central absentee precinct may provide for the casting of absentee ballot on voting equipment prior to election day voters who are voting in person in accordance with the instructions of the SBE. This document sets forth the prescribed procedures of the SBE for using voting equipment for in-person absentee voters prior to election day.

GREBook 17 Election Day Preparation

While every thing registrars and electoral boards do in their offices is actually preparing for the next Election Day, there are specific things that must done before each election.

One of the very first steps in election day preparation is polling place selection. (See Chapter 13.)

ⓘ The following example checklist is generic and should be customized for each locality. The timeline for some of the tasks make change dependent on the type of election (special, primary, or general).

Date of Election _____

Sometime Prior to Election

- ❑ Prepare the voting equipment and program/place the ballots in the machines.
- ❑ Test the Voting Machines
  - ❑ Set a date to test the machines.
  - ❑ Invite the party representatives to attend the machine testing. (20 days)
  - ❑ Place public notices of the time and place of the machine testing.
  - ❑ Test and seal the machines.

Sixty Days Prior To Election

- ❑ Design the ballots and determine the office and issue positions.
- ❑ By the deadline provided by the SBE, submit the ballot proofs to the SBE for approval.
- ❑ Once you receive approval from SBE, order voting materials. Prepare your ballots for voting so that you have them available for voting at least forty five days before any November general election or special election held at the same time, thirty days before any other general, special, or primary election, and as soon as possible before any special election. (§ 24.2-612.) Complete SBE-612 indicating how many ballots you are ordering and the justification for the order.

ⓘ Absentee voting materials must be received even earlier than regular ballots.

- ❑ Notify security at branch office of extra hours open to public.
- ❑ Memo to SBE regarding extra hours on Thursdays for AB voting/DIT needs to know
- ❑ Schedule instruction meeting for officers of election.

Forty-Five Days Prior To Primary & General Election

- ❑ Post public notice of final registration day.
- ❑ Post legal notice of absentee voting and extra hours for absentee voting
- ❑ Schedule an electoral board meeting to accept the ballots, verify that the number of ballots received is correct, and that the ballots are printed correctly.

- ❑ Fill out SBE-116(2), "Certificate of Number of Ballots Received from Printer" for signature of electoral board at meeting.
- ❑ Record a certification in the electoral board minutes verifying the number of ballots and their acceptance. (§ 24.2-618.)
- ❑ Do a refresher meeting for staff to go over procedures for upcoming election

Thirty Days Prior To Election

- ❑ Memo to registrars: Effective date of registration form to be put on information sheet for new voters.
- ❑ Decide what precincts are to be split.
- ❑ Notification of upcoming election to:
  - ❑ Superintendent and associate superintendent of schools.
  - ❑ Responsible official at polling place locations.
- ❑ Work order to have voting machine moved from storage to polling place. Must be delivered no later than noon on the day before an election.
- ❑ Place a copy of each machine's sample ballot in file box marked "Voting Machine Sample Ballots" located in locked closet.
- ❑ Begin to prepare "while books are closed" lists (give all additions, deletions, changes, and corrections to designated person).
- ❑ Place five copies of each sample paper ballot in file box marked "Paper Sample Ballots."
- ❑ Update referendum/questions file with question info on ballot.
- ❑ Send copy of sample ballots to libraries and local papers.
- ❑ Check phones at polling places.

Twenty Days Prior To Election

- ❑ Preparation of precinct election materials.
- ❑ Send notices to officers of election about instruction meeting.
- ❑ Send notices to party chairmen about programming of voting machines.
- ❑ Send notice to warehouse regarding machine custodians in building to program/transport machines.
- ❑ Send notice to office where ascertainment will take place.
- ❑ Prepare office schedule for Monday, election day, day after, and ascertainment.

Fifteen Days Prior To Election

- ❑ Prepare results sheet (tally sheets or computer).
- ❑ Send copy of results sheet, precinct tally sheets, & sample ballots to county information officer if they are helping media with returns.

Ten Days Prior To Election

- ❑ Prepare election night call in sheets.

Seven Days Prior To Election

- ❑ Prepare receipts for delivery of paper ballots, absentee ballot list, and all other election material for chiefs.
- ❑ Divide paper and optical scan ballots into packages for each precinct. (§ 24.2-620.)

- ❑ Prepare and list election materials provided to each precinct
  - ❑ Some supplies merely need to be gathered. These include: pollbook(s), pollbook count forms, absentee ballot applicants list, officer of election oaths, voter information signs, grievance forms, calculator, pens, pencils, clips, note paper, rulers, scissors, tape-measure, and a stapler.
  - ❑ Some supplies require preparation. These include: statement of results, payroll sheet, sample ballots, precinct maps, precinct/polling place locator, voter entry permits, registration forms, affirmation forms, and numbered envelopes for return of specified material.
- ❑ Prepare receipt for delivery of absentee ballots, except for town elections.
- ❑ Prepare dummy number notices and attach to front of poll books.
- ❑ Prepare voting machine key envelopes (after machines are programmed).
- ❑ Send letter to party chair & independent candidates regarding provisional ballot meeting.

Saturday before Election

- ❑ Place pollbooks in proper accordion jacket for supply bags.
- ❑ Alphabetize officer of election oath forms for swearing in of chief officer on pick-up table
- ❑ Prepare election day transaction adds or deletes form for election day.
- ❑ Prepare telephone log sheets for election day.
- ❑ Make additions & corrections to election rosters and pollbooks
- ❑ General registrar signs off on the above

Sunday before Election

- ❑ Run absentee ballot lists on printer
- ❑ Absentee Ballot delivery preparation
  - ❑ Verify final names on lists with ballots
  - ❑ Pack ballots and applications for delivery
- ❑ Have key envelopes with oath letter attached
- ❑ Prepare machine custodian oath letters for receipt for delivery of paper ballots and absentee ballot list, precinct election materials, and absentee ballot list.

Monday before Election (Before 8:30 AM)

- ❑ Have electoral board secretary sign absentee ballot list
- ❑ Put on officer of election pick-up table: voting machine keys, receipt for delivery of paper ballots and absentee ballot list, precinct election materials, and absentee ballot list.

Monday before Election

- ❑ Deliver cellular phones to machine custodians and board.
- ❑ Deliver forms, badges, materials, telephone and precinct lists, and machine keys to custodians.
- ❑ Pull record card of all voters added to roster who actually voted. Enter voting record on VERIS.
- ❑ Deliver paper ballots to each polling place election day or have your chief officers pick them up the day before.

Day after Election

- ❑ Check returned precinct election materials
- ❑ Deliver any "Returns" which belong to the Clerk of Court.
- ❑ Prepare for noon provisional vote meeting (if necessary).
- ❑ Remove new applications for processing.
- ❑ Prepare paper ballot reconciliation form for each type of paper ballot for signature of secretary of the electoral board.
- ❑ Deliver absentee ballot applications to the Clerk of Court.
- ❑ Account for "plus & minus" report.
- ❑ Deliver keys with oaths of machine custodians to the Clerk of Court
- ❑ Go over instructions for write-in votes with electoral board assistants.
- ❑ Check that total write-ins for each office agrees with the statement of results write-in entries.
- ❑ Registrar makes net changes in Reg. Entries
- ❑ Complete Votes Cast column with information from SOR
- ❑ Enter totals on Abstract of Votes
- ❑ Do the data entry into VERIS Election Night Reporting and compare totals to those entered on Abstract to verify that they agree. This includes entering total number of provisional ballots counted as separate precinct. If not, review entries to find error.
- ❑ Do data entry on county web
- ❑ Fax copy of abstracts to SBE and mail per instructions
- ❑ Enter provisional vote information into VERIS:
    - ❑ Perform voter search on each voter who voted a provisional ballot whether it was counted or not.
    - ❑ If voter exists as registered voter, enter that provisional ballot was counted or not and if not, enter reason ballot was not counted. This will automatically generate required notice to be sent to voter whose ballot was not counted.
    - ❑ Determine total number of provisional ballots not counted for voters who do not exist in system and enter into VERIS Election Night Reporting. Enter these as an adjustment after you have processed all of the individuals that are registered but whose provisional votes did not count.

Fifteen Days after Election

- ❑ Absentee ballots received after election go to Clerk of Court

After Deadline for Initiation of Contest of Election Has Passed

- ❑ Retrieve pollbooks from the Clerk of Court.
- ❑ Place all Pollbooks into cases per SBE instructions for courier.
- ❑ Retrieve the voting machine keys from the Clerk of Court.
- ❑ Attach custodian and officer of election keys and put on key canvas within 30 days after return.
- ❑ Enter all rejected absentee ballots into VERIS for each voter whose absentee ballot was rejected:
    - ❑ Perform Absentee Search for each voter whose absentee ballot was rejected. If

voter has been transferred to another locality or registration was legally cancelled before election, ballot will have already been cancelled and rejected.

- ❑ After voter is located, check that absentee ballot was rejected and select and enter specific reason why ballot was rejected. This will automatically generate the required notice to be sent to the voter.

After Rosters Are Returned By the SBE

- ❑ Verify "list of those who voted" with Pollbooks
- ❑ Remove Military non-registered voters from computer
- ❑ Process roster E.O. changes
- ❑ Check Absentee Pollbook

18 Election Day

18.1 Election Materials

18.1.1 Plan In Advance

Prior to each election the SBE forwards to the secretary of the electoral board or general registrar completes the online "Election Material Order." The secretary of the electoral board / general registrar checks supplies already on hand, determines the additional quantities required to conduct the election and submits electronically the properly completed form by the deadline established by the SBE.

18.1.2 Packaging and Scheduled Pick Up Of Materials

The SBE counts, packages and prepares the material for delivery to the office of the general registrar via United Parcel Service (UPS).

Packages should be opened promptly upon receipt and inspected to be sure that the proper quantities of each item ordered have been received. If anything is missing, call SBE immediately.

After all materials have been received and inspected, should you determine that you need additional supplies of any item, please fax your request for additional election materials to Election Services (fax # 804 225-3706) or email it to Matt Abell at Matt.abell@sbe.virginia.gov immediately. The SBE will ship supplies so ordered as soon as possible after receipt of your order.

18.1.3 Materials to Be Used

18.1.3.1 Final Absentee Ballot Applicants List

The printout generated by VERIS must be used. The final list printed out the night before the election will contain the name and information for all person who have requested an absentee ballot including any person who requested a federal only ballot, presidential only ballot, and a late emergency ballot. If you run the Final Absentee Ballot Applicant's List prior to 2:00 p.m. on the day before the election, you will need to run the list again in VERIS if any late emergency requests for absentee ballots are granted. You can set the time for printing the final list through the Report functions of VERIS.

18.1.3.2 Application for Absentee Ballot

Provided by the general registrar to any individual who requests it, whether for the person making the request or for someone else. This document may also be downloaded by the voter from the SBE website.

18.1.3.3 Affidavits and Oaths for Printing of Ballots

These various forms are to be sworn or affirmed to in connection with the printing of your ballots for each election held in your locality:

Form #	Form Name
Form SBE-616	Statement of Printer
Form SBE-616(T)	Statement of Printer (Town Elections)
Form SBE-617	Oath of electoral board Representative
Form SBE-618(1)	Certificate of Number of Ballots Delivered to electoral board
Form SBE-618(2)	Certificate of Number of Ballots Received from Printer
Form SBE 618(1) (T)	Certificate of Number of Ballots Delivered to electoral board (Town Elections)
Form SBE 618(2) (T)	Certificate of Number of Ballots Received from Printer (Town Elections)
Form SBE-619(1)	Statement of Witness to Affixing of Seal
Form SBE-619(2)	Statement of Person Affixing Seal
Form SBE-621	Receipt for Ballots
Form SBE-621(T)	Receipt for Ballots (Town Elections)

18.1.3.4 Envelopes for Return of Election Materials

These are the envelopes in which officers of election, on election night, seal the material indicated for delivery the next day to the Clerk of Circuit Court or return on election night or the following morning, as the Board directs, to the office of the general registrar. (§24.2-668(B))

Only these envelopes may be used, except that containers may be provided in which Counted Ballots may be sealed and/or a container in which the Unused Ballots may be sealed provided containers are clearly identified in the same manner as the prescribed envelope(s).

The following envelopes are to be used to convey materials to the Office of the Clerk of the Circuit Court by noon on the day following the election or if returned on election night to the office of the general registrar as required by §24.2-668, by noon on the day after the completion of the canvass:

- Envelope 1A and/or 1B for "Provisional Votes" (those cast in green envelopes);
- Envelope 2 for Pollbooks, Pollbook Count Forms, Statement of Results, Write-ins Certification, Officer of Election Oaths and if used, Incident Report;
- Envelope 2A for Printed Return Sheet ;
- Envelope 3 for Counted Ballots;
- Envelope 4 for Spoiled/Void Ballots;
- Envelope 5 for Absentee Ballot material;
- Envelope 6 for Unused Ballots;
- Envelope 7 for Voting Machine Keys (refer to Voting Equipment Keys section of the Election Day Guide; the electoral board must not deliver machine keys to Officers in these envelopes); (used only for voting equipment that is secured by the removal of these keys)
- Envelope 7A for memory cartridges for the AVC advantage voting system.

- Envelope 7B for voting equipment keys for optical scan and DRE dial/touch screen voting systems that are not secured by the removal of the keys;
- Envelope 7C for Data Storage units for marksense and DRE dial/touch screen voting systems.

The following envelopes are to be used to convey to the office of the Clerk of Circuit Court for delivery to or pick up by the secretary of the electoral board:

- Envelope 9 for Virginia Election Laws; and
- Envelope 10 for Officer of Election buttons.

Envelope 8 is to be used to convey completed forms as indicated below to the office of the Clerk of Circuit Court for delivery to or pick up by the general registrar for Oath of Voter forms and Voter Registration Applications. Envelope 8 contains:

- SBE-649 Request for Assistance and Affirmation of Eligibility Form
- SBE-643B Affirmation of Identity Form
- SBE-708 Statement of Voter (absentee ballot lost or not received)
- VA-NVRA-1 Virginia Voter Registration Application

18.1.3.5 Election Day Guide

One copy of the guide that is specific to the voting equipment used in your county or city will be provided. You must duplicate them in the quantities needed for each polling place. The original artwork must be retained in your files and used to make additional copies, as needed, for each election. The SBE will provide a complete original whenever changes are made to this document due to law or procedural changes. Your officers of election must return the Guide to you after each election held in your locality. The various types are explained below:

- Election Day Guide for Central Absentee Precinct (CAP) for users of Accu-Vote and Optech voting systems.
- Election Day Guide – Accu-Vote. This is an optical scan voting system.
- Election Day Guide – Accu-Vote Tele-Results. Same as above except that results are transmitted to a central location via telephone lines.
- Election Day Guide – Accu-Vote TSR6. This is a touch-screen voting system.
- Election Day Guide – AVC. This is a direct recording electronic voting system.
- Election Day Guide – Edge. This is a touch –screen voting system.
- Election Day Guide – eSlate This is a dial screen voting system
- Election Day Guide – iVotronic. This is a touch screen voting system.
- Election Day Guide – Optech IIIPE. This is a optical scan voting system.
- Election Day Guide – WINvote. This is a touch screen voting system.

18.1.3.6 Labels for Sealing Election Material Envelopes or Containers

- A label must be affixed to Envelopes 1 through 7.
- Two officers of election (of different parties) who verify the contents and seal the envelope must sign and date the label after it is affixed.
- All officers of election must sign the label affixed to the Counted Ballots envelope (3).

- A new label is to be affixed, signed and dated by the appropriate person, i.e., Clerk of Circuit Court, secretary of the electoral board, general registrar, etc., each time it is necessary to re-open an envelope.
- Remember that envelopes containing ballots may be opened only when authorized by the SBE.

18.1.3.7 OP Envelope SBE-649 used for outside polls voter

Envelope for eligible voter who is physically unable to enter polling place and votes outside the polls and Officer delivers ballot to voter. This envelope may be used only for paper ballots. It may not be used for marksense ballots.

18.1.3.8 Officer of Election Buttons

This button is to be worn by each officer of election at each polling place. These same buttons are to be used for every election on held in your county or city. Order replacements as needed.

18.1.3.9 Poll book - Provisional Votes

One Provisional VOTES pollbook is provided per county, city or town to be used by the electoral board on the day following the election if any ballots are cast in green envelopes pursuant to §24.2-653. This pollbook is also used for any absentee ballots returned by mail which must be "treated as provisional ballots" because the voter was required to send a copy of their ID with the ballot and didn't do so (these voters are marked with an "H" on the pollbooks and "Y" under "HAVA Voter" column with the absentee list). (See Chapter 29.)
In a primary election, one pollbook is provided for each party holding a primary.

18.1.3.10 Prohibited Area Signs

These notices are to be posted at the polls by the officers of election as required by §24.2-604 indicating a Prohibited Area within 40 feet of any entrance to the building in which any polling place is located. These signs must be posted outside the building within the restricted area.
No activity is permitted within the prohibited area including, but not limited to, loitering or congregating, campaigning, handing out sample ballots, campaign materials or any type of literature, hindering or delaying a voter who is either entering or leaving the polling place, conducting bake sales or yard sales.

ⓘ It is helpful to indicate an arc of 40 feet with tape or some other marking device. Localities should provide a long measuring tape or a length of rope that is 40 feet long for such purposes.

In a primary election, one authorized representative of each candidate must be permitted to remain in the room in which the election is being conducted. In a general or special election, one authorized representative of each political party or independent candidate must be permitted to remain in the room in which the election is being conducted. Such representative:

- must be a qualified voter of the county or city;
- must not hinder or delay a qualified voter or give, tender or exhibit any ballot, ticket or other campaign material to any person, or solicit or in any manner attempt to influence any person casting his vote;
- must not hinder or delay any officer of election or otherwise impede the orderly conduct of the election; and

- If the pollbook used at the polling place is divided into more than one section (e.g., A-L and M-Z), one such authorized representative must be permitted for each such division up to a maximum of three.

18.1.3.11 Other Signs

- Attention All Voters
  This sign states that voters are required to show identification or sign an Affirmation of Identity Form. This sign applies to all elections, federal, state, and local and to all voters except those marked with an "H" on the pollbooks and then the sign below applies.
- Voter ID Requirements
  This HAVA sign provides the types of ID required to be shown the by voters who registered by mail after January 1, 2003 the first time the vote in a federal election. If this voter is unable to display one of these forms of ID, they must vote a provisional ballot pursuant to §24.2-653.
- Election Date and Hours
  This sign lists the date of the election and the hours the polls are open. It is a Help America Vote Act (HAVA) requirement and therefore is provided in federal elections only.
- Full Legal Name
  This sign, to be posted at the table where the officers of election are seated, is to remind a voter that he is required to give his full legal name to the officer after presenting a required form of identification. The space at the bottom of this form may be used to list, if any, the alphabetical division of you pollbook (i.e., A-K…)
- No Smoking
  This sign reminds everyone that no smoking is permitted inside the polling place.
- Notice – New Procedure
  This sign states that an over-voted ballot will be rejected and that the voter will be given the opportunity to either correct the ballot or to instruct the officer of election to accept the ballot as voted. This applies to all marksense voting systems.
- Voter's Rights and Responsibilities
  This sign provides the voter with his voting rights and responsibilities, explains voting a provisional ballot and provides the SBE' website and telephone number.

18.1.3.12 Statement of Results

The SBE will provide an original of each page of the complete set of the Statement of Results. Enter required information and duplicate in the quantities needed.

- Number of Copies:
  Two copies are required for each precinct; these will be prepared by the EB/GR for use at each precinct. Additional copies can be made locally for training purposes.
- Dual / Multi-Party Primary:
  If your locality is holding a dual or multi- party primary, two SOR copies are required for each party's primary.
- Information Required:
  Your electoral board must enter on these forms, prior to using them for training or delivering them to your officers of election for use at each polling place, the following information:

1. The name of the county, city or town and of the precinct in which the form is to be used;
2. In column (VM-1) the number of the first machine to be used in the precinct;
3. In succeeding columns (VM-) and succeeding lines, the numbers of any other machines to be used in the precinct;
4. In the order in which they will appear on the ballot:
   - In the columns designated (C-), the names of the candidates that will appear on the ballot;
   - After the name of the last candidate for each office, a (D) column for Total Write-ins, if permitted for the election, followed by an (E) column for Total Votes Cast For Office; and
   - Centered over the above, in column (B), the name of the office.

5. After the last office:
   - In the columns designated (C-), the answers to each local question that will appear on the ballot;
   - After the last answer for each question, an (E) column for Total Votes Cast For Question; and
   - Centered over the above, in column (B), the title of the question.

The training copy given to the Chief Officer at your instruction meeting should be a copy prepared in accordance with the above.

18.1.3.13 Statement of Voter Forms

Form #	Form Name	Form Color	Number of Forms
SBE-653	Provisional Ballot Oath	Green	Envelope
SBE-649	Request For Assistance/ Affirmation of Eligibility	White	50 per pad
SBE-708	Absentee Ballot Not Received	Gold	Each
SBE-643	Affirmation of Identity	White	Each
VA-NVRA-1	VA Voter Registration Application	White	Each

Refer to the Election Day Guides for officers of election for a complete description of each of these forms. A minimum of one pad of the padded oath forms must be provided to each precinct. All unused forms should be returned to the office of the general registrar and retained for use in any subsequent election.

18.1.3.14 Stickers - I Voted

If provided by the electoral board, must be used at general elections only. The officer of election hands one sticker to the voter as the voter exits the voting booth.

ⓘ The officer of election should never attempt to affix the sticker on a voter's wearing apparel. One such attempt resulted in a successful suit for damages.

18.1.3.15 Virginia Election Laws (Title 24.2) Amended to July 1 of the Current Year

Only one copy will be provided for each precinct in your county or city. These are to be used at each polling place at any election held from one November general election to the next and must be returned to you in the envelope provided. See above.

This copy must be made available at the polling place to any officer of election who needs to refer to it and may be used when handling voters with problems.

Four additional copies, one for the continuing use of each member of the electoral board and one for the general registrar, are provided. These laws are also available on-line from the link on the SBE's website.

Upon receipt of any new edition, all precinct copies of any prior edition must be discarded. In any years in which a supplement is issued, instead of a new edition, the supplement should be affixed inside the back cover of the most recent edition. (A self-stick backing is attached.) Only laws amended or added since the publication of the most recent full edition will appear in the supplement. The supplement should always be consulted first.

18.1.3.16 What If

This is a quick reference guide to problems. It provides the section of the Code of Virginia that applies and the action required to be taken to resolve the situation.

The SBE provides one original copy of this document. Every locality should duplicate enough copies for each precinct, or as needed to use when training officers.

18.1.3.17 Ballot Examples for Handcounting Paper or Paper-based Ballots

When the SBE revised the Recount Standards on November 28, 2005, it directed that the same standards should be used whenever paper or paper-based ballots must be counted "by hand" or manually -- whether in the original count or any recount. Manual counting may occur because the locality uses paper ballots for all or certain uses, because a counting device machine has malfunctioned, or because an otherwise valid ballot has been damaged (for example in the mail) and will not feed into the counting device.

"The State Board of Elections also directs that in the interest of uniformity whenever paper or paper-based ballots must be counted manually for whatever reason (outside of a recount), the local election officials shall use the accompanying "Ballot Examples for Handcounting Paper or Paper-Based Ballots for Virginia Elections and Recounts" as guidance for such handcounts."

A complete copy of the ballot examples should be provided to every precinct where paper or paper-based ballots are used. The officers of election should be instructed to use these examples whenever ballots must be counted manually.

19 Canvassing Results

19.1 Canvass of Election

The SBE recommends that the electoral board proceed with its ascertainment of the results immediately following the meeting to determine the qualifications of those persons who cast provisional votes. (See Chapter 29.) The procedures set forth below must be followed to ensure compliance with the requirements of § 24.2-671.

19.1.1 When and Where to Meet

- When To Meet

  The electoral board is required to begin their canvass of each election no later than 5:00 p.m. on the day after the election but the SBE recommends that the canvass begin immediately following the provisional votes meeting. Be certain to plan the canvass to permit the timely completion of all required tasks. (See Reminders.)

- Where To Meet

  The meeting may take place in either the Office of the Clerk of Circuit Court or the Office of the general registrar. (§ 24.2-671.) The location of the meeting depends upon where the elections materials were delivered by the officers of election; which may be either to the clerk of the circuit court or to the office of the general registrar. (§ 24.2-668.) The Board may adjourn to another room in a public building to conduct its canvass and may adjourn from day to day as needed for no more than seven days from the date of the election.

  Proper notice must be given to the public of where the canvass will be held.

19.1.2 Who Must and May Attend

- All members of the electoral board

  All members of the electoral board should be present for the conduct of the canvass. In the event one member is unable to attend, two members constitute a quorum and may proceed to conduct the canvass.

  Should the secretary of the electoral board be unable to attend the meeting due to some extreme emergency, the Board must elect another of its members as acting secretary; all official documents concerning the canvass should be signed accordingly. In this case, the word *acting* is entered before the word *secretary* and the member so elected signs that line only. The line to the left of the position he holds on the Board is left blank. Only

those members of the Board present during the entire canvass may legally sign any document concerning it.

- All other persons may attend

  The registrar, staff needed to assist the Board, representatives of the Clerk's office, and any other person may attend the canvass. Additionally, during a primary election, each candidate is entitled to have as many representatives as there are teams of officials working to ascertain the results and 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.

  These individuals must be allowed an unobstructed view of the proceedings but must not be allowed to disrupt the meeting or interfere with the conduct in any way. Inform them 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, and the Statement of Results for the precinct.

19.1.3 Documents Used

The canvas requires five (5) documents:

- Pollbook;
- Statement of Results;
- Voting Equipment Printouts;
- County/City Results Report; and
- Abstract of Voters

19.1.3.1 Pollbook and Pollbook Count

The Pollbook is a printout of all of the eligible voters for a given precinct in a given election. It lists each eligible voter by last name and includes their ID number, full name, birth date, town code (if applicable), super-district (if applicable), resident address, and mailing address. Additionally, each voter may have pre-printed information to indicate whether they requested an absentee ballot (AB); are a temporary overseas voter (T); they moved within the jurisdiction or are inactive (?); there was a conflict with their Social Security Number (A); or during Federal elections only, they were a mail registration and need to show an approved ID (H).

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.

19.1.3.2 Statement of Results

The Statement of Results is a worksheet to check and submit the results for each precinct by type of voting machine (DRE, optical scan, paper…). It is filled out by the Officers of Election and checked by the Electoral Board.

19.1.3.3 Voting Equipment Printouts

If produced by the voting equipment used in the election, the data on these printouts must be compared for accuracy against any data entered from them on the Statement of Results.

19.1.3.4 County/City Results Report

The County/City Results Report is a summary of all of the Statement of Results within each locality. Localities may use their own form or the document that is provided by SBE for every election containing offices or issues canvassed by SBE. Except for local offices shared by a county and one or more cities, no local office or issue is shown on the County/City Results Report. It will be sent to the office of the General Registrar together with the Abstracts for the election. Each page will identify the election, its date, and the locality name and code. Offices and their candidates will appear in the same order as they are listed on voting equipment ballots. Each office or issue will be printed on separate pages. Statewide Issues will follow the last candidate page.

19.1.3.5 Abstracts of Votes

The SBE will post on the secure website one Abstract of Votes for each office and issue applicable to the election being canvassed. These Word documents must be downloaded to a computer, the data keyed directly thereon, each Abstract printed, and signed by the Board following the procedures outlined below.

They are sent to the office of the General Registrar with the *County/City Results Reports* for the election in an envelope labeled: **ABSTRACTS FOR (name of county or city)**.

19.1.4 Supplies Provided By Clerk or General Registrar

The Clerk of Court or, if materials are returned to the general registrar on election night, the general registrar should provide to the electoral board, for each precinct, the #2 Envelope and, if applicable, the #2A Envelope.

ⓘ Never open the sealed envelope or container containing voted ballots unless authorized to do so by the SBE or, during a recount or contest, by order or a Court; to do so would constitute an illegal act.

19.2 How to Conduct the Canvas

The canvas is performed to verify and consolidate the results from the individual precincts. It requires actions by the officers of election, general registrar, and the electoral board.

19.2.1 Duties of the Officers of Election Related to the Canvas

The officers of election must accurately complete the Pollbook Count form and the Statement of Results and, if applicable, produce the Voting Equipment Printouts. For more detail, see the Election Day Guide.

19.2.2 Duties of the General Registrar Related to the Canvass

19.2.2.1 Before The Election

As soon as the following documents are received, the general registrar must:

- Check the secure website to determine if all Abstracts needed are posted thereon and
- Check the County/City Results Report to be certain that:
  - If the locality uses a Central Absentee Precinct (CAP), the Precinct AB (Absentee Ballot) is listed;
  - The Precinct PV (Provisional Voter) 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; and
  - No required office, candidate, or issue canvassed by the SBE is missing from the document.

Call the SBE immediately if:

- Any document or necessary page thereof was not received;
- Any document or page thereof was received that should not have been; or
- Any other error is found.

19.2.2.2 After The Election

On the County/City Results Report, excluding Precinct AB and Precinct PV, and including both active and inactive registrants, on the appropriate line for each precinct:

1. Enter in the space for "Net Change," the net result of the number of registrants stricken from or added to the Pollbook for the precinct after it was printed by the SBE;

1:

If, on the Pollbook for Precinct 0102, a registrar

i. strikes (line through) 3 registrants who are deceased (-3) and

ii. adds by hand 2 registrants (+2),

iii. the net result is -1 (minus 1):

Strike:	-3	
Add:	+2	=
Net Change:	-1	

2:

If, on the Pollbook for Precinct 0201 which is split by congressional districts C01 and C02, a registrar

i. strikes 2 registrants convicted of a felony: one from C01 (-1) and one from C02 (-1);

ii. adds by hand 1 member of the armed forces in CO2 (+1) who registered after the Pollbooks were printed;

iii. authorizes the officers of election to add by hand 1 registrant in C01 (+1) who was erroneously deleted or omitted; and

iv. changes the congressional district for one registrant from 02 (-1) to 01 (+1); the net result for the whole precinct is zero (0),

v. the net result for each congressional district in the precinct is as follows:

For CO1 0201:		**For CO2 0201:**	
Strike: -1		Strike: -2	
Add: +2	=	Add: +1	=
Net Change: +1		Net Change: -1	

Only the general registrar has the authority to enter the above information. The electoral board cannot determine it.

2. Make available for public inspection, beginning at the conclusion of the electoral board's canvass, a copy of the County/City Results Report, one copy of the Statement of Results for each precinct and, if write-ins have been certified, one copy of the Write-Ins Certification completed by the officers of election for each precinct.

19.2.3 Duties of the Electoral Board Related to the Canvas

The ascertainment is made from the Statements of Results from each precinct. Complete one precinct before beginning another.

If it is necessary to summon Officers to correct errors, the material used must be returned to its original envelope and set aside until they appear. If they cannot appear on the day of the canvass, follow the instructions for packaging and re-open the envelope when they do appear.

- If applicable, examine the printed return sheet in each of the #2A Envelopes for completeness and then return the document to the envelope and prepare these envelopes for transmission to the clerk of the circuit court.

- If correction of errors will require access to counted ballots or voting machines, call the SBE before proceeding further. Each political party and each independent candidate on the ballot (in a primary, each candidate) is entitled to have a representative present during this process. 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. When all parties are present and Clerk of Court has called the SBE and received authorization to inspect either the counted ballots or voting machines, the canvas may proceed.

19.2.3.1 Processing the Statement of Results

- Systematically check the information entered by the Officers on each set of forms to assure that no errors were made. This should be accomplished with a Democratic member of the Board checking one copy of the statement and a Republican checking the other copy. Throughout this process, be sure to verify that the two forms agree.

- If direct electronic equipment is used and paper ballots also have been cast, check to be sure the Officers have correctly entered the vote totals from the results printout to the Statements of Results.
- Compare the number of voters entered on Page 4 of the Pollbook Count with the total number shown as voting on the Statement of Results, Part C. 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.
- Compare, for each office and issue, the total votes cast to the total number of people voting. If the total votes cast exceed the number who voted and no statement adequately explaining the disagreement has been entered, the Officers must be called in to enter the missing explanation.

ⓘ Only the officers of election may make changes to the Statement of Results. (§ 24.2-672.) Therefore, if errors, which can be corrected, have been made by the Officers, the Board must require a majority of the Officers from the precinct to appear before it to amend the returns. Officers representing both political parties must be present. Require the Officers to appear either on the day of the canvass or no later than the following day.

- If, in correcting their work, it appears that the Officers will have to look at counted paper ballots or examine voting machines, the Board must contact the SBE immediately before proceeding further with that precinct. Further, each political party and each independent candidate on the ballot (in a primary, each candidate) is entitled to have a representative during this process. 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. The canvas may not continue until all parties are present and Clerk of Court has called the SBE and received authorization to inspect either the counted ballots or voting machines.

19.2.3.1.1 Write-in votes

Write in votes are governed by § 24.2-671. Localities shall report only the total number of write-in votes for an office (including any which may be determined to be invalid) if they are:

- less than 5% of the total votes cast for the office;
- less than the number of votes received by any winning candidate on the ballot for that office; and
- no winning candidate is a person whose name was written in. In this case, at the time the canvass is conducted, the electoral board need only determine the total number of write-in votes for the office (including any which later may be determined to be invalid).

If these circumstances prevail, then no certification of the names of persons for whom write-in votes were received is required. (§ 24.2-675). However, if the total number of write-in votes cast for the office is 5% or more of the total votes cast for that office, the electoral board must continue to complete the ascertainment of write-in votes at the time of the canvass.

The electoral board will certify the number of write-ins for each office in one total on the Abstract of Votes for that office. (§ 24.2-675.) The number certified will be subject to change only if the numbers entered on the County/City Results Report for each precinct does not equal the total submitted on the Abstract.

The electoral board will continue to complete the certification of write-in votes in the usual manner as described in the following paragraphs.

ⓘ If this work is delayed and further certifications are required, the copy of the Statement of Results retained in the office of the general registrar should be the most legible copy. The copy of that part of the Statement identified as Write-Ins Certification, which contains the write-ins certified by the officers of election, must remain under seal and cannot be made available for public inspection until the Board's certification is complete.

Certification of write-ins may be accomplished either manually using the procedures below or through entry on a PC, 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 would then sort the names (with the votes received by each in each precinct), including the "name" Invalid, by office and district, into both alphabetical order within precinct and within locality.

If determined manually, proceed as follows:

From the *Write-Ins Certification* prepared by Officers for each precinct, enter on 3 x 5" cards the number of the precinct; the title of the office for which the write-in vote is cast; the district number or name, if any; the name of the person who receives write-in votes for that office; and the number of votes cast for that person in the precinct. Include, for each precinct, a card on which invalid votes will be tallied.

If the same person receives write-in votes in that precinct for more than one office, a separate card should be prepared for that person for each office. (See Exhibit A.) At this time, keep the cards organized by precinct; within each precinct, by office; and, within each office, alphabetical by name of the person receiving write-in vote(s).

Next, organize the card by each office and count the number of votes entered on all cards for the precinct to verify the number of write-ins entered in that column on the Statement of Results.

As additional precincts are canvassed, if the same person receives additional votes for the same office, prepare a separate card for each precinct in which votes were received by that person.

When satisfied that both *Statements of Results* for a precinct are correct:

- Set aside the most legible copy of the *Statement of Results* for each precinct to be delivered to the general registrar who is required by law to make it available for public inspection. If write-ins have not yet been certified, place the precinct *Write-Ins Certification* under seal in an envelope so identified until the Board has completed the certification at which time they, too, are open to public inspection in the office of the general registrar.
- Return the pollbook(s) from each precinct, the second copy of the *Statement of Results*, and any printed inspection and results sheet to the #2 Envelope.

- Seal the envelop by placing a label across its flap;
- Sign and date the label; and
- Return the sealed envelopes for all precincts to the Circuit Court Clerk.

19.2.3.2 Processing the County/City Results Report

Each entry must be neat and legible. Figures should be in pencil to permit easy correction of data, if necessary.

One member of the Board must complete this document or similar results template with its completion witnessed by a Member representing the opposite party.

When completed, give the *County/City Results Report* to the general registrar so that the member of the registrar's staff assigned the task may key this data on the VERIS Election Results site.

The person recording data must:

- Enter information as follows from the *Statement of Results* for each precinct. Always fill in every space. If applicable, enter a 0 (zero). If the precinct is split, the numbers entered must be applicable to the district shown immediately before the precinct name.
- The number who voted. This information is entered once in the column(s) provided for that purpose at the beginning of the County/City Results Report.
  - If a Central Absentee Precinct is used in the county or city, only one column is provided.
  - If the locality does not use a Central Absentee Precinct, two columns (one for in person voters and one for absentee voters) are provided.
- The total number of votes cast in the precinct for each candidate or issue response listed;
- For each office, the total number of write-in votes cast.
- The number of overvotes cast in the precinct for each candidate, etc.

The total number of votes cast for all candidates, including write-ins, 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 too great because the number on voting machine counters totaled more than the number of persons voting in that precinct, the number on the voting machine is used. Enter a statement to that effect on the reverse side of each copy of the *County/City Results Report* on which the precinct is listed just as the officers of election entered a statement on the *Statements of Results.*

ⓘ Check and double-check each total entered for each precinct; and after completion of data entry by the general registrar or registrar's staff member, the VERIS Election Results will provide locality totals for each candidate and issue.

When satisfied that the totals for the locality are accurate, enter them on the *Abstracts of Votes.*

19.2.4 Processing the Abstracts of Votes

Follow these procedures carefully and there should be no errors. But, should an error be discovered, have blank abstract forms ready to correct the error.

- If required to certify write-ins at the time of the canvass when the *Abstracts* are completed: Either compile the results of computer entries or reorganize the 3 x 5" cards by office and, within each office and district, in alphabetical order by name of the person receiving write-in votes;
- For each office, complete one *Abstract* and the *Write-Ins Certification* and, for each issue, one *Abstract*:
    - Enter any required district number or name;
    - List candidates in the same order and manner in which they appeared on the ballot and enter the total number of votes each received;
    - Enter Total Number of Write-Ins on the line provided;
    - On issue Abstracts, enter the total number of votes for (yes) and against (no) the issue;
    - Check and double check each total entered;
    - For any office listed below, enter the name of the candidate elected in the space provided for that purpose;
    - If two or more candidates for any such office receive the same (and highest) number of votes, follow the procedures in that item to determine the winner.
    - On the Write-Ins Certification for each office, enter the number of invalid write-ins for the office and, in alphabetical order, the names of persons receiving write-in votes and the number of votes received by each;

      ⓘ If the total number of write-ins cast for an office is less than 5% of the total number of votes cast for that office and no one was elected to that office by write-in votes, no detailed report on the write-in certification is required. (§ 24.2-675.)
    - All members of the electoral board who participate in the canvass and, except in emergency situations, all should, must then sign each original Write-Ins Certification and Abstract in the spaces indicated (see Exhibit B); and

      ⓘ The second signature of the secretary must not yet be affixed.
- For offices, make three photocopies of each completed and signed *Abstract* and *Write-Ins Certification*; for issues, four copies of the *Abstract*.
- The secretary must sign each photocopy again, attesting that it is a true copy, and affix the seal of the electoral board.
- Preserve one attested photocopy of each *Abstract* and *Write-Ins Certification* as part of the minutes of the meeting at which the results were ascertained.
- Place the originals (unattested) in a file to be kept with the minute book. It is from these originals that future attested copies will be made.

Where to send it: (§ 24.2-668.)

- For all general and special elections for all offices and referenda:
    - Without folding it, place one attested photocopy of each *Abstract* and, if completed at the time of the canvass, each *Write-Ins Certification,* in the envelope

labeled *Abstract Envelope For (county or city name).* Then, immediately send it as directed by the SBE.

- Forward one attested photocopy of each for recording in the record book of the local governing body:
  - For elections for town office or town referenda, to the clerk of the Town Council; or
  - For general or special elections for all other offices or referenda, to the clerk of the Board of Supervisors or City Council.
- If the *Write-Ins Certification* is delayed as permitted by law, then on or before the Tuesday next following the election, write-ins must be determined and one attested copy of this document mailed to the SBE and one forwarded to the appropriate entity named in Item G-2 above.
- Forward one attested photocopy of each *Abstract* for local referenda to the Circuit Court Clerk.

- For primary elections for offices to be canvassed by the SBE, (all offices not set forth in Determination If Tie Results):
  - Without folding it, place one attested photocopy of each *Abstract* in the envelope labeled *Abstract Envelope For (county or city name).* Then, immediately send it as directed by the SBE.
  - Forward one attested photocopy of each to the appropriate chair of the political party holding the primary (names and addresses will be provided by the SBE) as follows:
    - For U.S. House of Representatives, to the congressional district chair;
    - For the General Assembly, to the chair of the Senate or House of Delegates district; and
    - For constitutional offices shared by more than one county or city, to the chair of each such county or city.

      Abstracts for primary elections for United States Senate, Governor, Lieutenant Governor, and Attorney General are sent only to the SBE and not to any political party chair.

- For primary elections for all county, city, or local district offices, forward one attested photocopy of each *Abstract* to the chair of the county or city of the party holding the primary and not to the SBE.

19.2.5 Reminders

As soon as the canvass is concluded and the *Abstracts* are signed and attested, but in no event later than the time required in the specific instructions for the election, SBE must receive:

- By fax (804-225-3706): One copy of the abstract for each office and issue canvassed by the SBE; and
- As instructed by the SBE: One attested copy of each *Abstract* and, if applicable, each *Write-ins Certification*.

19.2.6 Determination If Tie Results

The electoral board is solely responsible for the final certification of the results of elections for local referenda and for the following offices:

- Clerk of Court (not shared with another locality);
- Commonwealth's Attorney (not so shared);
- Sheriff (not so shared);
- Commissioner of Revenue;
- Treasurer (not so shared);
- Member, Board of Supervisors, including Tiebreaker;
- Member, School Board; and
- City and Town offices.

The SBE is responsible for the final certification of the results of elections for statewide referenda and for all other offices, including any of the constitutional offices named above which are shared by more than one locality.

Should the ascertainment of the results of the election for any of the offices set forth above indicate that two or more candidates received the same (and highest) number of votes, the Board must:

- Check and double check again the total votes cast for each candidate;
- If no error is found, determine the successful candidate by a drawing conducted by the electoral board at a meeting which is open to the public; (§ 24.2-674.)
- While not required by law to do so, the electoral board should notify the candidates involved so that they or their representative may be present for the drawing; in any event, assure that some witnesses are present;
- To conduct the drawing, enter the name of each of the candidates receiving a tie vote on a separate slip of opaque paper;
- Exhibit the slips, one at a time, to any interested person who is present; fold each slip and seal it in an opaque envelope or other small opaque container;
- Place all envelopes or containers in another opaque container large enough to mix them thoroughly;
- Shake the container thoroughly and have one of the members of the electoral board draw out one envelope or container; and
- Enter, on the *Abstract of Votes* for the office, the name of the candidate whose name appears on the slip that was drawn and enter a statement indicating the day and date the drawing was conducted by the electoral board (See Exhibit B).

19.2.7 Duties of the SBE Related to the Canvas

- In order to verify the accuracy of the *Abstract*, the SBE will:
    - Compare the data keyed into the VERIS Election Results to the totals entered on the *Abstracts of Votes*; and
    - Require the general registrar or the electoral board, as appropriate, to correct any error found and may summon either to Richmond, if necessary.

- The SBE may require any electoral board Member to respond immediately and swiftly to correct any error found. Its canvass for a statewide primary must be completed no later than fourteen days after the date of the primary; for November elections, by the fourth Monday in November.
    - The SBE will compile comprehensive reports indicating for each precinct not only the actual election results but also other vital information such as voter turnout percentages and percentages of votes cast for each candidate. Furthermore, the SBE will
    - Provide a copy of this report to the county or city
        - to be available for public inspection and copying in the office of the general registrar;
        - to be used in determining equipment, supply and personnel needs for future elections; and
        - to be used in providing information which may be required by any Court;
    - Maintain a copy of the report for public inspection in the office of the SBE to be used by historians, political science statisticians, political parties and candidate representatives who regularly express their appreciation for the work done by local registrars and electoral boards to make this vital information available; and
    - Make copies of the reports available for purchase by any interested citizen.

19.3 After The Canvass

19.3.1 Campaign Contribution and Expenditure Reports

All candidates are required to file the reports of campaign contributions and expenditures unless the *Request for Exemption from Reporting Requirements* is filed. (§24.2-948.2.) An electoral board cannot issue a certificate of election to any successful candidate until these reports have been filed. (See Certificates of Election.) A Board should issue a certificate as soon as the post election report has been filed in order that the successful candidate may qualify to take office prior to the date on which he is required to do so. Otherwise, his office may be declared vacant.

19.3.2 Certificates of Election

- Reports To Be Filed
    - No successful candidate may receive a certificate of election until the required campaign and expenditure reports have been filed, if required for the office, and no person who has not received a certificate of election should be allowed to take office. (§ 24.2-948.2)
- Offices To Be Issued By Electoral Board
    - According to §24.2-676, the electoral board is responsible for issuing the certificates of election (blank certificates are provided by the SBE) for the following offices:
        - Member, Board of Supervisors, including Tiebreaker;
        - Clerk of Court (unless shared with another locality);
        - Commonwealth's Attorney (unless so shared);
        - Sheriff (unless so shared);
        - Commissioner of Revenue;
        - Treasurer (unless so shared);

        - City and Town offices regularly elected at a May or November election;
        - School Board; and
        - Soil and Water Conservation Directors
    - The SBE is responsible for issuing certificates of election for all other offices, including all constitutional offices shared by more than one jurisdiction.
- According to § 24.2-676, The secretary of the electoral board must:
    - Make out a certificate of election for each successful candidate for each of the offices indicated above. These certificates should be done in a manner that makes them attractive and suitable for framing. At the very least, have them completed by a person who handwriting is decorative.
    - See Exhibit C, but be sure the dates entered for the beginning and end of the term of office are the correct ones for the specific office being certified, e.g., Councils elected in May take office on either July 1 or September 1. Therefore, the term may end on either June 30 or August 31 and may be either a two-year or a four-year term. Consult the City or Town Attorney;
    - Sign each such certificate of election;
    - Deliver to each successful candidate the certificate of election in person, have it delivered by another member of the Board or a registrar, or transmit it by certified mail; and
    - Inform the candidate that the certificate should be exhibited to the officer who administers the oath of office as evidence that the candidate is entitled to receive the oath. Oath must be administered by 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. (§ 49-3.)

    ⓘ In addition to the above, the oath of office for Members of town councils, town mayors and Board of Supervisors also may be administered by a magistrate, a notary, a commissioner of chancery, a commissioner appointed by the Governor, deputy clerk of the State Corporation Commission or clerks of governing bodies of local governments. (§ 49-4.)

- For unsuccessful candidates, the secretary of the electoral board must:
    - Notify any losing candidate for any of the offices set forth above who fails 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 violated the law and should be prosecuted. (§24.2-946.3);
    - Carefully preserve a copy of any such letter as it may be needed as evidence in a court proceeding; and
    - Report to the Commonwealth's Attorney in writing any candidate who fails to file any required report by the date of the extended deadline set forth in the above letter.

ⓘ For November elections the SBE must certify final results on the fourth Monday of November and in the interim, will verify the accuracy of the precinct and county or city results the Board has certified. Please stand ready to respond immediately and swiftly to

any request from the SBE for investigation and correction of any error found in the certification. Any such request will come by telephone and may come during evening or weekend hours as this work cannot be delayed if it is to be accomplished in the time required by law.

19.3.3 Letters to Voters whose Provisional Ballots or Absentee Ballots are Rejected

After the canvass, the general registrar must notify, in writing, all persons who attempted to vote provisional ballots, and were found not qualified that their ballots were not counted and, if they wish to be eligible to vote in future elections, they must complete the Virginia Voter Registration Application Form provided and return it in the pre-addressed envelope provided before (enter date), the close of the books for the next election in the county or city. VERIS will automatically generate letters for voters who exist in the system when there record is updated to indicate the provisional ballot was not counted. (See Chapter 29.)

The electoral board is also required to send a written explanation of the reason for rejection of an absentee ballot to the voter within 90 days of the date of rejection. (Notice is not required if the ballot cannot be counted because it is received after the election, or never received.) VERIS will automatically generate letters for voters whose absentee ballot was rejected after the voters' records are updated to indicate the ballot was rejected. (See Chapter 11.)

19.4 Exhibits

19.4.1 Exhibit A: Manual Tally of Write-In Votes

0101
GOVERNOR

JOHN WRITE-IN 2

0101
HOUSE OF DELEGATES
56TH DISTRICT

JOHN WRITE-IN 2

19.4.2 Exhibit B: Abstract of Votes

ABSTRACT OF VOTES

cast in the City of Someplace, Virginia,
at the November 7, 2006 General Election, for:

CITY COUNCIL
District 1

NAMES OF CANDIDATES ON BALLOT	TOTAL VOTES RECEIVED (IN FIGURES)
John N. Adams	8938
Anthony P. Jones	5487
Gerald E. Winston	5487
Total Write-In Votes (SEE CERTIFICATION)	20

We, the undersigned Electoral Board, upon examination of the official records deposited with the Clerk of the Circuit Court of the election held on November 7, 2006, do hereby certify that the above is a true and correct Abstract of Votes cast at said election and do, therefore, determine and declare that the following persons have received the greatest number of votes cast for the above office in said election:

John N. Adams		8938
Gerald E. Winston		5487
	(Pursuant to a public drawing conducted by this Electoral Board at the	
	office of the Clerk of Circuit Court on (ENTER DAY, DATE AND YEAR))	

Given under our hands this (ENTER DATE) day of November, 2006.

A copy teste:

Electoral Board Seal

Mary A. Democrat , Chairman
John R. Republican , Vice Chairman
Roberta R. Republican , Secretary

, Secretary, Electoral Board

19.4.3 Exhibit C: Certificate of Election

COMMONWEALTH
of
VIRGINIA

TO ALL TO WHOM THESE PRESENTS SHALL COME-GREETING:

This is to Certify, *that at a meeting of the Electoral Board of the* **County of Anywhere** *held on* (enter date of canvass) , *20* , *on an examination of the official records deposited in the office of the Clerk of the Circuit Court it was ascertained and determined that at the election held on* (enter date of election) , *20* ,

Successful Y. Candidate
was duly elected

(enter office title and district, if any)

for a term commencing (enter date)* , *20*
and ending (enter date) , *20* .

Witness *the following official Signature and Seal of the Board*
at **Anywhere, Virginia**
this (enter date)*day of* (enter month), *20* (enter year)

_____

* Note: For a Special Election to fill a vacancy enter: upon qualification, 20_____.

19.4.4 Exhibit D: Canvass Certification Checklist

1. **Tapes**
   - ❑ Zero Tape - Signed by minimum of 4 (CO, DCO, 2 OOE)
   - ❑ Tapes 1-4 - Signed by minimum of 4 officers
2. **Yellow Printed Return Sheet**
   - ❑ Packed in Envelope #2A - Label signed by 2 officers
   - ❑ Signed by all Officers
   - ❑ Tape #3 Attached
3. **Statement of Results**
   - ❑ Packed in Envelope #2 - Label signed by 2 officers
   - ❑ Signed by all officers
   - ❑ Tapes #1 and #2 attached to correct SOR and signed by minimum 4
   - ❑ Part A - Check for accuracy
   - ❑ Part B & C - Check for completeness
   - ❑ Equal totals for Parts A.5, B.8 and C.15
   - ❑ Equal number of voters on tape and Pollbook Count forms (if not, there is an explanation in Part D)
4. **Pollbook(s)**
   - ❑ Packed in Envelope #2 - Label signed by 2 officers
5. **Oath of Officer form**
   - ❑ Packed in Envelope #2 - Label signed by 2 officers
   - ❑ Signed by all officers
   - ❑ Chief Officer signed twice (top & bottom)
6. **Pollbook Count form(s)**
   - ❑ Packed in Envelope #2
   - ❑ Numbers marked consecutively and correctly (last number marked should be the same as Part C.15 (SOR)
   - ❑ Total number of voters recorded in certification section
   - ❑ Form signed by 1 officer of election
7. **Write-In Certification (none for primary elections)**
   - ❑ Packed in Envelope #2
   - ❑ Copy 1 & Copy 2 returned
   - ❑ Number of write-ins of each candidate totaled correctly
   - ❑ No signatures on form
8. **Provisional Ballot(s)**
   - ❑ Sealed in Envelope #1A, and if applicable, 1B, with 2 signatures
   - ❑ Sealed in small green envelopes with 1 signature
   - ❑ Details recorded on Incident Report by Chief Officer

GREBook 20 Voting Equipment

This chapter provides an overview of voting equipment purchase and use in elections. Refer to Chapter 6, Article 3 of the Code of Virginia "Voting Equipment and Systems" for details.

The Help America Vote Act of 2002 (HAVA) provides funds for a number of election reform activities and initiatives, including the replacement of punch card and lever voting equipment. HAVA requires that the replacement of these machines occur before the first federal election in 2006, which SBE has determined to be January 1, 2006.

HAVA also requires that the replacement equipment meet specific standards. While DRE voting equipment most readily meets the standards, optical scan equipment may also be HAVA compliant provided the locality takes certain steps to educate voters.

The procedures that localities must follow to receive HAVA funds are explained in detail in the "HAVA Expenditures Guidance Document" that was released to localities in June 2006.

20.1 Types of Voting Equipment

In addition to the traditional paper ballot, there are two general types of voting equipment used in Virginia.

20.1.1 Direct Recording Electronic

On these computerized machines, the voter pushes a button or touches an area of a screen, and his choice is recorded electronically. For most DRE machines, the results are recorded both in the machine and on a memory cartridge. A computerized printer prints out the results. There are two types of these machines in use in Virginia:

20.1.1.1 Full-ballot screen

On these machines, a large paper ballot shows the voter the complete ballot. Touching the ballot near the preferred candidate's name activates a sensing device beneath the ballot face.

20.1.1.2 Small touch screen

These machines look like computer monitors. To make a choice, the voter touches the screen or buttons around its periphery. Depending on the number of offices and candidates, the voter may have to "scroll" through several screens in order to access the entire ballot. Some of these machines are designed to be activated with smart cards that allow multiple ballot styles to be accessed on the same machine.

20.1.2 Optical Scanning Equipment

On this type of equipment, electronic counters "read" marks made on card stock ballots by scanning them with light beams. The voter makes his choice by shading the oval or connecting the arrow to the left of the candidate's name. The ballot is then fed into the counter. Generally, only one counter is needed for each polling place. This voting system alone does not satisfy

HAVA requirements but can be modified with a machine that assists the voter in marking the ballot.

20.2 Number of Voting Machines Required

All cities and most counties are required to use mechanical or electronic voting machines.[2] The number required is set in the Code. (§§ 24.2-626, 627.)

For November general elections, those localities using direct recording electronic machines must, in each precinct, have one machine for every 750 active registered voters. This means that, if you have 751 active registered voters, you must have at least two machines; if you have 1501 voters, you must have at least three machines, and so on.

For November general elections, those localities using the optical scanning systems must have at least one counter for each precinct and one voting booth with marking device for every 425 active registered voters.

For May general elections, special elections, and primaries, the local electoral board may use as many machines and devices as it believes appropriate.

Towns are allowed to use traditional paper ballots for town elections as long as each town precinct contains less than 500 active registered voters.

Each precinct must be equipped with at least one piece of voting equipment that will permit a voter with a disability to cast his vote privately and independently.

20.3 Mixing and Experimenting with Systems

Localities may use different kinds of systems in different precincts – or even in the same precinct – but only with approval of the SBE. (§ 24.2-630.) Requests for such approval should be forwarded from the electoral board to the Secretary of the SBE.

Localities may also experiment with new voting systems in one or more precincts. A new system may be one that has already been certified for use by the SBE, or it may be one that is still in the testing stage. In either case, the electoral board must (1) gain approval from the SBE for such an experimental use, and (2) unless the locality has successfully completed the bail-out process, apply for pre-clearance of the experimental usage with the U.S. Department of Justice. (§§ 24.2-631, 632.)

20.4 Purchasing New Machines

The Code permits localities to obtain machines by purchase, lease, lease purchase, or any other method deemed appropriate. (§ 24.2-626.) All voting equipment lease or purchase contracts, whether for a new system or for additional units of an existing system, must be submitted to the SBE for review and approval prior to execution of the contract. The contract submitted must

[2] Counties that do not have an "optional form of government" are required to use machines in precincts with more than 750 voters. Highland County is presently the only Virginia locality that exclusively uses traditional paper ballots. A few other localities use paper ballots in small precincts.

contain only the vendor's signature. It must not contain the signature of anyone from your locality.

This procedure ensures that only the certified version of any voting system is being purchased, that the number of units purchased is in compliance with the requirements of § 24.2-627, and that a warranty and specific delivery date are detailed by the vendor.

When a locality purchases a voting system that is new to that locality, such a purchase constitutes a voting change that must be submitted to, and approved by, the United States Department of Justice as required by the Federal Voting Rights Act. All localities except those which have completed the bail-out process must request pre-clearance prior to implementing a new voting system. This requirement also applies to the purchase of a new system to be used in a central absentee voter precinct only. If a locality adopts, for locality-wide polling place use, a system previously used only in a central absentee voter precinct, such adoption must likewise be pre-cleared prior to implementation.

20.5 Custodians

For the purpose of programming and preparing voting and counting equipment, including the programming of any electronic activation devises or data storage media used to program or operate the equipment, and maintaining, testing, calibrating, and delivering it, the electoral board must employ one or more custodians. In many cases, the custodians may be provided by the authorized sales and service representative of the equipment in use. It is highly recommended, however, that board members become thoroughly familiar with the system requirements and train the individual(s) who will serve in this capacity. In fact, several localities may share a custodian, greatly reducing their dependence on vendor support and, in some cases, reducing their cost. custodians must be sworn to perform their duties honestly and faithfully. (§ 24.2-632.)

The final testing of the equipment prior to each election shall be done in the presence of an electoral board member or a representative of the board. Such representative shall in no case be the custodian or a vendor or contractor technician who was responsible for programming the ballot software, electronic activation devises, or electronic storage media.

The electoral board may assign a board member or registrar to serve without pay as a custodian. Whenever the presence of an electoral board member and custodian is required by the provisions of this title, the same person shall not serve in both capacities. (§ 24.2-632.)

20.6 Preparing and Testing the Equipment

Before the final testing of voting or counting equipment for any election, the electoral board must notify the local political party chairmen of the time and place the equipment will be prepared. Each party is allowed to have one representative witness the preparing of the equipment. If the election is a primary election, then only the party chairman holding the primary needs to be notified. If it is a city or town election with no political party nominees, then the candidates must be notified. (§ 24.2-633.)

The last task in preparing the equipment is the logic and accuracy test. Your machine custodian will conduct this process. An electoral board member, or a designated representative, must be present at the testing. A representative should be used only if it is impossible for a board member to be present. (§ 24.2-632.)

After the equipment is prepared and tested, each machine must be sealed with a numbered seal or locked with a key. All the keys and any electronic activation devices must then be delivered to the electoral board who shall keep them until they are delivered to the officers of election. (§24.2-634)

20.7 Voting Equipment Security

The SBE has adopted voting systems security policies, standards, and guidelines (PSGs) to be followed by localities in developing a security plan that is suited to the circumstances of that locality and provides a self-assessment guide to assist localities in assessing its risk factors and developing a plan. This is a four part document that is designed to assist local electoral boards in meeting their statutory obligation in § 24.2-625 et al. to maintain all voting equipment in a secure manner.

The Policy document is less than one page long and states that each electoral board is responsible for the security of all voting systems under their control and directs the local boards to develop and implement a Voting Systems Security Program. While each locality is given considerable latitude in the specific elements of the plan, the existence of a plan is required.

The Standards document defines the minimum requirements of a Voting Systems Security Program in order to promote appropriate protection of voting systems in the Commonwealth.

The Guidelines document is designed to complement the Voting Systems Standards document. It is designed to further strengthen an electoral board's Voting Systems Security Program and facilitate the adaptation of security safeguards to meet the operational needs of the locality.

The Self-Assessment document consists of a series of questions that, when answered, will provide the local electoral board with the information necessary to develop and effective security plan that protects the security of the voting equipment and is suited to the particular circumstances of the locality.

Electoral board members should familiarize themselves with the contents of the PSG documents before attempting to complete the self assessment document. Each section of the self-assessment document relates directly to a similarly numbered item in the Standards and/or Guidelines documents. Each question in the self-assessment guide should be considered carefully. Each question can be answered "Yes" or "No". Space is provided to enter information explaining the yes or no answers that should be helpful in correcting deficiencies and writing the security plan. Each item or page should be initialed by the person or persons who conduct the assessment.

Once the assessment is complete and the plan developed, a copy of the plan must be sent to the SBE. When changes are made to the plan, an updated copy should be sent to SBE.

The importance of a well thought out and documented security plan cannot be over-emphasized. Every member of the election team must be committed to making every effort to identify and mitigate any security risks before they occur.

The PSGs also address procedures to be used in the event that a security incident does occur. These include steps to be taken in a variety of areas, including handling media coverage.

Section 24.2-625.1 provides that, "Records of the SBE 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)." Electoral boards or the SBE may hold a closed meeting pursuant to the provisions of FOIA to discuss security protocols under circumstances outline in the code section. A breach of security cannot be discussed in a closed session. This section also provides that two members of a local electoral board may conduct site visits for the sole purpose for investigating compliance with security policies and procedures. (§ 24.2-625.1(C).)

The Security Procedures also require that each local board establish a "Configuration Management Database." This very complicated sounding term simply means a list of all voting system hardware, software, and firmware, complete with version numbers and serial numbers where appropriate. Any time any person, for any reason has access to any item or component, the time, date, person a reason for access and activity must be noted in the database. This will ensure that no changes are made to any component firmware or software without the knowledge and consent of the responsible person in the locality.

ⓘ According to the Voting System Certification procedures (item 2.1.2), any such change could invalidate the certification of the equipment.

Date	Machine Make and Model	Machine Serial Number	Action taken	Responsible party
3/3/2003	AVS Winvote	123-45-678	New machine delivered. Contains WINmanager 1.0.3, WINprep 1.0.3, WINresults 1.0.3, WINvote 1.5.0, and WINware 1.0.3.	Jane Doe (Electoral Board)
4/4/2004	Diebold Accuvote	234-56-789	Upgraded GEMS 1.18.18 to 1.18.24	John Diebold (Diebold technician)
5/5/2005	Hart eSlate	345-67-890	Programmed machine with ballot for March election.	John Doe (County X Custodian)

20.8 Voting Equipment Certification Procedures

Under the Code of Virginia, the SBE must approve any mechanical or electronic voting system or equipment before it can be purchased or used by any locality. This includes any upgrades or modifications to hardware, firmware, and software. The Board adopted revised Voting Systems Certification Submission Procedures on June 28, 2005. These certification procedures state that any modification to existing software, which has been previously certified, will, in general, invalidate the results of the prior certification unless and until it can be determined by the SBE

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." This means that **no** change of any kind can be made to any voting system software or firmware unless the SBE has been informed of the proposed change and determined whether or not it will require re-certification of the system.

These procedures are strict in order to protect your locality. Failure to follow these requirements may result in decertification of your voting equipment and provide candidates a reason to challenge an election.

As set forth in the Virginia Voting Systems and Equipment Certification Guidelines (Revised 6/28/05), the voting system or equipment must:

- Comply with the applicable provisions of the Code of Virginia relating to voting equipment (Article 3, Chapter 6 of Title 24.2).
- Comply with the federal standards as defined in Voting Systems Standards/Guidelines, published by the Election Assistance Commission.
- The voting system or equipment must comply with the federal standards as defined in §301(a) of HAVA.
- Ensure that the equipment and software are designed to present information in formats adaptable to both visual and non-visual use (Chapter 5335, Title 2.12, Code of Virginia).

Each system must successfully complete three distinct levels of testing:

- Qualification testing: The purpose of qualification testing is to show that the voting system complies with the requirements of its own design specification and with the requirements of the Virginia SBE. The testing of hardware and software may be conducted by an Independent Testing Authority.
- Certification testing: The purpose of certification testing is to ensure it meets all applicable requirements of the Code of Virginia. It is not intended to result in exhaustive tests of system hardware and software attributes; these are evaluated during qualification testing. However, all system functions, which are essential to the conduct of an election, will be evaluated.
- Acceptance testing: This test is conducted by the locality to assure it meets their needs and is identical to the certified system. Acceptance tests will be conducted by the local jurisdiction with the assistance of state officials or consultants. The tests will be performed as part of the procurement process for the voting system.

Summary of the Certification Process:

- Letter of Request for Certification and Certification Fee
- Technical Data Package and Corporate Information
- Preliminary Review
- Authorization to Proceed
- Evaluation
- Certification

20.8.1 Voting Equipment Certified for Use in Virginia

The voting systems listed below have been certified for use in Virginia elections. The authorized representative of the vendor of each system also is listed. These representatives are the best point of contact for information about the system, including purchase. For systems that are no longer being manufactured, those firms that offer sales and service of reconditioned units are listed.

Some of these firms also sell equipment that has not been certified. Only the specific certified version of the equipment is described here.

Model	**Vendor**	**Equipment Type**
Accu-Vote	Diebold Election Systems	Optical Scan
Accu-Vote TSR6	Diebold Election Systems	DRE
Accu-Vote TSX	Diebold Election Systems	DRE
Automark	Election Systems and Software	Voter Assisted Optical Scan
AVC	Sequoia Voting Systems	DRE
Ballot Now	Hart Intercivic	Optical Scan
Edge	Sequoia Voting Systems	DRE
eSlate	Hart Intercivic	DRE
Insight	Sequoia Voting Systems	Optical Scan
Ivotronic	Election Systems and Software	DRE
M100	Election Systems and Software	Optical Scan
M650	Election Systems and Software	Optical Scan
Optech IIIPE	Sequoia Voting Systems	Optical Scan
Patriot	Unilect Corporation	DRE
Patriot MS	Unilect Corporation	Optical Scan
Winvote	Advanced Voting Solutions	DRE
Winscan	Advanced Voting Solutions	Optical Scan

20.8.1.1 Authorized Virginia Representatives:

Advanced Voting Solutions Kimberlee Shoup Yeahl or Ingrid Giordano 2401 Internet Blvd., Suite 111 Frisco, TX 75034-5976 (888) 908-VOTE or (972) 731-8901 (267) 259-1613 (cell) (972) 731-8945 (fax)	**Diebold Election Systems** Robert Pickett 605 O'Neil Drive Jamestown, NC 27282 (336) 886-3409 (336) 558-1185 (336) 454-5116 (fax)
Atlantic Election Services Spooner H. Hull, III 2120 Normandstone Drive Midlothian, Virginia 23113 (804) 379-7134	**Election Systems & Software** Kristin Mavromatis P.O. Box 13216 New Bern, NC 28562 (804) 512-2751 (cell) (804) 340-1761 (fax)
Hart Intercivic Molly Terry P,O, Box 80649 Austin TX 78708-0649 (800) 223-HART (512) 569-0639 (800) 437-3532 (fax)	**Voting Machine Service Center** Dale L. Marshall, President P.O. Box 261 Gerry, New York 14746 (716) 287-2090
Unilect Corporation Wout J. Kymmell 10930 Lansdowne Ct. Midlothian, VA 23113 (804) 320-5340 (804) 314-1541 (cell) (804) 320-0789 (fax)	

21 Campaign Finance

Section 24.2-945 states that the provisions of the *Campaign Finance Disclosure Act* (CFDA), with the exceptions noted below, apply 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.

The electoral board secretary and/or the general registrar are required by CFDA to perform certain duties relating to the filing of campaign finance reports. Hereafter in this chapter, reference to with whom and where reports are filed locally will use the phrasing "with you."

21.1 Who Is Not Required To File

According to § 24.2-945, the following candidates for certain offices are exempt from the provisions of CFDA:

- Members of the U.S. Congress;
- Candidates for President and Vice President of the United States;
- Candidates for Soil and Water Conservation District Director;
- Candidates for town offices in towns with a population less than 25,000; and
- Candidates for political party committee officerships.

21.2 Who Is Required To File With You

Section 24.2-947.1 states that **candidates** for the following offices are required to file a Statement of Organization (Form SBE-947.1) with you:

- County or city constitutional offices;
- County or city governing bodies;
- County or city school boards;
- Town offices in towns where the population is greater than 25,000; and
- The General Assembly:
    - Candidates for the General Assembly, **who reside in your locality,** must file a **COPY** of their Statement of Organization with you and the original, signed copy must be submitted to SBE.
    - Candidates for the General Assembly who reside in your county or city and that file their campaign finance reports on paper must file the original report with the SBE **AND** a copy with you.

- General Assembly candidates that file electronic reports, file **only** with the SBE. However, they will be required to file a copy of their final report with you.

Certain Political Party Committees

Section 24.2-950.1 states that county, city or local district party committees in any locality with a population less than 100,000 (according to the 2000 decennial census figures) are not required to file campaign finance reports unless the party committee receives contributions totaling more than $15,000 or make expenditures of more than $15,000 in a calendar year. The committee is required to file their original signed Statement of Organization (Form SBE-950.2) with SBE **AND** a copy with you.

Section 24.2-950.8 subsection B states that county, city or local party committees who meet the filing requirements of § 24.2-950.1 **AND** that indicate on their Statement of Organization (Form SBE-950.2) that they will file their reports on paper are required to file the original signed campaign finance report with SBE **AND** a copy with you. If these committees indicate they will be filing their campaign finance reports electronically, then they file their reports **only** with SBE.

The committee may choose to file a final report at the end of the calendar year if they do not anticipate raising or spending more than $15,000 in the upcoming calendar year.

21.3 When a Candidate Must Register

According to § 24.2-947.1, a person is required to file a Statement of Organization (Form SBE-947.1) as soon as **one** of the following occurs:

- Acceptance of a contribution;
- Expenditure of any funds (including personal funds);
- The payment of a filing fee for any party nomination method;
- The filing of a candidate statement of qualification (Certificate of Candidate Qualification Form [SBE-501]); or
- The appointment of a campaign treasurer, designation of campaign committee, or designation of a campaign depository (bank account).

According to § 24.2-947.1, the Statement of Organization (Form SBE-947.1) must be filed within 10 calendar days of meeting one of the requirements listed above.

Amending the Statement of Organization

If any of the information listed on the Statement changes at any time, the committee has 10 days from the date of the change to file an amended Statement of Organization.

The candidate's election cycle begins on January 1 of the year immediately following the last election for that office and ends on December 31 of the year of the election.

At the end of an election cycle candidates automatically begin filing campaign finance reports for the next election cycle. This designation on the reports is ***NOT*** a commitment or announcement to run for office in the next election. That declaration will be accomplished through other means. This designation is for Campaign Finance administrative purposes only. Further, the committee is not required to file an amended Statement of Organization if they are filing in a new election cycle unless other information on the Statement has changed.

- The cover page of reports filed in the next election cycle should indicate the next general election date and year for that office beginning with the first report that contains financial activity in the year immediately following the election.

If, at any point, the candidate decides not to run for election for the same office then they are still required to file all necessary reports related to that office until such time as they file a Final Report or they will be subject to civil penalties for failure to file the required reports.

Candidates are encouraged to close their committees as soon as they determine that they will not be running for the same office in the next scheduled election.

21.4 Certain Candidates Exempt

Section 24.2-948.1 allows candidates for local office to request an exemption from filing campaign finance reports (Form SBE-948.1E) throughout their campaign. The exemption applies if the candidate:

- has not and will not solicit or accept any contribution from any person or political committee during the course of his campaign; and

- has not and will not intend to contribute to his own campaign more than $1,000 of his own personal funds; and

- has not and will not expend more than $1000 of his own personal funds during his campaign; and

- agrees to comply with the requirements of CFDA throughout the duration of his campaign.

The candidate is still required to file a Statement of Organization (Form SBE-947.1) and **open a separate bank account** prior to filing the request for exemption.

Section 24.2-948.1 subsection C requires that the candidate cannot take office until a final report is filed. The final report should cover all financial activity of the campaign.

Section 24.2-948.1 subsection D allows candidates who have a current exemption on file to purchase voter lists from the SBE from funds drawn on the candidate's personal account. Expenditures by the candidate for voter lists shall not count against the candidate's $1,000 personal expenditure limit.

Finally, if the candidate determines that they will solicit contributions **or** expend more than $1,000 of their own funds, they must rescind their exemption by filing Form SBE-948.1R prior to soliciting contributions **OR** expending more than $1,000 of their own personal funds. They also must file a campaign finance report **immediately** that covers all financial activity since the beginning of the campaign.

21.5 Where Candidate Reports Are To Be Filed

Section 24.2-947.5 requires that candidates for the General Assembly who file their reports on paper and candidates for local office must file all required campaign finance reports with the county or city in which the candidate resides.

ⓘ Candidates for the General Assembly who file their reports on paper and reside in your locality must file a copy of their paper reports with your office. Local candidates must file an original, signed report with you.

According to § 24.2-946.2, all campaign finance reports filed with your office are open to public inspection during normal business hours for your office. Requests for copies of campaign finance reports must also be provided within the reasonable timeframe allowed by the Freedom of Information Act and at a reasonable cost.

21.6 Processing Reports

Section 24.2-946.3 subsection C states that the secretary of the electoral board, or if decided by the electoral board, the general registrar must receive and review campaign finance reports required to be filed with them according to the procedures outlined by the SBE.

Each report must be maintained and/or processed as follows:

A. Catalog Receipt

Separate records must be kept for each candidate as well as for each political party committee filing with your office. All official communications from each committee or to each committee also must be kept with the committee's file. For each statement or report filed, the following information must be captured:

- Date Received; and
- Date Acknowledged.

B. Review And Acknowledge

When reports are received, a preliminary check should be performed to verify that:

- That the report is legible;
- All amounts (not including un-itemized contributions) shown on Schedule G are itemized on the appropriate schedules and included with the report; and
- The report is properly signed and dated by the candidate or treasurer.

If any of the above are found to be in error then you should require the person filing the report to correct the errors prior to you accepting the report.

1. Review

You are **NOT** required to review campaign finance reports for General Assembly candidates who file their reports on paper, nor should you review reports submitted by political party committees. SBE is responsible for reviewing these reports. However, if either of these types of committees fail to file or are late filing their report with you, then you are required to assess and collect the required civil penalties for your office following the appropriate procedure.

According to § 24.2-946.3 subsection E a more detailed review must be carried out within **21 days** of the report's receipt. This review should include:

- Check for missing information in required fields. Blank entries or entries such as "N/A", "none", "unknown" etc. are considered "missing information". In fields where "requested" or "unable to obtain" is entered, verify that copies of letters to the contributors requesting this information have been filed.
- Verify that the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period's report (Schedule H, Line 19);
- Verify that Line 19 and Line 29 on Schedule H match;
- Verify that contributions are reported in alphabetical order on Schedule A and Schedule B as required by § 24.2-947.4;
- Verify that, if applicable, all large pre-election contributions or local large contribution reports were reported and that they were reported in your office in a timely manner;
- Verify that expenditures are reported in chronological order (earliest first) on Schedule D;
- **OPTIONAL:** Check for mathematical errors (not required, but if you check one report, then you must check them all);
- You **ARE NOT** required to verify the validity of the information provided. Persons who challenge the validity of the information contained in a committee's report should be directed to the Commonwealth's Attorney in your locality.

Complete Filings

If the report is complete, you may want to send a letter to the committee acknowledging receipt of the report and provide the due date for the next report.

Reporting forms may be included with your letters. You do not have to provide forms to candidates for the General Assembly or to political party committees. You also may download forms from the SBE' website: http://www.sbe.virginia.gov

Incomplete Filings

When any report is found to be incomplete, you must:

1) Prepare a letter to the candidate or treasurer (See Exhibit **B**) which outlines the errors found in the report. The letter shall state that an amended report must be received *within ten days of* ***mailing*** *the letter* or the prescribed civil penalty will be assessed[3]; and

2) The letter must be sent by *Certified Mail - Return Receipt Requested*.

3) Carefully preserve a copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee, as they may be needed as evidence in a court proceeding.

The committee must amend the report by the due date or request additional time. § 24.2-953.3 allows for extensions of up to 14 calendar days. No further extensions may be granted.

The schedule for assessing penalties for committees that fail to respond to requests for additional information are found on **Page 16.**

21.7 Late Reports

The procedures for assessing and collecting civil penalties for the failure to file a required statement or campaign finance report are found in § 24.2-946.3. The schedule for assessing penalties for late reports can be found on Page 14. If a statement or report is submitted after the deadline, you must follow the procedure below to collect the required penalty:

1) Send a letter to the committee's primary mailing address as reported on Form SBE-947.1 notifying them of the violation and assessing the prescribed civil penalty for the missing statement or report. This letter must be sent via *Certified Mail - Return Receipt Requested* (See Exhibit D and E).

2) Carefully preserve a copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee as they may be needed as evidence in a court proceeding.

3) If the candidate or committee fails to pay the assessed civil penalty within **60** days of the letter's receipt date, the committee must be reported to your Commonwealth's Attorney who shall initiate collection procedures.

[3] Due to the short turnaround time for amending the report, it is suggested that you also contact the committee through other means such as email (if one) or phone call in order to ensure that they receive the necessary information. Make sure you provide the same notice to every committee.

4) Should the letter come back as unsigned or undeliverable, forward the matter to the Commonwealth's Attorney no sooner than 60 days after the letter was received by your office.

21.8 Failure to File Reports

The procedures for assessing and collecting civil penalties for the failure to file a required statement or campaign finance report are found in § 24.2-946.3. The schedule for assessing penalties for failure to file reports are found on Page 14.

If any committee known to be required to file a statement or report fails to do so by the appropriate deadline, you **must**:

1. Send a letter to the committee's primary mailing address as reported on Form SBE-947.1 notifying them of the violation and assessing the prescribed civil penalty for the missing statement or report. This letter must be sent via *Certified Mail - Return Receipt Requested* (See Exhibit B and C).

2. Carefully preserve a copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee as they may be needed as evidence in a court proceeding.

3. If the candidate or committee fails to submit a requested **campaign finance report** within ten days of receipt of your letter, the civil penalty shall be raised (see schedule on pages 14 and 15).

4. If the candidate or committee fails to pay the assessed civil penalty within **60** days of receipt of the letter, they must be reported to your Commonwealth's Attorney who shall initiate collection procedures.

    - If the candidate pays the penalty but fails to file the required statement or report within **90** days the matter should be reported to the Commonwealth's Attorney who shall initiate criminal procedures.

5. Should the letter come back as unsigned or undeliverable, forward the matter to the Commonwealth's Attorney no sooner than 60 days after the letter was received by your office.

21.9 Special Large Pre-Election Contribution Reporting

Section 24.2-947.9 states that candidates for the General Assembly and local offices are required to file a Large Pre-Election report (Form SBE-947.9) if they receive a contribution of $1,000 or more (General Assembly candidates) or $500 or more (local candidates) in the **12** days prior to any nomination or election.

Candidates running for the General Assembly and filing electronically file these reports **only** with SBE. General Assembly candidates that file on paper must file a copy of the report with you and the original, signed copy with SBE.

These reports must be submitted with you no later than 5pm on the following day (Monday if contribution is received on a Saturday) after having received the contribution. The contributions shown on these reports also must be reported on the candidate's next report.

ⓘ Candidates running unopposed in a primary or other nominating event are not required to file Large Pre-Election Reports. However, they are required for unopposed candidates running in a General Election.

21.10 Local Candidate Non-Election Year Large Contribution Special Reports

When To File Local Candidate Non-Election Year Contribution Reports

Section 24.2-948 requires a special report for incumbent members of county boards of supervisors or city or town councils only.

The Local Large Contribution Report (Form SBE-948) is required to be filed with your office within 15 business days of the receipt of a **single** contribution of $500 or more.

ⓘ These reports are **only** required during non-election years for that candidate's office.

- All Local Large Contribution reports that are filed with you must be in writing and received in your office by the required deadline.
- All Local Large Contributions that are reported to you must also be reported on the candidate's next required report.

21.11 Filing a Final Report

21.11.1 Election Cycles

Section 24.2-947 states that the candidate's election cycle is defined as beginning on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. The next election cycle, and any subsequent election cycles, for the candidate who seeks election in successive elections for the same office shall begin on January 1 immediately following each election for the same office and continue through December 31 immediately following the next successive election for the same office.

Solely for administrative purposes, any candidate with an open campaign finance account is required to report in a new election cycle and shall be presumed to be a candidate for election in the succeeding election.

21.11.2 Candidates Seeking Election to the Same Office in Successive Elections

At the end of an election cycle, candidates must automatically begin filing campaign finance reports for the next election cycle.

It is not necessary to request that the committee file an amended Statement of Organization to change the Election Date unless other information on the Statement has changed.

The cover page of each subsequent report should indicate the next general election date for that office beginning with the first report that contains financial activity in the year immediately following the election.

21.11.3 Candidates No Longer Running for Election to the Same Office

According to § 24.2-948.4, a candidate must continue to file campaign finance reports until all debts for the campaign are paid and the committee's balance is returned to zero, debts may not be transferred to another campaign. A candidate who is running for the same office in successive elections may keep their campaign account open.

In order to file a final report, the **candidate must sign** the *Termination Statement* (Final Report Cover Sheet – Form SBE-948.4) indicating that all debts have been paid, all monies have been received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds.

21.11.4 Disbursement of Surplus Funds

According to § 24.2-948.4, a campaign committee is authorized to disburse surplus funds by:

- transferring it to a future election for the candidate or to retire the deficit of the current campaign;
- returning it to a contributor in an amount not to exceed the contributor's original contribution;
- donating the excess to any organization described in § 170 (c) of the Internal Revenue Code;
- contributing the excess to one or more candidates or to any political committee
- contributing the excess to any political party committee; and
- defraying any ordinary, nonreimbursed expense related to his elective office.

ⓘ No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use.

21.12 Retention of Reports

Campaign Finance Reports must be retained in your office either through the next general election for the office to which they pertain **or** for at least one year after the final report is filed. The reports can then be destroyed when the retention period is concluded.

21.13 Reporting Forms

The SBE includes a set of forms in candidate packets. You may advise candidates to call us on our toll-free line or visit our website to obtain them.

21.14 Summaries of the Act

The *Summaries* of the Act for each type of political committee are available on our website.

21.15 Reporting Apparent Willful Violations

The procedures for reporting willful violations are found in § 24.2-946.3. You are required to report to the Commonwealth's Attorney of your county or city, the names and address of **any candidate or political party committee** that, after being properly notified, has failed to file, failed to amend incomplete pages of any required report, or failed to pay any civil penalty that has been assessed.

You must advise the Commonwealth's Attorney in writing of the name of any candidate who filed an incomplete pre-election report of large contributions or who, upon review of a report, is discovered to have failed to report a large contribution as required. (See Exhibit D.)

With all correspondence sent to the Commonwealth's Attorney, you should include copies of your letter to the person, a copy of the stamped USPS receipt for its mailing (if applicable), and either a copy of the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee and, if applicable, a copy of any incomplete pages.

For Any General Assembly Candidate or Local Political Party Committee, you must also send a copy of your letter and its attachments to the SBE.

Retain in your files, as applicable, a copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee and copies of any report pages submitted.

The Commonwealth's Attorney determines whether to prosecute any apparent willful violation referred to that office.

21.16 Penalties

Section 24.2-953 of the Code of Virginia requires a civil penalty to be assessed for incomplete filings, late filings or the failure to file required campaign finance statements or reports.

Since you are responsible for assessing civil penalties for campaign finance report violations, the SBE has formerly adopted a Schedule for Assessments of Civil Penalties. To ensure uniformity

throughout the state, the law requires that you must follow this schedule. **No electoral board, Election Official or Commonwealth's Attorney has the authority to waive or reduce these penalties.**

A more thorough review of the procedures for assessing and collecting civil penalties can be found on Page 8.

1) The SBE or local electoral board must notify the committee in violation via certified mail that the electoral board has not received the required Campaign Finance report or that the electoral board is requesting more information.

***** Notification is considered received by the committee even if this notification is not signed for OR if the mailing is returned as undeliverable. *****

2) The local electoral board must notify the Commonwealth's Attorney within **90 days** of the deadline if the required payment has not yet been received. The Commonwealth's Attorney shall then initiate civil proceedings to collect the civil penalties.

    a. The local electoral board of a county or city shall notify the Commonwealth's Attorney for the county or city in which the electoral board has jurisdiction.

3) Candidates for local office must make their checks payable to the local general fund.

21.17 Candidate Campaign Committees – Regular Reports (Late / Failure to File)

The SBE has approved the following penalty schedules for candidate campaign committees.

21.17.1 Penalties for Late/Failure to File Candidate Campaign Committee's Regular Reports

The following schedule applies to all candidate campaign committee's campaign finance reports (other than special reports or reports due eight days prior to primary, general or special election) that are required to be filed by a candidate's campaign committee.

Type of Violation	Amount	Reason
Late Report	$100	Report not received by SBE or local electoral board by the report's deadline, but before official notification of tardiness from SBE or the local electoral board.
Delinquent Report	$250	Report not received by SBE or local electoral board within 10 calendar days from official notification of tardiness from SBE or the local electoral board.
Failure to File	$500	Report not received by SBE or local electoral board within 60 days after official notification. At this point, the violation is presumed willful and must be forwarded to the appropriate Attorney for the Commonwealth.
Failure to File: Second or Subsequent Violations	$1,000	For a second or any subsequent reports during a single election cycle that are considered to be the failure to file a required report.

For campaign finance reports due eight days prior to a primary or General Election or reports due eight days prior to a Special Election (excluding Large Pre-Election Reports).

21.17.2 Penalties for Late/Failure to File Candidate Campaign Committee's Pre-Election Reports

Type of Violation	Amount	Reason
Late Report	$250	Report not received by SBE or local electoral board by the report's deadline, but before official notification of tardiness from SBE or the local electoral board.
Delinquent Report	$500	Report not received by SBE or local electoral board within 10 calendar days from official notification of tardiness from SBE or the local electoral board.

Type of Violation	Amount	Reason
Failure to File	$500	Report not received by SBE or local electoral board within 60 days after official notification. At this point, the violation is presumed willful and must be forwarded to the appropriate Attorney for the Commonwealth.
Failure to File: Second or Subsequent Violations	$1,000	For a second report and any subsequent reports during a single election cycle that are considered to be the failure to file a required report.

21.17.3 Penalties for Candidate Campaign Committee's Incomplete Reports

21.17.3.1 SBE's "Best Efforts" Policy:

If any required information is not included or if the report is not completed properly, the report is deemed incomplete. However, SBE has determined that some missing information does not necessarily mean that a report should be considered incomplete. SBE has adopted this "Best Efforts" policy in order to comply with the requirements of § 24.2-953.3.

Therefore, Campaign Finance reports should not be considered incomplete if:

1) Less than 10% of contributors are missing required information on Schedule or Schedule B; or less than 10% of any itemized information does not include the required information; pr

    a. For example, if there are 100 itemized contributors on Schedule A, then no more than 10 of those contributors can have missing information.

AND

2) Letters requesting the required information from those contributors are filed with the report.

If these conditions are not met, then the report should not be considered incomplete.

The failure to file the complete and amended report must result in the following civil penalties:

Election Cycle Expenditure Totals	Amount	Reason
$0 - $10,000	$100	Report Not Received by Deadline Established by SBE or local board and Does Not Meet "Best Efforts" Policy.
	Additional $400	Report Not Received within 60 Days of Deadline Established by SBE or local board.
$10,000 - $50,000	$250	Report Not Received by Deadline Established by SBE or local board and Does Not Meet "Best Efforts" Policy.
	Additional $500	Report Not Received within 60 Days of Deadline Established by SBE or local board.
More Than $50,000	$500	Report Not Received by Deadline Established by SBE or local board and Does Not Meet "Best Efforts" Policy.
	Additional $500	Report Not Received within 60 Days of Deadline Established by SBE or local board.
Pre-Election Incomplete Report	$1,000	Incomplete report filed less than 60 days prior to the election for which the person is a candidate.
Second or Subsequent Incomplete Reports	$1,000	This penalty is not applicable to: (i) committees which have raised less than $10,000 during their election cycle; and (ii) to a report that has been filed less than 20 days after official notification of an previous incomplete report from the SBE or local electoral board.

21.17.3.2 Procedure to Assess and Collect Large Pre-Election Reports and Local Candidate Large Contribution Reports

If either a Large Pre-Election Contribution report or a Local Candidate Large Contribution report is found to be late or was failed to be filed, there is a rebuttable presumption that the violation was willful. In either case, the SBE or the local electoral board is required to forward the matter to the appropriate Attorney for the Commonwealth. The attorney for the Commonwealth is then required to investigate whether the violation was willful. In the case of a willful violation, violators shall be charged with a Class 1 misdemeanor.

In the event that the violation is found not to be willful, the SBE or the local electoral board will assess a penalty according to the table below.

Type of Violation	Amount	Reason
Late Report	$250	Special report filed after the deadline, but prior to the next required report.
Failure to File	$500	Special report not received prior to the next required report.
Second or Subsequent Violations	$1,000	For a second report and any subsequent special reports during a single election cycle that are considered to be the failure to file the required report.

21.17.3.3 Penalties for Late Filing or Failure to File Independent Expenditure Reports

The late filing or the failure to file an Independent Expenditure report will be assessed on the following schedule:

Type of Violation	Amount	Reason
Late Report	$100	Independent Expenditure Report Received after the Deadline but Prior to Official Notification from SBE.
Failure to File Report	$500	Independent Expenditure Report Not Received Within 60 days of Official Notification from SBE. At this point, the violation is presumed willful and must be forwarded to the appropriate Attorney for the Commonwealth.
Second or Subsequent Late Reports	$500	Second or Subsequent Independent Expenditure Report from the Same Entity Not Received by its Deadline.

21.18 Statement of Organization Prescribed Civil Penalties

21.18.1 New Committee

This schedule shall be used when SBE or the local electoral board has determined that a person has met the qualifications to become a "candidate" for office in a non-federal Virginia election, but has failed to file a *Statement of Organization*:

Length of Delinquency*	Civil Penalty
1-15 Days	$100
16-30 Days	$200
31-45 Days	$300
46-60 Days	$400
61 Days or more	$500
Late Filing of Committee formed within 30 Days Prior to an Election	$500

*Virginia Law states that the committee has 10 days to submit a *Statement of Organization* form

from the date that they have cause to register. The length of delinquency begins on the 11th day after the committee has cause to file a *Statement of Organization*.

21.18.2 Amended Statement of Organization

This schedule will be used when SBE or the local electoral board has determined that a candidate campaign committee has not amended their *Statement of Organization* as a result of changes regarding the information contained in the form on file with SBE within the 10 days as required by law:

Length of Delinquency*	Civil Penalty
1-60 Days	$100
61-120 Days	$150
121-180 Days	$200
181 Days or More	$300

* Virginia Law states that the committee has 10 days to submit a Statement of Organization form from the date that they have cause to amend their Statement of Organization. The length of delinquency begins on the 11th day after SBE has contacted the committee requesting the amended form.

21.19 Political Advertisements

Section 24.2-955 et seq. contains the requirements for disclosures on political advertisements. This section of the law is more commonly referred to as the "Stand By Your Ad" act.

21.19.1 When Disclosure Statements are Required

A disclosure statement is required for all political advertisements that "expressly advocate" the election or defeat of a candidate (e.g. "Vote for.."; "Support"; "Oppose"; "John Smith for Congress". The proper disclosure statement must be used in order to comply with the requirements of the law. Political advertisements can appear on television, radio, or print media.

21.19.1.1 Print Media Definition

The following is a list of the specific items that constitute *Print Media*:

- Billboards
- Bumper Stickers
- Cards
- Sample Ballots
- Newspaper ads
- Newspaper inserts
- Magazines

- Any printed advertisement disseminated through the Mail
- Pamphlets
- Fliers
- Periodicals
- Websites
- Electronic mail (E-mail)
- Outdoor advertising facilities (e.g. Barnsides, Baseball Stadiums)
- Television advertisements
- Radio advertisements

A Disclosure Statement is Not Required on:

- Yard Signs
- Pens
- Pencils
- Magnets
- Buttons to be attached to wearing apparel
- Other such novelty items.

21.19.2 Print Media Disclaimer Requirements for Candidates

The visual statement required on print media advertisements must be displayed in a conspicuous manner. Advertisements with multiple folds, faces, or pages must include the disclaimer on at least one fold, face or page.
Committees will be considered to have complied with the law if the disclaimer legend or statement conveys the required information.

21.19.2.1 "Paid for by…" Statement

Every political advertisement sponsored by a candidate that appears in Print Media must state who paid for the advertisement. The statement must include the name of the candidate or the candidate's campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the "Paid for by…" statement with "Authorized by…"

In the case of a print media advertisement that has more than one sponsor, the disclaimer statement must name all of the sponsors.

21.19.2.2 "Authorized by…" Statement

If the political advertisement refers to any other clearly identified candidate, other than the sponsor of the advertisement, then the advertisement must state whether it was authorized by the candidate mentioned in the advertisement.

The disclaimer statement must state "Authorized by… [Name of candidate], candidate for [Name of office]" or "Not Authorized by any other candidate."

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

21.19.3 Television Disclaimer Requirements for Candidates

Political advertisements that appear on Television must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in the § 24.2-957.1 in the Code of Virginia.

If the sponsor of the advertisement does not have control over the audio then the disclaimer requirements must be the same as for Print Media. The statements must be made in a conspicuous manner. Committees will be considered to have complied with the law if the disclaimer legend or statement conveys the required information.

21.19.3.1 "Paid for by…" Visual Statement

Every political advertisement sponsored by a candidate that appears on Television must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate's campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the "Paid for by…" statement with "Authorized by…"

In the case of a Television advertisement that has one or more sponsors, the disclaimer statement must name all of the sponsors and the candidate must speak the disclaimer statement.

21.19.3.2 "Authorized by…" Spoken Statement

For any political advertisement appearing on Television and sponsored by a candidate which refers to a clearly identified candidate or candidates other than the candidate which is sponsoring the advertisement must include a disclaimer statement spoken by the candidate which states "I am…(or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') sponsored this ad." There must be a full-screen, unobscured photographic picture or actual appearance of the candidate throughout the entire spoken statement.

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. In this case, the spoken statement must be delivered at the beginning and the end of the advertisement.

If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclaimer statement.

21.19.4 Section 14.5 - Radio Disclaimer Requirements for Candidates

Political advertisements that appear on Radio must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in the § 24.2-957.1 in the Code of Virginia. The disclaimer statement must last at least two seconds and must be spoken so that its contents can be easily understood.

In the case of a Radio advertisement that has one or more sponsors, the disclaimer statement must name all of the sponsors and the candidate must speak the disclaimer statement. If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclaimer statement.

21.19.4.1 Spoken Statement

For any political advertisement airing on Radio and sponsored by a candidate which refers to a clearly identified candidate or candidates, other than the candidate which is sponsoring the advertisement, must include a disclaimer statement spoken by the candidate which states "I am… (or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') paid for this ad."

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the "Paid for by…" statement with "Authorized by…"

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

21.19.5 Campaign Telephone Call Requirements

Campaign telephone calls are a series of telephone calls, electronic or otherwise, made to twenty-five or more telephone numbers in the Commonwealth during the 180 days before a general or special election or during the ninety days before a primary, conveying or soliciting information relating to any candidate or political party participating in the election or primary, and under an agreement to compensate the telephone callers. A violation of these disclaimer requirements will not void any election.

It is unlawful for any candidate or campaign committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing before the conclusion of each telephone call, information to identify the candidate or campaign committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following information prior to the conclusion of the call:

The name of the candidate(s) or candidate campaign committee(s) paying for the call;

The name of the candidate(s) or candidate campaign committee(s) who authorized the calls.

21.19.6 Procedure for Reporting Violations to Political Advertisement Requirements

The person alleging any violation to print media, radio or television advertisements should contact the SBE if the committee is a Political Committee, Political Party Committee, or Candidate for the General Assembly or Statewide office. All other complaints should be forwarded to the electoral board in the county or city in which the violation is believed to have

occurred. Once the complaint is received, the Board has the authority to determine if a violation has occurred and assesses the appropriate penalty or, if it appears that the violation is willful, they can forward the matter to the appropriate Attorney for the Commonwealth who has the authority to investigate the matter further.

21.19.7 Penalties for Candidates for General Assembly or Local Office

The following penalties will apply only to General Assembly or local candidates and/or their campaign committees which sponsor political advertisements.

21.19.7.1 Print Media

Violators whose total expenditures for the election cycle are less than $10,000 shall be assessed a penalty of **$100** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$500**.

Violators whose total expenditures for the election cycle are $10,000 or more shall be assessed a penalty of $**500** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$1,000**.

21.19.7.2 Television

Violators whose total expenditures for the election cycle are less than $10,000 shall be assessed a penalty of **$500** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$1,000**.

Violators whose total expenditures for the election cycle are $10,000 or more shall be assessed a penalty of $**1,000** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$2,500**.

21.19.7.3 Radio

Violators whose total expenditures for the election cycle are less than $10,000 shall be assessed a penalty of **$250** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$500**.

Violators whose total expenditures for the election cycle are $10,000 or more shall be assessed a penalty of $**500** unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty shall be **$1,000**.

21.19.7.4 Campaign Telephone Calls

The penalty for violating required campaign telephone call disclaimers will be **$2,500 per occurrence**.

21.20 Exhibits

21.20.1 Exhibit A: Acknowledgement of Regular Campaign Finance Report

(enter date)

(enter name of candidate or committee officer)
(enter address)

Dear (enter salutation):

Receipt is acknowledged of your _____ campaign finance report for the period beginning ____ and ending _____. While your report has been received, it has not been reviewed. We will contact you if we found that your report is incomplete or if additional information is required.

Your next report is due (enter due date) and must include all transactions beginning _____ and ending _____.

A report must be filed even if no money is received or spent during the reporting period.

Your report must be in this office on or before the due date and **cannot** be filed prior to the date through which it must be complete.

If you have questions or need additional information, you may contact this office at (insert office telephone number).

Signed,

21.20.2 Exhibit B: Incomplete Report Request for Additional Information

(enter date)

(enter name of candidate or committee officer)
(enter address)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(ENTER RECEIPT NUMBER)

To Whom It May Concern:

This office has completed its review of your Campaign Finance Report for the period beginning _____ and ending _____.

In reviewing your report, we have found the following errors:

Error Description
(List the errors that you found)

Please correct all errors listed above. An amended report with the errors and/or missing information should be filed with this office within 10 days of (enter date letter was mailed) of this letter. If you have already submitted an amended report for this filing period please disregard this letter.

Signed,

21.20.3 Exhibit C: Assessed Penalty: Failure to File a Regular Report

(enter date)

(enter name of candidate or committee officer)
(enter address)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(ENTER RECEIPT NUMBER)

Dear (enter salutation):

A careful review of our records shows that (enter Committee's Name) failed to file a required regular campaign finance report.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of $100 for not submitting a required campaign finance report by the deadline. The civil penalty will be raised to $250 if the committee fails to respond to this letter by filing a complete report and paying the civil penalty within 10 days of receipt of this letter. Further, the penalty will be raised to $500 if your committee fails to file the report within 60 days of this report's filing deadline.

If you fail to file the required report within 90 days of this report's filing deadline, we will be forced to forward this matter to the Commonwealth's Attorney who shall initiate criminal procedures and enforce collection of the unpaid debt.

This is the final notice you will receive from this office concerning this matter.

Please make your check in the amount of **Amount Penalized** payable to the _____ and forward this payment to this office.

If you feel that you have received this letter in error please contact this office as soon as possible.

Signed,

21.20.4 Exhibit D: Assessed Penalty: Failure to File a Pre-Election Report

(enter date)

(enter name of candidate or committee officer)
(enter address)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(ENTER RECEIPT NUMBER)

Dear (enter salutation):

A careful review of our records shows that (enter Committee's Name) failed to file a required campaign finance report due eight days prior to an election.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of $250 for not submitting a required campaign finance report by the deadline. The civil penalty will be raised to $500 if the committee fails to respond to this letter by filing a complete report and paying the civil penalty within 10 days of receipt of this letter.

If you fail to file the required report within 90 days of this report's filing deadline, we will be forced to forward this matter to the Commonwealth's Attorney who shall initiate criminal procedures and enforce collection of the unpaid debt.

This is the final notice you will receive from this office concerning this matter.

Please make your check in the amount of **Amount Penalized** payable to the _____ and forward this payment to this office.

If you feel that you have received this letter in error please contact this office as soon as possible.

Signed,

21.20.5 Exhibit E-1: Assessed Penalty: Late Filing a Regular Campaign Finance Report

(enter date)

(enter name of candidate or committee officer)
(enter address)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(ENTER RECEIPT NUMBER)

Dear (enter salutation):

A careful review of our records shows that (enter Committee's Name) was late filing a required campaign finance report due eight days prior to an election.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of $100 for not submitting a required campaign finance report by the deadline.

If you fail to pay the assessed penalty within 60 days of this report's filing deadline, we will be forced to forward this matter to the Commonwealth's Attorney who shall initiate criminal procedures and enforce collection of the unpaid debt.

This is the final notice you will receive from this office concerning this matter.

Please make your check in the amount of **Amount Penalized** payable to the _____ and forward this payment to this office.

If you feel that you have received this letter in error please contact this office as soon as possible.

Signed,

21.20.6 Exhibit E-2: Assessed Penalty: Late Filing a Pre-Election Report

(enter date)

(enter name of candidate or committee officer)
(enter address)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(ENTER RECEIPT NUMBER)

Dear (enter salutation):

A careful review of our records shows that (enter Committee's Name) was late in filing a required campaign finance report due eight days prior to an election.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of $250 for not submitting a required campaign finance report by the deadline.

If you fail to pay the required penalty within 60 days of this report's filing deadline, we will be forced to forward this matter to the Commonwealth's Attorney who shall initiate criminal procedures and enforce collection of the unpaid debt.

This is the final notice you will receive from this office concerning this matter.

Please make your check in the amount of **Amount Penalized** payable to the _____ and forward this payment to this office.

If you feel that you have received this letter in error please contact this office as soon as possible.

Signed,

21.20.7 Exhibit F: Letter to Commonwealth's Attorney

(enter date)

The Honorable (enter name)
Attorney for the Commonwealth
(enter name of your county or city)
(enter address)

RE: **Collection Of Civil Penalty**

Dear (enter name):

As required by **§ 24.2-946.3 subsection F** of the *Code of Virginia*, I am hereby notifying you that (candidate's name) has apparently willfully failed to file a required campaign finance report after being duly notified and given an extended opportunity to do so.

I have written to (enter candidate's name), advising them of their failure to file the reports/failure to pay the assessed penalty (choose one) in question. The letter also provided the deadline for the report's receipt and/or assessed penalty for failure to comply with the required reporting deadline. That letter also warned the candidate that if payment for this violation was not received within 60/90 days of the report's filing deadline that I would be notifying your office in order to collect the appropriate civil penalty. A copy of that letter is enclosed.

In accordance with by **§ 24.2-946.3 subsection F** of the *Code of Virginia*, 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 by **§ 24.2-953 subsection D** of the *Code of Virginia*.

Civil penalties collected are to be made payable to the *Treasurer* and must be forwarded to this office for deposit.

Name of Candidate	**Resident Address**
(enter name or names as appropriate)	(enter address of each person listed)

Sincerely,

22 Recounts and Contested Elections

22.1 Recounts

The provisions contained in this chapter apply to all elections held in the Commonwealth, whether they pertain to an election or nomination for office or a referendum or question before the electorate. § 24.2-800(A)

22.1.1 Procedures for Filing the Petition

- A petition for a recount may be filed only in the event that there is a difference of not more than one percent of the total vote cast between the apparent winner and any candidate apparently defeated by this margin, as determined by the SBE or the electoral board. (§ 24.2-800(B).)
- The petition for a recount, other than an election for presidential electors, must be filed within ten days from the day the SBE or the electoral board certifies the results of the election. (§ 24.2-801.)
- In the case of an election for a statewide office, a petition for a recount must be filed in the Circuit Court of the City of Richmond. (§ 24.2-801.)
- In the case of any other election for office, a petition for a recount must be filed in the Circuit Court of the county or city in which the candidate being challenged resides. (§ 24.2-801.)
- A petition for a recount must set forth the results as certified by the SBE or the electoral board and must also request that the Court recount the ballots or redetermine the count of any mechanical or direct electronic voting device. (§ 24.2-801.)
- A copy of the petition for a recount must be served on the candidate apparently elected or nominated within ten days after the SBE or electoral board has certified the results of the election. (§ 24.2-801.)
- In a referendum, a copy of the petition for a recount shall be served on the governing body of chief executive officer of the jurisdiction in which the election was held. (§ 24.2-801.)

22.1.2 Procedures for Conducting the Recount:

- The Chief Judge of the Circuit Court in which the petition is filed must promptly notify the Chief Justice of the Supreme Court of Virginia. (§ 24.2-801.)
- The Chief Justice of the Supreme Court of Virginia then shall designate two additional judges to sit the Chief Judge and these three judges shall constitute the full court that shall hear this case. (§ 24.2-801.)
- **Standards**: The SBE shall distribute standards for the conduct of the recount. The Chief Judge of the circuit court or the full recount court may, consistent with SBE standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount. (§ 24.2-802(A).) The Standards for Recounts of Virginia Elections and Ballot Examples for Handcounting Paper or Paper-Based

Ballots for Virginia Elections and Recounts are posted to the SBE website under the Election Laws page. (For uniformity, the SBE has directed that the Ballot Examples are to used whenever ballots must be handcounted, whether in an election or in a recount.)

- **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. (§ 24.2-802(A).)
- **Preliminary Hearing:** Shortly after the petition for a recount is filed, there shall be a preliminary hearing to hear motions and set the recount procedures, subject to review by the full court. (§ 24.2-802(B).)
- **Court Hearing:** After the full court is appointed, there shall be a hearing to decide all motions and the rules of the recount procedures. (§ 24.2-802(B).)

The following procedures are presented in summary form and also apply to a recount pertaining to a referendum or question before the electorate as discussed below. For a more detailed accounting, please review § 24.2-802 in its entirety.

- The determination of the votes in a recount shall be based on votes cast in the election and shall not take into account (a) any absentee ballots or conditional ballots sought to be cast but ruled invalid and not cast in the election, (b) ballots cast only for administrative or test purposes and voided by the officers of election, or (c) ballots spoiled by a voter and replaced with a new ballot. (§ 24.2-802(B).)
- The eligibility of any voter is an issue for a contested election and not a recount. (§ 24.2-802(B).)
- Each party to this proceeding shall be permitted to select an equal number of officers of election to serve as recount officials and alternates. (§ 24.2-802(C).)
- 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 shall have an unobstructed view of the work of the recount officials. The expenses of its representatives shall be borne by each party. § 24.2-802(C)
- Teams of recount officials, substitutes and observers shall be designated to undertake the count and redetermine the vote according to the provisions set forth in the code. § 24.2-802(C)
- The Court shall supervise the recount and may require delivery of all and any pollbooks, ballots, absentee ballots, etc. § 24.2-802(D)
- The recount officials shall write down and submit to the Court, the number of valid ballots cast in the precinct for each of the two candidates in the recount or for or against the question. § 24.2-802(D)
- If the number of votes recorded on the mechanical or direct electronic voting devices is greater than the number of names on the pollbooks of persons voting on said devices, the figures recorded on the devices themselves shall be accepted as correct. § 24.2-802(D)
- At the conclusions of the recount, after allowing the parties to inspect any questioned ballots and after hearing the arguments of the parties, the Court shall rule on the validity of all questioned ballots and votes. § 24.2-802(D)
- By an appropriate order, the Court shall certify to the SBE and other appropriate electoral boards, the vote for each party to the recount or the vote for and against the question and declare the winning candidate or question accordingly. § 24.2-802(D)

- Costs: The costs of the recount shall be assessed against the counties and cities comprising the election district when the candidate petitioning for the recount wins, when the petitioners for a referendum win, or when there is a difference of not more than one half of one percent, prior to the recount, between the two candidates. Otherwise the costs shall be assessed against the petitioning party. The manner in which costs are calculated is discussed in detail in the code. § 24.2-802(E)(F)(G)
- Surety Bond: 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. § 24.2-802(G)
- Appeals or Contests: The recount proceeding shall be final and not subject to appeal. § 24.2-802(H) However, a candidate who was originally declared the winner, loses as a consequence of a recount, such candidate 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. § 24.2-814 Procedures are set forth under the provisions governing Contested Elections. § 24.2-803 et. seq.

22.1.3 Special Procedures for Recounts of Elections for Presidential Electors

Because of the federal deadline for seating of presidential electors, the General Assembly in 2003 enacted legislation to ensure that any presidential recount in Virginia would be concluded by that deadline (so that Virginia's electoral votes could be counted). Detailed procedures for the filing 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) 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.

22.1.4 Referendum Recounts

- Procedures for 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 determined by the SBE or the electoral board. § 24.2-800(C)
  - 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 SBE or electoral board by signing and filing a petition for a recount. § 24.2-800
  - The petition for a recount must be filed within ten days from the day the SBE or the electoral board certifies the results of the election. § 24.2-801
  - In the case of a statewide referendum, a petition for a recount must be filed in the Circuit Court of the City of Richmond. § 24.2-801
  - In the case of any other referendum, a petition for a recount must be filed in the Circuit Court of the county or city in comprising a part of the election district. § 24.2-801
  - A petition for a recount must set forth the results as certified by the SBE or the electoral board and must also request that the Court recount the ballots or redetermine the count of any mechanical or direct electronic voting device. § 24.2-801

- A copy of the petition for a recount must be served on the governing body or chief executive officer the jurisdiction in which the election was held within ten days after the SBE or electoral board has certified the results. § 24.2-801

- Procedures For 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 and are contained in full in § 24.2-802 of the *Code of Virginia*.

22.1.5 Contesting a Recount:

Any candidate in a primary or election to office originally declared a winner, 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. § 24.2-814

22.2 Contested Elections

Applicability and Overview: An unsuccessful candidate for any election, special election or primary can initiate a contest. The rules and procedures governing a contested election vary dependent upon the Office for which the election is being held. The basic procedures apply to an election of members to the General Assembly. § 24.2-803

22.2.1 Procedures Governing a Contested Election to the General Assembly:

- **Notice Of Intent To Contest**
  - To initiate a contest, the losing candidate (contestant) first must give written *notice*, both to the party who has been declared the apparent winner (contestee) and the Clerk of the appropriate House, of his intent to contest the election and post bond. § 24.2-803(B)
  - Such 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. § 24.2-803(B)
  - The notice must state the grounds upon which the contest will be based. These grounds must include either or both of the following: (i) objections of contestees' eligibility based on specific allegations and/or, (ii) objections to the conduct or results of the election that, if proven true, would have a probable impact on the outcome of the election. § 24.2-803(B)
  - 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. § 24.2-803(C)
  - 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. § 24.2-803(D)

- **Petition And Subsequent Proceedings**
  - A written petition must be filed with the clerk of the appropriate House within the time frame specified in § 24.2-803(E)
  - The Clerk shall refer the record 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. § 24.2-803(G)
  - The House may declare either party the winner or declare the election void and order a writ of election. Should it be determined that there is a tie vote, there shall be a determination by lot as provided for under § 24.2-674, but no recount shall be permitted. Should the House find that the contest was brought in bad faith, the contestant shall be ordered to reimburse the expenses of the contestee appropriately. § 24.2-803(H)

22.2.2 Variances Applicable To Contests in Other Elections

- **Contest of Election of Governor, Lieutenant Governor of Attorney Genera**l: Notice of intent to contest must be filed with the Clerk of the House of Delegates. The filing of 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 General Assembly, whichever occurs first. A final determination will be made by both Houses of the General Assembly presided over by the Speaker. § 24.2-804
- **Contest of Elections of Electors For President and Vice President or Primaries For United States Senate or Other Statewide Office**: a. In such contests, 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 a presidential election shall be filed no later than 5:00 p.m. on the second calendar day after the day the SBE certifies the results.
  - A copy of the complaint shall be served on each contestee within five calendar days after the Board's certification.
  - The contestee's answer shall be filed within five calendar 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.
- **Contest of Other Primaries and Elections**: Such contest shall be 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 through 24.2-813.

- **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. There is no bond requirement for other candidates filing contests.

23 Election Offenses

This chapter describes the various registration and election-related behaviors that are illegal. It is organized according to the setting in which the illegal act may occur: registration sites, the registration process, balloting and ballots, polling places, absentee voting, campaigning, and others. Further, the type of person committing the illegal act (Electoral board members, registrars, officers of election, candidates and campaigners, and people in general) is shown in bold letters.

The list below is not meant to be all inclusive but merely contains the most common election offenses under the Code of Virginia. There are other federal offenses that are not discussed in this chapter. If you have any questions about these particular offenses you should contact your local office of the Commonwealth's Attorney. The SBE may not give legal advice.

23.1 Penalties

Most election offenses are punishable as either Class 1 or 3 misdemeanors or Class 5 or 6 felonies, although some are viewed as civil rather than criminal violations of the law.

- A Class 1 misdemeanor is a crime that is punishable by 12 months or less in jail and/or a fine of $2,500 or less.
- A Class 3 misdemeanor is a crime that is punishable by a fine of not more than $500.
- A Class 5 felony is a crime that is punishable by a prison sentence of between one and ten years. A judge or jury may reduce the penalty for a Class 5 felony to the same penalties as a Class 1 misdemeanor.
- A Class 6 felony is a crime that is punishable by a prison sentence of between one and five years. A judge or jury may reduce the penalty for a Class 5 felony to the same penalties as a Class 1 misdemeanor. (§§ 18.2-10 and 18.2-11.)

23.2 Specific Election Offenses

23.2.1 Offenses Related to Voter Registration

- There are two types of voter registration locations described in the Code:
  - Official voter registration sites: These are registration location as described in Article 3 of Chapter 4 of Title 24.2 (§§ 24.2-411 – 24.2-416), titled "Locations and Times for Registration." These locations include:
    - The office of the general registrar;
    - Office of the Department of Motor Vehicles;
    - State-designated voter registration agencies; and
    - Other agencies, offices and occasional sites established as registration locations by the general registrar or the electoral board under § 24.2-411.
  - Unofficial voter registration drives: These include any location at which a person or group offers and may receive mail in registration forms, for later

submission to the registrar directly or through one of the sites authorized to receive registrations (§ 24.2-416 et seq.).

23.2.1.1 Offenses at Registration Locations

- It is a Class 1 misdemeanor for any **person** to use threats or force to interfere with:
  - Any registrar in the discharge of his duty, or
  - any person who is in the process of applying for registration, or declining to apply to register, or
  - any person going to or leaving from a registration site.

(§ 24.2-1002)

23.2.1.2 Offenses at Official Voter Registration Sites only

- At an official voter registration site, it is Class 3 misdemeanor for any **candidate/campaigner** to:
  - give or try to give campaign materials to a person at an official voter registration site, or
  - solicit or attempt to influence the vote of any person at an official voter registration site, knowing that the person is there to register to vote.

This prohibition does not apply to unofficial voter registration drives. The law does permit candidates and campaigners to distribute campaign material outside a building where registration is being conducted. (§ 24.2-1003)

23.2.1.3 Other Offenses Related To Registration

- It is a Class 1 misdemeanor for any **person** to destroy or fail to mail or deliver a completed voter registration application. This law is directed at people conducting registration drives. If a person offers to mail someone's registration application to the registrar, or to deliver it in person, then he must do so in a timely manner. "Timely manner" is defined as (1) within 15 days from the time the applicant completed and signed the application, or (2) by the close of registration, whichever comes first. (§ 24.2-1002.01) State and local government employees, acting in their official capacity, are exempt from this law.
- It is a Class 6 felony for a **person** to register to vote at more than one residence address at the same time, or procure, assist, or induce another to register to vote at more than one address at the same time, whether those registrations are within Virginia or in Virginia and any other state or territory. This does not apply when a voter is attempting to change or transfer an address and provides the requisite information on the applicant's place of last previous registration to vote. (§ 24.2-1004.)
- It is a Class 5 felony for any **person** (including **registrars**) to fraudulently alter any voter registration record or document. (§ 24.2-1009.)

23.2.2 Offenses Related To Elections In General

- It is a Class 5 felony for any **person** to stop, or attempt to stop, officers of election from holding an election. (§ 24.2-1000.)

- It is a Class 1 misdemeanor for any **officer of election**, **electoral board member**, **registrar,** or other **person with election duties**, to willfully neglect his election duties. (§ 24.2-1001)
- It is a Class 5 felony for any **officer of election**, **electoral board member**, **registrar,** or other **person with election duties**, to commit corrupt conduct in executing his election duties. (§ 24.2-1001.)

ⓘ The Code does not define "corrupt conduct" in this section.

- It is a Class 5 felony for any **person**, including registrars, electoral board members, officers of election, and voters, to make a willfully false material statement or entry on any form or statement. (§ 24.2-1016)

23.2.3 Offenses Related To Voting

- It is a Class 1 misdemeanor for a **person** to vote knowing that he is not qualified to vote in that election at the polling place where he is voting. (§ 24.2-1004.)
- It is a Class 1 misdemeanor for a **person** to procure, assist, or induce another person to vote knowing that the person is not qualified to vote at that polling place. (§ 24.2-1004.)
- It is a Class 1 misdemeanor for a **person** to wrongfully deposit a ballot in the ballot container or cast a vote on any voting equipment. (§ 24.2-1004.)
- It is a Class 6 felony for a **person** to intentionally vote more than once in the same election, within Virginia or in Virginia and any other state or territory or procure, assist, or induce another to vote more than once in the same election within Virginia or in Virginia and any other state or territory. (§ 24.2-1004.)
- It is a Class 1 misdemeanor for a **person** to bribe, threaten, or intimidate another person into voting, not voting, or voting a certain way. (§ 24.2-1005.)
- It is a Class 1 misdemeanor for a **person**, including any **officer of election**, to give someone a ballot while knowing that the person does not understand the language in which the ballot is printed and to misinform and deceive that person as to the contents of the ballot. (§ 24.2-1005.)
- It is a Class 1 misdemeanor for a **person** to change someone else's vote against that person's wishes. (§ 24.2-1005.)
    - These offenses also apply to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.
- It is a Class 1 misdemeanor for a **person** to advise or assist any voter in how he should vote once that voter is inside or within 40 feet of any entrance to the polling place. (§ 24.2-1006.)

ⓘ The last three offenses listed above come into play when a voter is being assisted. 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. The assister (who can be an officer of election) must cast the ballot for the voter only – and completely – according to

the direction of that voter. The assister cannot in any way influence the decision of the voter. (If the voter is not capable of *understanding* what he is doing, and cannot *direct* how his vote is cast, the matter should be referred to the Commonwealth's Attorney for possible prosecution of the person rendering improper assistance, whether or not an assistance form was completed. It is not unusual to hear of voters residing in nursing homes, or suffering from long-term mentally debilitative illnesses, "being voted" by family members and staff. Even if the assistant says, "I know how he/she would want to vote," if the voter could not actually *direct* how his/her vote was cast, improper assistance has been rendered and the matter must be referred to the Commonwealth's Attorney.) Finally, the assister cannot divulge how the person voted. Violation of any of these laws related to assistance is punishable as a Class 1 misdemeanor (§ 24.2-649), but if related to absentee voting, a violation of the assistance laws is a Class 5 felony (§ 24.2-1012). Further, fraudulently signing the "statement of assistance" is punishable as a Class 5 felony. (§ 24.2-1016)

- It is unlawful for any **person** to ask for or accept a bribe to influence the way he votes or the way another person votes. A bribe is defined here as "any money or anything of value." This offense is punishable as a Class 1 misdemeanor. (§ 24.2-1007)
- It is unlawful for any **person** to hinder, intimidate, or interfere with any qualified voter with the purpose of preventing the voter from casting a secret ballot. This offense is punishable as a Class 1 misdemeanor, but carries an additional, and somewhat unique, method of enforcement. Officers of election may order such a person to cease such action. If the person refuses, then a majority of the officers of election may order his immediate arrest and commit him to the city or county jail for up to 24 hours. (§ 24.2-607)

23.2.4 Other Offenses at the Polling Place

- It is a Class 1 misdemeanor for any **person** to loiter within 40 feet of any entrance to a polling place. Further, it is unlawful for any **person** to hand out campaign materials or attempt to influence anyone's vote within 40 feet of a polling place entrance. (§ 24.2-604.)

ⓘ This is probably the most commonly violated election law. While the Code certainly allows immediate arrest of violators of this law, it is not common practice. Typically, violators are overeager campaign volunteers or candidates with a tendency to forget where the 40-foot boundary is. Usually, officers of election warn such violators before taking legal action. If a violator repeatedly refuses to heed such a warning, then arrest may be warranted.

Suggestion: Officers of election may show the violator the specific wording of § 24.2-604, or they may point out the language of this Code section on the "Prohibited Area" signs that they post outside the polling place.

- It is a Class 1 misdemeanor for any **person** to hinder or delay a voter from entering or leaving a polling place. (§ 24.2-604.)
- It is a Class 1 misdemeanor for any **person** – **including a voter**, **candidate representative**, **or officer of election** – who is in the room where voting is taking place, to:
  1) hinder or delay a qualified voter or an officer of election,
  2) give or exhibit any campaign material to any person,
  3) attempt to influence any person in casting his vote, or
  4) otherwise interfere with the orderly conduct of the election.

  (§ 24.2-604(D).)

  What if a voter, who is only entering the room to vote and leave, happens to be wearing a campaign button or campaign t-shirt? Is he "exhibiting campaign material to another person" and should he be arrested? This is a matter of some controversy in Virginia. Lacking relevant case law, Attorney General opinion, or administrative policy, interpretation of this language is currently left to the discretion of local electoral boards. Certain guidelines should be followed:
  - If the electoral board determines that voters should not be permitted to wear such campaign insignia while voting, then this interpretation should be clearly explained to all officers of election in the locality so that it is uniformly applied.
    - Officers of election should instruct any voter wearing such insignia to remove it, go to the restroom to turn the t-shirt inside out, or cover it up. Only upon the voter's refusal to comply should you consider legal action.
  - If the electoral board determines that voters are permitted to wear such insignia, then this interpretation should be clearly explained to all officers of election in the locality so that it is uniformly applied. It should never be permitted for candidate/party representatives or officers of election.
- It is a Class 5 felony for any **person** to steal or wrongfully tamper with a ballot container or voting equipment. It is also unlawful for any **person** – including **officers of election** – to fraudulently alter any election records such as poll books. (§ 24.2-1009.)
- It is a Class 5 felony for any **person** to steal or wrongfully tamper with the software used to prepare and operate voting equipment or the software or hardware used to collect and disseminate election returns. (§ 24.2-1009.)
- It is a Class 5 felony for any **person** to steal or wrongfully tamper with an electronic activation device or electronic data storage medium of the type used to prepare, operate, or back-up electronic voting equipment. (§ 24.2-1009.)
- It is a Class 5 felony for any **person** to wrongfully intercept, alter, or disrupt the electronic transmission of election returns or the posting of returns on the Internet. (§ 24.2-1009.)
- It is a Class 1 misdemeanor for any unauthorized person to be in possession of any voting equipment key or electronic activation device of the type used to prepare or operate voting equipment or any unauthorized person who duplicates a voting equipment key or electronic activation device. (§ 24.2-1010.)

- This includes any voting equipment that your locality no longer uses but it still currently certified. Check with the SBE before you dispose of your old voting equipment.

- It is a Class 5 felony for any **person** to willfully make a false material statement on any statement, form, or report. (The statement, form, or report must carry a statement of the penalty for making a false statement.) (§ 24.2-1016.)
- It is a Class 4 misdemeanor for any **person** to use a loudspeaker within 300 feet of a polling place on Election Day. Exempted from this are loudspeakers used in emergencies and the normal use of school loudspeakers. (§ 24.2-605)
- It is a Class 1 misdemeanor for any **person** to insult or abuse an officer of election or be sufficiently noisy or riotous in or around the polling place so as to disrupt the election. The person may be arrested, and the officers of election may have him committed to the city or county jail for up to 24 hours. But, if he is qualified to vote, they must permit him to vote before sending him off to jail! (§§ 24.2-607, 1017.)

23.2.5 Offenses Related To Ballots

- It is a Class 5 felony for any **person** to give away or sell an official ballot or copy of a ballot or a copy or facsimile of a plate used to produce official ballots. (This does not include the lawful production of sample ballots.) (§ 24.2-1008.)
- It is a Class 5 felony for any **person** to counterfeit a ballot or the local electoral board seal used on a ballot. (§ 24.2-1008.)
- It is a Class 1 misdemeanor for any **person** to carry an official ballot away from the voting booth, other than to give it to an officer of election. (§ 24.2-1011.)
- It is a Class 1 misdemeanor for any **person** to vote a ballot other than the one he received from the officers of election. (§ 24.2-1011.)

23.2.6 Offenses Related To Absentee Voting

- It is a Class 5 felony for any **person** to knowingly assist in the violation of any of the laws and procedures dealing with absentee voting. (§ 24.2-1012.)
- It is a Class 4 felony for any **person** to vote fraudulently by signing the name of another voter. While the Code does not specify, it is assumed that this refers to both the signature on an absentee ballot application and the signature on the absentee ballot oath envelope. (§ 24.2-1012.)
- It is unlawful for any **public official** to knowingly violate any absentee ballot laws thereby assisting someone to illegally cast a vote. The punishment for this offense is that the official is forever disqualified from holding office or voting in the Commonwealth. (§ 24.2-1012.)

ⓘ Offenses Related to Voting also applies to absentee voting.

23.2.7 Offenses Related To Campaigns

23.2.7.1 Print Media Advertisements

- It is unlawful for any **employee or owner** of any magazine or newspaper published in the Commonwealth to accept, or agree to accept, payment for advocating the election or defeat of any candidate. This offense is punishable as a civil penalty of up to 50

dollars. If the offense is willful, it is punishable as a Class 1 misdemeanor. (§ 24.2-955.2.) This prohibition does not include paid advertisements as long as the words "Paid Advertisement" clearly appear.

- It is unlawful for any **sponsor** to place an advertisement without including certain basic and expanded disclosure statements for advertisements in the print media or on radio or television. These disclosure requirements apply to advertisements that constitute an expenditure or contribution required to be disclosed under the Campaign Finance Disclosure Act. (For advertising disclosure requirements, see Chapter 9.5 of Title 24.2.)
  However, the disclosure requirements do not apply to:
  - An individual who makes uncoordinated, independent expenditures aggregating less than $1,000 in a political campaign (§ 24.2-955); or
  - An individual who incurs expenses only with respect to a referendum. (§ 24.2-955.)
- It is unlawful for **candidates** or **campaign volunteers** to place campaign signs within the limits of public highways. This offense is punishable by a fine of up to 100 dollars for each sign plus the costs of removal. The fine is levied against the person who put up the sign, but if that person cannot be determined, then the fine can be levied against the candidate the sign represents. (§ 33.1-373 and Virginia Department of Transportation Administrative Regulation.)

ⓘ This prohibition is not among the election laws; it applies to anybody placing any signs within the limits of public highways. The "limits" of a public highway include the highway and its right-of-way. The width of the area included in the right-of-way depends on the type and size of highway.

ⓘ Placement and duration of signs may also be subject to local ordinances.

23.2.7.2 Telephone Advertisements

- It is unlawful for any **candidate** or **candidate campaign committee** to make campaign telephone calls without disclosing, before the conclusion of each telephone call, information to identify the candidate or candidate campaign committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the telephone call shall disclose the name of the candidate. (§ 24.2-959)
- It is unlawful (i) for any **candidate** or **candidate campaign committee** who contracts for campaign telephone calls to fail to provide to the persons making the telephone calls the identifying information required by this section or (ii) for any person to provide a false or fictitious name or address when providing the identifying information required. (§ 24.2-959)
- It is unlawful for any **person** or **political committee** to make campaign telephone calls without disclosing, before the conclusion of each telephone call, information to identify the person or political committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the telephone call shall disclose the following identifying information: the name of the political committee if the calls are authorized by that committee or an agent of that committee; and in the case of a committee that has filed a statement of organization under Chapter 9.3 (§ 24.2-945 et seq.), the full name of

the committee and a registration number provided by the SBE; or in any other case, the full name and residence address of the individual responsible for the campaign telephone calls. It shall also be unlawful (i) for any person who contracts for campaign telephone calls to fail to provide to the persons making the telephone calls the identifying information required by this section or (ii) for any person to provide a false or fictitious name or address when providing the identifying information required. (§ 24.2-959.1)

- The above offenses relating to telephone calls are punishable by a civil penalty of up to $2,500 dollars. If the offense is willful, it is punishable as a Class 1 misdemeanor. (§ 24.2-955.3 (C))

ⓘ Political telephone calls are not covered by the federal or state "Do Not Call" laws and lists.

23.2.7.3 Campaign Finance

ⓘ A full discussion of the campaign finance requirements and penalties may be found in Chapter 21.

- It is unlawful for any **candidate** or **candidate's treasurer** to fail to file on time required Candidate Contribution and Expenditure Report. In general, the penalty for this offense is a fine of up to $100. Depending on the timing of the offense, the fine may be as high as $1,000. If the failure to file is considered willful, then this violation is punishable as a Class 1 misdemeanor. (§§ 24.2-953 – 24.2-953.5)
- It is unlawful for any **candidate** or **candidate's treasurer** to fail to correct an incomplete Candidate Contribution and Expenditure Report in a timely manner. The Code directs the Secretary of the SBE or the secretary of the local electoral board to give the filer of an incomplete report ten days to correct the report and, further, to grant a grace period of up to two weeks if there is good cause. The penalty for violation of this requirement is a fine of up to $500. (§ 24.2-929.)

23.2.8 Other Offenses

- It is a Class 5 felony for **two or more persons** to conspire to "injure, oppress, threaten, intimidate, prevent, or hinder" any citizen from rightfully voting or for having rightfully voted. (§ 24.2-1015)
- It is a Class 5 felony for any **person** to disclose or make use of the social security number of a voter or applicant for registration, except as authorized for official use. This prohibition particularly applies to **registrars**, **electoral board members**, and **officers of election** because they have access to these numbers in the normal course of their work. (§ 24.2-1002.1)

23.3 How to Handle a Violation

Any violation or suspected violation of election laws should be reported to the Commonwealth's Attorney in the locality in which the violation allegedly occurred. (§ 24.2-1019.) Normally, the person witnessing the violation should be the person who reports it. However, in many cases concerning Election Day violations at the polls, the registrar or electoral board will report the violation based on testimony from an officer of election. In such cases, the officer of election or

other person who witnessed the alleged violation should be prepared to document the specifics of the violation and to testify in court if needed.

- **Violations involving registration applications**

  With the advent of voter registration by mail and at agencies, the question arose as to *where* a violation occurred if the violation involved a false statement made on a voter registration application. Legislation was passed by the General Assembly to clarify this issue. A violation involving a false statement on an application is deemed to have occurred in the locality where the applicant *sought to be registered*. (§ 24.2-1019)

- **Violations involving campaign signs**

  Illegal placements of campaign signs (see above) are treated like any other illegally posted signs. As such, it is up to the person who sees an illegally posted sign, not the registrar or electoral board member, to report it. (Registrars and electoral board members, acting as private citizens, may report such illegal signs if they choose to do so.) Citizens should report illegal signs within the limits of public highways to the local office of the Virginia Department of Transportation rather than the Commonwealth's Attorney. If the alleged violation is of a local sign ordinance, the violation should be reported to local law enforcement officials, who may refer the matter to another office of local government charged with enforcement of that particular ordinance.

24 Department Of Justice Pre-Clearance

In the Civil Rights Acts of 1957, 1960, and 1964, Congress included provisions empowering the Attorney General of the United States to bring suits against racially discriminatory voting practices. These and the Fifteenth Amendment enforcement powers, led to the passage of the Voting Rights Act of 1965 (VRA). The VRA targeted states with a history of discrimination in the election process by including states that used discriminatory practices in the 1960 presidential election because of race, color, or membership in a language minority group. The Act has been amended and renewed several times. In 2006, it was renewed for another 25 years.

Additional information about the VRA can be found on DOJ's website. The full text of 28 CFR 51 can be found at online (click here for PDF version) (click here for detailed index with links to text version).

24.1 Covered Jurisdictions

Section 5 of the Act provides that covered areas must submit requests for pre-clearance to the Department of Justice for a declaratory judgment to see that any changes in procedures do not deny or abridge the right to vote of any citizen. The Federal Voting Rights Act Procedures are administered by the Department of Justice, Office of the Attorney General, pursuant to 28 Code of Federal Regulations (CFR), Part 51.

Virginia is covered under the requirements of Section 5 of the VRA of 1965, as amended. As of September 2006, thirteen Virginia counties and cities have been "bailed out" of coverage. (See below.) A list of all covered jurisdictions is available online. For covered jurisdictions, changes pertaining to registration and voting procedures must be submitted and approved (or "pre-cleared"). The SBE is obligated to enforce the pre-clearance requirement but will try to work with you to get assistance from the Department of Justice on an expedited basis, when necessary.

Examples of changes requiring preclearance:

- A change in hours the voter registration office is open, even if the hours are increased;
- A move of the voter registration office, either within the same building or to a different building;
- A change in polling place;
- A change due to redistricting
- Placement of voter registration application boxes;
- Any other change in the way registration is offered or elections conducted; and
- Special elections (See 28 CFR §51.17.)

A list of further examples is found at 28 CFR §51.13 and on the DOJ website.

The test of the submission is: Does the change have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group?

24.1.1 Who Submits Paperwork

If a new state law requires a change in procedure, the State submits the pre-clearance request, not the locality. If the localities opt to adopt an ordinance change, such as changing elections from May to November, the locality must submit that change to the Department of Justice for approval.

Although it is the responsibility of the city or county attorneys or other appropriate official to be the submitting authority to submit the proposed changes on behalf of the registrar and electoral board, it is the registrar's job to make sure that it is done, and that it is done in a timely fashion. A number of jurisdictions delegate the responsibility for pre-clearance submissions pertaining to registration to the local registrars or electoral boards. In other localities, registrars or electoral board members draft the letters for the local attorneys to review and sign. (Draft letters are available through VERIS.) Some jurisdictions permit the registrars to make all submissions pertaining to registration sites and placement of boxes.

24.1.2 Timing:

The Justice Department has a minimum of sixty days to respond to any request for pre-clearance. It is possible to request expedited pre-clearance from the Department of Justice but they do not have to grant it. Generally, the Department of Justice will assume a 30 to 45 day time frame for an expedited request unless a particular date is requested. It is always a good idea to ask for expedited consideration, if you think it may be necessary. (28 CFR §51.34.)

24.1.3 Where and How to Submit:

Submissions must be sent to the Civil Rights Division in the U.S. Department of Justice. The required contents of the submission elements are listed in 29 CFR §51.27, and 28 CFR §51.28 lists other data that can be submitted.

The mailing address is:	Deliveries by overnight express service such as Airborne, Federal Express, etc., should be addressed to:
Chief, Voting Section Civil Rights Division Room 7254 - NWB Department of Justice 950 Pennsylvania Ave N.W. Washington, D.C. 20530	Chief, Voting Section Civil Rights Division Room 7254 – NWB Department of Justice 1800 G St., N.W. Washington, DC 20006

ⓘ Due to heightened security in the handling of U.S. government mail, check the Department of Justice Civil Rights Division web site regularly to ensure that you are

using the most current mailing instructions. The SBE recommends that submissions be sent by an overnight delivery service that provides package tracking.

- Always put, "Re: Submission under Section 5 of the Voting Rights Act of 1965, as amended" at the beginning of the submission.
- Mark the envelope, "Submission under Section 5 of the Voting Rights Act" and ensure your return address is clearly indicated
- If you have an emergency change, you must reach the Department of Justice by telephone.
- You may also call to check the status of your submission, and should always call to confirm receipt so you know when the 60 days expires.
- Numbers to use when calling the Department of Justice are (800) 253-3931 or (202) 307-2767

24.2 Bailout from the Voting Rights Act of 1965

The VRA was amended in 1982 to allow individual localities without "objections" or actions, pending or closed, for a period of at least 10 years, to request a "bailout" (release) of the pre-clearance requirements. Localities that have attained "bailout" are still subject to all of the other requirements of the VRA.

The advantages of bailout include: elimination of burden of pre-clearance; avoidance of inconvenience and delay of implementation; and elimination of costs of preparing plans for DOJ.

The disadvantages of bailout include: short-term, heightened scrutiny of voting and election procedures during bailout and the cost of bailout. The cost depends upon size of the jurisdiction seeking bailout and, in the long run, is usually cost effective. Also, if the jurisdiction is later found to be intentionally discriminatory, it will be put back under the Act.

Thirteen jurisdictions in Virginia that have bailed out since Congress amended the VRA in 1982: Augusta, Botetourt, Frederick, Greene, Pulaski, Roanoke, Rockingham, Shenandoah, and Warren Counties and the Cities of Fairfax, Harrisonburg, Salem and Winchester. If you have questions about the process, you may wish to contact these localities.

To begin the process, a locality should have individual meetings with minority leaders and organizations as well as public hearings. Localities are required to give legal notices in newspapers, public service announcements on cable TV, and post notices in public locations.

24.2.1 To obtain bailout, a jurisdiction must show:

- That within the last 10 years:
  - No test or device has been used to determine voter eligibility
  - No judgment entered or right to vote denied;
  - No federal examiners have been assigned;
  - Timely submission of all voting changes;
  - Approval of all pre-clearance requests; and
  - No objections by DOJ or denials by the US District Court for DC.

- Additionally,
    - Dilutive voting procedures have been eliminated;
    - Constructive efforts to eliminate harassment or intimidation of voters;
    - Expanded opportunities for convenient registration and voting; and
    - Appointment of minority persons as election officials throughout all stages of registration and election process

The following checklist includes the information that must be gathered for bailout.

Statistics
- ❑ Demographic data

  Voting data including:
- ❑ Registration
- ❑ Turnout
- ❑ Dispersal of population

Election History
- ❑ Voter registration opportunities
- ❑ Changes to method of election
- ❑ Minority candidates

Pre-clearance History
- ❑ DOJ Records
- ❑ City or County Records

Appointment of Election Officials
- ❑ Office of Voter Registration
- ❑ Electoral Board
- ❑ Officers of Election

ⓘ The Office of the Attorney General of Virginia has prepared a guide for localities interested in pursuing bailout. The guide is available on the GR/EB Secure Website under "Manuals."

GREBook 25 Redistricting

25.1 Introduction

This chapter outlines the duties and responsibilities of electoral boards and registrars in the redistricting process. Much of the material here can be found in greater detail in the Guide to Local Redistricting for 2001 published by the General Assembly's Division of Legislative Services. (When the guide for the 2011 redistricting is available, look for it on the same web page.)

Redistricting is conducted the year after every decennial census. It is a requirement of the U.S. Constitution, the Virginia Constitution, and the Code of Virginia. The purpose is simple: to ensure that all electoral districts in the state – from congressional districts to county supervisor districts – conform to the principle of "one person, one vote." Redistricting of congressional, House of Delegates, and State Senate districts is performed by the General Assembly. The relevant City Council or Board of Supervisors performs redistricting within cities and counties.

Electoral boards and registrars have virtually *no* rights nor responsibilities in regard to developing a redistricting plan. This duty falls to the local governing body. However, electoral boards and registrars have the lead responsibility in implementing such plans.

25.2 Developing a Redistricting Plan

While there is no legal responsibility to be involved in re-mapping district lines, electoral boards and registrars *should* involve themselves as much as possible in the redistricting process for two reasons:

1. Electoral boards and registrars are the ones who deal on a day-to-day basis with precinct and election district lines and therefore have first-hand knowledge of what lines need to be changed, and

2. Electoral boards and registrars are the ones that must implement the results, establish new polling places, and inform the voters of changes in their representation and their voting locations.

Be proactive if the locality has not contacted the electoral board or registrar's office about redistricting; ask the city or county manager or executive to be included in the planning process. In most localities, a committee will be formed to develop a redistricting calendar and to draw up a plan or plans for local redistricting. This committee will most likely include someone from the locality's planning department, legal officer (or a designee), and possible some interested members of the general public and representatives of civic groups. Some localities may establish two committees: a technical committee to work directly with the maps and numbers and a policy committee to provide guidance to the technical committee. Even if the locality declines to

appoint the general registrar and/or electoral board members to a redistricting committee, election officials should seek to have input heard during the planning and plan development phase.

The final adoption of any plan is clearly the responsibility of the local governing body, i.e. the board of supervisors or city council.

25.2.1 The Redistricting Calendar

Virginia's election calendar necessitates a more rapid, deadline-driven redistricting process than in most other states. This is due to the fact that House of Delegates elections, as well as many local elections, are held within eight months of the release of the census data that is needed to conduct redistricting. Every twenty years (1991, 2011, etc.), State Senate elections are also held in the fall immediately following redistricting. Virginia law requires that these general elections be held using the new district lines. (§ 24.2-304.1.) The only exception to this would be a court-ordered election under an old plan due to litigation over a new plan. Consequently, localities with elections in redistricting years (2001, 2011, etc.) must complete their work well in advance of the November general election.

Beginning with the 2011 redistricting, the VERIS system will keep two sets of election districts for each voter until the next general election for that office is held. In November 2004, a Constitutional Amendment was ratified requiring that vacancies for the House of Representatives, House of Delegates, and State Senate be filled from the district that elected the member whose vacancy is being filled. (Art. II, § 6.) (The Code has not yet been updated to reflect this change.)

Below is a general calendar covering the major milestones in the redistricting year. This calendar is targeted at those localities with local elections in November of the redistricting year. If your locality does *not* have elections in November, then there is more time to complete each milestone, but the plan still must be adopted by the end of the year.

December – March	Locality develops plans for redistricting process.
End of March	Census Bureau issues population statistics necessary for process
End of April	Locality proposes redistricting plan.
May	Proposed plan is advertised, public hearings are held, and final plan is adopted.
End of May	Plan is submitted to U.S. Department of Justice for approval.
July	Plan is approved by U.S. Department of Justice.
July – August	Registrar identifies voters affected by new district/precinct lines.

August – September Registrar notifies all affected voters.

Each of these milestones and their requirements are discussed below.

25.2.2 Planning for Redistricting

Don't wait for the numbers to arrive. There is much to be done before they come.

Review your registrar/electoral board budget. Election officials will need to inform their locality of the projected costs to be incurred during the process. The Code authorizes localities to pay any additional costs associated with redistricting. (§ 24.2-304.2) Until a redistricting ordinance is adopted, exact costs will not be known, rough estimates will be needed. There are four major items to consider:

- **Mailing Costs**
  Registrars must mail a notice to each voter affected by redistricting (including those affected by state redistricting plans) at least 15 days before the next election affected by the redistricting (§ 24.2-306).
- **Machine Costs**
  If new precincts are anticipated, then project how many voting machines will need to be purchased to properly equip these precincts.
- **Officers of Election**
  If new precincts are anticipated, then estimate the number of additional election officials needed to staff them.
- **Staff Costs**
  If it appears that temporary staff is required to assist with identifying and notifying voters affected by redistricting, then include such additional staff in the budget request.

Other important steps may include:

- Collect and organize documentation that may be needed to support and defend the locality's plan. These may include election returns history as well as a history of any changes in polling places, precincts, and election district boundaries since the last redistricting.
- Review the current precinct boundaries and polling place locations. What boundaries should change to increase voters' accessibility to polling places? What polling places are inadequate in size and layout, and where are alternative locations that would be better suited for voting?
- Review census maps. Are the precinct boundaries properly represented on existing maps? Are there boundary lines that are not observable and therefore not on the census maps? If so, consider changing these boundary lines.
- Review any in-house population projections or estimates that have been made by the local governing body or its planning department. These may provide indications of which districts need to gain and lose population.
- Develop an in-house redistricting calendar. Determine when each milestone in the planning and implementation process must be completed and use this calendar to plan staffing needs for the office.

ⓘ **Census maps.** Before each census, the Bureau of the Census produces and sends to each locality a set of highly detailed maps that show every "block" in your locality. A **block** is defined as any area, no matter how small, that is completely bounded by clearly observable features. Observable features include streets, roads, rivers, power lines, railroad tracks, mountain ridgelines, etc. In an urban area, a block will most likely be a normal city block. In a rural area, it may be farmland or forest covering several square miles. Starting from the block level, these maps will also show increasingly larger areas in the following order:

- Block groups
- Census tracts
- Voting districts or "VTDs" (precincts)
- Minor civil divisions (election or magisterial districts)
- The county or city

These maps are developed by the Bureau of the Census in conjunction with the Division of Legislative Services, your local planning department, and the registrar's office. The maps will be produced in both paper and electronic format.

When the population numbers arrive, they will be broken down to the block level and also aggregated to each of the geographical areas listed above. The numbers also will be available in both paper and electronic format.

25.2.3 Real vs. Adjusted Precincts

Precinct boundaries *should* follow block boundary lines, because the Code requires precinct lines to follow clearly observable boundaries. (§ 24.2-305.) In many cases, they don't. Where a precinct line does not follow a clearly observable geographical feature, the Census Bureau is unable to draw the true precinct boundary line on the maps. In these cases, the line drawers must "move" the precinct line to the block boundary that is nearest to the real precinct line. When this is done, the resulting precincts are called **adjusted** (or "pseudo") precincts. (In 2001, approximately 32 percent of Virginia's precincts were shown as adjusted precincts on the census maps.) In a few cases, there are simply no nearby block boundaries to be used. In these cases, the line drawer may join two precincts together as a **combined** precinct.

Adjusted or combined precincts present problems for redistricting. Where they occur, the census numbers will reflect the population of the adjusted or combined precinct and not the real precinct. As a result, persons redistricting must estimate as closely as possible the population of each real block and precinct in order to get a picture of the locality's population according to the current precinct/district lines. To solve this problem, and to prevent it from happening in the next redistricting, *the redistricting committee should make every effort to establish precinct lines that follow clearly observable boundaries,* as the Code requires.

25.2.4 When the Numbers Arrive

As soon as the Census Bureau develops the numbers, the local governing body will receive population statistics broken down by age (total vs. voting age), race, and Hispanic ethnicity for

each block in the locality. The technical work of developing a redistricting plan must begin immediately.

1. **Determine The Ideal District Size**
   In localities that elect city councilors or members of the board of supervisors (and, in some cases, school board members) by district, the ideal district size is determined by dividing the total locality population by the number of districts. In this, as in *all* calculations, use the total population, not the voting age population.

2. **Determine The Maximum Allowable Deviation From Ideal**
   The primary goal of redistricting is to create substantial population equality among districts. Defining "substantial equality" is an issue that has been addressed in numerous court cases over the years. Courts tend to use a different definition for congressional districts than they do for local districts. For localities, historical usage and case law have established, as a general principle, a maximum allowable deviation from ideal size of + or – 5 percent.

   If your locality is composed totally of single-member districts, multiply the ideal size (determined in Step 1) by .95 and again by 1.05. The resulting figures represent the largest and smallest sizes for new districts that you should consider acceptable.

   If your locality uses multi-member districts or a mix of single-member districts and at-large seats, then there are more complex calculations needed to determine maximum allowable deviation. For a full discussion of these and other aspects of this topic, please refer to Chapter V of the *Guide to Local Redistricting for 2001*.

3. **Draw New District Lines**
   Now the real work begins. If your locality (or planning district) has purchased computer software that allows you to move election district boundary lines on a computer screen – and automatically recalculates district population totals based on the new boundaries you create – then the most tedious part of this job is already done for you. If not, then you will have to establish the "pencil-paper-and-post-it-note" system that works best for you to recalculate district population figures based on various boundary scenarios.

   There are several principles of redistricting that you should observe as you move boundary lines. These principles may come from the Constitution, the Code, case law, or common sense.

   - Districts should be nearly equal in population size (Constitution of Virginia, Article VII, § 5)
   - Districts should be composed of contiguous and compact territory. (Art. VII, §5) This means that a district cannot be composed of two or more unconnected pieces of land and that it should, to the extent possible, represent one land mass and not look like an octopus or salamander.

- Local election district lines may not split precincts. (§ 24.2-307) If a new election district line runs through an existing precinct, new precinct lines must be drawn.
- Where possible, "communities of interest" should be preserved. This means that villages and other "communities," even though they may not be legally recognized political subdivisions, should not be split between election districts.
- Where possible, preserve the basic shape of existing election districts. The fewer changes you make, the fewer voters you must notify about changes in their representation and polling place, and the fewer confused voters you will have to face on election day. However, if your locality has experienced fast but uneven growth, or your local governing body decides to change the number of districts, then this principle will be difficult to meet.
- Incumbency should be protected where feasible. This means that you should try to avoid redistricting an officeholder out of the district from which he is elected or into a district where another officeholder resides. While this principle may seem based on politics and be in conflict with other redistricting principles, it *has* been established in case law.
- Voter convenience and effective administration of elections should be considered. The effect of new district boundaries on precinct size and polling place availability should be taken into account.
- The effect of any changes on the voting rights of minority groups, as outlined in the federal Voting Rights Act, must be taken into account. Issues and case law regarding this factor are discussed in detail in the *Guide to Local Redistricting in 2001*.

4. Draw New Precinct Lines

The creation of new district boundaries requires the creation of new precinct boundaries. Even where a district boundary hasn't changed, you may wish to move a precinct boundary or create a new precinct to enhance voter accessibility or to use a new and better polling place location.

Unlike election districts, precincts do not have to be equal in population size. A precinct can be of any population size and shape, as long as it is within these legal bounds (§§ 24.2-307 - 24.2-309):

- You cannot create a precinct with more than 5,000 active registered voters.
- You cannot create a *county* precinct with less than 100 active registered voters.
- You cannot create a *city* precinct with less than 500 active registered voters.
- The above requirements regarding minimum size can be waived if a larger precinct cannot be created in which all voters are voting the same ballot.
- A precinct must be completely within one local election district.
- A town can have only one precinct unless the town council, by ordinance, establishes more than one precinct.

The primary criteria for establishing a precinct are: (1) that the precinct polling place is easily accessible to those who will be voting there, (2) that the precinct population size is neither too large nor too small for efficient election day staffing and administration, (3) that expected growth will not put a precinct over the maximum size in the foreseeable future, (4) that, where possible, communities of interest are not split among multiple precincts, and (5) that precinct boundaries, like election

district boundaries, follow clearly observable boundaries. These criteria are discussed briefly below:

- **Geographic Size And Accessibility**
  There are no rules or standards regarding the maximum time it should take a voter in a given precinct to travel to his polling place. Obviously, this will vary according to the overall size and urban/rural character of the locality. In general, a voter should not be expected to spend more than 20 minutes, under normal traffic and weather conditions, driving to his polling place.
- **Population Size And Efficiency**
  Again, there are no standards suggesting an optimum population size for a precinct. Extremely small precincts (100 to 200 registered voters) usually are not cost efficient, since they require three officers of election at all times on election day as well as the purchase, programming, and in many cases, transportation, of voting machines. Extremely large precincts (4,000 to 5,000 registered voters) often suffer from election day parking problems, long lines during peak voting periods, and difficulty with recruiting and keeping sufficient officers of election to staff them. As of the November 2000 general election, the average size for a Virginia precinct was about 1,800 active registered voters. Many Virginia election authorities consider 1,500 to 2,500 registered voters to be the optimum precinct size range.
- **Keeping Communities Together**
  While often unavoidable, it is best not to use streets or roads that run through cohesive neighborhoods or rural villages. Putting close neighbors in different precincts causes them confusion and consternation. For this reason, rivers, railroad tracks, and interstate highways often make the best precinct boundary lines.
- **Following Clearly Observable Boundaries**
  This is the law (§ 24.2-305) as well as good practice. Using clearly observable boundaries facilitates identification of voters affected by redistricting. It is also necessary for drawing correct census maps and accurately determining precinct populations. (See the discussion above on **Real vs. Adjusted Precincts.**)

5. Determine New Polling Places.

Each new or redrawn precinct must have one, and only one, polling place. (§ 24.2-307) Where possible, a polling place should be in a location that provides maximum accessibility for all the voters in the precinct. Ideally, 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.

Polling places must be accessible to persons with disabilities. (§ 24.2-310) This requirement is discussed in depth in Chapter 8, Accessibility.

Where an ideal building and location do not exist, you must balance the need for maximum accessibility with the need for a structure of adequate size and design to accommodate Election Day voter traffic. In some cases, the best location may be outside the boundaries of the precinct. The Code (§ 24.2-310) allows several exceptions to the principle of establishing a polling place within the precinct it serves:

- A polling place may be located within one mile of the precinct it serves (but it must be within the locality).
- A town polling place may be within one mile of the town precinct it serves (but still within the county)
- A county polling place may be within a city, as long as the city is completely surrounded by the county election district served by the polling place.
- More than one polling place may be in the same building, as long as each polling place is in a separate room or defined area.
- If a precinct that is smaller than the normal size requirement is established (in order to allow all voters in it to vote the same ballot), then the polling place must be within one mile of the precinct boundary. (§ 24.2-309)

25.2.5 Adopting a Redistricting Plan

While registrars and electoral board members do not have legally mandated duties in the plan adoption process, you should be prepared to be involved in and monitor every step of the process.

1. **Publicizing The Proposed Plan**
   Notices of proposed changes in election districts, precincts, and polling places must be published in a newspaper of general circulation once a week for two successive weeks. If the notice itself does not describe or display the changes proposed, then it must state where maps and descriptions showing the changes may be inspected. (§ 24.2-306)
2. **Adopting The Ordinance**
   The local governing body must adopt by ordinance any change in election districts, precincts, and polling places. The ordinance cannot be adopted within 60 days of any general election. (§§ 24.2-304.1 - 24.2-309.1) An ordinance cannot be adopted until a public hearing on the proposed changes is held.
   What should be the effective date of the redistricting ordinance? For recent redistrictings, the state has frozen precinct lines for a temporary period, and then specified when they could be unfrozen. *District* changes become effective on the date they are adopted. (§ 24.2-311) Since most ordinances adopt district and precinct lines at the same time, it is unclear which effective date should be used. One option is to adopt two separate ordinances – one for election districts and one for precincts.
3. **Submitting The Proposed Changes For Pre-Clearance**
   Most Virginia cities and counties are required by the federal Voting Rights Act to pre-clear any polling place, precinct, or district changes with the U.S. Department of Justice or the District Court of the District of Columbia. (See Chapter 24.)
   The chief legal officer of your locality should make submissions under Section 5. However, you should be prepared to assist the chief legal officer in preparing this submission by providing maps, voter registration figures by precinct, population figures and other demographics of both new and old precincts, returns from past elections, and any other information that is appropriate for inclusion in the submission. For this reason, you should be familiar with the various submission requirements. (28 CFR Part 51.)
   The Department of Justice has 60 days from the date of receipt of your plan to object to any changes or to request additional information. It is important to ensure that the

original submission is as complete as possible because any request for additional information restarts the 60-day clock.

4. **Submit Changes To Other Authorities**
   The clerk of the local governing body is required to provide copies of the redistricting plan to the local electoral board, the SBE and the Division of Legislative Services (§ 24.2-306). Copies should be sent as soon as the plan has been adopted by the governing body. Notification should also be sent when pre-clearance is received. If the SBE does not receive a copy of the plan after an ordinance has been passed, contact the office of the city or county clerk.
   The Code of Virginia provides that local elections are to be rescheduled if pre-clearance is not received at least 30 days prior to the general election, and provides the procedures for the rescheduled election (§ 24.2-313).

25.2.6 Timing: State and Local Redistricting

The timing of local redistricting efforts is affected by the timing of the General Assembly's redistricting and reapportionment efforts. Localities that have local elections in November will be conducting redistricting at the same time as the General Assembly and risk having split precincts. (See Chapter 14.) State legislative and congressional redistricting plans are held to a stricter standard for creating districts of equal population than the local standard. As a result, the General Assembly often must adopt legislative district boundaries that run through localities on "clearly observable features" that have never been used as precinct boundary lines. In other situations, the General Assembly may adopt a pre-existing precinct boundary line at the same time that the locality is abandoning or moving that line.

There is no easy solution to this problem, but following some simple guidelines may help:

- Localities that have local elections in November will be conducting redistricting at the same time as the General Assembly. Inform the Division of Legislative Services of any new boundary lines as soon as possible.
- Keep abreast of any General Assembly-proposed boundary lines. If time permits, localities that have not already adopted their ordinance may be able to use such lines in their own plan.
- Localities that do not have local elections in November should wait until the General Assembly completes its House of Delegates redistricting before completing their local redistricting.
- If split precincts occur, do not despair. You may be able to "fix" these precincts the next year. The Code provides guidelines for making post-redistricting precinct adjustments. (§ 24.2-304.1)

Reapportionment can affect when a locality does draws their local lines. During reapportionment, all or part of a locality may find itself in a new State Senate or congressional district. If so, the records of affected voters must be changed and the voters informed of the changes. (See below.) Localities should avoid sending two separate mailings to affected voters – one based on local and/or House of Delegates changes and one based on State Senate and/or congressional district changes. Two mailings will increase the postage costs and confuse many voters. If the State Senate and congressional redistricting is conducted (and pre-cleared) during the summer, voter notifications should be delayed until all redistricting is complete. Monitoring developments in the General Assembly's redistricting calendar will help localities to determine

whether it will complete its work in time all voter record changes and notifications to be made at the same time.

25.2.7 Implementing Your Redistricting Plan

Plan implementation is the responsibility of the general registrar and electoral board. Several steps must be taken by both registrar and board before the next election.

25.2.7.1 Duties of the General Registrar:

- Identify Affected Voters

  The registrar and staff should, as soon as feasible after adoption of a redistricting plan, begin identifying voters whose polling place, precinct, election district, or legislative district will change. Depending on the size of the job, you may wish to begin this work before pre-clearance has been received.

- Change the Records of all Affected Voters

  The VERIS includes a redistricting database to assist in changing the records of affected voters. The general registrar should consult VERIS documentation and the SBE directives on the use of the redistricting database. Before any redistricting transactions can be performed in the VERIS, a request to be loaded into the redistricting database must be submitted to SBE. Work sheets for recording all necessary changes can also be requested.

  The redistricting database, in the VERIS, provides the locality with the ability to begin entering redistricting changes prior to actually receiving approval from the Department of Justice. However, the redistricting changes are not moved to the VERIS production database until all data entry is complete, redistricting plans are approved and any pending court suits have been resolved.

  The general registrar must change each affected street file segment (streeted localities) or each voter's record (non-streeted) to reflect new districts, precincts, and/or polling places. Block change programs are used when records all the registrants in one locality, district, or precinct are being changed from one specific district or precinct to another specific district or precinct. A block change transaction can only be performed by SBE. Block changes greatly reduce the number of transactions that must be entered. All changes entered into the redistricting database generate reports. These reports should be checked carefully against maps and legal descriptions.

  The redistricting database and the production database are not connected during data entry. For streeted localities, in order for the information to transfer properly all street names, directions and other information must perfectly match. Therefore, it is critical that once the street file is loaded into the redistricting database, all new street additions, changes or deletions made in the production database must also be made in the redistricting database.

  Once all data entry is complete, court cases have been resolved and approval has been received from DOJ, request the SBE to move all records within the redistricting database

to the production database, replacing the current records in that database. At that time, all voter records that do not match the new database, either because street changes were not made in both databases or data entry errors were made will be reported on an **Exceptions Report**. This report requires corrective action to be taken.

- Notify Affected Voters

  After all exceptions have been corrected in the production database, notices must be mailed to all affected voters (§24.2-306). New voter cards or mailing labels may be requested by completing and submitting the Reprecincting/Redistricting Voter Card Request Form for each registrant whose precinct, district or polling place has changed. Notification must be made at least 15 days before the next general, primary, or special election.

  The affected voters will be printed on the "Errors and Valid Transaction" report. Changing the information on all affected voters' application forms is a much more difficult and laborious process. When the number of affected voters runs into the thousands, as is often the case, the task of locating, pulling, changing, and refiling affected application forms can take up significant staff time. Noting redistricting information on application forms is optional.

25.2.7.2 Duties of the Electoral Board:

- Purchase New Voting Equipment Where Needed

  As soon as the registrar has determined or estimated the number of voters in each newly created or redrawn precinct, the electoral board must determine whether and where new voting machines will be needed. If new machines are needed, the electoral board should immediately order machines from the vendor and notify the SBE of the number of new machines it intends to purchase.

- Reassign and Add Officers Of Election Where Needed

  Changes in the number and/or size of precincts will necessitate changes in the distribution of officers of election. The electoral board must (1) re-assign officers of election that have been affected by re-districting to their new precincts, (2) determine the total number of officers needed in each precinct, and (3) if necessary, appoint new officers to those precincts where additional officers are needed.

- Publicize Changes

  Sending new voter cards is rarely sufficient to ensure public awareness of changes in polling places and district and precinct boundaries. To minimize election day confusion, the electoral board should make every effort to promote and publicize these changes to the affected public. Consider these options and choose the ones best suited to local circumstances:

  - Ask local media outlets to run stories on redistricting changes. These are usually more effective if run close to election day.
  - Get your local governing body to pay for notices in local print media.

- Write letters to the editor reminding the public of the changes.
- Just before election day, put notices and maps on the doors of any abandoned polling places that direct voters to their new polling places. Such maps and notices are also helpful at polling places that have been retained but serve a precinct with redrawn boundaries.
- Where a polling place has been retained – but significant numbers of voters have been switched to a different polling place – station an officer of election at the front door on election day to check that voters have come to the right place.

25.2.8 Other Times to Redistrict

In addition to redistricting required after every decennial census, counties, cities, and towns must go through the redistricting process if:

- there is a change in the county, city, or town boundary that results in a population increase or decrease of more than one percent;
- a court has ordered a redistricting;
- there is a change in the form of government; or
- the number of districts or wards has been changed. (§ 24.2-304.1)

26 The Virginia Freedom of Information Act (FOIA)

26.1 General Provisions

The Virginia Freedom of Information Act (FOIA) was first enacted in 1968 to ensure the public's access to state and local government meetings and records that are not specifically allowed by FOIA to be closed or withheld. Similarly, access to federal government records is controlled through the federal Freedom of Information Act. FOIA does not direct that any meeting or records covered by its provisions be closed or withheld. It simply allows them to be. The choice on whether to exercise the exemptions under FOIA is the public body's or the record custodian's.

Other laws may specifically direct that particular information be withheld. For example, there are provisions in Title 24.2 directing that social security numbers be closed from public inspection. Certain provisions of Title 24.2 regulate public access to particular election records. The provisions of Title 24.2 regarding voter registration and election records control whenever Title 24.2 and FOIA are in conflict. (See § 2.2-3703.) If Title 24.2 is silent on access to a particular record, FOIA controls. However, there is no similar provision in the laws on meetings. Therefore, FOIA must always be followed for meetings of the State Board and Electoral Boards, or any subcommittee or study committee formed to advise those boards unless the group consists entirely of board or agency staff members.

The FOIA was rewritten and clarified in 1999, following a two-year study in which many of the affected communities actively participated. It was then recodified effective October 1, 2001 when Title 2.1 on the general administration of government became Title 2.2. The various exemptions for records were categorized and reenacted in 2004, to make them easier to find.

The Virginia Freedom of Information Advisory Council was created in 2000 to conduct training and provide advisory opinions and guidelines on FOIA. The council has established phone numbers for those who have questions about the Act -- (804) 225-3056, or toll-free 1-866-448-4100. The council's website, at http://dls.state.va.us/foiacouncil.htm, provides a valuable resource on the administration of the FOIA and news on upcoming training opportunities.

26.1.1 Duty Of Public Officials To Read And Be Familiar With FOIA

Section 2.2-3702 requires all members of the Electoral Board, the General Registrar, and ALL employees of the registrar's and electoral board's offices are familiar with how FOIA affects them. All individuals should be aware that FOIA not only covers written documents, but also electronic documents (including e-mail). Care must be taken to not destroy "records" (including electronic records) that concern the transaction of public business except as directed by the appropriate retention schedules.

For purposes of FOIA, the general registrar should be considered the "public body's administrator" unless the electoral board has it's own administrative staff. Therefore, within two

weeks of any board member's appointment or reappointment, the general registrar (or the EB staff) should provide the member with a copy of the current Virginia Freedom of Information Act.

Supply the current FOIA regulations to each electoral board member appointed or reappointed, and for new members of your staff or the electoral board's staff.

ⓘ SBE previously printed FOIA along with some of the other acts supplemental to the election laws. Any such publications that you have are outdated and should not be used. Because the entire state Code is now available for free on the internet, this secondary publication is no longer published by SBE.

26.1.2 What entities are covered under FOIA?

The 3-member SBE and the 134 3-member electoral boards are "public bodies" under FOIA. All of their meetings are covered under FOIA. Records in the possession of the secretary and staff of the SBE, the staffs of the electoral boards, and the general registrars and their staffs are also covered by the FOIA records provisions unless access to particular records is controlled by specific provisions of Title 24.2 that conflict with FOIA.

26.1.3 Presumption of Openness

Unless a public body or its officers or employees specifically elects to exercise an exemption provided by this chapter or any other statute, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked. (§ 2.2-3700.)

26.1.4 Exemptions must be narrowly construed

The provisions of this chapter shall 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. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law. (§ 2.2-3700.)

26.1.5 Attempt To Reach Agreement with the Requestor

FOIA shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Commonwealth. All public bodies and public officials shall make reasonable efforts to reach an agreement with a requester concerning the production of the records requested. (§ 2.2-3700.)

26.1.6 Enforcement

In any action to enforce the provisions of this chapter [FOIA], the public body shall bear the burden of proof to establish an exemption by a preponderance of the evidence. Any failure by a public body to follow the procedures established by this chapter shall be presumed to be a violation of this chapter. (§ 2.2-3713.)

26.1.7 Penalties

In a proceeding commenced against members of public bodies [under FOIA]… the court, if it finds that a violation was willfully and knowingly made, shall impose upon such member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than $250 nor more than $1,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than $1000 nor more than $2,500. (§ 2.2-3714.)

Electoral board members, registrars and their staffs should be aware that this applies to each person individually, and that a minimum $250 fine may be applied for "willful" violations of FOIA requirements. While a judge may consider circumstances in his decision, it's best to avoid that possibility if at all possible.

26.2 Electoral Board Meetings and Minutes

26.2.1 What Constitutes a "Meeting" Under FOIA?

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. The gathering of employees of a public body shall not be deemed a meeting subject to the provisions of this chapter. (§ 2.2-3701.)

Electoral Board members should note this provision with care, as a quorum of the board is two members! The "social exemption" described below may cover many occasions when of two or more Electoral Board members are present (for example, traveling together), but no public business is being conducted. Here again, do not discuss board matters outside of a "meeting." It is best to avoid even the appearance that any public business has been discussed outside of the board's public meetings.

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, shall not constitute a meeting provided that no discussion or deliberation takes place that would otherwise constitute a meeting. (§ 24.2-107.)

ⓘ It should only be used to carry out the specified task.

26.2.2 The Social Exception…

Nothing in this chapter shall be construed to prohibit the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to

hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting. (§ 2.2-3707.)

26.2.3 Open Meeting Presumption

All meetings of public bodies shall be open, except as provided in §2.2-3711. (§ 2.2-3707.) "Open meeting" or "public meeting" means a meeting at which the public may be present. (§ 2.2-3701.)

26.2.4 No Electronic Meetings for Electoral Boards

No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business. (§ 2.2-3707.) Specific exceptions to the electronic meetings prohibition are provided for state public bodies, the UVA Board of Visitors, and certain licensing proceedings. None of these exceptions apply to local Electoral Boards.

The prohibition on local boards holding electronic meetings must be considered whenever electoral board members are on the phone or on e-mail, as two members comprise a quorum. Members should refrain from discussing public business using the phone.

Virginia Freedom of Information Advisory Opinion 19 (2004) advises that two members of a three-member electoral board may communicate using e-mail without violating FOIA so long as it is not simultaneous communication that would comprise a meeting for FOIA purposes (i.e. acts more like a letter, than a phone call). Since such e-mails are public records, the opinion also recommends a system where all e-mails are copied to the registrar and kept on file for public inspection. If the electoral board has its own staff, they could be copied to that person for public inspection.

26.2.5 Electronic Means May Be Used to Increase Public Participation

Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation. (§ 2.2-3708.)

26.2.6 Public Notice Requirements

The electoral board of each city and county shall meet during the first week in February and during the month of March each year at the time set by the board and at any other time on the call of any board member. Two members shall constitute a quorum. Notice of each meeting shall be given to all board members either by the secretary or the member calling the meeting at least three business days prior to the meeting except in the case of an emergency as defined in § 2.2-3701. Notice shall be given to the public as required by § 2.2-3707. All meetings shall be conducted in accordance with the requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) unless otherwise provided by this section. (§ 24.2-107.)

Notwithstanding the public notice requirements of § 2.2-3707, two or more members of an electoral board may meet on election day to discuss a matter concerning that day's election, where such matter requires resolution on that day, and an effort has been made by all available means to give notice of the meeting to all board members. § 24.2-107

Every public body shall give notice of the date, time, and location of its meetings by placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case of a public body which has no clerk, in the office of the chief administrator. Publication of meeting notices by electronic means shall be encouraged. The notice shall be posted at least three working days prior to the meeting. (§ 2.2-3707.)

Notice, reasonable under the circumstance, of special or emergency meetings shall be given contemporaneously with the notice provided members of the public body conducting the meeting. (§ 24.2-3707.)

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action. (§ 2.2-3701.)

All public bodies are required to give at least three days' notice of meetings. In the case of an "emergency" as defined in § 2.2-3701, a meeting may be held on less notice provided that notice is given to the public at the same time that notice is provided to the members.
A meeting by the electoral board on election day to solve a problem which needs immediate attention is a public meeting, and the public cannot be excluded (if any public is present). However, such meetings are exempt from the notice requirement. They are, however, still "meetings," and minutes must be kept.
The public notice must be posted it in a public area at the registrar or electoral board's office. It must also be posted it in another prominent public location where meeting notices are normally posted. For example, a copy may be provided to the city clerk or county administrator's office to be posted on the public bulletin board there. It is not necessary to post notice at the Clerk of Court's office, unless you wish to use that as "a prominent public location." If the locality maintains an electronic bulletin board for meeting notices, it also fulfills this requirement.

26.2.7 Maintain Annual Notification List

While you are allowed to require those requesting notice to annually file a written request, as a practical matter you will probably maintain an ongoing list for meeting notifications, with most persons receiving notice (inexpensively and quickly) by e-mail. You may also want to include any reporters or news outlets covering elections in your jurisdiction on your notification list. (That's public relations, not law.)

26.2.8 Agenda Packets Are Open

At least one copy of all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. (§ 2.2-3707.)

26.2.9 Spectators May Film or Record Meeting

Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings. (§ 2.2-3707.)

26.2.10 Minutes Are Required

Because the electoral board's minutes must be available for inspection by registered voters (as defined in § 24.2-101) in either the general registrar's office or the board's office, the secretary should promptly prepare and deliver the draft minutes to that office after each meeting. Once finalized and adopted by the board (preferably at its next meeting), the final minutes should then be promptly filed with that same office. If the board or the registrar have their own website, the draft and final minutes may also be posted there. The 2002 General Assembly enacted legislation requiring all state boards to post their minutes on the Internet. While this requirement does not currently extend to local boards, the policy preference for prompt and easily accessible minutes has now been established. (§ 24.2-107.)

26.2.11 Officer of Election Lists

Section 24.2-115 requires the secretary to prepare "a list of the officers of election which shall be made available for inspection and posted in the general registrar's office prior to March 1 of each year. Whenever substitute or additional officers are appointed, the secretary shall promptly add the names of the appointees to the public list." What information should be on this list? Since each officer is appointed to represent a particular party, and serve a particular precinct, SBE recommends that the list include:

- The officer's full name;
- The precinct the officer has been appointed to serve (recognizing that this may change before election day);
- The party the officer is representing (if any); and
- An indication of which officers have been appointed chiefs and assistant chiefs.

The list for public inspection does not need to include the officers' residence or mailing addresses, phone numbers or other personal or professional information, and it must not include any Social Security Numbers. Obviously this is information that the electoral board and registrar will need to have in order to contact the officers and pay them, but it need not be on the public list. Likewise, the list included with the electoral board's minutes does not need to include this additional personal and administrative information.

ⓘ While the electoral board's records generally are open to inspection by registered voters, the list of officers of election may be inspected by anyone.

26.2.12 Votes Must Be In Open Meetings

Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter. No public body shall vote by secret or written ballot, and unless expressly provided by this chapter, no public body shall vote by telephone or other electronic communication means. (§ 2.2-3710.)

26.2.13 Polling the Members

Because Electoral Boards only consist of three members, such "polling" cannot be done by the members, as that would constitute a "meeting" under FOIA. If done by telephone or simultaneous e-mail between members, it would also constitute an illegal electronic meeting. A common use of polling is for the registrar or a staff member to contact each of the board members to determine when they are available to meet, prior to the secretary issuing the notice for a board meeting. (§ 2.2-3710.)

26.3 Closed Meetings

26.3.1 Closed Meetings Permitted For Strictly Limited Purposes

Public bodies may hold closed meetings only for strictly limited purposes, enumerated in § 2.2-3711. Below are the only purposes, of the current 29, that the SBE or electoral boards are likely to ever need.

ⓘ FOIA does not require that these discussions be held in closed meetings. The board members will need to decide if a closed meeting is warranted, if allowed.

Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body. …
4. The protection of the privacy of individuals in personal matters not related to public business. …
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation which has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter. ...
15. Discussion or consideration of medical and mental records excluded from this chapter pursuant to subdivision A 5 of § 2.2-3705. …
20. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety.

26.3.2 Votes Must Be In Open Meeting

No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract,

regulation or motion which shall have its substance reasonably identified in the open meeting. (§ 2.2-3711.)
Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election. (§ 2.2-3711.)

26.3.3 Conferences presumed open

Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body. (§ 2.2-3711.)

26.3.4 Motion to close meeting

Any closed meeting must be "surrounded" by an open meeting. (§ 2.2-3712.) The open meeting must be convened, with proper public notice (unless the interview exception below applies), prior to the motion being made to close the meeting. The motion must identify the subject matter, purpose, and applicable exemption for discussing that subject in a closed meeting. But the motion shouldn't "give away the store." You may state the subject generally. If too much detail is given in the motion, there is no need to close the discussion of that issue. For sample motion, click here.

26.3.5 Closed interviews permitted

The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within fifteen days thereafter. (§ 2.2-3712.)

26.3.6 Discussion restricted to exempted matters covered by the motion

The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by above. (§ 2.2-3712.)
Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by §2.2-3707. (§ 2.2-3712.)

26.3.7 Certification of closed meeting

At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of subdivisions (i) and (ii), shall so state prior to the vote, indicating the substance

of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body. (§ 2.2-3712.)
At the end of the closed meeting, the board must immediately reconvene the open meeting. The board should send someone outside to tell anyone waiting to attend the open meeting that the meeting is reconvening. The public should be given sufficient time to reenter the room before the board proceeds to certify the closed meeting and proceed with any other business. Any agreement made, or votes taken in the closed meeting are invalid unless they are taken again in the public meeting, with their "substance reasonably identified." (§ 2.2-3711.)

26.3.8 Nonmembers May Attend Closed Meeting

A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic which is a subject of the meeting. (§ 2.2-3712.) It is recommended that permission for such nonmembers to remain in the room during the closed meeting be stated in the motion to close the meeting.

26.3.9 Voting Equipment and Election Security Plans

Meetings and records pertaining to voting equipment and election security may be closed. (§ 24.2-625.1.)

26.4 Records

26.4.1 Definition of a "Public Record" Under FOIA

Public records include everything you create, own, or possess in the course of your appointment, employment, or public duties. It does not include any personal materials incidental to your job. It does not include any record which has not yet been created, or which is no longer in your possession in some form. It also does not require you to create a record that does not exist at the time of the request, though this may be the easiest and quickest way to respond to some requests. (§ 2.2-3701.)

FOIA deals with records, not information, but that can be a fine distinction.

For example, if a requestor asks for the number of registered voters in a certain precinct, that information is easily available to you. It may be on VERIS or in a report. It's probably easier to provide the information than to tell the requestor that he needs to ask for the particular report that contains it. But, if he asks for the history of voter registration and turnout in that precinct during the last 50 years, it's probably easier for both of you if you let him know what records you have (or don't have) and how that information is kept in your office, and give him the choice of coming in to look at it (if he's local) or providing the copies at his cost.

Many FOIA requests that look intimidating on their face can be narrowed to a reasonable volume if you work with the requestor to determine what he really wants, and let him know what you

have that meets his needs. The requestor may think you can "push a button" and produce a single page with everything he has requested, and will be overwhelmed when you instead produce an enormous stack of copies and a bill to match.

FOIA is largely a matter of customer service. Most requestors won't know what report or document to request. They have an idea what they want to find. Saying, "We don't have it" when you do have something else available that will meet their identified needs, is bad customer service. To the degree that you can work with them to refine their request to the material they actually need to find the information they want, you will save your time, and their time and money. And, you'll have a happier constituent.

26.4.2 FOIA and Title 24.2 Control Election and Registration Records

Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and FOIA. The provisions of Title 24.2 shall be controlling in the event of any conflict. (§ 2.2-3703.)

26.4.3 Public Records Are Generally Open to Virginians and News Media

FOIA requests for Virginia state and local records can be made only by Virginia residents or media representatives with a connection to Virginia. Requests from non-Virginians or media representatives with no connection to Virginia can be denied. However, these requests do not have to be denied unless access to that record is otherwise restricted (for example, registration records that are only open to inspection by Virginia-registered voters). (§ 2.2-3704.)
The request does not have to be in writing. If the request is made by mail, you'll have the requestor's name and address. If it is made in person, you may require the requestor to provide his name and legal address. If the request, name, and address are not provided in writing, you should write them down for your own information and protection. File the request (or your notes about the request) and a copy of your response (without the attachments, of course) with your office's correspondence files.

26.4.4 "Reasonable Specificity"

The request should include enough information for you to be able identify whether there are any records in your possession that meet the request. If there is any question in your mind, call the requestor and discuss the matter to refine the request and your response. Keep notes on these discussions and file them with the request in your correspondence file, in case there is ever any question about the request and your response. (§ 2.2-3704.)

For example, a requestor recently asked the State Board for "all the dead people on the books by locality" in Virginia. After discussing the matter with the requestor, he was provided with a copy of the most recent report showing the number of voters removed from the rolls as deceased, by locality, since the beginning of the year. We could have provided a literal response ("None, because they have been deleted if we knew they were dead"), which probably would have resulted in a second FOIA request, with different wording, and an aggravated citizen. We could have provided the counts for many years, using more of our time and increasing the charges, making assumptions about the breadth his request instead of discussing it with him.

The request for records need not make reference to FOIA to invoke the requirements of the Act. If it is from a qualified requestor (a Virginia citizen or reporter -- with both categories broadly interpreted), and is a request for a document, it should be considered a FOIA request. If it is a request for information, it may be treated as a FOIA request, particularly if you can readily identify documents in your possession which contain that information.
You may receive other requests or correspondence that are clearly not FOIA requests (for example, someone wants to know why the polling place was put in building A when they'd prefer building B, or wants the rationale for another decision of the Board or Registrar, or election law). You should respond appropriately to those requests, but the time limits and specified responses of FOIA do not apply.

26.4.5 Respond Promptly but Within Five Working Days

§ 2.2-3704 provides (in part):

> B. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, make one of the following responses:
> 1. The requested records will be provided to the requester.
> 2. The requested records will be entirely withheld because their release is prohibited by law or the custodian has exercised his discretion to withhold the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the volume and subject matter of withheld records, and (iii) cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.
> 3. The requested records will be provided in part and withheld in part because the release of part of the records is prohibited by law or the custodian has exercised his discretion to withhold a portion of the records in accordance with this chapter. Such response shall (i) be in writing, (ii) identify with reasonable particularity the subject matter of withheld portions, and (iii) cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records. When a portion of a requested record is withheld, the public body may delete or excise only that portion of the record to which an exemption applies and shall release the remainder of the record.
> 4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall be in writing and specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the three preceding responses.
> C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.
> D. Subject to the provisions of subsections G and J [concerning databases], no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

26.4.6 Charges

A public body or agency may make charges for personnel costs involved in FOIA requests (but not the fringe benefits for the personnel, or other overhead expenses). Personnel costs should be figured at a clerical rate, even if an employee at a higher rate fulfills the request. (The courts might see the use of the higher rate employee as an inappropriate inflation of the charges for the records.) You may charge for the time needed to access, find, copy, and mail/ship the documents, and for the actual cost of the copies and the mailing/shipping cost. You should set a schedule of copying charges to be followed by everyone in your office, based on the pay rate of the lowest paid employee who is capable of doing the task. For example, you may decide not to charge for any small requests (perhaps up to 5 or 10 pages), and then set a minimum and per page rate for pages over that amount. It's up to you, but all charges under FOIA must be based on your actual costs. (If you must reimburse another office of government for use of the copier, the actual cost is the rate you pay the other office.)
If costs incurred in granting a FOIA request are expected to be above $200, the requestor may be asked to pay in advance, and performing the request may be delayed until receipt of such monies. For requests under $200, you may not require the requestor to pay the charges before turning over the requested documents. If any requestor doesn't pay in a reasonable time, report the bill to the office that handles normal debt collection for your local government. (§ 2.2-3704.)

26.4.7 FOIA Exclusions for Records…Personnel, Medical Records, Legal Advice, etc.

Sections 2.2-3705.1 through 2.2-3705.7 currently include 92 separate FOIA records exclusions. These are records that may be withheld under FOIA, but may be provided at the option of the record custodian unless access is otherwise restricted by law. The following are the only exclusions which the SBE, an electoral board, or a general registrar will probably ever need to invoke.
§ 2.2-3705.1. Exclusions to application of chapter; exclusions of general application to public bodies.
The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.
2. Written advice of legal counsel to state, regional or local public bodies or the officers or employees of such public bodies, and any other records protected by the attorney-client privilege.
3. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting under § 2.2-3711.
4. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee

or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body. As used in this subdivision, "test or examination" shall include (a) any scoring key for any such test or examination and (b) any other document that would jeopardize the security of the test or examination. ...

5. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.2-3711. However, no record that is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

6. Vendor proprietary information software that may be in the official records of a public body. For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

7. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth. ...

9. Records concerning reserves established in specific claims administered by the Department of the Treasury through its Division of Risk Management as provided in Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of this title, or by any county, city, or town; and investigative notes, correspondence and information furnished in confidence with respect to an investigation of a claim or a potential claim against a public body's insurance policy or self-insurance plan. However, nothing in this subdivision shall prohibit the disclosure of information taken from inactive reports upon expiration of the period of limitations for the filing of a civil suit.

10. Personal information, as defined in § 2.2-3801, including electronic mail addresses, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record.

11. Communications and materials required to be kept confidential pursuant to § 2.2-4119 of the Virginia Administrative Dispute Resolution Act (§ 2.2-4115 et seq.).

12. Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract. In the case of procurement transactions conducted pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the provisions of this subdivision shall not apply, and any release of records relating to such transactions shall be governed by the Virginia Public Procurement Act.

§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: ...

3. Documentation or other 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. ...

6. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security of any governmental facility, building or structure or the safety of persons using such facility, building or structure. ...

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: ...

8. Records of the Virginia Office for Protection and Advocacy consisting of documentary evidence received or maintained by the Office or its agents in connection with specific complaints or investigations, and records of communications between employees and agents of the Office and its clients or prospective clients concerning specific complaints, investigations or cases. Upon the conclusion of an investigation of a complaint, this exclusion shall no longer apply, but the Office may not at any time release the identity of any complainant or person with mental illness, mental retardation, developmental disabilities or other disability, unless (i) such complainant or person or his legal representative consents in writing to such identification or (ii) such identification is required by court order.

9. Information furnished in confidence to the Department of Employment Dispute Resolution with respect to an investigation, consultation, or mediation under Chapter 10 (§ 2.2-1000 et seq.) of this title, and memoranda, correspondence and other records resulting from any such investigation, consultation or mediation. However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form that does not reveal the identity of the parties involved or other persons supplying information.

§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: 1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. ...

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: 1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03. ...

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exemptions.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law: ...

> 2. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly or the Division of Legislative Services; the 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. However, no record, which is otherwise open to inspection under this chapter, shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:
"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.
"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

26.4.8 No FOIA Rights for Inmates

No provision of this chapter [FOIA] shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§53.1-261 et seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution. (§ 2.2-3705.)

26.4.9 Criminal Information

Under § 2.2-3706, law-enforcement officials are required to make available upon request criminal incident information relating to felony offenses.

ⓘ Virginia has closed criminal records. Therefore, any information you receive regarding criminal records (§24.2-409) must be kept confidential. Refer requestors to the State Police. Information obtained through the VERIS on prohibited voters is not available through FOIA.

26.4.10 Registration and Absentee Records

Except for records relating to the declinations to register to vote or the identity of a voter registration agency through which a particular voter is registered, registration records shall be kept and preserved by the General Registrar and shall be opened to inspection by any registered voter at the office of the General Registrar when the office is open for business. The registration records shall be available for inspection by appointment, made by the General Registrar for any reasonable time requested. (§ 24.2-444.)
No voter registration record containing an individual's social security number shall be made available for inspection or copying by anyone. (§ 24.2-444.)

The State Board 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, addresses, date of birth, gender and all election districts applicable to each registered voter. (§ 24.2-444.)
There is a strict prohibition on inspecting or copying anyone's SSN from the registration or election records. If the SSN appears on a record or list open for inspection or copying, the number must be covered so it cannot be read, and the record copied before the copy can be made available. The original document containing the SSN cannot be made available.
Residence addresses of any law enforcement officer, person with a protective order or person who has been threatened or stalked, and who has elected to use a post office box as their public address for voter registration purposes, should likewise be covered when any registration record is copied for public inspection purposes.
Lists of absentee ballot applications and copies of the applications (for permanent and temporary registrants) are open "for inspection and copying by anyone" after the SSN has been removed. (§ 24.2-706.)
Under the election laws, there is a right to inspect registration records and lists (other than those containing Social Security Numbers). There is no explicit right to copy registration records or lists except as noted below.
The law requires the records to be open to inspection by any registered voter. For the definition of registered voter, see § 24.2-101. This means that these records may be inspected, in person, by any person currently listed on the state voter registration database. No person who is not a registered voter in Virginia may inspect the records, and no information on a registered voter or applicant may be given over the telephone, e-mail, fax or any other means to anyone other than another Virginia election official or the registration official of another state investigating possible dual registration or voting. If a voter calls asking for confirmation of his own registration status, absentee status, etc., you must ask for his information, and then may only confirm his listing from your records (as you have no way of knowing that he is indeed the voter in question). If you receive a request from another agency or official who is not authorized under Title 24.2 to receive voter lists or exchange information with your office, that request must be denied unless the requestor obtains a court order or subpoena for a copy of the record. Even then, you must cover the SSN when copying the record.

26.4.11 News Media

While FOIA grants inspection and copying rights to representatives of the news media, unless the reporter standing in your office is a registered voter in Virginia, he may not inspect or copy the voter registration lists under § 24.2-444. He can inspect and copy the absentee lists and applications, as those are open to "anyone," even non-Virginians, under § 24.2-706.

26.4.12 Persons Authorized to Receive/Use Lists

Sections 24.2-405 through 24.2-407.1 require SBE to furnish "at reasonable price" lists to certain authorized individuals and organizations (primarily candidates, incumbents and parties) for strictly limited purposes. Those sections specifically state: "The lists shall be furnished to no one else and used for no other purpose."
How do these permissions and limitations on lists interact with the requirements that certain lists be made available for "inspection," while those sections remain silent on "copying"? The answer is that only those who are authorized to be furnished the list of registered voters under § 24.2-405, or the list of those who voted under § 24.2-406 may make a copy of those lists in your

office. Before doing so, they must sign the oath required by § 24.2-407. The attachment at the end of this chapter provides the code sections applicable to voter lists, and a form for any authorized person making a copy of a registration list to sign. You should give a copy of the "Excerpts" page and the signed "Oath" page to the authorized person for his reference. You may also want to show the "Excerpts" page to any person who questions why he cannot copy, but only inspect, the registered voter list or the list of those who voted in your office. If he protests, have him call the policy office at SBE.

It is unlikely that any authorized person would want to copy a lengthy list of registered voters or those who voted, other than (perhaps) the most recent updates showing the new registrants. You may want to make sure that such authorized persons, who request to copy the list in your office, are made aware that the State Board offers these lists for sale in several formats, including an electronic format that eliminates the need to copy and then type the data.

26.4.13 If Title 24.2 is Silent on Access

If Title 24.2 is totally silent on public access to any other particular election or registration records (that is, Title 24.2 does not refer to inspection or copying in any way when discussing that record), then FOIA applies. Since there are no FOIA exemptions for election records outside of Title 24.2, these records (on which Title 24.2 is silent) are therefore open to inspection and copying once any SSNs have been removed. The deadlines in FOIA also apply if copies of those records are requested from your office

26.5 Retention Schedules

Electoral Boards and Registrars should remember that the definition of "public records" under FOIA potentially includes all election or job-related records, including e-mail that are in your possession. The Virginia Public Records Act directs the Library of Virginia to oversee the retention and disposition of public records created by or used by state and local governments. For more information on the Library's public records services, see the Library's website (under "what we do").

With this in mind, attention should be given to the retention schedules of records (as defined in the Library of Virginia retention and disposition schedules). After the retention period has passed, follow the appropriate archiving or destruction procedures. FOIA cannot require you to produce a record that no longer exists, or is no longer in your possession.

If records (other than those which require an original signature) are converted to another format (microfilm or electronic), the original records can be destroyed after the new images have been verified. The information in the new format then becomes the copy of record (also known as the record or master copy) and must be retained for the length of time specified on the retention schedule.

26.5.1 Preferred Methods of Disposition

The nature of the information in the records, as well as it's format, dictates the method by which they should be destroyed. Usually, disposition by recycling or daily waste pickup is appropriate. However, when records contain personal, private or confidential information (such as voter records), it is critical that they are destroyed so as to prevent unauthorized access to them. Listed below are disposition considerations and options:

- Electronic Data: To be certain that information in electronic media is obliterated, the data must be "wiped," not merely deleted. Special software programs will wipe data and make it permanently irretrievable and inaccessible. CDs and DDS must be physically destroyed to render them inaccessible.
- Recycling: This is an acceptable method of destruction for records with no special disposition requirements. Consult with your locality for information on recycling programs available.
- Private or confidential records may be recycled if the recycling company and its personnel are bonded, and will certify that the information has been protected. An additional fee is usually charged for certified disposition.
- Shredding: As the most popular method of destroying private or confidential information, shredders come in a variety of sizes and capacities. Some vendors will bring their equipment to your facility and shred document on site. If records are to be shredded on the vendor's premises, certified shredding is recommended. The Library of Virginia State Records Center offers full-box shredding services.
- Microfilm: Certain types of microfilm and fiche can be shredded. You can contact the Library of Virginia for assistance.

Retention schedules and completed Certificate of Records Disposal forms serve as evidence of proper disposal if records are subpoenaed as evidence. To destroy public records, the following steps document compliance with legal requirements:

- Refer to an LVA-approved Records Retention and Disposition Schedule.
- Ensure that the retention period stated on the schedule has passed.
- Ensure that all known audits, investigations or litigation are resolved.
- Complete a Certificate of Records Disposal (Form RM-3, 11/99)
- Obtain signatures of the Records Officer and person requesting disposition of records. The Records Officer must approve all dispositions. (It is suggested that a specific member of the Registrar's staff work with the locality Records Officer when destroying records). These signatures constitute approval to destroy.
- Identify person who can verify that the records were destroyed.
- Send original RM-3 form with signatures to the Library of Virginia. (This is usually done by your locality's Records Officer) Keep a copy of the form for your files; retain according to form GS-19 for localities.

It is suggested that you maintain a "List of Files" in your office that describes the contents of your various filing cabinets, etc. where your records are stored for convenience in locating records. The Library of Virginia holds training seminars on records management throughout the state, and it is recommended that at least one member of the staff attend such training. Information on records retention and management is also available at the LVA website at : http://www.lva.lib.va.us/whatwedo/records/index.htm.

It is also advisable that records are not taken home, and that work not be done at home. In the event that your office faces legal challenges and litigation for copies of records, legal "rules of discovery" are quite liberal in what can be searched looking for copies of records. In several cases in the state, individuals have had their homes searched for copies of records that had already been destroyed at the office, because they stated that they had worked on them at home. In at least one instance, a locality paid significant fines when records that had been requested under FOIA, and had been properly destroyed at the office according to retention schedules, were later found in copies at an employee's home.

26.5.2 Exhibit A:

STATEMENT

I, the undersigned, understand that the lists requested are the property of the State Board of Elections of the Commonwealth of Virginia, and I hereby state or agree, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) I am a person authorized by §§ 24.2-405 or 24.2-406 of the Code of Virginia to receive a copy of the lists described; (ii) the lists will be used only for the purposes prescribed and for no other use; and (iii) I will not permit the use or copying of the lists by persons not authorized by the Code of Virginia to obtain them.

§§ 24.2-405. Persons who may obtain lists of registered voters.
A. The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) political action committees that have filed a current statement of organization with the State Board pursuant to § 24.2-949.2, or with the Federal Elections Commission pursuant to federal law, for political purposes only, (v) incumbent officeholders to report to their constituents, and (vi) nonprofit organizations that promote voter participation and registration for that purpose only. **The lists shall be furnished to no one else and used for no other purpose.**

§§ 24.2-406. Persons who may obtain lists of persons voting at primaries and elections.

The State Board shall furnish to candidates, elected officials, or political party chairmen **and to no one else**, on request and at a reasonable price, lists for their districts of persons who voted at any primary or general election held in the two preceding years. **Such lists shall be used only for campaign and political purposes and for reporting to constituents**.

PENALTY FOR FALSE STATEMENTS:
Falsely subscribing to any untrue statement required by Title 24.2 of the Code of Virginia is a Class 5 felony under Virginia law. The punishment is a maximum fine of $2,500 and / or confinement for up to ten years. Upon conviction, you lose your right to vote.

Signature of person legally qualified to obtain lists:

_____

Print Name: _____ Address:_____

Telephone: _____ _____

Organization/Position: _____

Qualification to obtain list:
___ Candidate
___ Elected Official
___ Political Party Chairman
___ Other Political Party Official
___ Nonprofit organization which promotes voter participation and registration

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27 Emergency Procedures

The best laid plans can often change upon a moment's notice. Emergencies happen and localities need to be prepared to handle them. This chapter contains checklists that localities may use in the preparation for and in the event of emergencies. The outcome of an emergency is often decided before it ever happens: it is determined during the preparation and training before Election Day. The best plans are of no use if they are not properly communicated to the people who need them the most. Therefore, localities must ensure that their officers of election are trained in how to handle certain emergencies.

27.1 Safety Assessment for the Polling Place

As part of their normal preparation before Election Day, the electoral board should conduct a safety assessment for each polling place. This assessment should include:

- ❑ Locate fire extinguishers/fire alarms and inform all election officials of their location.
- ❑ Identify emergency escape routes/exits.
- ❑ Identify a predetermined assembly point to be used in the case of evacuation at least 300 feet away from the building and outside of parking areas, if possible.
- ❑ Familiarize all officials with the Incident Report Form.
- ❑ Identify potential hazard areas (icy steps/sidewalks, slick/wet floors) and notify custodial or management staff of the polling place to correct the hazards, if possible.
- ❑ Identify dialing procedures for contacting 9-1-1 (Determine whether an outside line requires dialing additional digits such as "9" resulting in 9-9-1-1).
- ❑ Provide emergency supplies to every polling place (flashlight, list of important phone numbers, a copy of locality's emergency plan…)
- ❑ Make sure that every polling place has access to a phone in case of an emergency.

27.2 Emergency Evacuations

- ❑ Get as accurate a headcount as possible
- ❑ Alert all present individuals of the emergency circumstances as calmly as appropriate & remind them of the predetermined assembly area
- ❑ Voting machine officer take quick note of the "Public Counter" number on the machine(s).
- ❑ Designated officer should notify the office of the general registrar/electoral board ASAP.
- ❑ Chief officer should insure that all election officials & evacuated voters are accounted for.
- ❑ Chief officer should designate an officer to list the names of those who checked in before the evacuation, but were unable to vote.

Officers should advise voters they may do one of the following:

- ❑ Wait until the building can be re-entered.
- ❑ Vote on a paper ballot, marksense ballot or battery operated voting equipment, if officers have the materials to allow them to do so. Follow the procedures for use of emergency paper ballots if the equipment is not available or cannot be used. (§ 24.2-642.)

If time permits, polling place officials should try to take with them the following:

- ❑ Counter & ballot container
- ❑ Precinct Pollbook(s)
- ❑ Public Counter number recorded from each machine
- ❑ Unused ballots
- ❑ Paper Ballots
- ❑ Paper
- ❑ Pens
- ❑ Necessary forms & materials to allow voting to continue, such as Affirmation of Identity & Affirmation of Eligibility, and any precinct lookup devices/lists
- ❑ Voting equipment (if feasible)
- ❑ Personal belongings

Any voter who chooses to leave because of the emergency and later returns must be allowed to go to the head of any line of persons waiting to vote. Officers should make a list for this purpose.

- However, a voter who has already been marked on the pollbook as present to vote and then leaves may not return and vote later. At no time may the line of those who have checked in and not yet voted extend beyond of the observation of the officers. (§ 24.2-643 (B).)
- The law also says that the line may not extend outside the building or polling place (§ 24.2-643 (B)), but public safety must take priority in an emergency. So, one officer should stay with the evacuated voters who have been checked in but not yet voted, and voting should recommence (either inside the polling place or at the alternate location) as soon as it is possible and safe.
- Attempt to resume the election at the predetermined assembly point if circumstances permit.
- The electoral board may opt to move polling to another location if there will be a prolonged or permanent evacuation. Should this happen, an election official must leave directions to the new location posted on the doors (post on both regular and handicapped accessible entryways) and the time you vacated this polling place.

27.3 Fire

- ❑ If the fire is very small and contained, attempt to extinguish with a fire extinguisher. Call 9-1-1.

- ❑ If the fire cannot be extinguished, evacuate all voters and Election Officials using the predetermined emergency routes to the predetermined assembly point.

- ❑ If evacuation is necessary, follow the above procedures.

27.4 Bomb Threat

- ❑ If the threat is imminent, evacuate all voters and Election Officials from the polling place using the predetermined emergency procedures on page 1-2.
- ❑ Call 9-1-1 and report everything exactly as the caller reported it to you.
- ❑ Notify the general registrar's office as soon as possible after calling 9-1-1.
- ❑ The person having received the threat call should document the conversation on paper while it is fresh in their mind.

If a bomb threat is phoned into a polling place, get as much information from the caller as possible. If possible, have another person listen to the conversation. Do not be afraid to ask questions. A list of suggested questions is contained in Exhibit B.

27.5 Power Outage

- ❑ Contact the registrar/electoral board Office. The staff will attempt to get power restored or auxiliary power provided, or supply additional paper ballots if they will be needed.
- ❑ If possible, contact the custodial or management staff of the polling place.
- ❑ Most equipment should remain operational. If a tabulating device becomes inoperable, instruct the voter to deposit his ballot into the emergency ballot slot on the ballot container. Instructions are provided in the Election Day Guide under Voting Machine Position.
  Notify the registrar if it is necessary to use the emergency ballot slot
- ❑ Attempt to find an alternate source of light until power is restored
- ❑ Meanwhile, use the flashlight, if provided with the election supplies
- ❑ If it is feasible, the polling location may temporarily be moved to another area of the building where natural light is available or car headlight beams can be directed into the area

If necessary, continue voting using paper ballots:

- ❑ Be sure to accurately reflect these voters as paper ballot voters in the pollbook.
- ❑ Call the registrar's office to request additional paper ballots if necessary.
- ❑ If it appears that they will not arrive before the existing supply has been depleted, procedures for making additional emergency paper ballots are provided in the § 24.2-642

If power cannot be restored:

- ❑ The electoral board may opt to move polling to another location.
- ❑ An election official must leave directions to the new location posted on the doors (post on both regular and handicapped accessible entryways) and the time you vacated this polling place

If the power goes out during the ascertainment of the results, the officers of election may <u>not</u> move the voting materials to an alternate location without representatives of both political parties present with the materials at <u>all</u> times.

27.6 Inclement or Precarious Weather Conditions

The staff of the electoral board and registrar should monitor reports of extreme weather conditions prior to elections.

In the case that extreme weather is predicted *before* the election:

- ❑ Arrangements must be made with the managers of the facilities where polling places are located and will be notified that they must have the facility open for polling, delivery, and pick-up of the voting equipment.
- ❑ The voting machine technicians should deliver the equipment to the polling locations ahead of schedule

In the event that a report of dangerous conditions is received from a creditable source (School Superintendent, Sheriff's Office, fire and emergency management officials) or an emergency weather channel *while* the election is being held, follow the appropriate plans:

- ❑ In the event of an **earthquake**, evacuate the building as described on pages 1-2 and assemble at the predetermined evacuation assembly point if possible.
- ❑ In the event of a **tornado**, calmly assemble voters and election officials in an internal space away from windows, preferably in an enclosed hallway.
- ❑ In the event of **icy/snowy/treacherous walkways**, assign an election official or an election page to keep entrances and exits free of ice and snow, as well as, posting multiple signs boldly indicating "caution" areas (wet floors, icy walkways, etc.). Keep the registrar apprised of present and changing conditions, as well as the steps taken to improve those conditions.

27.7 Illness, Injury, or Death

- ❑ Have an election official call emergency service at 9-1-1.
- ❑ Make sure that the election official identifies himself, gives the full address of the polling place and the name of the building, and is prepared to provide directions to the polling place and the information about the extent of the person's injury.
- ❑ Do not touch the person or offer to treat or provide medications (either over the counter or otherwise) to the individual.
- ❑ Complete an Incident Report Form.
  An Election Official may tell the person you are filing an Incident Report with the electoral board.
- ❑ Do not make any statement admitting guilt or wrongdoing, or instruct the individual on the proper course of treatment (this includes assisting the individual in getting medical care by means other than by calling 9-1-1).
- ❑ In the event of a serious illness, injury, or death, call the registrar/electoral board office after completing the call to 9-1-1.

27.8 Inability to Enter the Polling Location:

- In the case of **high water before 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 the Election Emergency Procedures. After the alternate plans have been finalized, the electoral board and chief election official will notify election officials.

- In the case of **high water after the polls open**, first inform the registrar, follow evacuation procedures, and then follow the aforementioned high water plans.
- In the case of **locked doors**, if the chief election official will not have the key for the polls, he should ensure, prior to Election Day, that he has phone numbers for contacting a facility custodian or the management staff. If the chief election official cannot make contact with one of the aforementioned individuals, he should contact the registrar and begin following the guidelines set forth for an alternate polling location in the Election Emergency Plans.

ⓘ Section 24.2-603 of the Code of Virginia states that polls MUST be open and allowing voters to place their vote at 6:00 a.m.

27.9 Emergencies Involving Election Officials:

- **If the chief election official does not arrive with the supplies**, any election official present should notify the registrar by 5:15 a.m. The office staff will attempt to reach the chief at his 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 books (which are in the custody of the chief) arrive, the registrar's office must be called to verify that each voter is qualified. (If no phone service, follow the challenged voter procedures using a paper ballot and the affirmation of eligibility form.) Record each voter's name and pollbook count (PBC) number on a note pad until the books arrive. Once you have the books, record the voters and PBC numbers in the appropriate sections. If a voter must leave before you receive ballots, take his/her name and phone number. If the voter returns later in the day, place him/her at the front of the line, if one exists.
- **If the chief election official is ill or has a family emergency before the election**, the assistant chief or the official who will now serve as chief will be notified to pick up the supplies and ballots, and serve in absence of the chief.
- **If the supplies are destroyed**, immediately call the registrar so that new supplies may be furnished. The supplies and ballots are not to 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 before distribution to the chiefs, 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. However, § 24.2-118 provides that, "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."

27.10 Technical 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." (§ 24.2-642)

- If using optical scan ballots, voting will continue normally except for the tabulating. (§ 24.2-642) Any voted ballots that must be placed in the emergency ballot container will remain in that container until the polls close and then the ballots will be fed through the counter. If the officials neglect to run the ballots in the emergency ballot container before running the tapes, the technicians and an electoral board member must 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.
- If using DREs, and other equipment is not available or usable, voting should continue using paper ballots, and emergency paper ballots if necessary. (§ 24.2-642)

- **In the event that the ballot container is damaged or missing**, immediately report this to the registrar. The 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 custodial or the management staff. Another phone may be obtained to report the nonfunctional phone or down service to the registrar. If needed, a cellular phone may be provided until phone service is restored.
- **In the event that the registrar's phones are not working,** cellular phones may be used until service is restored. All precincts must be notified 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**, the registrar shall determine if the staff will be relocated. All election officials must be notified of the new location and contact information.

27.11 Unruly Behavior at the Polling Location:

- Although it is not unusual for a parent or guardian to bring one or more children into the polling place, this should only be allowed as long as it is not a disruption to other voters.

  ⓘ Section 24.2-643 of the Code of Virginia states, "A voter may be accompanied into the voting booth by his child age fifteen or younger."

  Additionally, 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 is issued. However, children should not be allowed to mark or play with a ballot.

- **In the event of a poll watcher or voter disrupting the polls or person(s) campaigning within the prohibited area**, first have two election officials ask them to leave. However, if the person persists, call 9-1-1. Be sure to identify yourself as the chief election officer or an election official. Complete an Incident Report.

  ⓘ Section 24.2-606 of the Code of Virginia authorizes officers of election to appoint in writing one or more persons, who will have all the powers of a law-enforcement officer in the polling place and within the prohibited area. This action should be taken as the last resort for the protection of election officials and the public.

- **If someone is known to have a weapon**, and is not a sworn law enforcement official displaying their badge, or a person displaying a valid Virginia concealed weapons permit, have more than one election official approach the individual together and simply ask him to leave the weapon outside. If the person does not immediately comply, have an election official call 9-1-1 and report the incident. All unsafe or threatening behavior should be reported to 9-1-1. Unsafe behavior may include the following:
  - Display of multiple or unusual weapons
  - Display of a weapon in a position in which it could be used.
  - Shoving, pushing, unnecessary physical contact, abusive language or gestures.
  - Statements that contain violent descriptions.

  ⓘ Do not get personally involved if you believe that an assault is occurring. Instead, call 9-1-1 and complete the Incident Report.

27.12 If A Court Orders Polling Hours Extended

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. (§ 24.2-653(C).)

- If news of the extended hours did not come from a 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 marksense 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 under § 24.2-642. 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 marksense 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.)

- 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 completely separate. These voters may also be voting a provisional ballot for any of the usual reasons 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.
- 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.

27.13 Election Day Emergency Procedures for General Registrars & Electoral Boards

If an Election Day emergency requires the polling place be moved to an alternate location:

- ❑ If a polling place is threatened, and one or more polling places can safely be moved to a predetermined alternate location, the precinct chief election officer should contact the general registrar/electoral board office which will in turn contact local law enforcement and/or local emergency management services.
- ❑ After contact with local law enforcement and/or local emergency management services, the general registrar/electoral board should contact the Secretary of the SBE and be prepared to propose an alternate location and proposed method of handling the continuation of the election.
- ❑ Meanwhile, polling place officials should be following the Election Day Emergency Procedures provided, and if the polling site should be evacuated 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.
- ❑ An alternate location must be established within the precinct or within 1 mile outside the precinct boundary. Arrangements should be made to transport the necessary equipment & supplies to the new location. The safest, most efficient shelter should be used to resume voting as soon as possible after the SBE Secretary has approved the new location.
- ❑ Voters must be notified by the most efficient means, presumably through fliers and the news media (television and radio, if possible), of the new polling location. Notices must also be posted at and outside the old (original) polling place, if possible.
- ❑ A request for pre-clearance of the new location should be submitted to the U.S. Department of Justice. There is no need to wait for the pre-clearance in order to go forward, as it will not be provided on Election Day.

27.14 Exhibit A: Incident Report

Date of Incident: _____ **Time:** _____ AM / PM

Victim's Name: _____

Victim's Address: _____

_____

Victim's Telephone: _____

Location of Incident (address, building, room, etc.): _____

Description of Incident (Describe what happened. Include the conditions present at the time of the incident, i.e., weather, construction, cleaning, etc.): _____

Description of Injury or Damage (body part, personal property, etc.): _____

Witnesses to the Incident:

Name: _____

Address: _____

Telephone: _____

Incident Report Completed by:

Name: _____

Address: _____

Telephone: _____

Signature: _____

27.15 Exhibit B: Bomb Threat Information to Record and Report:

Exact Wording of Threat:

_____

_____

_____

_____

Caller's Voice:

❑Calm ❑Angry ❑Lisp ❑Slow ❑Rapid ❑Soft ❑Loud ❑Deep ❑Crying ❑Accent ❑Normal ❑Distinct ❑Clearing Throat	❑Nasal ❑Stutter ❑Excited ❑Raspy ❑Deep ❑Ragged ❑Familiar ❑Laughter ❑Breathing ❑Cracking Voice ❑Disguised ❑Slurred

If voice is familiar, who did it sound like?

_____

_____

Background Sounds:

❑ Street noises ❑ Voices ❑ Music ❑ Motor noises ❑ Machinery ❑ Animal noises ❑ Static ❑ Long Distance ❑Cell Phone	❑ Crockery ❑ PA System ❑ House noises ❑ Office ❑ Factory machinery ❑ Clear ❑ Local ❑ Phone booth ❑ Other

Threat Language:

❑ Foul	❑ Irrational
❑ Incoherent	❑ Taped
❑ Well spoken (educated)	

Message read by threat maker:

Age: _____ Length of Call: _____

Sex: _____ Ethnicity: _____

Remarks: _____

_____

_____

_____

Report Call Immediately To:

Phone number: (_____) _____ - _____

Date: _____

Call Taker Name: _____

Position: _____

28 Electronic Records

28.1 Electronic Data and the SBE

Virginia State Code §§ 24.2-103, 105 and 105.1 state in part what the SBE shall provide to both local Electoral Boards and Registrars. Specifically, § 24.2-103 states, "It shall make rules and regulations and issue instructions and provide information to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the Board." As the Code does not specify (except in some specific instances) how information is to be provided, the SBE has decided to provide much of its information electronically (via e-mails and/or electronic files), and this trend will only grow.

It is important that the SBE have current and accurate e-mail addresses for both registrars and electoral board members. As part of its main website (www.sbe.state.va.us) the SBE has set up secured web pages (username & password required) that is not seen from the main page, but is accessed via www.sbe.state.va.us/gr. This site is used by SBE for much of the surveys requested, office and contact information for registrars and electoral board members, and other information as requested. The site also is used to access and report information that SBE requests to be downloaded for use by registrars and electoral boards. Changes to any contact information for the registrar's office or for electoral board members are made on the secure site. It is highly recommended that electoral board members make sure that a current e-mail address is listed here, so that they may receive timely notices from the SBE.

It is important to remember that in offices that share the same data line, if you try to download on one computer, and use the other to continue doing work through the VERIS, or other activity that requires using that data line, both systems will slow down, as you are using the same "pipe" to get data to the two different computers. If requested to download a large file from SBE (i.e., VERIS files), try to schedule the download at the end of the work day, and just leave the computer on when you leave the office. Scheduling such large downloads to when your computer is not needed for other uses may result in more successful downloads.

28.2 Computer and File Security

Voting records contain much private information that is protected by law. Furthermore, the administration of elections is vital to good government. The privacy of these records and the proper administration of election can be destroyed by malicious individuals or accidental disclosure of information. These problems can be avoided through adherence to simple security measures. For this reason, the SBE has developed a set of computer security policies for localities. These policies can be found here.

28.3 Records Retention

The Library of Virginia (which issues guidelines and procedures for records management) has much more information on electronic records, for details see:

http://www.lva.lib.va.us/state/records/electron/er-total.htm
or: http://www.lva.lib.va.us/state/records/manuals/00m-toc.htm

28.4 FOIA Implications

Electronic records are covered by FOIA. (See Chapter 26.)

29 Provisional Ballots

The purpose of this policy statement is to clarify standards and procedures for the issuance and determination of provisional ballots. Though the procedures for handling a provisional ballot are different from those of a regular ballot, it is important to ensure that otherwise all standard Election Day rules and procedures apply to both voters.

- If the name of a voter does not appear on the precinct pollbook and the general registrar cannot be reached, is unable to determine that a voter is registered to vote, or the voter states he or she is a registered voter in the precinct, the voter must be given a provisional ballot to vote. (HAVA 42 USCS § 15482; Code of Virginia § 24.2-653.)
- A person voting a provisional ballot because his name does not appear on the pollbook, like all other voters, must produce proper identification or sign an affidavit of identification before he or she may vote a provisional ballot. (§ 24.2-643.)

A person who is listed on the pollbook with an H (for HAVA) next to his or her name who was not able to produce one of the following forms of identification: a current and valid photo identification, a copy of a current utility bill, bank statement, government check, or a paycheck or other document that shows the name and address of the voter must be given a provisional ballot to vote. In addition, an absentee ballot returned by a voter who is listed on VERIS, the pollbook, or the final absentee applicant list with a HAVA ID requirement which does not contain a photocopy of one of these ID's must be considered a provisional ballot. (HAVA 42 USCS § 15483; Code of Virginia §§ 24.2-643, 24.2-653, 24.2-706.)

- A person who is listed on the pollbook with AB next to his or her name indicating the voter has been sent an absentee ballot but no ballot has been returned either marked or unmarked for the voter MUST be given a provisional ballot to vote if the voter offers to vote in his or her regular polling place. (§§ 24.2-653.1, 24.2-708, 24.2-711.)
- A provisional ballot must be cast in the precinct in which the voter would legally be assigned to vote or there is no possibility of it being counted. If the voter is in the wrong precinct, the officers of election should direct the voter to the proper precinct so that the regular or provisional ballot can be cast.

  For example, reports in the past have indicated officers allowed voters to use provisional ballots when they knew the voter was registered to vote in another precinct without advising the voter that the ballot must be voted in the correct precinct in order to be counted. A provisional ballot should not be used in this case without first advising the voter of this qualification and asking the voter if he is a registered voter of the locality and precinct. The voter should be redirected to the correct precinct when possible. (See § 24.2-101 for the definition of a qualified voter, and Article II, § 1 of the Constitution of Virginia for qualifications of voters.)

29.1 Before Election Day

The following tasks must be completed before the day of the election.

1. Notify Political Parties And Candidates

As provided in §24.2-653, one authorized representative of each political party or independent candidate in a general election or one authorized representative of each candidate in a primary or special election, who is a qualified voter of the city, county or town, may be present at the electoral board's meeting on the day after the election to determine the qualification of persons who cast provisional votes.

Notice of the time and place at which the meeting will be held must, therefore, be given by the electoral board to each political party chairman and independent candidate for a general election or each candidate in a special or primary election, as appropriate.

2. Instruct officers of election

All officers of election must be instructed prior to a November election at the time or times established by the electoral board. The general registrar must be present at any instruction meeting since the exact procedure to be followed hinges on communication between the officers of elections and the general registrar.

At the instruction meeting for chief and assistant chief officers of election, required by § 24.2-115 to be held not more than thirty nor less than three days prior to the election, you must include the procedures that officers of election are to follow when a Provisional Vote must be cast by a voter. Details are provided in the next section on all procedures to issue and complete a provisional ballot.

29.2 When Is a Provisional Ballot Issued?

29.2.1 Voter's Name is not Listed on the Pollbook

- An officer of election should ask the voter for correct spelling of name or recent name change.
- An officer of election should check for the voter's name at the end of the alphabetical section or on any separate listing provided by the registrar.
- An officer of elections should ask when and where the voter registered to vote and last voted. If the voter advises he or she registered at a DMV or other NVRA agency, ask if he or she knows the date or approximate dates and at which DMV or NVRA agency location he or she registered in order to provide this information to the registrar for lookup purposes.
- An officer of election should obtain the voter's full legal name, address, and social security number before calling the registrar's office.
- An officer of election should check the street file records, alpha roster, electronic device, electronic pollbooks, other such materials provided, or information from the general registrar to determine if the voter is in the correct precinct. If the voter is found to be in the incorrect precinct, advise him or her of the correct precinct in

which he or she is registered and advise that he or she can only vote in that precinct in order to have his or her ballot counted. If the voter is not showing as registered in any locality or precinct, but the individual's address provides that he or she is a resident of a different precinct, advise the voter that the provisional ballot must be voted in that precinct in order for it to be counted if the individual is found to be registered. Advise the voter that in order to cast a provisional ballot in the precinct, he or she must sign the statement on the provisional ballot envelope under felony penalty for false statements that the person is a registered voter of the locality and precinct.

- The chief officer of election (or an officer designated by the chief) must take the voter aside and contact the general registrar. The general registrar must then advise the officer whether the person in question has been erroneously deleted from the pollbook. The general registrar will illustrate the necessary procedure.

At this point, three situations may exist: the registrar informs the officer that the voter was erroneously deleted from the pollbook, the registrar informs the officer that the voter was not erroneously deleted from the pollbook, or the registrar is unavailable.

- Voter was erroneously deleted from the pollbook: If the general registrar states that the person was erroneously deleted from the pollbook and authorizes the officer to add his/her name to the pollbook, the officer must complete the following actions:
  - Administer the "Affirmation of Voter" by having the voter complete and sign the "Affirmation of Eligibility" form.
  - Enter the voter's name and address only on the pollbook at the end of the alphabetical section that applies.
  - State Voter's name and address.
  - Mark off the next PBC number
  - Enter PBC number and "S" (for statement) in pollbook. (If both a Democratic and Republican primary are being held, enter the PBC number in the appropriate pollbook.)

ⓘ Only the registrar, who has access to all voter registration records, may authorize an officer of election to add a voter's name to the pollbook.

- Voter was not erroneously deleted from the pollbook: If the general registrar states that a person was not erroneously deleted from the pollbook, but instead says that the person should not be on the pollbook, one of the following reasons and instructions must be communicated:
  - The voter was legally purged pursuant to §§ 24.2-428.2 or 24.2-429, cannot have his or her name added to the pollbook, and cannot be allowed to vote normally on the voting equipment in use at the polling place.
  - The voter was legally removed from the registration rolls for a conviction of a felony or adjudication of mental incompetence, cannot have his or her name added to the pollbook, and cannot be allowed to vote normally on the voting equipment in use at the polling place.

- The general registrar has no record of the person having registered to vote, cannot have his or her name added to the pollbook, and cannot be allowed to vote normally on the voting equipment in use at the polling place.

ⓘ It is not uncommon for the voter to insist that they registered to vote at DMV when the registrar has no record of their registration. In addition to issuing a provisional ballot as indicated below, the officer should retain the information requested above in order to lookup the voter's DMV record.

ⓘ If the general registrar advises any of the preceding items, the officer of election must advise the person the reason his or her name is not listed on the pollbook. The officer must then advise the individual that he or she is eligible to vote a provisional ballot if he or she believes this information to be incorrect and the voter must sign the Green Provisional Ballot envelope under felony penalty for making false statements that he or she is a registered voter of the precinct.

- general registrar cannot be contacted: If there is no means of contacting the general registrar to confirm the registration status of the individual, the officer must advise the person that he or she is eligible to vote by a provisional ballot which must be signed by the voter stating that he or she is a registered voter of the precinct.

29.2.2 Voter's Name is Listed on the Pollbook

There are three instances when a voter who is listed on the pollbook may be issued a provisional ballot: the voter fails to fulfill certain identification requirements, a court order extends the hours the polls are open, and the pollbook indicates that the person received an absentee ballot.

- If the voter's name is listed on the pollbook with an H for a federal election, the voter must present one of the following forms of ID in order to vote normally on the voting equipment in use at the precinct: a current and valid photo identification, a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.
  If the voter is unable to provide one of these forms of ID, he or she must be issued a provisional ballot in accordance with the Help America Vote Act (HAVA 42 USCS § 15483, Code of Virginia § 24.2-643).
  In addition, a voter whose name is listed on the pollbook with an H or on the final absentee applicant list as required to submit a HAVA ID for a federal election may have voted by returning an absentee ballot. This voter was required to provide a copy of a HAVA ID when returning the ballot. If no copy of such an ID is returned with the ballot, the absentee ballot must be considered a provisional ballot (HAVA 42 USCS § 15483, Code of Virginia §§ 24.2-653, 24.2-706)
- When a court order extends the hours the polls are to be open, any voter offering to vote after the normal polling hours and who was not in line when the polls would have closed must vote by a provisional ballot. These provisional ballots cast after the normal polling hours shall be kept separate from all other ballots and recorded in a separate provisional ballots pollbook. (HAVA 42 USCS § 15482, Code of Virginia § 24.2-653).

- A person who is listed on the pollbook with AB next to his or her name indicating the voter has been sent an absentee ballot but no ballot has been returned either marked or unmarked for the voter must be given a provisional ballot to vote if the voter offers to vote in his or her regular polling place. (§§ 24.2-653.1, 24.2-708, 24.2-711).
  The officers of election must check the final absentee applicant list to verify if the voter has returned an absentee ballot. The absentee list will be marked to indicate if a ballot was returned either marked or unmarked. If the ballot was returned unmarked, the voter must be allowed to vote normally on the voting equipment in his or her precinct. If the ballot was returned marked, the voter must not be permitted to vote by any method, including a provisional ballot unless the voter completes the procedures to vote when the voter is marked as having already voted.

If the absentee applicant list contains no notation that a ballot was returned either marked or unmarked, the voter must be offered a provisional ballot, regardless of whether or not the locality uses a central absentee precinct.

29.3 Procedures to Issue and Complete a Provisional Ballot

29.3.1 Completion of the front of the Provisional Vote Envelope

The officer of election gives this envelope and the ballot(s) to the voter and advises the voter he must enter all required information on the front of the envelope as shown below. The officer must verify that all information has been filled out correctly and fill in any missing information from the voter. Have the voter fill out the front of the envelope before the ballot is given to the voter.

The voter's full name and address **where they live now** is required.

Make sure to enter the precinct number.

PROVISIONAL VOTE
[PLACE VOTED BALLOT IN THIS ENVELOPE]
PRINT VOTER INFORMATION BELOW. ALL INFORMATION MUST BE GIVEN.

NUMBER/NAME OF PRECINCT

first name | full middle or maiden name | last name | SUFFIX, IF ANY

COMPLETE RESIDENCE ADDRESS (INCLUDING ZIP CODE) | DATE MOVED HERE

IF ONE, RESIDENCE POST OFFICE BOX OR UNIFORMED WERVICES ADDRESS (INCLUDING ZIP CODE)

SOCIAL SECURITY NUMBER | GENDER | BIRTHDATE | DAYTIME TELEPHONE NUMBER, IF ONE

Your social security number is part of your registration record. This use of your number is required by the constitution of Virginia and allowed under both the federal privacy act and the Virginia privacy protection act. It is requested to assure that no other person is permitted to vote in your name. Because your name is not on the registered voters list, you are required by law to provide your number on this form. If you have a social security number and do not provide it, your ballot cannot be counted. This document is available for public inspection only under order of a court. Knowingly giving any untrue information on this document is a felony under §24.2-1016 of the code of Virginia. The punishment is a maximum fine of $2500 and/or confinement for up to ten years. You also lose your right to vote.
SBE-653 REV 7/97

Don't forget the social security number. It could be the only way to find their voter registration record.

1. If the voter is voting a provisional ballot because his or her name was not listed on the pollbook, the officer must ask the voter to present one of the following forms of identification: a Commonwealth of Virginia voter registration card, a social security card, a valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States, or any valid employee identification card containing a photograph of the voter. If the voter is unable to provide one of these forms of ID, he or she must complete an Affirmation of Identify form and the officer must enter an "S" on the pollbook and on the Green Provisional Ballot envelope. The officer must ensure the voter either checked reasons 1 or 2 on the back of the provisional ballot envelope. (§ 24.2-653.)

2. If the voter is voting a provisional ballot in a federal election because he or she is listed on the pollbook with an H (for HAVA) next to his or her name and is unable to provide one of the forms of identification listed above in Procedures Prior to Issuing a Provisional Ballot under section B (1), the voter needs only to complete the Green Provisional Ballot envelope and sign the statement of the voter on the envelope to cast the provisional ballot. The officer must ensure the voter checked reason 3 on the back of the provisional ballot envelope. (HAVA 42 USCS § 15483, Code of Virginia § 24.2-643.)

An absentee ballot returned by a voter who was listed with an H on the pollbook or on the final absentee applicant list with a HAVA ID requirement that is not returned with a copy of one of these HAVA ID's must be considered a provisional ballot. The voter should have returned the HAVA ID in the outer return envelope. The officer must ensure that no copy of a HAVA ID is present with the ballot in the B security envelope as well. If no HAVA ID is returned, the ballot must be placed in the Green Provisional Ballot envelope and the officer should check reason 3 on the back of the envelope. As the voter is not present to sign the envelope, the officer shall fill in "Absentee Ballot" on the vote signature line. (HAVA 42 USCS § 15483, Code of Virginia §§ 24.2-653, 24.2-706.)

3. If the voter is voting a provisional ballot because a court order extended the hours of polling, the voter should provide one of the forms of ID listed in numbers 2 and 3 above depending upon the voter' listing on the pollbook or one of the ID's listed in § 24.2-643 if the voter's name is not on the pollbook but the voter states he or she is a registered voter of the precinct. The officer must ensure the voter checked number 4 and other pertinent reasons on the back of the provisional ballot envelope. (HAVA 42 USCS § 15483, § 24.2-653)

4. If the voter is voting a provisional ballot because the voter offered to vote in his or her regular polling place and the voter was listed on the pollbook as having been issued an absentee ballot and no ballot has been returned, the voter should provide one of the forms of ID listed in numbers 2 or 3 above depending upon the voter's listing on the pollbook. If the voter is unable to provide one of the ID's listed under number 2 above, he or she must complete an Affirmation of Identify form and the officer must enter an "S" on the pollbook and on the Green Provisional Ballot envelope. If the voter is listed with a HAVA ID requirement and cannot produce such an ID, ensure the voter also checks reason 3 on the provisional ballot envelope. This HAVA voter does not need to complete the affirmation form. The officer must ensure the voter checked reason 5 and other pertinent reasons on the back of the provisional ballot envelope. (§§ 24.2-653.1, 24.2-708, 24.2-711)

29.3.2 Completion of the back of the Provisional Vote Envelope

Next, the officer of election gives the provisional vote envelope and the ballot(s) to the voter, instructs the voter to place the voted ballots inside the envelope, seal the envelope and return the sealed envelope to the officer.

When the voter returns the sealed envelope to the officer, the officer must read the statement on the back of the provisional vote envelope to the voter and have the voter check one of the five reasons the voter is casting a provisional ballot. After the statement is read, the voter must sign the envelope. The officer also must sign and date the envelope.

The officer should fill in the words "Absentee Ballot" on the signature line of the provisional envelope if an absentee ballot was returned without a required photocopy of a HAVA ID.

When the voter returns the sealed envelope with the voted ballot inside, read the statement on the back of the envelope to the voter.

OFFICER OF ELECTION: Use this envelope only when (A) the name of the voter **IS NOT** on the pollbook and you either have no way to contact the General Registrar or the General Registrar authorizes its use or (B) the voter's name **IS** on the pollbook but voter meets conditions 3, 4 or 5 below. Complete the reverse side. Have the voter verify the information entered. Read the statement below to the voter. Have the voter sign it. You also must enter your signature. Voter must vote a paper ballot **and** seal the voted ballot in this envelope. Electoral Board will determine voter qualification.

STATEMENT OF VOTER - I hereby make the following statement, under felony penalty of law. I am qualified and registered to vote in this precinct, and [check **box(es)** that apply]:

A. VOTER'S NAME IS NOT ON POLLBOOK

1. ❑ I am now or have been an actual resident of this precinct at some time since the November general election last year. **OR**

2. ❑ I have been an actual resident of this precinct at some time since the second preceding general federal election, I am now an actual resident of this county or city, and my present residence is in the same congressional district as this precinct.

B. OTHER REASON(S) STATED BELOW

3. ❑ I registered by mail on or after January 1, 2003, am voting for the first time in a federal election, and did not show one of the forms of identification required by federal law. (Voter's name **IS** on pollbook.) **OR**

4. ❑ I am voting after the normal poll closing time due to a court order extending the time established by state law for closing the polls. (Reasons 1, 2, 3 or 5 also may apply to this voter.)

5. I [check one] ❑ applied for but did **not** receive my absentee ballot(s) **OR** ❑ applied for and received but **lost** my absentee ballot(s). (Reasons 3 or 4 also may apply to this voter.)

To the best of my knowledge, I am not disqualified from voting by the Constitution and laws of this Commonwealth and my registration is not subject to cancellation. The information given on the reverse side of this envelope is true and correct and I have not voted and will not vote in this election at any other time or place.

SIGNATURE OF VOTER _____

SIGNATURE OF OFFICER OF ELECTION _____ DATE _____

ENTER S ABOVE IF VOTER SIGNED STATEMENT OF IDENTITY

The Election Officer must also sign and date the envelope!

After reading the statement to the voter, have the voter sign the envelope.

The ballot will not be cast if the voter does not sign!

The officer must enter the voter's name, address, etc., into the appropriate alphabetic section of the pollbook if the person was not listed on the pollbook, but must not mark it as though the voter voted and no pollbook count number is assigned.

29.3.3 Notification to Voter

The officer of election must provide written information to each person who casts a provisional ballot of the time, date and place at which the electoral board will meet. (Form HAVA-5 Provisional Voter Notice.) The officer of election must enter the time, date (day after the election) and address of the place where the electoral boardwill meet to consider ballots cast in this manner. The officers must ensure the appropriate reason the ballot was voted is checked as well. A supply of these forms must be provided to each precinct. This will enable the officer of election to easily provide the required information to the voter. (HAVA 42 USCS § 15482, § 24.2-653)

After advising the voter of the all information concerning the provisional ballot meeting and toll-free access number to determine the status of the ballot, have the voter fill out a voter registration application. Explain to the voter that completing this application does not ensure the voter's qualifications to have the provisional ballot counted but will be used to register the applicant for future elections if he or she is determined to meet the qualifications to register to vote.

29.3.4 Precinct Provisional Ballots Log

The officer must fill out the "Precinct Provisional Ballots Log" (See Exhibit B) with all the requested information. This includes the voter's information from the green provisional ballot envelope such as the voter's full name, Virginia address, social security number, date of birth and gender.

In addition, the officer should list a short description of the reason the provisional ballot was issued corresponding to one of the five reasons on the back of green provisional ballot envelope. Other specifics that could be included are that the person advised they registered at a DMV location, submitted a change of address to the registrar's office, the date and method the voter submitted a registration application, or any other information the registrar instructs will aid him or her in researching the voter.

The "Precinct Provisional Ballots Log" must be placed inside the #1A and, if used, the #1B "Provisional Votes Envelope" 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.

29.4 Day After the Election (The Canvas)

The procedures set forth below must be followed when provisional votes were cast in your county or city. Unless otherwise indicated, each procedure applies to all elections. To ensure compliance with the requirements of §24.2-671, please follow these instructions.

29.4.1 When to Meet

The Code requires the electoral board to meet on the day after the election but does not specify a time; the SBE recommends that the meeting occur by noon on the day after the election to determine the qualifications of persons who cast provisional votes pursuant to § 24.2-653.

29.4.2 Where to Meet

This meeting must be held in either the general registrar's office or some other designated room in the courthouse. It is recommended that this meeting be held, if at all possible, in the general registrar's office as the general registrar must be present and must be able to consult his or her records in order to assist the electoral board in properly making their determination concerning the qualifications of such person.

29.4.2.1 Who Should 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 do constitute a quorum 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 due to some extreme emergency, the two remaining Board members must decide who will serve as acting secretary. All official documents related to processing provisional votes and the canvass must be signed accordingly. Only those members of the board present during the entire process may legally sign any official document.
- Prior to the meeting, the electoral board must pick up from the general registrar or clerk of Circuit Court the #1A and, if used, #1B provisional votes envelopes from all precincts.
- 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).

29.4.2.2 Guidance for Determining Qualification of Provisional Ballots

- The electoral board must open one precinct at a time, the #1A and, if used, #1B envelopes marked “provisional votes” and proceeds to determine the qualifications, one by one, without opening the green envelopes, of each person who cast a ballot in a green envelope, the first of which is that the person be registered to vote. The second is that the person must have voted in his assigned precinct.
- The general registrar will provide any information that he or she has available to determine if the voter casting a provisional ballot was registered to vote in the precinct in which the voter cast the provisional ballot.
- In recent elections, there have been a number of voters who have not appeared on the pollbooks but believed they registered to vote through the Department of Motor Vehicles (DMV). In this scenario, the officer of election will have asked the voter for the date and location of the DMV at which the voter submitted a voter registration application. The general registrar working in conjunction with the SBE and the DMV will determine if there are any records pertaining to the registration. If there are records from DMV, there are two scenarios which could have occurred:
    - The DMV audit shows that the voter indicated a “no” when asked if he or she would like to register to vote or update registration information. In this case, if

there are no other records available from the registrar or the SBE, the voter did not register to vote and the provisional ballot should not be counted.

  - The voter either has an acknowledgment form from DMV or the DMV audit shows the voter indicated a ”yes” when asked to register or update registration information. In the absence of any records from the general registrar or SBE concerning this registration application, the only records available indicate the voter made his or her best effort to register to vote and the administrative system in place failed to deliver the application to the registrar in order to determine the applicant’s eligibility to register.

- Upon advice from the Office of the Attorney General, the general registrar should use the registration application completed when casting the provisional ballot to determine that applicant’s eligibility to register with which the electoral board can determine to count the provisional ballot.
- If any such information is provided to illustrate the voter’s registration status and the ballot was offered in the correct precinct, the provisional ballot is accepted. If not, the provisional ballot is not counted.

ⓘ Remember, every person voting in person on election day must do so at his or her assigned polling place regardless of whether a regular or provisional ballot is cast. (See § 24.2-101 for the definition of a qualified voter and Article II, § 1 of the Constitution of Virginia for qualifications of voters.)

29.4.2.3 Person is determined not to be qualified:

- The green envelope remains sealed.
- Electoral board must:
  - Write ”disqualified” across the front of the unopened green envelope;
  - Return it to the special envelope for that precinct marked “provisional votes”; and
  - Note on the envelope the number of green envelopes for disqualified persons remaining at the conclusion of the determination for that precinct.

ⓘ The electoral board or general registrar must keep a detailed list of the provisional ballots counted and not counted in order provide this information via the toll-free access system and to send correspondence to the voter whose provisional ballot was not counted advising the reason the provisional ballot was not counted as required by both HAVA and the Virginia State Code. In addition, information on whether the provisional ballot was counted, and if not, the reason why must be entered into VERIS in order to apply voting credit and generate correspondence to applicable voters. The “Precinct Provisional Ballots Log” (Exhibit B) included in the #1A and if used, #1B “provisional votes” envelope completed on election day by the officers of election should be used for this purpose. The registrar should retain this log in order to provide this information to those persons casting provisional ballots and to issue the required correspondence. (HAVA 42 USCS § 15482, § 24.2-653)

29.4.2.4 Person is determined to be qualified:

- General registrar must enter an “X” in the “vote rec” column on the pollbook.
- The electoral board must:

- Enter the name of the voter in a separate poll book (one poll book for the city, county or town) marked ”provisional votes”;
- Enter the number of the city, county or town precinct (as shown on the pollbook) in the column immediately to the left of the voter's name;
- Open the green envelope of the person determined to be qualified;
- Remove the ballot therein;
- Place the ballot in the ballot container for the city, county or town without any inspection further than to assure that only a single ballot or ballot set has been tendered and that the ballot is a genuine ballot by inspecting the official seal upon the back of the ballot, without looking at the printed inside of the ballot;
- Return the opened and empty green envelopes for each precinct to the special envelope for that precinct marked ”provisional votes”;
- Note on the envelope the number of green envelopes contained therein for persons determined to be qualified; and
- Seal the envelope by placing a label across the flap; sign and date the label; and return the sealed envelope to the Clerk of Circuit Court.

The electoral board or general registrar must keep a detailed list of the provisional ballots counted and not counted in order provide this information via the toll-free access system and to send correspondence to the voter whose provisional ballot was not counted advising the reason the provisional ballot was not counted as required by both HAVA and the Virginia State Code. In addition, information on whether the provisional ballot was counted, and if not, the reason why must be entered into VERIS in order to apply voting credit and generate correspondence to applicable voters. The “Precinct Provisional Ballots Log” (see Exhibit B) included in the #1A and if used, #1B “Provisional Votes” envelope completed on election day by the officers of election should be used for this purpose. The registrar should retain this log in order to provide this information to those persons casting provisional ballots and to issue the required correspondence. (HAVA 42 USCS § 15482, § 24.2-653)

29.4.3 Ascertainment of Results

When a determination has been made of the qualifications of all persons in the city, county or town that cast a ballot pursuant to §24.2-653, the electoral board, as officers of election, must:

- Proceed to ascertain the results of the votes cast by those found to be qualified;
- Complete two copies of the “Statement of Results” and place them in the poll book;
- Place the voted and counted ballot(s) in a “counted ballots” envelope and enter "Provisional Ballots" as the name of the precinct; and
- Seal the envelope by placing a label across the flap; sign and date the label; and return the sealed envelope to the Clerk of Circuit Court.

29.4.4 Abstract of Votes and County/City Results Report

When the electoral board meets to determine the results of the election and complete the “Abstracts of Votes” pursuant to §24.2-675, the total votes received by each candidate entered on the abstract must include any provisional votes received by the candidate. Add to the total vote from all the precincts for each candidate, the number of provisional votes received. (Total vote

from all precincts + provisional votes = total votes for candidate.) The same procedure is followed for each issue response if any questions also appeared on the ballot.

On the "County/City Results Report" this information is entered, as appropriate, on the line labeled "CV Conditional Votes." The total number of persons whose provisional votes were cast by the board is entered on the "CV Conditional Votes" line in the "Number Voting" column in the "Registered Voters" section of this report. This information is not included in the data reported for the precinct in which this provisional voter resides.

29.4.5 Provisional Ballot Data Entry and Notification to Persons Not Qualified.

After the determination of all provisional ballots by the electoral board, the registrar must enter all provisional ballot information into VERIS election night reporting and for individual voters in order to apply voting credit and issue correspondence to voters whose provisional ballots were not counted.

The total number of provisional ballots counted as valid votes by the electoral board must be entered as a separate "Provisional Votes" precinct.

The registrar must search for each voter who voted a provisional ballot. If the voter does exist and is registered in VERIS the registrar must either apply manual voting credit or enter that the ballot was not counted and the reason why the ballot was not counted. If the ballot was not counted, the system will automatically generate the necessary correspondence to be issued to the voter which will include the reason entered for why the ballot was not counted. A provisional ballot may not have been counted because the voter was a registered voter of another locality. A registrar may only enter that a ballot was not counted and the reason why for this voter in order to generate the necessary correspondence.

If the voter did not complete a registration application when casting the provisional ballot in the polling place, include a voter registration application with the written notice and advise the voter if he or she wishes to be eligible to vote in future elections, the individual must complete the application and return it to the registrar's office before the close of books for the next election in your county or city.

A number of voters whose provisional ballots were not counted may not exist as registered voters in VERIS. The total number of provisional votes not counted for those individuals who do not exist as registered voters in VERIS need to be entered in the appropriate field in the election night reporting section of the system. These voters will need to be issued a notice to inform the voter that the provisional ballot was not counted and the reason why.

29.5 Exhibits

29.5.1 Exhibit A: Letter to Voter

Office of the General Registrar
City of Anywhere
115 East Main Street
Anywhere VA 23150
(804) 555-5555

(enter date)

Mr. A. Provisional Voter
555 Somewhere Drive
Anywhere VA 23510

Dear Mr. Voter:

The (name of county or city) Electoral Board determined the provisional ballot you cast on (enter date) was unable to be counted as a valid vote because:

☐ No record of a registration could be found.

☐ You were found to be registered in another locality or moved from a locality and did not update your voter registration information.

☐ You cast the provisional ballot in the incorrect precinct.

☐ Your application for registration was denied according to law.

☐ Your registration was lawfully purged under § (enter appropriate code section).

☐ Other: (Specify other reason here).

Please call the Office of the General Registrar at (enter telephone number) if you have any questions. Business hours are (enter days and hours of operation).

Sincerely,

(name), General Registrar
(name of county or city)

29.5.2 Exhibit B: Precinct Provisional Ballots Log

The Help America Vote Act of 2002 (HAVA) requires that all voters casting a provisional ballot be able to ascertain by a free access system (in Virginia a toll-free telephone number) whether this ballot was counted, and if not the reason why. Additionally, § 24.2-653 of the Code of Virginia requires the General Registrar to notify in writing those casting provisional ballots who were found not properly registered. In order to allow the electoral board and General Registrar to comply with these requirements please enter the information requested below for each voter whose offers a provisional ballot.

Election Date: _____

COUNTY/CITY OF _____ Page _____ of _____

PRECINCT _____

Please print legibly

Voter's full name, Virginia Address, SSN, Date of Birth, and gender from Green Provisional Ballot Envelope.	Reason Provisional Ballot Issued	EB Counted Yes/No	If not counted, reason why?