



★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

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Icon Key

The following icons and abbreviations are designed to help the reader navigate this text.

**Best Practices**

ELECT tip or suggestion

**State Board of Elections**

Regulations and SBE Policy

**Overarching Deadlines**

Notes regarding time frames and deadlines

**Take a Closer Look**

Highlights material that should not be overlooked

**Data Security**

Personal information and security issues

**Questions & Answers**

Provides often asked questions and answers

**VERIS**

Highlighting VERIS related text

**Law**

All law, case law, and legislative material

Additional Reference

§	The <i>section mark</i> § is used when citing documents with numbered or lettered sections (e.g., statutes).
Id.	Short for <i>idem</i> which means “the same”; the same authority referenced in the immediately preceding citation
ELECT	Short for “ <i>Department of Elections</i> ”



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Chapter I

General Registrar/ Director of Elections

June 2018

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I. General Registrar/Director of Elections

REQUIRED FORMS General Registrar Certificate of Appointment (SBE-110) EMERGENCY POLLING PLACE RELOCATION APPROVAL REQUEST FORM (SBE-310) TOWN.DOC.DOCX EMERGENCY POLLING PLACE RELOCATION APPROVAL REQUEST FORM (SBE-310) COUNTY OR CITY (2).DOC.DOCX	REFERENCE Surplus and Disposal Report for Grant Funded Assets Inventory Record for Grant Funded Assets Checklist for the Disposal of Grant Funded Assets
ADDITIONAL RESOURCES Virginia Attorney General Opinion No. 14-046 Virginia Attorney General Opinion No. 03-068 Virginia Attorney General Opinion No. 05-030 Appropriations Act, Item 87 Federal Jury Service qualifications LIBRARY OF VIRGINIA RETENTION SCHEDULE	REGULATIONS 1VAC20-20-50 Fee for Non-Attendance at Annual Training 1VAC20-20-70 Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots 1VAC20-20-80 Complaints 1VAC20-40-90 Voter Photo Identification Cards 1VAC20-60-60 Provisional Votes

I.1 CHAPTER ORGANIZATION

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

I.2 THE GENERAL REGISTRAR

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

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



I.2.1 Duties

I.2.1.1 Duties in general

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

- Maintain the office of the general registrar and establish and maintain additional public places for voter registration.²
- Participate in programs to educate the general public and encourage registration.³
 - However, registrars cannot actively solicit applications for registration in a selective manner, or offer anything of value for an application.⁴
- Perform duties within the county or city they are appointed to serve.⁵
 - There are two exceptions to this: registrars may, in order to register voters of their own county or city, go into a county or city within the Commonwealth that borders their own and conduct registration jointly with the registrar of that county or city; and registrars may participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.⁶
- Provide voter registration forms.⁷
- Indicate, when appropriate, that the registrant has registered by mail.⁸
 - People who register by mail must be identified as such on the registration records, lists of registered voters, lists of people who voted, and pollbooks used for the election.⁹
- Accept voter registration applications and requests for a transfer or change of address from residents of any county or city in the Commonwealth. For residents of another registrar's county or city, process in VERIS their completed applications or requests and forward them to the registrar of that county or city. For residents of registrar's own county or city, determine applicant's eligibility to register, including checking for felony conviction and restoration of rights. Promptly notify the applicant of approval or denial.¹⁰
- Preserve order at and in the vicinity of the place of registration. To that end, registrars may:
 - Exclude people whose presence disturbs the registration process from the place of registration
 - Appoint special officers for the place of registration (no more than three)

² See the Code of Virginia §24.2-114 (1).

³ *Id.*, at (2).

⁴ *Id.*

⁵ *Id.*, at (3).

⁶ *Id.*

⁷ *Id.*, at (4).

⁸ *Id.*, at (5).

⁹ *Id.*

¹⁰ *Id.*, at (6).



- Summon people in the vicinity to assist whenever, in the registrar's opinion, it becomes necessary to preserve order.¹¹
- Maintain the official registration records for their county or city in the voter registration system. This includes:
 - Preserving the written applications of all people whose registrations were approved
 - Preserving the written applications of all people whose registrations were denied or cancelled, for a period of four years.¹²
- Promptly notify, in writing, people whose applications have been denied, of the denial of their application and the reason for the denial.¹³
- Immediately notify ELECT if experiencing difficulty processing applications for voter registration or absentee ballots in a timely manner.¹⁴
- Make the pollbooks available to the precincts, and, if using paper pollbooks, provide a copy to ELECT after each election for voting credit purposes.¹⁵ For more information, please see Chapter 4 (Voting Equipment).
- Retain the pollbooks in their principal office for **two years from the date of the election**.¹⁶
- Maintain accurate and current registration records and comply with all Code requirements for the transfer, inactivation, and cancellation of voter registrations.¹⁷ Please refer to Chapter 9 (Records Access and Retention) for more information regarding the transfer, inactivation, and cancellation of voter registrations.
- Update the voter registration system to reflect changes to election districts, precincts, or polling places and notify each affected voter of these changes by mail.¹⁸
- When part of the registrars' county or city becomes part of another locality, transfer registration records of affected voters to the appropriate general registrar.
 - The general registrar of the voter's *new* locality is to notify the voter, by mail, of the change.¹⁹
- Notify the appropriate authority when a person registers who was previously registered in another state. Electronically provide the authority in that state with the information contained in that person's registration application.²⁰
- When a person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about that person's registration and voting history from authorities of other states. When authorities of other states conduct such inquiries, cooperate with them by providing information from the voter's registration and voting records.²¹



¹¹ *Id.*, at (7).

¹² *Id.*, at (8).

¹³ *Id.*, at (9).

¹⁴ See Virginia Administrative Code [IVAC20-20-70](#).

¹⁵ See the Code of Virginia §24.2-114 (10).

¹⁶ *Id.*, at (11).

¹⁷ *Id.*, at (12).

¹⁸ *Id.*, at (13).

¹⁹ *Id.*, at (14).

²⁰ *Id.*, at (15).

²¹ *Id.*, at (16).



- Review nominating petitions at the request of political party chairs, but only if the political party is nominating a candidate for a state legislative, constitutional, or local office, through a method other than a primary. Determine whether the signatures are from registered voters with an active status.²²
- Attend annual training program provided by ELECT.
 - If unable to attend because of a personal or family emergency, the general registrar may designate one staff member to attend.²³
- Make adequate advance preparations to enable prompt counting of absentee ballots returned by mail before polls close on election day.²⁴
- Make free photo identification cards available to eligible applicants according to ELECT instructions.²⁵
- In the capacity of director of elections, carry out other such duties prescribed by the local electoral board.²⁶

1.2.1.2 Duties Delegated by Electoral Boards

The statutory responsibilities of general registrars and electoral board members are enumerated in several places in the Code of Virginia.²⁷

Electoral boards may delegate many, but not all, of their duties to the general registrar. Core supervisory functions such as protection of ballots,²⁸ evaluation of the registrar's performance, appointment of officers of election representative of political parties, and certification of election results may not be delegated.

The number and type of administrative duties properly delegated varies greatly from locality to locality, especially in larger localities with larger staff. Electoral boards should be mindful of the many duties that the general registrar is legally required to perform and should have an awareness of the resources available to the registrar. If the general registrar needs additional staff to perform additional duties, particularly if those duties are delegated by the electoral board, the board should work with the local governing body to obtain adequate staffing. According to the Virginia Attorney General, Virginia Code §24.2-112 authorizes the general registrar, at their discretion to hire additional temporary, part time employees when necessary. The governing body of that locality **must compensate** those employees as provided for by law.²⁹

²² *Id.*, at (17).

²³ *Id.*, at (19).

²⁴ See the Code of Virginia §24.2-709.1.

²⁵ See the Code of Virginia §24.2-404(A)(3) [and Virginia Administrative Code 1VAC20-40-90](#).

²⁶ See the Code of Virginia §24.2-114 (18). 2015 legislation added the title “director of elections” to describe the general registrar’s role in performing electoral board duties reassigned to the general registrar, particularly duties related to absentee voting and campaign finance.

²⁷ See the Code of Virginia §§ 24.2-106, 24.2-106.01, 24.2-106.1, 24.2-107, 24.2-108, 24.2-109, 24.2-109.1, and 24.2-114 (this is a non-exhaustive list).

²⁸ See *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925)

²⁹ See [Virginia Attorney General Opinion No. 14-046](#) (Oct. 1, 2014).



1.2.1.3 *Delegation of Duties from local electoral board to general registrar*

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

Any delegation of duties to the general registrar should be:

- (1) clearly spelled out in the meeting minutes or should be included in the job description for the general registrar,
- (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.

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

1.2.1.4 *Duties Related to Officers of Elections*³⁰

- The general registrar will submit a plan to the electoral board that ensures that an adequate number of trained officers of election are available to serve in each election.³¹
- If the electoral board appoints a chief or assistant chief officer not affiliated with a political party, the general registrar must notify political parties within 10 days to allow for additional nominations.³²
- When an electronic voting machine is taken outside the polling place to assist a voter, if the required information is not recorded or it is later proven the information recorded was intentionally falsified, the electoral board or general registrar will dismiss, at a minimum:
 - the chief officer or the assistant chief officer or both
 - any other officer of election shown to have caused the failure to record or intentional falsification³³
- The electoral board must ensure that the general registrar certifies to ELECT that training of the officers of election has been conducted consistent with training standards passed by the State Board of Elections.³⁴
- The electoral board or the general registrar is responsible for instructing any officer of election not previously instructed on voting equipment used in the precinct, no fewer than three and no more than 30 days before the election.³⁵
- An electoral board member, the general registrar, or designated officer of election must give an oath to each officer of election before the polls open.³⁶

³⁰ For electoral board duties related to officers of elections, see Chapter 2: Local Electoral Boards.

³¹ See the Code of Virginia §24.2-115 and §24.2-115.2.

³² *Id.*

³³ See the Code of Virginia §24.2-638.

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

³⁵ See the Code of Virginia §24.2-636; see also Chapter 2: Local Electoral Boards.

³⁶ See the Code of Virginia §24.2-611.



- The secretary of the electoral board or the general registrar must post a list of all appointed officers of election in the office of the general registrar. Whenever substitute or additional officers are appointed, the secretary or the general registrar must promptly add the name of the appointee to the public list.³⁷ This list is open to public inspection in the general registrar's office. The secretary of the electoral board or the general registrar must provide a copy of this list to any requesting political party or candidate, at a reasonable charge.³⁸

1.2.1.5 Duties Related to Polling Places

In addition to administering the locality polling places and precincts, the general registrar must take steps in an emergency to change the polling place. Find more information about administering polling places in Chapter 3 Precincts and Polling Places and more information about accessibility requirements in Chapter 5 Accessibility.



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

Form: Email the completed *Emergency Polling Place Relocation Approval Request form SBE-310* to policy@elections.virginia.gov.

- Upon receipt of ELECT approval, give notice of the change to voters.
- The electoral board or the general registrar must provide and have posted at each polling place signs directing voters with disabilities and elderly voters to special accessible entrances.³⁹
- The electoral board or the general registrar must provide voting booths to each polling place, including at least one designed for voting paper ballots. Voting booths must be well-lit, and must permit a voter to cast their ballot in secret.⁴⁰

1.2.1.6 Duties Related to Candidates



- Through VERIS, the general registrar must provide ELECT, after the filing deadline for each election, a list of all offices to be filled and the names of all candidates who have filed for each office, including the names of any candidates who failed to qualify.⁴¹
- The general registrar must notify each disqualified candidate and enter the reason for their disqualification into VERIS.⁴² If you have additional questions, please contact verishelp@elections.virginia.gov.
- A general registrar must also accept Statements of Economic Interests from candidates for a **constitutional office**.

³⁷ See the Code of Virginia §24.2-115.

³⁸ *Id.*

³⁹ See the Code of Virginia §24.2-604.1.

⁴⁰ See the Code of Virginia §24.2-609 and Chapter 4 (Voting Equipment).

⁴¹ See the Code of Virginia §24.2-612.

⁴² *Id.*



**Law Note (HB 1854 and HB 1933)**

During the General Assembly's 2017 session, the legislature passed two bills related to general registrar duties with regard to candidates.

HB 1854 directs candidates for a **constitutional office** to file a Statement of Economic Interest form with the local general registrar.

HB 1933 provides that a candidate who is qualified to appear on the ballot must submit a signed, written notice of intent to withdraw to the general registrar of the locality they reside in. The bill also requires general registrars to take certain affirmative steps to notify other general registrars and the public of the withdrawal; if the ballots cannot be changed, the general registrar must post a list of withdrawn candidates.

Frequently Asked Questions

*What is a **constitutional office**?*

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



Treasurer
Sheriff
Commonwealth's Attorney
Clerk of Court
Commissioner of Revenue

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

1.2.1.7 Duties Related to Special Elections

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

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

If the special election is held in more than one locality, the general registrars may act jointly to provide notice.⁴³

1.2.1.8 Duties Related to Town Elections⁴⁴

The electoral board, along with the general registrar, must conduct elections for any town within its county and any town whose major portion is within its county.

⁴³ See the Code of Virginia §24.2-683.

⁴⁴ See the Code of Virginia §24.2-601.



For November elections for town offices in any town split between two counties, the electoral board of the county in which the lesser part of the town is located shall (i) include town offices on the ballot for the county, and (ii) report the results ascertained for those town offices to the electoral board of the county in which the greatest part of the town is located for inclusion in the results of that county pursuant to §24.2-671.

1.2.1.9 Duties Related to Ballots

The general registrar must order the printing of a sufficient number of ballots for each election. This number is subject to the approval of both the local electoral board and ELECT. This determination should be based on the number of active registered voters and historical election data such as past voter turnout.⁴⁵

The general registrar must send absentee ballots to requestors no later than 45 days before any election; after the 45 day deadline, the general registrar must send absentee ballots to requestors within three business days of receiving a completed absentee ballot application. In the case of a nonfederal special election, if time is insufficient to meet the deadline, the registrar must send the ballots as soon after the deadline as possible.⁴⁶

The general registrar must certify compliance with the Absentee Ballot deadline to ELECT and report the number of ballots ordered.⁴⁷ ELECT issues electronic surveys for this purpose, and may direct the printing of additional ballots as per the Code of Virginia §24.2-612.



Regulation Note

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

The general registrar must send ELECT proofs of each ballot for verification and copies of each final ballot by US mail.⁴⁸

Representative of electoral board to be present at printing. The electoral board or the general registrar must designate one person to be continuously present in the room where and when the ballots are being printed. If not an electoral board member, the designee must be paid at least \$20 per day.⁴⁹

⁴⁵ See the Code of Virginia §24.2-612.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See the Code of Virginia §24.2-617.



Delivery of ballots to electoral board; checking and recording number. The electoral board or the general registrar must designate one of its members, the general registrar, or an employee, to receive the ballots after they are printed and certify the number received. The certificate must be filed with other election materials.⁵⁰

Sealing ballots. The electoral board or the general registrar must designate a person to affix the electoral board seal to each ballot and to sign a statement witnessing such. This statement must be filed with the board's minutes. If not an electoral board member, the person must be paid at least \$20 per day.⁵¹

Dividing ballots into packages for each precinct; delivery of absentee ballots. The electoral board or the general registrar must have the printed ballots sorted into one or more packages for each precinct while at least one electoral board member or designee of the board is present. The packages must remain in the exclusive possession of the general registrar until delivered to the officers of election of each precinct.⁵² Any unused ballots at the close of the polls on election day should be sent by the general registrar to the clerk of the circuit court.

Delivery of packages to officers; opening packages. The secretary of the electoral board, a designated employee or member of the board, the general registrar, or an assistant registrar designated by the board, must deliver the packages of ballots to an officer of election of each precinct. The designee must obtain a receipt for each package and a certificate that the seals are unbroken.⁵³

1.2.1.10 Duties Related to Voting Equipment

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

A board member or an assistant registrar may be appointed by the board or general registrar to serve as custodian without pay for that service. However, whenever the law requires the presence of both a board member or registrar and a custodian, the same person cannot fulfill both roles.⁵⁴

With the approval of ELECT, the electoral board or general registrar may contract with the voting equipment vendor or another contractor to program, prepare, and maintain the voting machines. If this is done, the custodian's role will be to instruct and supervise the vendor or contractor technicians and oversee the programming, testing, calibrating, and delivering of the equipment.⁵⁵ For more information, see Chapter 4, Voting Equipment.

⁵⁰ See the Code of Virginia §24.2-618.

⁵¹ See the Code of Virginia §24.2-619.

⁵² See the Code of Virginia §24.2-620.

⁵³ See the Code of Virginia §24.2-621.

⁵⁴ See the Code of Virginia §24.2-632.

⁵⁵ *Id.*, at (A).



A board member, an authorized representative of the electoral board, or the general registrar must be present at the final testing of each machine before each election. Again, if a board member is serving as custodian, another board member must be present. The electoral board or general registrar may only authorize a representative to be present in their place if it is impracticable for a board member or general registrar to attend.⁵⁶

Notice of final testing of voting system. The general registrar must notify appropriate local party chairs (or independent candidates for a city or town election if there are no party nominees on the ballot for any office) of the time and place of the final testing and sealing of the voting equipment. The notice must be in writing and sent by mail. Each political party or candidate notified must be allowed to have one representative present to witness the testing and sealing.⁵⁷

Locking and securing after preparation. The general registrar must retain custody of all voting machine keys after the machines have been sealed.⁵⁸ The board or the general registrar must deliver the keys in sealed packages to designated officers of election in each precinct before the polls open.⁵⁹ The board or the general registrar may designate times and places for demonstrating and instructing the public on the proper use of the machines.⁶⁰ The general registrar must keep custody of all voting equipment and maintain it in proper repair.⁶¹

1.2.1.11 Duties Related to Election Day⁶²

Materials at polling places. The local electoral board is responsible for ensuring the general registrar has all voting equipment, furniture, and materials at the polling places before the polls open.⁶³ The general registrar must furnish a copy of the Virginia Election Laws to each precinct for use by the officers of election on election day.⁶⁴

Sample ballots. The board or general registrar must furnish two sample ballots to each precinct. These must be posted for public inspection at each polling place on election day.⁶⁵ The general registrar must provide, to each polling place, a model of or materials displaying the ballot facing-portion of the voting system in use, in order to instruct voters on how to use the machine.⁶⁶

1.2.1.12 Duties Following the Election, Primary, or Referendum



The board or general registrar may direct the return of all materials from the precincts to the office of the general registrar instead of to the Clerk of the Circuit Court. The general registrar must secure and retain these materials in their office, and must convey them to the Clerk of the Circuit Court by noon on the day following the electoral board's ascertainment of the results.⁶⁷

⁵⁶ *Id.*

⁵⁷ See the Code of Virginia §24.2-633.

⁵⁸ See the Code of Virginia §24.2-634.

⁵⁹ See the Code of Virginia §24.2-639.

⁶⁰ See the Code of Virginia §24.2-635.

⁶¹ See the Code of Virginia §24.2-637.

⁶² For electoral board duties related to election day, see Chapter 2, Local Electoral Boards.

⁶³ See the Code of Virginia §§24.2-610 and 24.2-637.

⁶⁴ See the Code of Virginia §24.2-610.

⁶⁵ See the Code of Virginia §24.2-641.

⁶⁶ See the Code of Virginia §24.2-647.

⁶⁷ See the Code of Virginia §24.2-668(B).



The general registrar must retain one copy of the statement of results for public inspection.⁶⁸

1.2.1.13 Duties Related to Absentee Balloting

The general registrar provides a ballot and other absentee materials to each registered applicant who properly submits a timely and complete application form no later than 45 days before any election; after the 45 day deadline, the general registrar must send absentee ballots to requestors within three business days of receiving a completed absentee ballot application.⁶⁹



A five-day waiting period is required for persons who concurrently **apply to register in-person and also apply to vote absentee**, with limited exceptions for military and overseas citizens.⁷⁰

The general registrar must certify to ELECT that absentee ballots were sent to applicants by the date required by law and must provide certain information required to ensure compliance with absentee voting deadlines.⁷¹

The general registrar must make applications for absentee ballots available and accept them electronically.⁷² The general registrar must send absentee ballots electronically to eligible absent military and overseas voters who request.⁷³

The general registrar must provide a voting assistance form to any voters who indicate that they need assistance due to blindness, disability, or inability to read and write.⁷⁴

The general registrar 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.⁷⁵

The general registrar must note, and preserve, any absentee ballot returned unused.⁷⁶

The general registrar must provide a provisional ballot to anyone who lost, returned unused, did not receive, or accidentally spoiled their absentee ballot.⁷⁷

The board, or the general registrar, must mark the date of receipt of any absentee ballot and deposit it in an appropriate container.⁷⁸

On the day before the election, the general registrar must compose a list (in triplicate) of the names of everyone who applied for an absentee ballot through the third day before the election. By noon on the day before the election, the general registrar must deliver two copies of the list to the electoral board.⁷⁹ The general registrar keeps one copy for their records.

⁶⁸ *Id.*

⁶⁹ See the Code of Virginia §24.2-706.

⁷⁰ See the Code of Virginia § 24.2-701(A)

⁷¹ See the Code of Virginia §24.2-612.

⁷² See the Code of Virginia §24.2-701.

⁷³ See the Code of Virginia §24.2-706.

⁷⁴ See the Code of Virginia §24.2-704.

⁷⁵ See the Code of Virginia §24.2-705.

⁷⁶ See the Code of Virginia §24.2-708(A).

⁷⁷ See the Code of Virginia §24.2-708 and 1 VAC 20-60-60 *Provisional Ballots*.

⁷⁸ See the Code of Virginia §24.2-710.

⁷⁹ *Id.*



The general registrar must compose a supplementary list of everyone who voted absentee in person, or who applied for an emergency absentee ballot. The general registrar must deliver this list to the chief officer of election for every precinct by 5pm on the day before the election.⁸⁰

The general registrar must deliver all applications for absentee ballots, under seal, to the Clerk of the Circuit Court before noon on the day following the election.⁸¹

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

I.2.2 Appointment

The electoral board for each county and city meets every four years (starting from the month of May or June) to appoint the general registrar. The appointment is for a four-year term to begin the first of July of the year of appointment. The electoral board fills any vacancy for the remainder of an unexpired term.⁸² The appointment is for this specific term and is not subject to grievance procedures. Immediately after the meeting to appoint the general registrar, the secretary of the electoral board must certify the appointment to ELECT using the General Registrar Certification of Appointment form.

I.2.2.1 Job Qualifications

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

- A planner capable of assessing the current and future needs of citizens, establishing a schedule to meet those needs, and managing all phases of the registration process.
- An administrator able to manage all phases of the registration process, and the employees and volunteers responsible for its accomplishment.
- A budget analyst with the ability to determine the financing required for an effective registration program, and to obtain necessary funds by providing justification to the local governing body and working with local officials.
- A human resources officer capable of assessing the qualifications of prospective paid or volunteer assistant registrars and clerical employees who may be needed.
- A trainer capable of training all assistant registrars, clerical employees, and, if delegated to do so, election officials, in the proper and efficient performance of their duties.
- A writer with the skills to compose press releases, legal notices, correspondence, and manuals.
- A public relations expert for (or at minimum capable of appropriate and non-partisan) dealing with citizens, the press, the local government, the state government, and the federal government.
- A public speaker willing to speak before the public about the election process.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² See the Code of Virginia §24.2-110.



- A person with technical ability able to understand and manage the technical aspects of the position such as creating mail merge documents (e.g., for correspondence with voters), using spreadsheets (e.g., for budget preparation) and using presentation software (e.g., for training officers of election).
- A monitor able to track and analyze federal and state legislative initiatives and voting trends to project the potential future impact on the locality, and to provide meaningful information to legislators when appropriate.
- An individual capable of quickly familiarizing herself with the locality and its citizens in order to establish a registration and voter education plan that best meets the needs of the locality.

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

The general registrar is instrumental in disseminating information to the public about the voting process. Press releases, public service announcements, and informational speeches are essential tools for public education. Application displays can be arranged in highly visible locations that are frequented by citizens of the locality. In-person registration schedules can be arranged so that the registrar is available to the public at popular events and places. In particular, visits to local high schools once or twice each year provide excellent opportunities to educate students. If general registrar staff will be accepting registration applications, the location must be open to the general public, accessible to disabled people and the elderly, and the hours must be preannounced.⁸³ The general registrar must know the county or city and the habits of its citizens in order to establish a registration plan that is responsive to the locality.

Case Note



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

I.2.3 Oath of Office

Each general registrar must, as soon as possible and not later than June 30, take and sign the oath of office prescribed in Va. Const. Art. II, § 7. Note that the Code provides more limited options for administering the registrar's oath than for administering the oath for the registrar's staff. A local judge or the Circuit Court Clerk will normally need to be called on to administer the registrar's oath. In contrast, the registrar may administer the oath for the registrar's staff.⁸⁴

⁸³ See the Code of Virginia §24.2-412; see also §24.2-413. But see §24.2-412 (B) (detailing no need for public announcement if ongoing agreement in place).

⁸⁴ See the Code of Virginia §24.2-120.



The general registrar must file the signed oath with the Circuit Court Clerk. This document is available from the Clerk. A copy of the signed oath also must be filed with the secretary of the electoral board.⁸⁵

The secretary of the electoral board must ensure that the oath is taken and filed by the general registrar appointed by the Board. Failure to take it before acting as general registrar is punishable by a fine of not less than \$100 or more than \$1,000.⁸⁶

I.2.4 The General Registrar and Political Activity

As per the Code of Virginia §24.2-110, “No general registrar shall serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of their locality.” The statute does not define “volunteer worker,” so the plain and ordinary meaning is used (i.e., a person who, of their own free will, provides services, without any financial gain).⁸⁷ There has been some question over the years as to whether §24.2-110 prohibits contributing to candidates, placing bumper stickers on private vehicles, and the like. Being in a job involving politics, it is natural that a registrar will have political leanings and may have come from a campaign background. While the law does not require a registrar to be apolitical, registrars must perform their duties in a nonpartisan manner.⁸⁸ In particular, registrars should do nothing that might cause the public to perceive favoritism for one candidate over another. The Code expressly prohibits the general registrar from selectively soliciting registration or offering incentives for applications.⁸⁹

I.2.5 Notary Services

Any person appointed as a member of an electoral board or a general registrar shall be **prohibited from collecting any fee as a notary** during the time of such appointment.⁹⁰

Any person appointed as an assistant registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the elections law.⁹¹

⁸⁵ *Id.*

⁸⁶ See the Code of Virginia [§49-11](#).

⁸⁷ See the Code of Virginia [§2.2-3601](#).

⁸⁸ See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

⁸⁹ See the Code of Virginia [§24.2-114\(2\)](#).

⁹⁰ See the Code of Virginia [§47.1-19](#).

⁹¹ *Id.*



I.2.6 Removal

The electoral board may, by a recorded majority vote and on notice, remove from office any general registrar who fails to discharge the duties of the office according to law.⁹² The State Board of Elections may petition the local electoral board to remove from office any general registrar who fails to discharge the duties of the office according to law.⁹³ The State Board of Elections may institute proceedings for the removal of the general registrar if the local electoral board refuses to act.⁹⁴

In the event that a vacancy occurs in the office of general registrar, or the incumbent general registrar becomes unable to perform the duties of the office for an extended period, the electoral board may appoint an acting general registrar.⁹⁵ The electoral board and ELECT may arrange for the acting general registrar to receive the compensation designated for the general registrar. However, ELECT will only reimburse the locality for the salary of one incumbent of the position. The locality may still be liable for the salary of a temporarily incapacitated general registrar, under the normal personnel and compensation policies of the locality. The local government attorney or personnel officer should be able to advise the electoral board and the registrar of the appropriate interim compensation policies.

I.2.7 Compensation

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

To determine the appropriate salary, ELECT uses the most recent official population estimate from the Weldon Cooper Center for Public Service of the University of Virginia.⁹⁶ The annual compensation of an incumbent may not be decreased due to declining population during her term.

The general registrar must receive the annual compensation set by the General Assembly and may not be paid less⁹⁷ unless when taking an unpaid leave of absence brought about by extenuating circumstances. During any unpaid leave, the chief assistant or another appropriately qualified individual is appointed the acting general registrar by the electoral board.⁹⁸

Any local governing body may choose to pay the general registrar a salary supplement.⁹⁹ The general registrar who believes such a supplement is warranted should approach the local governing body with a proposal and justification for the supplement.

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

⁹² See the Code of Virginia §24.2-109.

⁹³ See the Code of Virginia §24.2-103(C).

⁹⁴ *Id.* (referencing §24.2-234).

⁹⁵ See the Code of Virginia § 24.2-110.

⁹⁶ See [Appropriations Act, Item 87](#). This is determined every July 1.

⁹⁷ See the Code of Virginia §24.2-111

⁹⁸ See the Code of Virginia § 24.2-110 (electoral board fills vacancies).

⁹⁹ See the Code of Virginia §24.2-111.



The locality must provide the same benefits to the general and assistant registrars and staff as provided to other employees of the locality.¹⁰⁰ The local governing body has discretion to determine which benefit programs it can provide (e.g. retirement, medical, dental). Costs of these programs are borne entirely by the locality and/or the registrar, with no reimbursement from the State treasury.

The local governing body shall reimburse the general registrar and electoral board member for reasonable expenses and for mileage at the rate paid to members of the General Assembly when these are incurred while on official business. In the case of a dispute, ELECT will approve or disapprove the reimbursement.¹⁰¹ These expenses are not reimbursed from the State treasury. “Reasonable expenses” include, but are not limited to, costs for:

- Adequately training the registrar’s staff. This includes the costs of training in the use of computers and other technology, and the cost of the general registrar attending the annual training offered by ELECT.
- Adequately training the officers of election.
- Conducting elections as required by the Code.
- Conducting voter education.¹⁰²

I.2.8 Attendance/Absences

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

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

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

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

I.2.8.1 Jury Duty Exemption

General registrars, electoral board members, and the staff of either may request exemption from jury service starting 90 days before an election through 10 days after certification or conclusion of any recount or contest.¹⁰³ Your local government attorney can assist you with communicating an exemption request to the court.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ See the Code of Virginia [§ 8.01-341.1\(15\)](#).



I.2.9 Assistant Registrars

In localities with a population of over 15,500, the law requires at least one assistant registrar who serves at least one day a week. In localities with a population under 15,500, the law requires only one substitute registrar who is able to assume the duties of the general registrar in an emergency and who shall assist the general registrar upon request.¹⁰⁴

A specific provision for Russell County requires at least one full-time assistant registrar who shall serve in the office of the general registrar.¹⁰⁵

No legal requirement can guarantee the availability of a well-trained assistant able to assume the registrar's duties in the registrar's absence and assist with the daily work of the office. The locality must provide funds to enable the general registrar to obtain the authorized staffing.¹⁰⁶ The electoral board sets the number of assistant registrars based on the statutory formula and the local governing body must fund them in a manner consistent with federal minimum wage requirements and applicable state and local compensation standards.

The general registrar has hiring and supervisory authority over the assistant registrars and establishes their duties. The electoral board has no authority to dictate whom the general registrar hires as assistants.¹⁰⁷ Like ELECT staff and the general registrar, the general registrar's staff must remain nonpartisan and is subject to a prohibition on volunteer campaign activity.¹⁰⁸ The electoral board has ultimate responsibility for administering elections according to law and ensuring that the general registrar staff is competent and qualified to carry out their tasks.¹⁰⁹

I.2.9.1 Qualifications

Although an assistant registrar must be a registered voter of the Commonwealth, he does not have to be registered in the locality served. However, candidates who **are** residents of the locality may be given preference in hiring.¹¹⁰

Localities may mutually agree to share an assistant registrar among two or more localities.¹¹¹ The localities must work out the details of when and 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 have a family relationship with the general registrar (i.e., cannot be the spouse, parent, grandparent, sibling, child, or grandchild of the general registrar).¹¹²

¹⁰⁴ See the Code of Virginia §24.2-112.

¹⁰⁵ *Id.*

¹⁰⁶ See [Virginia Attorney General Opinion No. 14-046](#) (Oct. 1, 2014).

¹⁰⁷ See the Code of Virginia §24.2-112.

¹⁰⁸ See the Code of Virginia §§24.2-103(E) (Department of Elections staff requirements), 24.2-110 (general registrar requirements), 24.2-112 (general registrar staff requirements). See also [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

¹⁰⁹ See the [Virginia Constitution Art. II, § 8](#). See also the Code of Virginia §24.2-106.

¹¹⁰ See the Code of Virginia §24.2-112.

¹¹¹ *Id.*

¹¹² *Id.*



1.2.9.2 Hiring, Compensation and Benefits

Assistant registrars are normally hired as employees of the locality¹¹³, unless they are unpaid (in which case they are not considered state or local employees).¹¹⁴ As such, hiring should be conducted under the personnel policies of the locality.

1.2.9.3 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.¹¹⁵ The general registrar should be familiar with local personnel policies that could affect their assistants, such as restrictions on termination without cause. The personnel director and/or attorney for the locality can provide information and guidance.

1.2.9.4 Special Assistant Registrars

The general registrar may appoint, as a special assistant registrar, a person that is not a qualified voter of the locality. To qualify as a special assistant registrar, the person, while a qualified voter of the locality, must have served continuously for more than ten years as an assistant registrar. Compensation is fixed and paid by the local governing body.¹¹⁶

1.2.9.5 Unpaid Assistant Registrars

The general registrar may appoint assistant registrars who agree to serve without pay.¹¹⁷ 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. As per §24.2-122, “assistant registrars who agree to serve without pay are not state or local employees for any purpose.” Due to the increased complexity and security required for automated processes, appointment of unpaid assistant registrars is reserved to highly qualified and experienced persons such as retired elections personnel.

1.2.10 Other Staff and Volunteers

The general registrar may decide to use other staff and volunteers in the office on an ongoing or occasional basis.¹¹⁸ Such staff and volunteers may not exercise the powers of the general or an assistant registrar.¹¹⁹ For example, they may not make a decision on whether to accept or deny a voter registration application. Localities may have restrictions on hiring or compensating family members. Consulting the local administration before adding staff can prevent potentially serious problems for the electoral board and general registrar.

1.2.11 Typical Tasks of the General Registrar and Assistants

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

¹¹³ *Id.*

¹¹⁴ See the Code of Virginia §24.2-122.

¹¹⁵ See the Code of Virginia §24.2-112.

¹¹⁶ See the Code of Virginia §24.2-113.

¹¹⁷ See the Code of Virginia §24.2-112.

¹¹⁸ *Id.*

¹¹⁹ See the Code of Virginia §24.2-114 (listing the powers of the general registrar).





Below is a large locality's listing of activities of its registrar and assistants. No registrar alone should be expected to perform all these functions. Some functions listed are delegations from the electoral board. 2015 and 2016 legislation officially reassigned to the general registrar (as director of elections) many duties related to absentee voting and campaign finance administration.

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

1.2.12 Prohibited Activities

Registrars are prohibited by law from engaging in certain activities (note that paid assistant registrars are subject to the same restrictions as the general registrar).¹²⁰

- A general registrar may not hold any other elected or appointed office while serving as general registrar. However, with the consent of the electoral board, they may undertake other duties that do not conflict with their duties as general registrar.¹²¹
- A general registrar may not run for any elected office filled by the voters of their locality, either during the term of their appointment, or for six months after their term ends.¹²²
- A general registrar may not serve as an officer of election.¹²³

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

¹²⁰ See the Code of Virginia §24.2-112.

¹²¹ See the Code of Virginia §24.2-110.

¹²² *Id.*

¹²³ *Id.*



The law provides that no private business enterprise may be conducted in the office of the general registrar.¹²⁴

The general registrar is prohibited by law from serving as the chair or other officer of any political party committee, at the state, local, or district level.¹²⁵ A general registrar may not serve as a worker (paid or volunteer) in the campaign of any candidate running for an office elected in whole or part by the voters the general registrar serves.¹²⁶ Assistant registrars also cannot serve as a paid or volunteer worker for a campaign for an office elected by the voters served, or serve as the chair or other officer of any political party. Unpaid assistants are not subject to this restriction¹²⁷ but any campaign work cannot interfere with nonpartisan service to the public.

General registrars and staff must avoid any activity that can be construed as a conflict with the nonpartisan manner in which the registrar's office is maintained (i.e., that might cause the public to question whether the registrar's duties are carried out in a nonpartisan, fair, and legal manner). For example, registrars and their staff should decline invitations from political parties to offer registration applications to voters at partisan events.¹²⁸

Absolutely no political campaigning, including collecting petition signatures, is allowed in the office of the registrar. Electoral board members and staff are expressly prohibited from collecting candidate petition signatures in any public building owned or leased by locality served.¹²⁹

A general registrar is often asked to express an opinion on an issue or candidate. Registrars must refrain from making any comment that can be construed as partisan.¹³⁰ Registrars should express the facts in an unbiased way if compelled to answer.

General registrars are protected from threats or force interfering with the discharge of their duties and should immediately call law enforcement if a concern for safety arises and report to the Commonwealth's attorney concerns about harassment.¹³¹

In making speeches to groups or lectures to students, general registrars should never express opinions regarding candidates, officeholders, or issues.¹³²

¹²⁴ See the Code of Virginia §24.2-411.

¹²⁵ See the Code of Virginia §24.2-110.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ See the Code of Virginia §24.2-114(4) (expressly prohibiting a registrar from selectively soliciting voter registration). See also [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#) (general registrars should perform duties in nonpartisan fashion), and [Virginia Attorney General Opinion No. 05-030 \(Apr. 5, 2005\)](#) (all public officers must avoid conduct that undermines public confidence in their ability to perform their duties impartially).

¹²⁹ See the Code of Virginia §24.2-106.1.

¹³⁰ See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).

¹³¹ See the Code of Virginia §§24.2-1002 and 24.2-1019.

¹³² See [Virginia Attorney General Opinion No. 03-068 \(Oct. 17, 2003\)](#).



A general registrar may not selectively solicit voter registration or offer anything of value in exchange for a voter registration application.¹³³ A registrar may only conduct voter registration in public places open to all citizens, after providing three days' notice in a public area, and at hours announced prior to holding the registration.¹³⁴

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

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

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

I.2.13 Working Alongside Local Government

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



Best Practice

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

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

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

¹³³ See the Code of Virginia § 24.2-114(2).

¹³⁴ See the Code of Virginia §24.2-412(B).



1.3 THE VOTER REGISTRATION OFFICE

The local governing body is required by the Code of Virginia to provide the general registrar with clearly marked and adequately furnished public office space within the locality. The local governing body must also provide postage, stationery, equipment, office supplies, and necessary communications services (e.g. phone, fax, and internet).¹³⁵ In addition, the locality must provide adequate funding for computers and support, supplies, and computer training for the general registrar and the staff, as well as sufficient funding for at least one member of the general registrar staff to attend ELECT' mandatory annual training.¹³⁶ The Commonwealth of Virginia does not reimburse the locality for training expenses for general registrars, assistant registrars or officers of election.¹³⁷

The general registrar and local electoral board are responsible for securing sufficient funding from the local governing body for the conduct of elections. The locality must pay the entire "cost of conducting elections,"¹³⁸ but the Commonwealth pays or reimburses some or all of these expenses:

- the general registrar's base salary¹³⁹
- electoral board salaries¹⁴⁰
- electoral board expenses (to the extent possible)¹⁴¹
- the VERIS system and related expenses
- registration and absentee related forms
- photo identification card applications

1.3.1 Contact Information and Public Access

The general registrar must ensure that the public can easily find contact information for the voter registration office. For example, it is the general registrar's responsibility to list the office telephone number in the telephone directory under "Voter Registration" or "Elections."¹⁴²

The general registrar's office must be clearly marked.¹⁴³ Both exterior and interior signs should make the registration office easy for citizens to locate. All voter registration offices must be accessible to persons with disabilities and the elderly.¹⁴⁴ 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.

1.3.2 Operating Hours

All general registrar offices shall be open a minimum of five days each week.¹⁴⁵

¹³⁵ See the Code of Virginia §24.2-411.

¹³⁶ See the Code of Virginia §24.2-111.

¹³⁷ *Id.*

¹³⁸ See the Code of Virginia §24.2-600.

¹³⁹ See the Code of Virginia §24.2-111.

¹⁴⁰ See the Code of Virginia § 24.2-108.

¹⁴¹ *Id.*

¹⁴² See the Code of Virginia §24.2-411.

¹⁴³ *Id.*

¹⁴⁴ See the Code of Virginia §24.2-413.

¹⁴⁵ See the Code of Virginia §24.2-411 (as amended per 2018 Legislative Session SB 379.)



The specific days of normal service each week for general registrars shall be determined by the Commissioner of Elections.¹⁴⁶

For voter registration conducted outside regular office hours, the general registrar must give at least three days advance notice by posting it on the official website of the locality (if there is one), and publishing it at least once in a newspaper of general circulation in that locality or announcing it at least twice on a television station serving that locality.¹⁴⁷

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

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

- On any day that has a 7:00 P.M. filing deadline with the local election office¹⁴⁸
 - Closing time for the office on that day shall be 7:00 P.M.
- On the final day of registration before any election¹⁴⁹
 - The registration books will close to in person registration at the office's normal closing time, but no earlier than 5:00 P.M.¹⁵⁰
 - The office must be open a minimum of eight hours that day.¹⁵¹
 - If the last day falls on an official holiday, the next day the office is open for business must be considered the final day for registration.
 - The general registrar must give notice of the date, hours, and locations for registering on this final day of registration, at least 10 days in advance.¹⁵²
- On the first *and* second Saturdays immediately preceding all general elections (except May town elections).
 - 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.¹⁵³
- On the Saturday immediately preceding any primary election, special election, or a May town 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.¹⁵⁴



¹⁴⁶ *Id.*

¹⁴⁷ See the Code of Virginia § 24.2-415.

¹⁴⁸ See the Code of Virginia §§ 24.2-503, 24.2-507, and 24.2-510.

¹⁴⁹ See the Code of Virginia §§ 24.2-416 (registration records close 21 days before general and primary elections, but shorter times apply for special elections), and 24.2-414 (requiring a final day of registration on the day before registration records close).

¹⁵⁰ See the Code of Virginia § 24.2-414.1

¹⁵¹ See the Code of Virginia § 24.2-414.

¹⁵² See the Code of Virginia § 24.2-415(A).

¹⁵³ See the Code of Virginia § 24.2-701.

¹⁵⁴ *Id.*



The registrar's office is both an official registration site and a polling place with publicly-advertised, authorized hours. There may be occasions when the registrar is working in the office on a day or time when the office is closed, particularly during the pre-election period. If a citizen comes to the office during this time, you cannot allow them to apply to register to vote, apply for an absentee ballot, or cast an absentee ballot,¹⁵⁵ although you may offer them an application to complete and return by mail or when the office is open. These restrictions are necessary to ensure that all voters are treated fairly.

I.3.3 Closings for Training

- The general registrar may close the office for off-site training purposes, provided that:
 - The office is closed for off-site training for no more than four days each year.
 - **Notice of the closure is posted at least 72 hours in advance, and is posted on the official website of the locality and at least two public places.**¹⁵⁶
- The general registrar may close the office for training in the office, provided that:
 - This is done on no more than a quarterly basis.
 - The period of closure does not exceed four hours.
 - In this situation, no advance notice need be provided.
- The general registrar **cannot** close the office for either off-site or in-office training:
 - Within the 7 days immediately before and immediately after an election.¹⁵⁷
 - During the period for in-person absentee voting.¹⁵⁸
 - On the final registration day.¹⁵⁹
 - On a deadline specified in the Campaign Finance Disclosure Act of 2006.¹⁶⁰

I.3.4 Holidays

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

¹⁵⁵ See the Code of Virginia §§ 24.2-415 (if voter registration is to take place at times outside of regular office hours, the general registrar must give three days advance notice that this will happen, so the general registrar cannot allow a citizen to register outside of regular office hours if no advance notice has been given) and 24.2-412(A) (voter registration can only take place at preannounced hours).

¹⁵⁶ *Id.*

¹⁵⁷ See the Code of Virginia § 24.2-411.

¹⁵⁸ *Id.* See also the Code of Virginia § 24.2-701 (specifies the periods for in-person absentee voting).

¹⁵⁹ *Id.* See also the Code of Virginia §§ 24.2-414 and 24.2-414.1 (specifying the day and hours of the final registration day).

¹⁶⁰ *Id.* See also the Code of Virginia § 24.2-945 et seq. (the Campaign Finance Disclosure Act of 2006).



1.4 RECORDS RETENTION AND MAINTENANCE

Record retention is a critical step in office management. General registrars and staff must manage a multitude of records, all of which are critical to the operation of the office and the locality's elections. In all cases, localities are to maintain detailed records of all receipts, invoices, and documents related to the expenditure for a period as specified by the Library of Virginia, and make them available to ELECT or to state or federal auditors when requested. The Library of Virginia (LVA) has the authority to issue regulations governing the retention and disposition of state and local public records.¹⁶¹ LVA has developed Records Retention & Disposition Schedules outlining the disposition of public records.¹⁶² Please also see Chapter 9 (Records Access and Retention) for additional information.

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

1.5 GENERAL ASSEMBLY APPROPRIATION ACT

ELECT is required to reimburse local governments for compensation for the general registrar and the three electoral board members, as appropriated by the General Assembly.¹⁶³ The annual compensation for the registrars and the board members is set in the Appropriations Act.¹⁶⁴

ELECT's Business Manager¹⁶⁵ annually establishes the authorized salaries of all general registrars and local electoral board members based on the local population salary levels and criteria stated in the Appropriations Act.¹⁶⁶

At the beginning of each fiscal year, authorized salary levels for the upcoming fiscal year are communicated to local finance offices and general registrars by way of a formal letter from ELECT Business Manager. To initiate the reimbursement process, ELECT's Business Manager sends an application for reimbursement form to each county/city fiscal department **before but no later than May of the subsequent year**. The appropriate Local Fiscal Official completes and submits the completed application to ELECT's Fiscal Office.

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

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

¹⁶¹ See the Code of Virginia § 42.1-85.

¹⁶² See [Library of Virginia site](#).

¹⁶³ See the Code of Virginia §§24.2-111 and 24.2-108.

¹⁶⁴ See [Appropriations Act, Item 87](#).

¹⁶⁵ Contact fiscal@elections.virginia.gov.

¹⁶⁶ See [Appropriations Act, Item 87](#).



I.6 GRANT EXPENDITURES AND MANAGING ASSETS

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

I.6.1 Expenditures Must Be for Grant Purpose

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

I.6.2 Management of Assets

Asset inventory must be maintained by the locality:

- For the intended purposes and as long as needed, whether or not the grant system continues to be supported by additional grant funds.
- When no longer needed for the original project, the asset may be used according to federal and state regulations.
- When disposed of, the asset must be disposed of according to federal and state laws and regulations.

Record of inventory including controllable assets (*valued at \$4,999 or less*), e.g. laptop computers, Electronic Poll Books (EPB), flash drives, or any Information Technology asset that has a hard drive/memory as well as assets classified as equipment (*valued at \$5,000 or more*), e.g. voting machines must be maintained and must include the following information: ¹⁶⁷

- Description of the asset
- Serial number or other identification number
- Acquisition date
- Cost of the asset
- Percentage of federal, state and local participation in the cost of the asset
- Location of the asset
- Use of the asset
- Condition of the asset
- Disposition/Surplus/Transfer information, including
 - Date of disposal, and
 - Sale price of the asset
 - To whom disposed, surplus or transferred¹⁶⁸

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

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

¹⁶⁷ See [Procedure for the Disposal of Grant Funded Assets](#).

¹⁶⁸ See [Surplus and Disposal Report for Grant Funded Assets](#).



- A locality may use a separate form as long as all required information is present, and accompanied by a signed, original Inventory Record for Grant Funded Assets form that states “See attached.”¹⁶⁹

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

- Controllable I.T. assets with hard drives/memory with a current per-unit fair market value of less than \$5,000 may be retained, sold, or otherwise disposed of with no further obligation to ELECT except that the disposition of the asset must be reported to ELECT.¹⁷⁰
- Items of capital assets/equipment with a current per-unit fair market value equal to or greater than \$5,000 may be retained, sold, or otherwise disposed of by the locality and the federal government or ELECT may have a right to the proceeds resulting from the sale or the disposition of the asset. In addition, the disposition of the asset must be reported to ELECT.¹⁷¹
- For more detailed guidance regarding the disposition of grant funded assets, especially Information Technology assets, e.g. computers, E-Poll books, flash drives, etc., see the Procedure for the Disposal of Grant Funded Assets and the Checklist for the Disposal of Grant Funded Assets.

1.7 REGISTRATION OFFICES AT THE DEPARTMENT OF MOTOR VEHICLES

Encouraged by the National Voter Registration Act (NVRA), many registrars are establishing offices within Department of Motor Vehicles (DMV) facilities.¹⁷² Since the majority of registrations now come from the DMV, these arrangements have proven advantageous both to expedite the registration process and to reduce registration problems.

1.7.1 How to Establish an Office at the DMV

The Code of Virginia gives the general registrar authorization to establish other local or state government agencies, such as the DMV, as ongoing locations for voter registration. As per §24.2-412, this arrangement is “subject to the approval of, and pursuant to an agreement with, the head of the government agency...or [its] designee.” The agreement must be in writing and approved by the local electoral board. Such an agreement must “provide for the appointment of employees of the agency...to serve as assistant registrars.” These appointed assistant registrars are not required to be residents of the locality they were appointed to serve; they need only be qualified voters of the Commonwealth, and serve only within the locality they were appointed to serve.¹⁷³

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

¹⁶⁹ See [Procedure for the Disposal of Grant Funded Assets](#).

¹⁷¹ *Id.*

¹⁷² See the Code of Virginia §§ 24.2-114(3) (providing that general registrars may participate in staffing for voter registration offices at facilities of the Department of Motor Vehicles) and 24.2-412(B) (authorizing general registrars to set other local or state government agency offices as ongoing locations for voter registration).

¹⁷³ See the Code of Virginia § 24.2-412(B).



- Co-location: A satellite office or space within the DMV that is staffed by an employee of the general registrar's office (i.e., an assistant registrar).
- Relocation: Physically moving the registrar's main office to the area DMV facility.

Although there is much overlap in issues involved in co-location and relocation, these methods are discussed separately below.

I.7.2 Co-location

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

Before offering voter registration, a DMV employee must ask the applicant if (s)he is a citizen of the United States. If so, the DMV clerk will ask the applicant if (s)he wishes to register to vote or change his/her residence address.¹⁷⁴ If the applicant says yes to either, (s)he is given a Print-on-Demand preprinted voter registration application and is instructed to complete the application and take it to the voter registration desk. The assistant registrar will process the application according to established voter registration procedures. There may be variations on this typical process depending on local circumstances.

An assistant registrar at a co-location may handle data entry for changes or new registrants for more than one locality.¹⁷⁵

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

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

I.7.3 Relocation

Relocation involves moving the primary registration office (and in most cases the electoral board office) within the DMV facility.¹⁷⁶ Considerations include:

- Office size
 - Does the DMV facility have adequate space to establish a working office?
 - The space must be large enough for day-to-day activities as well as election preparation.
- On-site storage
 - Does the DMV facility have adequate additional space for all the materials, supplies, and equipment that were stored at the former location?

¹⁷⁴ See the Code of Virginia §24.2-410.1(A)

¹⁷⁵ See the Code of Virginia § 24.2-114(3) (allowing general registrars to conduct registration jointly with the registrar of a contiguous locality and to participate in multijurisdictional staffing for voter registration offices at facilities of the Department of Motor Vehicles)

¹⁷⁶ See the Code of Virginia § 24.2-411 (allowing the principal office for voter registration to be located within DMV facilities).



- In some cases storage may be available in the former 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 spaces accessible to persons with disabilities.
- Access to facilities
 - What are the provisions for the registrar and his/her employees to have access to bathrooms, lunchroom, etc.?
 - Will the office space be in a place that has full public access?
- Access during DMV off-hours
 - Although DMV offices are generally open for more hours than registration offices, the registrar will need to ensure that there will be full access, including public access, to the office(s) when the DMV is closed.
 - This is particularly important during the candidate filing and pre-election periods.
- Security
 - DMV offices have a greater risk of suffering criminal conduct such as robbery and terrorism, requiring heightened security systems.
 - Will these security systems interfere with normal operation of the registrar's office, especially during DMV off-hours?
 - Will there be adequate security for voter registration and election purposes?
- Computer system
 - Unlike a co-location, with relocation the DMV is not responsible for providing the registrar a computer; therefore, the registrar will have to 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 is needed, and who will provide it?



1.7.3.1 *Establishing an Agreement with the DMV*

The registrar will need to develop a lease agreement with the DMV for the space. Since DMV authorities have actively encouraged registration office relocations, the cost of leasing space in their facilities is quite low. Such a lease agreement is not between the registrar and the DMV, but between the local governing body and the DMV, since the local governing body is legally responsible for providing the registrar with office space.¹⁷⁷ However, all the particulars in the agreement directly affect the registrar, and thus the registrar should be involved and consulted about the details before any agreement is made. Important issues include the length of lease, and provisions for renewal, termination, and access. It is best to keep hours of operation out of the lease to have the flexibility to change them without having to change the lease. The registrar is encouraged to look at leases from other localities that have relocated to make sure all relevant details have been considered and included.

¹⁷⁷ *Id.*



1.7.3.2 Public Notice

The registrar will need to develop a plan for notifying the public about the move. The general registrar must provide notice not more than 21 days before and not later than 7 days after the change in location using one of three permitted notice methods: (1) posting on the official website of the locality; (2) posting in at least 10 public places; or (3) placing one publication in a newspaper of general circulation in the locality.¹⁷⁸ Voter notification requirements are important to consider in planning the timeframe for the move and costs.

¹⁷⁸ See the Code of Virginia §24.2-306.



APPENDIX A

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

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

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of §24.2-412.
2. Participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.
3. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.
4. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.
5. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to §24.2-405, lists of persons who voted furnished pursuant to §24.2-406, and pollbooks used for the conduct of elections.
6. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of §24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored, and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. However, notification shall not be required when the registrar does not have an address for the applicant.
7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.
8. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.
9. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial in accordance with §24.2-422.



10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board provide a copy of the data from the pollbooks to the State Board after each election for voting credit purposes.
11. Retain the pollbooks in his principal office for two years from the date of the election.
12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.
13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.
14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.
15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia by providing electronically, through ELECT, the information contained in that person's registration application.
16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history.
17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.
18. Carry out such other duties as prescribed by the electoral board in his capacity as the director of elections for the locality in which he serves.
19. Attend an annual training program provided by the State Board. A general registrar may designate one member of his staff to attend such training program if he is unable to attend because of a personal or family emergency.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 2

Local Electoral Boards

June 2018

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2. Local Electoral Boards

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

2.1 CHAPTER ORGANIZATION

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



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



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

2.2 ORGANIZATION OF THE LOCAL ELECTORAL BOARD

2.2.1 Composition

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

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

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

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

² *Id.*

³ *Id.*

⁴ See Op. Va. Att’y Gen. (June 26, 2014), https://ag.virginia.gov/files/Opinions/2014/14-032_Palmer.pdf.

⁵ *Id.*



2.2.2 Terms of Office

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

2.2.2.1 Court Ordered Expiration Date

Any order of appointment to the electoral board that specifies a term expiration date other than the last day of 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. Your local government attorney can assist with contacting the circuit court if needed.

2.2.2.2 Party Recommendations and Representation

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

2.2.2.3 Appointment

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

2.2.2.4 Interim Appointment of Temporary Member

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

⁶ See the Code of Virginia §24.2-106.

⁷ See the Code of Virginia §24.2-106.

⁸ *Id.*

⁹ See the Code of Virginia §24.2-106

¹⁰ *Id.*

¹¹ See the Code of Virginia §24.2-106.

¹² See [2013 Va. Act. Ch. 409](#) (relating to temporary appointments).



2.2.3 Oath of Office

Before entering any term or performing any duties, any newly appointed or re-appointed member of the electoral board must take and sign the oath of office.¹³ Any judge or the Clerk of the Circuit Court may administer the oath.¹⁴

“Each member of an electoral board and general registrar [must] file the original signed oath in the clerk’s office of the circuit court of his county or city,” and a copy of it must be placed with the secretary of the electoral board.¹⁵ 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 \$1,000.¹⁶

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

2.2.4 Required Notification of Change in Electoral Board

After the electoral board has met and elected its officers, the Secretary must immediately notify ELECT of any change in membership or officers of the electoral board and keep ELECT informed of the name, residence and mailing addresses, and telephone numbers of each electoral board member.¹⁷

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

2.3 MEETINGS

FOIA ensures public access to state and local government meetings and records. The provisions of FOIA must be “liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.”¹⁸ Any exemption, therefore, must be narrowly construed. This means that no meeting can be closed to the public unless specifically made exempt by FOIA or other specific law.¹⁹

¹³ See [Va. Const. art. II, § 7](#); see also the Code of Virginia §24.2-120.

¹⁴ See the Code of Virginia §49-3 stating “The oaths to be taken by a person elected or appointed to any other office or post shall, except in cases in which it may be otherwise directed by law, be administered by the clerk of a court of record, by any judge, by a Commissioner or clerk of the State Corporation Commission or by the Secretary of the Commonwealth. A magistrate or person holding a comparable position in another state may administer the oaths to be taken by a commissioner or other person residing therein.”

¹⁵ See the Code of Virginia §24.2-120

¹⁶ See the Code of Virginia § 49-11 stating “If any officer or person mentioned in § 49-1 shall act in his office or function before taking such oaths as are required by law, he shall forfeit not less than \$100 nor more than \$1,000.”

¹⁷ See the Code of Virginia §24.2-106.

¹⁸ See the Code of Virginia §2.2-3700.

¹⁹ See the Code of Virginia §2.2-3700.



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

The three-member SBE and each three-member local electoral board are "public bodies" under FOIA.²⁰ Therefore, all electoral board meetings are open to the public.²¹ The only possible exceptions, to hold a "closed" meeting, arise in strictly limited, explicitly stated circumstances. A meeting should not be closed to the public unless the meeting is specifically made exempt by FOIA or another law.

2.3.1.1 What is a Meeting

A "meeting" occurs any time two members gather for the purpose of considering or transacting any public business.²² This includes "work sessions".²³ Two members of a three-member electoral board may communicate via email without violating FOIA as long as no simultaneous communication occurs.²⁴ But remember, all emails are public records.²⁵

Law Note



In 2004 the Virginia Supreme Court held in *Beck v. Shelton*, 267 Va. 482, that e-mail correspondence *may* constitute a meeting under FOIA, depending on "how the e-mail is used." If the e-mail is being used "as the functional equivalent of [a] letter communication by ordinary mail, courier, or facsimile transmission," it is *not* a meeting under FOIA. However, these communications are still considered public records under FOIA.

The Virginia Freedom of Information Advisory Council issued an opinion in 2004 that stated that "members of a local electoral board are not violating FOIA by using e-mail to communicate with one another." However, "e-mails relating to the transaction of public business are public records subject to access under FOIA" where there is a delay between when the e-mail is sent and received and when a response is sent. It is important to note, however, that the Advisory Council suggested the implementation of a system that copies all e-mails to the registrar to keep on file for public inspection.

2.3.1.2 What isn't a Meeting



The Code of Virginia §24.2-107 states that "the presence of two or more board members while the ballots, election materials, or voting equipment are being prepared, current or potential polling places are being inspected, or election officials are being trained, or a telephone call between two board members preparing for a meeting" does not constitute a meeting, as long as "no discussion or deliberation takes place that would otherwise constitute a meeting."²⁶

²⁰ See the Code of Virginia [§2.2-3701](#).

²¹ *Id.*

²² See the Code of Virginia [§§2.2-3701 and 2.2-3708](#).

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

²⁴ See Virginia Freedom of Information Advisory Opinion 19 (2004), http://foiacouncil.dls.virginia.gov/ops/04/AO_19_04.htm.

²⁵ See the Code of Virginia [§2.2-3707](#).

²⁶ See the Code of Virginia §24.2-107.



Social gatherings of two or more members of an electoral board are not prohibited, as long as public business is neither transacted nor discussed, and as long as the gathering was not called for the purpose of transacting or discussing public business.²⁷



Law Note

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

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

2.3.1.3 Required Meetings

Local electoral boards are required by the Code of Virginia §24.2-107 to “meet during the first week in February” to appoint officers of election, and second, “during the month of March each year at the time set by the board.” Beyond these two required meetings, any electoral board member can call for a meeting.²⁸ The electoral board must also meet to reorganize following a member’s appointment to fill a vacancy in an unexpired term.²⁹ In the year in which the term of the general registrar expires (2007 and every fourth year thereafter), the Code directs the board to meet in May or June to appoint or reappoint a general registrar for a four-year term to begin that July 1.³⁰

2.3.1.3.1 First Week in February

At its regular meeting in the first week of February, each electoral board appoints officers of election.³¹ “Their terms of office [...] begin on March 1 following their appointment and continue, for a term not to exceed three years or until their successors are appointed.”³² After the electoral board has met and elected its officers, the Secretary must immediately notify the Department of Elections of any change in membership or offices of the electoral board members.

²⁷ See the Code of Virginia [§2.2-3707](#).

²⁸ See the Code of Virginia §24.2-107.

²⁹ See the Code of Virginia §24.2-110.

³⁰ *Id.*

³¹ See the Code of Virginia §24.2-107.

³² See the Code of Virginia §24.2-115.



Furthermore, the general registrar is responsible for keeping the Department of Elections informed of the names, residence, mailing addresses, and home and business telephone numbers of each electoral board member.³³ It is also important to inform the Department of Elections of the email address, party affiliation, year the term expires, and office held for each member.

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

2.3.1.3.2 During March

At its March meeting, the electoral board elects a chairman, vice chairman and secretary immediately following the appointment (or re-appointment) of a member to a new term.³⁴

2.3.1.4 Electronic Participation

Electoral boards generally cannot conduct business “through telephonic, video, electronic or other [means of communication] where the members are not physically assembled.”³⁵ Although some meetings of public bodies have been granted exceptions to the electronic meetings prohibition, these specific exceptions do not apply to local electoral boards.

However, in case of an unforeseen emergency, personal matter or a temporary disability preventing the member’s attendance, one electoral board member may participate electronically as long as five conditions are met:

1. The electoral board has adopted a uniform written policy governing electronic participation.
2. The other two members are physically assembled for the purpose of attaining quorum. All meetings require a quorum of two members to conduct public business.
3. The voice of the remote participant must be able to be heard by all persons present at the primary meeting location.
4. If remote participation is disapproved, this must be recorded in the minutes.
5. Electronic participation may not exceed two meetings, or 25 percent of the meetings of the public body, whichever is fewer.³⁶



Best Practice: A suggested electoral board policy for electronic participation in meetings can be found online at the Forms Warehouse (Suggested Electoral Board Policy for Electronic Participation in Meetings). If an electoral board has not already adopted a policy permitting members to participate electronically, they may not use electronic means to meet quorum.

³³ See the Code of Virginia §24.2-106.

³⁴ See the Code of Virginia §24.2-107.

³⁵ See the Code of Virginia [§2.2-3707](#)

³⁶ See Suggested Electoral Board policy for Electronic Participation in Meetings, <https://www.elections.virginia.gov/FormsWarehouse/>



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

2.3.2.1 Three Days' Notice

Either the secretary or the member calling the meeting must provide notice to the public and all board members at least three business days prior to the meeting. Providing notice includes posting the date, time and location of meetings in a prominent public location (such as on the locality website or a public bulletin board) and at the general registrar's office. Notice should also be provided electronically on the locality website.³⁷



Law Note

FOIA Council opinion¹ on Three Working Days: Weekends, Holidays, Day Of:

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

2.3.2.2 Emergency Meetings

Special or emergency meetings can be held, but notice must be given to the public contemporaneously with the notice provided to the electoral board members. An "emergency" meeting "means an unforeseen circumstance" arose requiring "immediate action," therefore rendering the FOIA three day notice requirement "impossible or impracticable."³⁸ While emergency meetings must be public, a public body can go into closed session if there is a need to discuss a matter properly exempt under FOIA.³⁹

2.3.2.3 "Election day" Exception

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

³⁷ See the Code of Virginia §24.2-107; see also the Code of Virginia [§2.2-3707](#)

³⁸ See the Code of Virginia [§2.2-3701](#).

³⁹ *Id.*



2.3.3 Meeting Records

2.3.3.1 *Materials*

All working papers and materials furnished to the SBE and local electoral boards must be made available for public inspection upon request at the same time these documents are provided to the board members.⁴⁰

2.3.3.2 *Minutes*



Minutes are required for all meetings, and must be available for public inspection after being finalized and approved by the board. The secretary of the board should promptly prepare and deliver the draft minutes to the local general registrar's office after the meeting.

2.3.3.3 *Votes*

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

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

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

2.3.4 Closed Meetings

2.3.4.1 *Permitted for Strictly Limited Purposes*

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

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

A member must make a motion, during an open meeting, to close the meeting. The motion must identify the subject matter, purpose "of the meeting as authorized in subsection A of §2.2-3711 or other provision of law," and "applicable exemption from open meeting requirements provided in subsection A of §2.2-3711 or other provision of law" for discussing the subject in a closed meeting. The board must restrict the topics discussed to only those matters stated in the motion, specifically exempted from FOIA.⁴¹

⁴⁰ *Id.*

⁴¹ See the Code of Virginia [§2.2-3712](#).



2.3.4.3 *The Closed Meeting Must be Certified*

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

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

Any member who believes that there was a departure from these requirements should state this prior to the vote. This statement must be recorded in the minutes of the public body.⁴²

2.3.4.4 *Public Access to Closed Meetings*

The public should be informed as soon as the closed meeting ends, and given sufficient time to reenter the room before the board certifies the closed meeting. A board “may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the [board] in its consideration of a topic that is a subject of the meeting.”⁴³

2.3.5 *Voting Equipment and Election Security Plans*

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



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

The Code of Virginia §24.2-625.1(E) specifies that this section should not “be construed to prohibit the release of information concerning any breach of security in the conduct of an election.”⁴⁴

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See the Code of Virginia §§24.2-625.1 and [2.2-371.1](#)(34).



2.4 RESPONSIBILITIES

2.4.1 Administrative Tasks – the Secretary



It is essential at all times that one member of the electoral board serve as secretary to ensure that the board performs the necessary administrative duties. At any time that the secretary is incapacitated in such a way that makes it impossible for the secretary to carry out the duties of the position, the board should designate one of its other members as acting secretary. This designation must be made in an open meeting and recorded in the minutes of the board. Should the member elected as secretary die, resign, or become incapacitated in such a way that makes it impossible for that person to carry out the duties of the position, the electoral board may elect another of its members acting secretary until such time as a new member is appointed and the electoral board meets to reorganize.⁴⁵

The minutes of any board meetings held during such time and any required official documents must be signed accordingly. The annual compensation paid to any member shall not be affected by the member's temporary election as acting secretary.⁴⁶

2.4.2 Attendance, Absences and Notice to ELECT

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

In the event that any board member becomes unable to serve for an extended period of time, but expects to return to the board at a later time, the remaining members may request that the Court appoint a temporary member to ensure that the work of the board can go forward in an efficient and bi-partisan manner. If necessary for a quorum (two members) due to a member's temporary absence or disability, the senior circuit judge may appoint temporary members on a meeting to meeting basis; the temporary appointee is subject to the same qualification requirements as a regular member and must maintain party representation if practicable.⁴⁷

⁴⁵ See the Code of Virginia §24.2-106.

⁴⁶ See the Code of Virginia §24.2-108.

⁴⁷ See the Code of Virginia §§24.2-106 and [15.2-1503](#) which states "**Tenure of officers and employees; suspension or removal.**

A. All appointments of officers and hiring of other employees by a locality shall be without definite term, unless for temporary services not to exceed one year or except as otherwise provided by general law or special act.

B. Any officer or employee of a locality employed pursuant to subsection A of this section may be suspended or removed from office or employment in accordance with the provisions of §§ 24.2-230 through 24.2-238, if such sections are applicable. Otherwise, any such employee may be suspended or removed in accordance with procedure established by special act or by the governing body, if any.

C. In case of the absence or disability of any officer or employee, the governing body or other appointing power may designate some responsible person to temporarily perform the duties of the office."



2.4.3 Annual Training

Each member of each electoral board must attend ELECT's annual training program the first year of [their initial] appointment and [in] the first year of any subsequent reappointment.⁴⁸ The local governing body is required to pay or reimburse the reasonable expenses and mileage costs for at least one member incurred in attending this training. The Department of Elections will annually reimburse the locality for the mileage of at least one board member attending training to the extent of funds appropriated for this purpose.⁴⁹



Regulation Note

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

2.4.4 Notary Services

Any person appointed as a member of an electoral board or a general registrar shall be **prohibited from collecting any fee as a notary** during the time of such appointment.⁵⁰ Any person appointed as an assistant registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the elections law.⁵¹

2.5 DUTIES

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

2.5.1 Duties Related to General Organization

- Electoral board members must take the oath of office.⁵²
- At least one member of each electoral board must attend the annual training provided by the Department of Elections.⁵³
- The secretary must notify the Department of Elections "of any change in the membership or officers of the electoral board."⁵⁴

⁴⁸ See the Code of Virginia §24.2-106.

⁴⁹ See the Code of Virginia §24.2-108.

⁵⁰ See the Code of Virginia §47.1-19(C) which states "Any person appointed as a member of an electoral board or a general registrar shall be prohibited from collecting any fee as a notary during the time of such appointment. Any person appointed as an assistant registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the election laws."

⁵¹ *Id.*

⁵² See the Code of Virginia §24.2-120.

⁵³ See the Code of Virginia §24.2-106.



- The electoral board must provide any information requested by the Department of Elections as provided: “Electoral boards and registrars shall provide information requested by the State Board and shall follow (i) the elections laws and (ii) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law.”⁵⁵

2.5.2 Duties Related to Polling Places

- The electoral board is responsible for **reviewing all polling places after each election** to determine that there will be polling places for the next election that meet the requirements of the Code of Virginia §§24.2-305-310.
- The “governing body of each county, city and town [must] provide funds to enable the general registrar to provide adequate facilities at each polling place for the conduct of elections.”⁵⁶
- 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.⁵⁷
- “If an emergency makes a polling place unusable or inaccessible, the electoral board or the general registrar [must] provide an alternate polling place.”⁵⁸
- “The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any special entrance designed for their use.”⁵⁹
- The electoral board or the general registrar must provide voting booths to each polling place, including at least one designed for voting paper ballots.⁶⁰



Regulation Note

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

⁵⁴ *Id.*

⁵⁵ See the Code of Virginia §24.2-103.

⁵⁶ See the Code of Virginia §24.2-310.

⁵⁷ *Id.*

⁵⁸ See the Code of Virginia §24.2-310.

⁵⁹ See the Code of Virginia §24.2-604.1.

⁶⁰ See the Code of Virginia §24.2-609; see also Chapter 3 (Precincts and Polling Places) (explaining how to establish polling places).



2.5.3 Duties Related to Voter Registration

- The electoral board or the general registrar may set additional hours for the voter registration office to be open.⁶¹
- The electoral board must approve any agreement for ongoing registration sites at businesses or other governmental agencies, as provided: “The agreement shall provide for the appointment of employees of the agency, business, or establishment to serve as assistant registrars and shall be in writing and approved by the local electoral board prior to implementation.”⁶²
- The electoral board or general registrar may set additional occasional registration sites.⁶³
- The electoral board, along with the general registrar, should ensure that all permanent registration sites comply with various state and federal acts designed to ensure the accessibility of all polling places to persons with disabilities, such as the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act.⁶⁴
- Changes in hours and locations of official voter registration sites staffed with a government employee are subject to notice requirements.⁶⁵



Regulation Note

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

2.5.4 Duties Related to Candidate Qualifications

- If requested by a candidate, the electoral board must notify the candidate of any deficiencies in his declaration of candidacy or his petitions “which can be corrected prior to the filing deadline.”⁶⁶

⁶¹ See the Code of Virginia §24.2-411.

⁶² See the Code of Virginia §24.2-412.

⁶³ *Id.*

⁶⁴ See the Code of Virginia §24.2-413.

⁶⁵ See the Code of Virginia §24.2-415.

⁶⁶ See the Code of Virginia §24.2-505(D).



2.5.5 Duties Related to Primaries and Special Elections

- The secretary must post or publish any notice of a primary that is received from the Department of Elections or other appropriate authority.⁶⁷ “Each secretary [must] post a copy of the notice on the official website of any county or city, post copies of the notice at not less than 10 public places in the county or city, or have notice of the election published at least once in a newspaper of general circulation in the county or city.”⁶⁸
- 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.⁶⁹
- “In the event two or more candidates file simultaneously, the order of filing [is] then determined by lot by the electoral board.”⁷⁰

2.5.6 Duties Related to Town Elections

- The electoral board, along with the general registrar, must carry out elections for any town within its county and any town whose major portion is within its county. In a November election, the electoral board in a locality containing a town whose major portion is within another county must report the results ascertained for the town offices to the county in which the greatest part of the town is located.⁷¹

2.5.7 Duties Related to Ballots

- The general registrar must order the printing of the number of ballots he determines are sufficient for the proper conduct of the election. This number is “subject to the approval [of] the electoral board.”⁷²
- “The general registrar [must] make printed ballots available for absentee voting not later than 45 days before any election,” or as soon thereafter for a nonfederal special election.⁷³
- The electoral board must certify its compliance with the deadline to the Department of Elections and report to SBE the number of ballots ordered.⁷⁴ The Department of Elections issues electronic surveys for this purpose.
- The general registrar must send “proofs of each printed ballot for verification, and copies of each final ballot” to the Department of Elections.⁷⁵
- The electoral board, along with the Department of Elections, must design and layout each ballot according to instructions titled “Ballot Standards and Verification Procedures.”⁷⁶

⁶⁷ See the Code of Virginia §24.2-517.

⁶⁸ *Id.*

⁶⁹ See the Code of Virginia §24.2-524.

⁷⁰ See the Code of Virginia §24.2-529.

⁷¹ See the Code of Virginia §24.2-601.

⁷² See the Code of Virginia §24.2-612.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See the Code of Virginia §24.2-613.



- “The electoral board or the general registrar [must] designate one person to be continuously present in the room in which the ballots are printed.” If not an electoral board member, the person must be paid at least \$20 per day.⁷⁷
- The electoral board or the general registrar must designate one of its members, or a registrar, or an employee, to “receive the ballots after they are printed and [to] certify the number of ballots received. This certificate must be filed with other” election materials.⁷⁸
- The electoral board or the general registrar must designate a person to affix the electoral board seal to each ballot and to sign a statement witnessing such. This statement must be filed with the board’s minutes.⁷⁹
- The electoral board or the general registrar must have the printed ballots sorted for each precinct with at least one electoral board member or designee of the board present.⁸⁰
- The electoral board must designate a member, or a registrar, or an employee, to “deliver to an officer of election of each precinct the official ballots for that precinct and obtain a receipt for the package or packages.”⁸¹

2.5.8 Duties Related to Voting Equipment

- The board must keep all ballot containers to be used in the precincts.⁸²
- The board must furnish properly designed and printed ballots for use on all optical scan voting equipment.⁸³
- The board and general registrar must employ a person or persons (called “custodians”) to set up and test each voting machine before each election. “The local electoral board or general registrar may assign a board member or an assistant registrar to serve as a custodian without pay for such service.” A board member serving as the custodian may not also serve in his capacity as a board member when both the custodian and a board member are required to be present.⁸⁴
- “The final testing of the equipment prior to each election [must] be done in the presence of an electoral board member, a representative of the electoral board, or the general registrar.” Again, if a board member is serving as custodian, another board member must be present.⁸⁵
- 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.⁸⁶

⁷⁷ See the Code of Virginia §24.2-617.

⁷⁸ See the Code of Virginia §24.2-618.

⁷⁹ See the Code of Virginia §24.2-619.

⁸⁰ See the Code of Virginia §24.2-620.

⁸¹ See the Code of Virginia §24.2-621.

⁸² See the Code of Virginia §24.2-623.

⁸³ See the Code of Virginia §24.2-640.

⁸⁴ See the Code of Virginia §24.2-632.

⁸⁵ *Id.*

⁸⁶ See the Code of Virginia §24.2-633.



- The general registrar must retain custody of all voting machine keys after the machines have been sealed.⁸⁷
- The board or the general registrar must deliver the keys in sealed packages to designated officers of election in each precinct before the polls open.⁸⁸
- The board or the general registrar may designate times and places for “the exhibition of equipment containing sample ballots, showing the title of offices to be filled, and, so far as practicable, the names of the candidates to be voted for at the next election for the purpose of informing voters who request instruction on the use of equipment.”⁸⁹
- The board must take all necessary steps to assure the security of all voting equipment hardware, software, and firmware.⁹⁰

2.5.9 Duties Related to Election Day

- The board must “ensure that the general registrar has the voting and counting equipment and all necessary furniture and materials at the polling place” before the polls open.⁹¹
- The board or general registrar must “provide for each precinct in which any voting or counting machines are used two sample ballots.” “Such sample ballots [must] be posted for public inspection at each polling place during the day of election.”⁹²
- The general registrar must provide to each polling place a model of a portion of the machine ballot face to use in instructing voters on how to use the machine.⁹³

2.5.10 Duties Following the Election, Primary, or Referendum

- The board or general registrar may direct the return of all materials from the precincts to the office of the general registrar instead of the Clerk of Circuit Court. These materials must be conveyed to the Clerk of the Circuit Court by noon on the day following the electoral board’s ascertainment of the results.⁹⁴
- The board must meet beginning on the day after the election to determine the official results. A determination of the provisional ballots must be conducted within 7 days of the election.⁹⁵ The board must deliver “the certification of the results of the count together with all ballots and envelopes,” to the Clerk of Circuit Court.⁹⁶



Regulation Note

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

⁸⁷ See the Code of Virginia §24.2-634.

⁸⁸ See the Code of Virginia §24.2-639.

⁸⁹ See the Code of Virginia §24.2-635.

⁹⁰ See the Code of Virginia §24.2-625 et. seq; see also Chapter 4 (Voting Equipment) (detailing procedures related to voting equipment).

⁹¹ See the Code of Virginia §§24.2-610, 24.2-637.

⁹² See the Code of Virginia §24.2-641; see also Chapter 11 (Election Day) (detailing election day procedures).

⁹³ See the Code of Virginia §24.2-647.

⁹⁴ See the Code of Virginia §24.2-668.

⁹⁵ See Chapter 13 (Provisional Ballots).

⁹⁶ See the Code of Virginia §24.2-653.



- “Each electoral board [must] meet at the clerk’s or general registrar’s office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election” to ascertain the results. This meeting may be adjourned to another day as needed, within 7 days from the date of the election.⁹⁷
- 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.⁹⁸ Provisions for referenda can also be found in Title 15.2.
- The board must inform the Clerk of Circuit Court of any officer of election who has failed to return the election materials by the time of the board’s meeting to ascertain the results.⁹⁹
- The board, along with the general registrar and the officers of election, must account for all used and unused paper ballots.¹⁰⁰
- If a local election results in a tie, “the electoral board [must] proceed publicly to determine by lot which of the candidates shall be declared elected.”¹⁰¹
- The secretary must make, and deliver, certificates of election to all winners of local offices.¹⁰²



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

2.5.11 Duties Related to Absentee Balloting

- The board will be asked to certify to the Department of Elections that absentee ballots were sent to applicants by the date required by law and to provide certain information required to assure compliance with absentee voting deadlines.¹⁰³
- The board must make applications for absentee ballots available and accept them electronically.¹⁰⁴ The board must send absentee ballots electronically to eligible absent military and overseas voters who request.¹⁰⁵
- The board must provide a voting assistance form to any voter who indicates that they need “assistance to vote [...] by reason of blindness, disability, or inability to read or write.”¹⁰⁶ 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.¹⁰⁷

⁹⁷ See the Code of Virginia §24.2-671.

⁹⁸ See, e.g., the Code of Virginia §§22.1-42, 24.2-532, 24.2-671, 24.2-675, 59.1-391.

⁹⁹ See the Code of Virginia §24.2-670.

¹⁰⁰ See the Code of Virginia §24.2-666.

¹⁰¹ See the Code of Virginia §24.2-674. The local electoral board conducts the drawing for county, city, town or district offices; SBE conducts the drawing for General Assembly, Congress, presidential electors.

¹⁰² See the Code of Virginia §24.2-676.

¹⁰³ See the Code of Virginia §24.2-612.

¹⁰⁴ See the Code of Virginia §24.2-701.

¹⁰⁵ See the Code of Virginia §24.2-706.

¹⁰⁶ See the Code of Virginia §24.2-704.

¹⁰⁷ See the Code of Virginia §24.2-705.



- “The general registrar [must] carefully preserve all ballots returned unused and deliver them, together with other returned ballots, to the officers of election on election day.”¹⁰⁸
- The board, or the general registrar, must mark the date of receipt of any absentee ballot and deposit it in an appropriate container.¹⁰⁹
- The board must deliver one attested copy of the final absentee applicants list to the chief officer of election for each precinct on the day before the election.¹¹⁰
- “Before the polls close on [election day], the electoral board [must] deliver the absentee ballot containers to, and obtain receipt form, the officers of election at each appropriate precinct.”¹¹¹
- “The secretary of the electoral board [must] deliver all absentee ballots received after the election to the Clerk of Circuit Court.”¹¹²
- The board must approve any site for absentee balloting other than the registrar’s or board’s office.¹¹³
- Any “member of an electoral board ...” who fails to discharge his duty as provided in this section – if “guilty of willful neglect of his [her] duty” – shall be guilty of a Class 1 misdemeanor as provided in the Code of Virginia §24.2-1001(A).



Law Note

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

2.5.12 Duties Related to Recounts

Please see Chapter 15 Recounts for more information.

- The board must supervise the review of pollbooks, machine printouts, and absentee ballots during any preliminary hearing related to a recount.¹¹⁴
- The board must assist and advise the court on establishing procedures for a recount.¹¹⁵
- Board members must serve as recount coordinators if so requested by the court.¹¹⁶

¹⁰⁸ See the Code of Virginia §24.2-708.

¹⁰⁹ See the Code of Virginia §24.2-710.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ See the Code of Virginia §24.2-707.

¹¹⁴ See the Code of Virginia §24.2-802.

¹¹⁵ *Id.*



2.5.13 Duties Related to Officers of Election

- The electoral board must appoint all officers of election and designate the precinct in which each will serve.¹¹⁷
- “The electoral board by a recorded majority vote may remove from office, on notice, any[...] officer of election who fails to discharge the duties of his office according to law.”¹¹⁸
- The electoral board must designate a chief officer and assistant chief officer for each precinct. “Not less than three [officers of election must] be appointed for each precinct.” “In appointing officers of election, representation [must] be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election.” “If practicable, no more than one-third of the total number of officers appointed for each precinct may be citizens who do not represent any political party.”¹¹⁹
- The electoral board or general registrar shall “dismiss at a minimum the chief officer or the assistant chief officer, or both, as appropriate,” and any other officer of election who fails to record the required information when taking voting machines to voters outside the polling place on Election Day.¹²⁰
- The Department of Elections sets the training standards for the officers of election to be fulfilled by the local electoral boards and general registrars. Department of Elections policy 2010-2 establishes the training standards.¹²¹
- The electoral board will certify to the Department of Elections each year before the November general election that (1) they have reviewed and updated their training plan to meet training standards, including changes in laws and instructions from the Department of Elections, and (2) any officers of election trained within the last year have been trained according to these standards.¹²²
- The electoral board must ensure that the general registrar certify to the Department of Elections that training of the officers of election has been conducted consistent with the training standards.¹²³ The annual and quadrennial certifications are combined on one form and are posted in the Forms Warehouse.
- The Department of Elections recommends training all new officers before each election and all officers whenever there are major procedural changes in polling place operations. The Department of Elections requires training on particular issues, such as completing Statements of Results or using electronic pollbooks, and requests the electoral board to conduct special workshops.¹²⁴

¹¹⁶ See the Code of Virginia §24.2-802; see also Chapter 15 (Recounts and Contests) (detailing the process for recounts and contests).

¹¹⁷ See the Code of Virginia §§24.2-109 and 24.2-115.

¹¹⁸ See the Code of Virginia §24.2-109.

¹¹⁹ See the Code of Virginia §24.2-115.

¹²⁰ See the Code of Virginia §24.2-638.

¹²¹ See the Code of Virginia §24.2-103.

¹²² See the Code of Virginia §24.2-115.

¹²³ *Id.*

¹²⁴ See the Code of Virginia §24.2-103 (Department of Elections may petition court for removal).



- “The board or the general registrar [must] not permit any person to serve as an officer [of election] who is not fully trained to conduct an election properly with the equipment” used in the precinct.¹²⁵
- An electoral board member, the general registrar, or designated officer of election must give an oath to each officer of election before the polls open.¹²⁶
- “The secretary of the electoral board or the general registrar [must] prepare a list of the officers of election that [must] be available for inspection and posted in the general registrar’s office prior to March 1 each year. Whenever substitute or additional officers are appointed, the secretary of the electoral board or the general registrar [must] promptly add the names of the appointees to the public list.”¹²⁷

2.5.14 Duties Related to Registrars

2.5.14.1 *The Electoral Board Must Appoint the General Registrar*

Starting in May or June of 2007, and every four years after, the electoral board for each county and city meet to appoint the general registrar.¹²⁸ General registrars serve four-year terms beginning July 1 of the year of appointment.¹²⁹ The electoral board must fill any vacancy in the office of general registrar for the remainder of an unexpired term.¹³⁰ The electoral board may seek the assistance of the locality’s human resource personnel to draft an advertisement, screen applications, and develop an interview format. Please see Appendix A for more information.

2.5.14.2 *Removal of the General Registrar*

“The electoral board by a recorded majority vote may remove from office, on notice, any general registrar [...] who fails to discharge the duties of his office according to law.” Each board member should become familiar with the job description and skills needed by the general registrar before making an appointment to this position.¹³¹

2.5.14.3 *Additional Duties*

The electoral board may prescribe additional duties – beyond those prescribed in the Code – to the general registrar.¹³² If this is done, the board should adopt a resolution at a meeting, which should become part of the minutes, listing those board duties that are being delegated to the general registrar to perform.

ELECT recommends that the Secretary of each electoral board retain an updated list of delegated duties to provide to any new registrar.

¹²⁵ See the Code of Virginia §24.2-636.

¹²⁶ See the Code of Virginia §24.2-611.

¹²⁷ See the Code of Virginia §24.2-115.

¹²⁸ See the Code of Virginia §24.2-110.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ See the Code of Virginia §24.2-109.

¹³² See the Code of Virginia §24.2-114.



2.5.14.4 Assistant Registrars

“The electoral board [must] determine the number and set the term for assistant registrars.”¹³³ 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.¹³⁴ The general registrar appoints all assistant registrars and establishes their duties. Localities with populations over 15,500 must have at least one assistant registrar. Smaller localities must have at least one substitute registrar who can perform the general duties if necessary.¹³⁵

2.5.14.5 Performance Evaluation

The electoral board must conduct an annual performance review of the general registrar each year for the 12-month period ending June 30. The electoral board must complete the review by August 1” and a copy of the summary of the review submitted to the Department of Elections by the due date determined. The electoral board must retain a copy of the complete review document in their files.¹³⁶



Helpful VERIS Step-By-Steps

Section #	Title
4.2.3	Steps to Process the SBE-501 Certificate of Candidate Qualification

¹³³ See the Code of Virginia §24.2-112.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ See the Code of Virginia §24.2-109.1.



APPENDIX A: GUIDELINES FOR SELECTING REGISTRAR

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

Prohibitions from being either general registrars or paid assistant general registrars¹³⁷

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

If the board selects a candidate who lacks a qualified residence at the time the decision is made, the candidate must establish a qualified residence before taking the oath of office. If the appointee fails to qualify and deliver a copy of his oath to the secretary of the electoral board within 30 days after receiving notification of his appointment, the electoral board shall declare the office vacant and fill the office.¹³⁸ Taking the oath as registrar automatically vacates any incompatible office or post, and the new general registrar should immediately notify the appointing authority that they have vacated their previous post. Acceptance of an incompatible office or post by an incumbent registrar automatically vacates the registrar's office.¹³⁹ The electoral board will meet to select the final candidate. Immediately after its meeting, the secretary of the electoral board must certify to the Department of Elections the appointment of the general registrar (newly appointed or reappointed) using the General Registrar Certification of Appointment form.¹⁴⁰

APPENDIX B: ELECTORAL BOARD JOB DESCRIPTION

Electoral Board Job Description

Summary:

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

¹³⁷ See the Code of Virginia §24.2-110.

¹³⁸ See the Code of Virginia §24.2-110.

¹³⁹ *Id.*

¹⁴⁰ See ELECT-110.



Electoral Board should be shared equally by all three members, although the Secretary has additional responsibilities.

I. Responsibilities:

A. Election administration includes:

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

B. The Electoral Board has additional responsibilities, including:

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

II. Electoral Board Activity Prohibitions:

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

III. Qualifications:

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

IV. Disqualifications:

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



C. May not be employed by or hold incompatible office under federal, state or local government

V. Additional desirable characteristics:

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

Conditions:

Service on the Electoral Board is in the nature of a part-time seasonal job. There is a general election every year in November and a primary election most years in June. In addition, there may be City or Town elections in May and special elections whenever called. From six to two weeks prior to each election, the board may need to be available a few times per week for a few hours. The week prior to and the week of the election, the board needs to be available most of the time, including 5am-10pm or later on Election Day. At other times the board may meet monthly and may attend training or networking meetings or conferences. Members may be asked to address local groups or attend meetings of interest.

APPENDIX C

2018 LEGISLATION

SB152 clarifies that the electoral board may include any assistant registrar(s) to serve full time.

SB264 requires candidates for local and constitutional office in localities with a population of more than 70,000 to file their campaign finance reports with the State Board of Elections electronically.

SB379 provides that all general registrar offices are to be open a minimum of five days a week.

SB474 clarifies that localities can employ officers of election on a contractual basis.

HB690 exempts counties and cities with a population of 25,000 or less from the requirement that a person appointed to serve as a general registrar must be a qualified voter of the county or city for which she is appointed.

SB739 requires a former candidate who is no longer seeking election but has not yet filed a final report as required by law and who files by paper to file with the general registrar of the locality in which she sought office. For a former candidate who is no longer seeking election but has not yet filed a final report and files electronically, the State Board is required to notify the general registrar of the locality in which the candidate sought office and to make the information available to the general registrar.



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★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 3

Precincts and Polling Places

June 2018

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3. Precincts and Polling Places

REQUIRED FORMS SBE 15 Polling Place Relocation Emergency Polling Place Relocation Approval Request Form (SBE-310) Town.doc.docx Emergency Polling Place Relocation Approval Request Form (SBE-310) County or City (2).doc.docx	ADDITIONAL RESOURCES Virginia Constitution Code of Virginia Charter Provisions
REFERENCE SBE Policy 2008-013 SBE Policy 2004-007	REGULATIONS 1VAC20-20-80 Complaints 1VAC20-60-30 Electronic Devices in Polling Places

3.1 CHAPTER ORGANIZATION

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

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

Frequently Asked Questions



How would you describe a precinct?

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

How would you describe a polling place?

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

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



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

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

3.2 PRECINCTS

3.2.1 What is a Precinct?

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

The local governing body also determines the location of the polling place where residents vote.

3.2.2 How to Establish or Change a Precinct

The governing body (board of supervisors, town council, etc.) of each locality is responsible for establishing or changing local precinct lines and **must do so by ordinance**.² The local governing body cannot establish a precinct with more than “5000 registered voters.”³ At the time any precinct is established, each precinct in a county shall have “no fewer than 100 voters and each precinct in a city shall have no fewer than 500.”⁴

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

3.2.2.1 Governing Body Passes Ordinance

A general registrar or electoral board should alert the governing body to the need for a new precinct, or the need to make precinct changes. The general registrar or electoral board should ensure that any proposal to change a precinct complies with federal and Virginia laws, including and especially, the accessibility provisions. Local elections officials are responsible for helping the governing body understand the relevant considerations that go into determining precinct boundaries.

¹ See the Code of Virginia §24.2-307.

² *Id.*

³ *Id.*

⁴ *Id.*



3.2.2.2 General Registrar Notifies ELECT of Precinct Change

The general registrar must submit the SBE-15 Polling Place Relocation form to the Department of Elections for any change to a local election district, precinct, or polling place. The completed form and the accompanying ordinance or minutes from the meeting of the governing body where the change was formally adopted should be sent to VERIS Help at verishelp@elections.virginia.gov. ELECT will review the documents and make the changes in VERIS.

3.2.2.3 Cannot Change Precincts within 60 Days Before a General Election



The local governing body may make precinct boundary changes only outside of the 60 days before any general election.⁵ Within the 60 days before a general election, changes to precincts are strictly prohibited. There is no emergency provision for making changes to precincts within the prohibited period.



Law Note

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

3.2.3 Laws Governing Precincts

3.2.3.1 Compact and Contiguous

Each precinct must be a compact and contiguous geographic area with clearly defined and clearly observable boundaries.⁶ A "clearly observable boundary" can be man-made (e.g. roads, train tracks, etc.), or natural (e.g. rivers, lakes, etc.).⁷ A single precinct cannot overlap two *unconnected* territories, but can contain more than one territory.

A precinct must also be wholly contained within an election district used for the election of one or more members of the governing body or school board for the city, county, or town.⁸ For example, where there are two adjacent districts for two separate school board seats, a single precinct cannot overlap the two districts.

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

⁵ 2006 Va. Atty. Gen. Op. [06-014](#).

⁶ See the Code of Virginia §24.2-305(A).

⁷ See the Code of Virginia §24.2-305(B).

⁸ See the Code of Virginia §§24.2-307 (county and city) and 24.2-308 (town).



3.2.3.2 Minimum and Maximum Populations Served

In addition to restricting the geographic boundaries of precincts, the Code also restricts the number of voters a precinct can serve.⁹ The Code does not restrict the number of registered voters in a town precinct.

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



Please note that a precinct containing an insufficient number of registered voters may be established when a larger precinct cannot be created without causing a precinct split (see 3.2.4 Split Precincts below).¹⁰

3.2.3.3 Changes in Population

Precincts may need to be established or adjusted for any number of reasons. The general registrar or electoral board should notify the governing body when a precinct experiences a significant shift in population, particularly if the population begins to approach statutory limits. The general registrar **must notify the governing body if the presidential election turnout for a precinct exceeds 4,000**.¹¹ The governing body must revise the precinct boundaries within 6 months to avoid having more than 5,000 registered voters.¹²

3.2.3.4 Town Precincts

Counties that contain incorporated towns that conduct elections in accordance with local charter will also designate town precincts. Town precincts are geographic boundaries that determine where residents of each town will vote. Each town must have at least one precinct.¹³ Town precincts and their associated polling places are only used when the election being conducted in the locality is solely for the election of town offices. Normally, town precincts are relevant to the town general elections conducted in May and any special election conducted for election of town offices only.



Best Practice

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

⁹ See the Code of Virginia §24.2-307.

¹⁰ See the Code of Virginia §24.2-309.

¹¹ See the Code of Virginia §24.2-307.

¹² *Id.*

¹³ See the Code of Virginia §24.2-309.



Town elections conducted in conjunction with the November general election will use the surrounding county or city precincts. While town precincts may not divide town council or school board districts, there is no prohibition on these districts being divided by electoral precincts used generally.¹⁴



Policy Note

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

3.2.4 Split Precincts

A split precinct is one that overlaps election districts such that voters who live in the same precinct vote in different election districts. Not all voters in the same split precinct will receive the same ballot style on election day. A split precinct will need to have multiple ballot styles to serve all voters within the precinct.

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

3.2.4.1 How Split Precincts Are Created

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

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

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

3.2.4.2 How to Prevent a Split Precinct

When considering a proposed precinct, a locality may need to make adjustments to local districts together with precinct changes in order to prevent the creation of local

¹⁴ *Id.*



splits. To avoid local splits after the decennial census, local redistricting should be done in tandem with local reprecincting.

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

All localities should monitor the General Assembly's work. This can be done by contacting the Division of Legislative Services. Advance knowledge of the General Assembly's plans can help localities develop plans to draw local lines that coincide with the state legislative district lines.¹⁵

3.2.4.3 *How to "Heal" a Split Precinct*

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

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

- General Assembly enactment
- Local governing body adjustment affecting no more than the lesser of either 250 persons or 5 percent of the population of the ward or district¹⁶
- A judicially approved boundary change agreed to by adjacent localities¹⁷

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

¹⁵ See [Division of Legislative Services](#) for more information.

¹⁶ See the Code of Virginia §24.2-304.1.

¹⁷ See the Code of [Virginia §15.2-3106](#) et seq.



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



Best Practice

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

3.3 POLLING PLACES

3.3.1 What is a Polling Place

A polling place is the specific location (typically a public building) where voters go to cast their ballots on election day. There is one and only one polling place associated with each precinct. The governing body must establish each polling place by ordinance.¹⁸

3.3.2 How to Establish or Relocate a Polling Place

The local governing body is responsible for establishing and relocating polling places; this must be done by passing an ordinance.¹⁹ General registrars and electoral boards should nonetheless be directly involved in the process: scouting the locality for potential polling places, meeting with operators of proposed polling place facilities, alerting the local governing body to the need for a polling place change, helping the governing body balance the relevant considerations that go into choosing a polling place, and managing existing polling places. A good working relationship with the local governing body and the other agencies of local government is of the utmost importance for accomplishing these tasks.

3.3.2.1 *Cannot Change Polling Place Within 60 Days*



The local governing body cannot change the location of a polling place within the 60 days before any general election.²⁰ Unlike precincts, however, there are exceptions to this rule for certain emergency situations.

3.3.2.2 *“Emergency” Polling Place Relocation*

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

¹⁸ §24.2-307.

¹⁹ *Id.*

²⁰ §24.2-306(A).



Frequently Asked Questions



What is an “emergency”?

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



Policy Note

In some circumstances where the Code confers responsibilities on the State Board of Elections, the Board has delegated these responsibilities to the Department of Elections. One example of this is the Department’s responsibility for approving emergency relocations of polling places where the Code of Virginia §24.2-310(D) reads that such a relocation is “subject to the prior approval of the State Board.” This and other instances where the State Board has delegated responsibilities to the Department are outlined in [State Board policy 2004-007](#), last amended September 14, 2010.



The Department of Elections must provide prior approval for an emergency relocation of a polling place.²¹ The Commissioner of Elections may request the State Board of Elections consider the matter before or after approving a request, as a matter for possible action for failure to properly discharge the duties of office.²² An emergency request cannot be approved unless it is clear that the nature of the emergency requires immediate action and approval by Department of Elections. If a permanent relocation is not possible, the electoral board or general registrar may erect or rent a temporary building (e.g. a trailer) as the temporary site, as long as it is generally accessible to voters. Localities are required to provide notice to both voters and candidates once approval is granted.²³

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

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

²¹ See the Code of Virginia §24.2-310(D), “subject to the prior approval of the State Board.” This has been delegated to the Department of Elections. See, [State Board of Elections Policy 2004-007](#) as amended 9.14.2010.

²² See the Code of Virginia §§24.2-103 and 24.2-234.

²³ See the Code of Virginia §24.2-310(D).



3.3.3 Laws Governing Polling Places

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

3.3.3.1 Location Requirements

- There can be one, and only one, polling place for each county, city, or town precinct.²⁴
- The polling place must be located within the boundaries of the precinct it serves or within one mile of that boundary.²⁵
 - Exception: If a county or city precinct is established that is smaller than the minimum size requirement (in order to allow all voters in it to vote the same ballot style), then the polling place can only be located outside the precinct “if a suitable polling place is not available within the precinct.”²⁶
 - In circumstances where a polling place is located outside the precinct it serves, multiple polling places may be situated within the same facility.²⁷
- The polling place must also be located in the locality that it serves.²⁸
 - Exception: a county may locate a polling place in a city that is “wholly contained within the county election district served by the precinct.”
 - Exception: a county may locate a polling place in a city where “the city is wholly contained within the county and the polling place is located on property owned by the county.”

As with precincts, a town election for town offices held in November must use the regular polling places for the county in which most of the town is located.²⁹

3.3.3.2 Facility Requirements



All polling places must be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act,³⁰ the Voting Accessibility for the Elderly and Handicapped Act,³¹ and the Americans with Disabilities Act³² relating to public services.³³

- The Department provides a checklist for determining whether a prospective polling place meets these requirements.³⁴
- This requirement is discussed in depth in Chapter 5 Accessibility.

²⁴ See the Code of Virginia §§24.2-307 (counties and cities) and 24.2-308 (towns).

²⁵ See the Code of Virginia §24.2-310(A).

²⁶ See the Code of Virginia §24.2-309.

²⁷ See the Code of Virginia §24.2-310(B).

²⁸ See the Code of Virginia §24.2-310(A).

²⁹ See the Code of Virginia §§24.2-601 and 24.2-310(A).

³⁰ See the Code of Virginia [§51.5-1 et seq.](#)

³¹ See [52 U.S.C. §20101 et seq.](#)

³² See [42 U.S.C. §12131 et seq.](#)

³³ See the Code of Virginia §24.2-310(C).

³⁴ [ELECT-310C](#) (in the Forms Warehouse).



- A polling place must be “located in a public building whenever practicable.”³⁵
 - If no public building is available, a polling place may be located in a building “which serves primarily as the headquarters, office, or assembly building” for “an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature.”³⁶
 - The locality may only locate the polling place in another type of facility if no other building meets the requisite accessibility requirements and only with the approval of the Department of Elections.³⁷
- Where multiple polling places have been established within the same facility, each must be located in a “separate room” or have its own “separate and defined space”.³⁸



Regulation Note

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

³⁵ See the Code of Virginia §24.2-310(B).

³⁶ See the Code of Virginia §24.2-310.1.

³⁷ *Id.*, “unless the State Board has approved the use of the building.” This has been delegated to the Department of Elections. See, [SBE Policy 2004-007](#) as amended 9.14.2010.

³⁸ See the Code of Virginia §24.2-310(B).





Best Practice Guide to Selecting a Polling Place

Availability

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

Accessibility

As discussed above, polling places are legally required to meet accessibility standards related to public services outlined in the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act (“ADA”) Local 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.

Convenience

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

Security

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



Utilities

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

Order

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

When evaluating the suitability of a polling place, identify potential hazard areas (e.g. steps/sidewalks that could be icy in winter, floors that could be slick when wet). Discuss your concerns with facility management or custodial staff to ensure that these problem areas will not cause issues on election day.

Emergency Preparedness

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



3.3.4 Operating a Split Precinct Polling Location

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



Best Practice

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

3.3.4.1 *Precinct Organization*

How a split precinct is laid out may vary, but these variations tend toward two extremes. Some localities treat precinct segments separately. These localities may use colored cards that direct voters to separate areas where they are handed the correct ballot style and/or given access to the correct voting device. Other localities chose to have a less clear separation between precinct segments. These localities may have the ballots accessible to the check in clerks who distribute ballots or tokens to be handed to the officer of election managing the DRE (to indicate which ballot style to select).

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

3.3.4.2 *Officer Training*

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

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

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

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



3.3.4.3 Conducting the Election

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

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



Regulation Note

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

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

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

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

3.3.4.4 Ascertaining the Results

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

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

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



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

3.3.4.5 *Reporting Results*

Localities that assemble their unofficial results on election night by calling them 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 serves no purpose and will only confuse media representatives.

3.4 PROCESS TO CHANGE PRECINCT OR POLLING PLACE

3.4.1 *HB 767 amendment of Va. Code § 24.2-309.2*

Effective July 1, 2018 no county, city, or town may “create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct” between February 1, 2019 until May 15, 2021 unless certain circumstances apply; including: (1) a law change which amends the boundaries; (2) the result of a court order; (3) a change in the form of government; or (4) the result of an increase or decrease in the number of local election districts other than at-large districts.

Counties, cities, and towns are not prohibited from adopting an ordinance revising precinct boundaries after January 2021; however, these changes will not be implemented until after May 15, 2021.

3.4.2 *Providing Notice to the Department of Elections*

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

3.4.2.1 *More Than 60 Days Before a General Election*

If it is more than 60 days before a general election, a completed SBE-15 Polling Place Relocation form must be provided to the Department of Elections along with a copy of the ordinance or minutes from the local governing body. SBE-15 may be used for multiple purposes not involving polling place relocation (e.g., precinct line change, name change, town election date change). Please check the boxes on the form that describe the requested change and provide the required information (e.g. ADA compliance and electric company information for a polling place change).



3.4.2.2 *60 Days or Less Before the General Election*

If there are fewer than 60 days before the general election, the general registrar or electoral board should notify the Department of Elections of the proposed emergency relocation of the polling place by submitting a completed ELECT-310 Emergency Polling Place Relocation Approval Request form.³⁹ The locality should also forward the Department a copy of a letter or some other form of correspondence that demonstrates that the local governing body is aware of the emergency polling place change.

Virginia Code §24.2-310(D) defines “emergency.” The use of ELECT-310 should only be used when circumstances call for it. For an emergency, only the polling place can be changed.

3.4.3 *Providing Notice to Voters*

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

3.4.3.1 *More than 60 Days Before the Next Election*

The general registrar or electoral board must notify active voters by mailing a new voter registration notice if their county or city precinct, local election district, town/town precinct, super district, and/or legislative district (congressional, house or senate) when applicable, are changed. All active voters must be notified by mail at least 15 days prior to the next election.⁴⁰ Inactive voters are excluded from this requirement.⁴¹

Upon receiving a completed SBE-15 Polling Place Relocation form or ELECT-310 Emergency Polling Place Relocation Approval Request form, along with attached proof of relocation by the local governing body (an ordinance or meeting minutes), the affected voters’ registration records will be updated accordingly. The Department of Elections can generate information for the voter registration notices, but localities are responsible for printing and mailing the voter registration notices.⁴² VERIS will not exclude inactive voters from printing voter registration notices.

Additionally, the registrar or electoral board must publish notice of changes to districts, precincts or polling places prior to enactment.⁴³ Notice must be provided in a newspaper that is generally circulated in the affected precinct once a week for two successive weeks. The public notice must “state where descriptions and maps of proposed boundary and polling place changes may be inspected.”

3.4.3.2 *60 Days or Less Before the Next Election*

In the event of an emergency polling place relocation the general registrar must give notice to “all candidates, or such candidate's campaign, appearing on the ballot to be

³⁹ See the Code of Virginia §24.2-310. See the Form Warehouse.

⁴⁰ See the Code of Virginia §24.2-306.

⁴¹ See the Code of Virginia §24.2-101.

⁴² See [Form Warehouse](#).

⁴³ See the Code of Virginia §§24.2-306.



voted at the alternative polling place.”⁴⁴ Registrars must also “provide notice to the voters appropriate to the circumstances of the emergency.”⁴⁵ In most circumstances outside the 15 days before the election, notice should look exactly like the notice provided for non-emergency polling place relocations (i.e. mailed voter information notices, and one notice a week for two weeks in a local paper). When the non-emergency requirements cannot be met, registrars should use all prudent means to ensure that all affected voters are notified of the emergency change.

⁴⁴ See the Code of Virginia §24.2-310(D).

⁴⁵ *Id.*





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Chapter 4

Voting Equipment

June 2018

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4. Voting Equipment

REQUIRED FORMS Voting Equipment Testing and Preparation Form – ELECT 633	ADDITIONAL RESOURCES EAC's Logic and Accuracy Testing ELECT Voting System Resource Pre-Election Logic and Accuracy Testing and Post-Election Audit Initiative
REFERENCES State Certification of Voting Systems Voting Systems Security Policy Map of Voting System Type by Locality	REGULATIONS IVAC20-60-50 Overfull Optical Ballot Scanner Container.

4.1 CHAPTER ORGANIZATION

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

4.2 STATE CERTIFICATION OF VOTING SYSTEMS

The State Board of Elections has established a voting system certification scheme that examines the vendors' voting systems and the ballots designed to be used with these systems.¹ All voting systems must be approved by the State Board prior to their use in an election and must be tested in an actual election in one or more counties or cities.² A governing body cannot adopt the use of any voting system and ballot that has not been approved by the State Board.

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

Should a previously approved voting system be shown to no longer comply with the standards adopted by the State Board or be shown to have critical software or hardware issues the Board, at its discretion, may decertify the voting system.³

In 2017, prior to the November general election, the State Board of Elections determined that Direct Recording Electronic (DRE) Systems no longer provided the security needed to ensure protection from third-party interference; thus, these systems were decertified and prohibited from use in any election taking place in the Commonwealth.

¹ See Code of Virginia §24.2-629.

² *Id.*

³ See Code of Virginia §24.2-629.



4.3 VOTING EQUIPMENT



An **optical ballot scanning machine** counts marks made on paper by the voter. The tool used to make these marks is called the marking device. A polling place typically needs one optical ballot scanning machine for proper voting operation with certain exceptions for presidential elections.⁴

All localities are required to use voting system at every precinct and for all elections held in the county, the city, or any part of the county or city as per Virginia Code §24.2-626. While choosing a voting and counting system is at the discretion of the local electoral board, the systems chosen must be from the Department of Election's approved vendor and system list.

Localities may also experiment with new voting systems in one or more precincts.⁵ A new system may be one that has already been certified for use by the Department of Elections, or it may be one that is still in the testing stage. In either case, the electoral board must have approval from the Department of Elections for experimental use of election equipment.⁶

4.3.1 Purchasing Equipment

The governing body of each county and city is responsible for purchasing the voting machines that have been approved by the State Board.⁷ For contracting purposes, the Department of Elections may negotiate a government rate for procuring machines; however, a local governing body is not required to use these contracts and should refer to local procurement procedures.

4.3.2 Number of Voting Machines Required



Each precinct is required to deploy a minimum number of ballot scanner machines based on the number of registered voters in the precinct.⁸ In determining the number of registered voters, absentee voters may be excluded.⁹ As previously mentioned, DREs are no longer permitted for use in elections in the Commonwealth. The number of ballot scanner machines required for an election is significantly lower than the required number for DREs previously set in code.

- Each precinct must have at least one scanner and one voting booth with a marking device for each 425 registered voters.¹⁰
- During a presidential election, a precinct with more than 4,000 registered voters will be required to have two ballot scanning machines. This requirement may change if the governing body of the county or city, in consultation with the general registrar and local electoral board, determines a second ballot scanning machine is unnecessary.¹¹

⁴ See Code of Virginia, §24.2-627.

⁵ See Code of Virginia §24.2-630.

⁶ See Code of Virginia §24.2-630.

⁷ See Code of Virginia §24.2-626.

⁸ See Code of Virginia §24.2-627.

⁹ *Id.*

¹⁰ See Code of Virginia §24.2-627.

¹¹ *Id.*



4.4 CUSTODIANS

The voting equipment custodian is an individual identified by the electoral board or the general registrar to oversee the programming, configuration and testing of voting systems in the locality.¹² The custodian programs and prepares voting and counting equipment and is charged with overseeing and instructing the vendor technician in programming, testing, calibrating, and delivery of the equipment.¹³

The electoral board and general registrar are responsible for choosing a custodian and are required to appoint an individual to this position at least 30 days before each election. Any individual within this position must sign an oath prior to taking the position.¹⁴

The electoral board may assign a board member or assistant registrar to serve without pay as a custodian; however, if the presence of a board member and the custodian is required, the same individual is prohibited from serving in both positions.¹⁵

With the approval of the Department of Elections, the electoral board or general registrar may contract with the voting equipment vendor or another contractor for the purpose of programming, preparing and maintaining the voting equipment. The voting equipment custodians shall instruct and supervise the vendor or contractor technicians and oversee the programming, testing, calibrating and delivering of the equipment. The vendor or contractor technicians shall be sworn to perform their duties honestly and faithfully.¹⁶

4.5 LOGIC AND ACCURACY TESTING

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

Before the logic and accuracy testing of voting machines for any election, the general registrar must provide a written notice to the chairman of the local committee of each political party, or for an election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, to the candidates.¹⁷

The notice must provide the time and place where the machine will be tested and state that the political party or candidate receiving the notice may have one representative present while the equipment is tested. The representatives must be given an opportunity to see that the

¹² See Code of Virginia §24.2-632.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Code of Virginia §24.2-633.



equipment is in proper condition for use at the election and that machines are properly sealed after testing.¹⁸

Each machine should be tested with a sufficient number of ballots or votes to substantiate that each machine recorded the correct number of votes for each candidate. An electoral board member, general registrar, or a designated representative, must be present during this process and must certify the results from each machine.¹⁹ A representative should be used only if it is impracticable for a board member or the general registrar to be present.²⁰ This representative cannot be the custodian or a vendor or contractor technician who was responsible for programming the ballot software, electronic activation devices, or electronic storage media.

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

F.A.Q

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

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

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

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

4.6 VOTING EQUIPMENT SECURITY

The electoral board or the general registrar of each locality must develop and annually update written plans and procedures to ensure the security and integrity of its electronic voting system.²¹ The local electoral board is responsible for the security of all voting systems, including electronic pollbooks. The State requires each locality to develop a written security plan and review the plan annually.

4.6.1 Voting System Audit



In the 2017 legislative session, the General Assembly passed SB 1254 which will require the Department of Elections to coordinate a post-election risk-limiting audit which will be performed by the localities. The purpose of the audit to study the accuracy of ballot scanner machines.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Code of Virginia §24.2-632. See [2006 Va. Atty. Gen. Op. \(9.15.06 to Jensen\)](#) (“practicable” means “reasonably capable of being accomplished; feasible”).

²¹ See Code of Virginia §24.2-625.1.



This audit will be conducted annually by a certain number of localities chosen at random with every locality having performed the audit within five years. The Department of Elections will coordinate and establish procedures relating to the audit. The local electoral board will be required to submit the results of the audit to the Department. The Department will be required to submit a report to the State Board detailing the results of the audited election results and analysis of any detected discrepancies. This bill, enacted as Va. Code §24.2-671.1, will be effective July 1, 2018.

4.7 VIRGINIA FREEDOM OF INFORMATION ACT (FOIA) CONSIDERATIONS

There are limited exemptions from VFOIA public meeting and records disclosure requirements for voting equipment security issues.

For reference, please be aware that “records of the Department of Elections or of a local electoral board, to the extent such records describe protocols for maintaining the security of ballots or voting and counting equipment, or reveal the results of risk assessments of specific local electoral procedures, the release of which would compromise the security of any election, shall be confidential and excluded from inspection and copying under the Virginia Freedom of Information Act (FOIA).”²²

An electoral board of the State Board of Elections may close a meeting to discuss security protocols and conduct security compliance site visits preceded and followed by open meetings about the visits.²³ Records describing security protocols or specific risk assessments that could compromise election security if released are exempt from disclosure.

²² See Code of Virginia §24.2-625.1.

²³ *Id.*





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Chapter 5

Accessibility

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5. Accessibility

REQUIRED FORMS ELECT-310C-Accessibility-Accessibility-Checklist.docx	ADDITIONAL RESOURCES Flyer for Accessible Voting presentation.docx Request for Reimbursement SBE-626 Accessibility.docx Checklist for Presentations.docx MakingElectionsAccessible.pptx press release.docx
REFERENCE Quick Start Guide – EAC 6 Tips ADA Checklist for Polling Places Virginia State Plan: Help America Vote Act of 2002 EAC Election Management Guide Chapter 19: Accessibility	REGULATIONS 1 VAC 20-20-40 Virginia's Help America Vote Act Plan

5.1 CHAPTER ORGANIZATION

Every qualified voter has the right to vote, regardless of whether he or she has a mental or physical disability or limited English proficiency. This chapter is designed to help electoral board members and general registrars ensure that reasonable accommodations are made for all voters in both the registrar's office and at the polling places. §5.2 lists the key federal and state laws undergirding accessibility in elections throughout the Commonwealth. §5.3 discusses the requirements in these laws, divided into subject matters such as voting equipment, polling place accessibility, requests for assistance, and curbside voting. §5.4 discusses officer of election training, as so many voter misunderstandings can be avoided by solid training to all officers of election on how to help voters with disabilities enjoy their voting experience. §5.5 and §5.6 address both the limitations of implementation and the enforcement mechanisms designed to ensure voters with disabilities are guaranteed an equal opportunity to vote. §5.7 lists local, state, federal and other public sector resources focused on elections accessibility issues. §5.8 discusses a few suggestions for localities seeking to implement accessibility improvements.

5.2 LEGAL BASIS

The following laws govern accessibility to polling places:



- The Voting Rights Act of 1965 (VRA)¹
- Voting Accessibility for the Elderly and Handicapped Act of 1984 (VAEHA)²
- Title II of the Americans with Disabilities Act (ADA)³ and Rehabilitation Act of 1973⁴

¹ See [52 U.S.C. §20102](#).

² See [52 U.S.C. §20101](#).

³ See [42 U.S.C. §12101](#) et seq.

⁴ See [29 U.S.C. §794](#).



- Help America Vote Act of 2002 (HAVA)⁵
- Virginians with Disabilities Act⁶
- The Code of Virginia, Title 24.2⁷

In addition, the United States Department of Justice has provided standards related to accessibility and a detailed checklist for evaluating polling place accessibility.⁸

5.3 REQUIREMENTS

5.3.1 General Assistance to Voters

State and local governments must give persons with disabilities equal opportunity to benefit from all programs, services, and activities. This includes voting. Government entities and employees must communicate effectively with persons who have hearing, vision, or speech disabilities, ensure that buildings in which services are provided are accessible, and provide opportunities to request aids and services.⁹ Any voter requiring assistance may receive it from a person of the voter's choosing ("other than the voter's employer or agent of that employer or agent of the voter's union").¹⁰

5.3.2 Voting Equipment

The Help America Vote Act (HAVA) requires voting systems to be accessible to individuals with disabilities in a private and independent manner, including non-visual access.¹¹ Virginia law mandates that voting equipment provide alternative language accessibility when a federal coverage determination has been made.¹² These federal and state requirements override Virginia's general statutory rule declaring English the official language with provisions that alternative language materials are discretionary.¹³



Law Note

Not all voting machines are wheelchair-accessible. Each polling place must **have at least one piece of voting equipment that permits a voter with a disability to cast his or her ballot in a private and independent manner.**¹⁴ The voting booth provided for persons casting provisional ballots should also be accessible. This should be a table that can accommodate a wheelchair. The table should be at least 30 inches wide, with a surface no more than 27 inches high, and an underneath clearance of at least 19 inches. If a voter with a disability wishes to vote on an inaccessible machine instead, he or she may request assistance.

⁵ See [52 U.S.C. §20901](#).

⁶ See the Code of Virginia [§51.5-1](#) et seq.

⁷ See the Code of Virginia §24.2.

⁸ See [ADA Checklist for Polling Places](#).

⁹ See https://www.ada.gov/ada_title_11.htm.

¹⁰ [52 U.S.C. §10508](#); see the Code of Virginia §§24.2-649, 24.2-704.

¹¹ See generally HAVA [52 U.S.C. §20101](#) et seq. See also Chapter 15 Recounts and Contested Elections for more information on accessible voting machines.

¹² See the Code of Virginia §24.2-626.1. Currently only Fairfax County is required to provide a language accommodation.

¹³ See the Code of Virginia [§1-511](#).

¹⁴ See the Code of Virginia §24.2-626.1.



HAVA and the Code of Virginia require **at least one voting machine** in every precinct that provides non-visual voting access.¹⁵ **Voting equipment with audio capability for use by blind voters has been certified for use in Virginia.**¹⁶ **For those with limited sight, the locality should make magnifiers available at each polling place or at each voting station.** For most voting equipment, magnifying sheets tend to work better than magnifying glasses with handles. Magnifying sheets are relatively inexpensive and available in many stores or catalogs.

5.3.3 Communications

All media materials concerning voter registration or voting which are distributed or published by the registrar's or electoral board's office or local governing body should prominently display the registrar's office email address. This will allow better online communication with voters who have hearing disabilities. It is strongly recommended that the general registrar use an official email address that is generic in nature and not based on the name of an individual. Using individual names can cause confusion when the individual is absent or retires, and the voter may still retain an old email address in their records or email address book.

Every registrar and electoral board member should actively publicize the availability of absentee ballots, curbside voting, and the right to ask for assistance. It is important to ask the voters directly what works for them with sensitivity to individual differences.

5.3.3.1 Website

When a voter looks up his or her polling place on the ELECT website, the accessibility information entered in VERIS will be displayed.

5.3.3.2 TDD

Telecommunications devices for the deaf ("TDD") are another way for people to communicate and obtain information about registering and voting. A telecommunication device for the deaf (also referred to as "TT" or "TTY") is a telephone system in which a typewritten message is transmitted over telephone lines and is received as a printed message. Many localities have a TDD line for government offices. If the locality doesn't have a TDD line, instruct voters to use the ELECT TDD line. Or, use the TDD number of the Virginia Relay Center – a service designed specifically for TDD users, government agencies and other service providers. Speech-to-speech relay enables a person with speech impairment to converse on the telephone via a trained communication assistant. To access these services call the following numbers:

- ELECT TDD: 711
- VIRGINIA Relay Center: 1-800-229-5746 or just "711"

5.3.3.3 Signage

Signs instructing voters where to park, where to enter and exit the polling place, and which table to go to help reduce the verbal communication required for a voter with a hearing disability. These aids are also required for election day. "The electoral board or the general registrar [must] provide and have posted outside each polling place appropriate signs to

¹⁵ See the Code of Virginia §24.2-626.1.

¹⁶ See Chapter 4 Voting Equipment for more information.



direct people with disabilities and elderly persons to any [...] entrance designed for their use.”¹⁷ Further, printed instructions for checking in at the pollbook table and for the use of voting equipment should be prominently displayed at the level where persons with disabilities can read.

5.3.4 Minority Language Provisions

If the illiteracy rate of the minority group is higher than the national illiteracy rate and one of the following thresholds is met within that jurisdiction, the jurisdiction is required to provide all election information directed to English speaking voters in the covered minority language as well. Thresholds:¹⁸

- More than 10,000 of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of United States citizens of voting age residing there belong to a single language minority and are limited English proficient,
- More than five percent of American Indian citizens of voting age residing on an Indian reservation within the jurisdiction belong to a single language minority and are limited English proficient.

5.3.5 Voter Registration Facility Accessibility

A reasonable number of permanent registration facilities used in federal elections must be accessible to the elderly (defined as 65 years of age or older) and people with physical disabilities. This requirement is not binding in Virginia because we allow potential voters to register by mail.¹⁹

5.3.6 Polling Place Accessibility

Polling places are required to be accessible by the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act and Title II of the Americans with Disabilities Act.²⁰ **Make sure that any new polling place is accessible or can be made so before recommending it to the local governing body.** The local governing body is required to provide “adequate facilities at each polling place for the conduct of elections”.²¹ For the purpose of this law, ELECT interprets adequate facilities to include buildings that are physically accessible to persons with disabilities.



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 ELECT, and keep the original on file at the local elections office.²² Periodically resurvey the accessibility of polling places. Just because a polling place was accessible

¹⁷ See the Code of Virginia §24.2-604.1.

¹⁸ For more information about minority language provisions and thresholds, see the U.S. Dep’t of Just. [website](#).

¹⁹ *Krieger v. Loudon County*, 2014 United States Dist. LEXIS 138293 (W.D. Va. Sept. 30, 2014).

²⁰ See the Code of Virginia §24.2-310(C).

²¹ See the Code of Virginia §24.2-310(B).

²² A suggested survey form is included in the Forms Warehouse under [Accessibility Materials](#).



last year, does not mean it will be so this year. For example, tree limbs could grow back, concrete could develop breaks, and parking signs may be removed. Investing a little time before each election can pay great dividends in preventing complaints about some new accessibility barrier at a previously accessible polling site.

Local electoral boards are authorized to use an alternative polling place if an emergency makes a polling place unusable or inaccessible.²³ The electoral boards must provide notice to the “voters appropriate to the circumstances of the emergency.”²⁴ ELECT must approve all emergency polling location changes.²⁵

When entering polling place information into VERIS, the registrar must check whether the polling place has met ADA standards and include a comment detailing the level of compliance. If an existing polling place is found to be inaccessible then take the following steps:

- Notify the local governing body that the locality’s polling place is in violation.
- Determine whether reasonable permanent or temporary changes can be made to make the site accessible.
- If the site cannot be made accessible through reasonable means, survey the precinct and the adjoining area within one (1) mile of the precinct boundary in an attempt to find an alternative site to recommend that is accessible or can be made temporarily accessible on election day.
- The accessibility status of each polling place in the locality should always be updated in VERIS.

The following exceptions may be granted under United States and Virginia law:

- If an alternate site is in a private facility normally ineligible for polling place selection, the registrar may request that ELECT approve its use on an emergency basis due to unavailability of any other building meeting accessibility requirements.²⁶

5.3.6.1 *Parking Spaces*

If parking is provided for voters, then accessible parking must also be provided at a ratio of one (1) accessible space for every 25 spaces in the parking lot. To be considered accessible, a parking space must meet the following criteria:²⁷

- At least 12 feet wide.
- 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).
- 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 federal requirements).
- Located close to the entrance of the polling place.
- Connected by an accessible route to the accessible entrance.
- Relatively level in all directions and firm, stable surface.

²³ See the Code of Virginia §24.2-310(D).

²⁴ See the Code of Virginia §24.2-310(C), (D).

²⁵ *Id.*

²⁶ See the Code of Virginia §24.2-310.1.

²⁷ See ADA [Requirements](#) for Accessible Parking.



Accessible parking spaces may be temporarily created for election day using portable signs and traffic cones.

5.3.6.2 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:²⁸

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

5.3.6.3 Curbs and Ramps

Temporary ramps may be used on election day. However, a better solution is to work with the owner of the building to establish reasonable accessibility. Ramps are necessary where there are steps into the building or inside the building. Permanent ramps are obviously the best option, but temporary ramps can also work when necessary. They can be purchased or rented from a variety of vendors in compliance with the locality purchasing procedures.

Curbs or ramps in the path of travel must generally have the following features:²⁹

- They must be at least three feet (36 inches) wide not including any flared sides.
- They should have a stable, firm, slip-resistant walking surface.
- They should have a slope that rises or falls no more than one (1) foot in height for every 12 feet in length (the 1' in 12" rule).
- They should have a relatively level cross slope (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.
- They cannot have openings greater than ½ inch wide.

5.3.6.4 Walkways (Inside & Out)

To be considered accessible, a walkway must meet the following criteria:³⁰

- It must be at least three feet (36 inches) wide.
- It should have a slope that rises or falls no more than one foot in height for every 12 feet in length.
- It should have no edges that could cause a person or service animal to trip or fall.
- It should have a relatively level cross slope (the slope perpendicular to the direction of the walkway).
- It should be made of a smooth, consistent material, i.e. no loose gravel or dirt;
- It should have headroom in the pathway of at least 80 inches from the surface.
- It cannot have openings greater than ½ inch wide.
- It cannot have abrupt changes in level greater than ½ inch tall unless a ramp is provided. Sudden changes in height less than ¼ inch tall are always acceptable; however, changes between ¼ inch and ½ inch can be beveled at a slope no greater than 1:2.

²⁸ See [ADA Checklist for Polling Places](#).

²⁹ *Id.*

³⁰ See [ADA Checklist for Polling Places](#).



- The 1' in 12" rule applies to all standards of accessibility for walks, ramps, etc.

5.3.6.5 Protrusions

Items sticking out from walls (such as fire extinguishers) pose a threat to both blind voters – who cannot detect them with a cane – and to those with limited sight. Items mounted on walls between 27 and 80 inches off the floor cannot protrude more than 4 inches from the wall.

A temporary solution is to place a large item on the floor (such as a potted plant) below the protruding item to make it detectable with a cane. A permanent solution is to build protruding walls on either side of the item or lower the item so that it is no more than 27 inches above the floor.³¹

5.3.6.6 Doors and Doorways

Doors are among the most common accessibility barriers in polling places. For people in wheelchairs, an inaccessible door can defeat hard work getting out of a vehicle, through the parking lot, and up the walk. Several features can make a door inaccessible:

- Round doorknobs are difficult for people with limited use of their hands. Replace with ADA compliant hardware.³² If they can't be replaced, buy levers that fit over round doorknobs.
- Interior doors must be operable with 5 pounds of force or less. As a temporary fix, prop the door open or station an election official (or election page) to assist with opening and closing.³³ The best solution (and most expensive) may be to install a power door opener.
- There is no requirement for the opening force of exterior doors. However, 8.5 pounds of force is typically sufficient to keep the door closed and still be usable by persons with disabilities.
- 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.³⁴ 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, that is inaccessible. Either a new threshold or a covering ramp will need to be installed.

5.3.6.7 Stairs

Based on reports to the federal Election Assistance Commission (EAC), stairs remain the greatest physical obstacle at our nation's polling places for both people in wheelchairs and those with difficulty walking. If access to a polling place or voting room within a polling place involves stairs, then there must be an alternate route to the voting room; otherwise, the site is not accessible.³⁵ There must be, either inside or outside the building, a ramp or ramps, or an accessible elevator, or a wheelchair lift that voters with limited mobility can

³¹ See [ADA Voting Solutions for Polling Places](#).

³² *Id.*

³³ See [ADA Voting Solutions for Polling Places](#).

³⁴ *Id.*

³⁵ See [ADA Checklist for Polling Places](#).



use to access the polling place. If an alternate route must be used, large signs directing voters with disabilities are needed.³⁶

5.3.6.8 *Inside the Polling Place*

The inside path of travel must meet the same guidelines as the path outside. Loose rugs, plush carpets, slick floors and the like can cause problems for people with wheelchairs, canes, and walkers. Further, floor surfaces must be stable, firm, and slip resistant.³⁷ Instruct officers of election to be sure that hallways and voting rooms are free of such hazards, and to make adjustments as needed.

5.3.6.9 *Seating*

Every polling place should be furnished with seats for the use of elderly voters or those with mobility impairments. Even if the polling place has no waiting lines, seats should be available for those lawfully present who just need to rest.

5.3.7 Request for Assistance

The Virginia Voter Registration Application includes a box allowing voters with physical disabilities to so indicate. Registrars should attempt to contact voters who check this box to explain available accommodations such as voting curbside or absentee with an annual application. Be sure to communicate to the electoral board and officers of election any information needed to plan for election-day such as arrival time for curbside voting. The Attorney General issued an opinion in 2010 that voters may communicate a request for curbside voting to election officials in advance of coming to the polling place.³⁸

5.3.8 Curbside Voting

Curbside voting does not satisfy or eliminate the requirement for an accessible entrance to the polling place that the voter can use at his option.



Law Note on Curbside Voting

The Attorney General's 2010 opinion stated that curbside voting assistance is triggered "by (i) entering the polling place to alert the officers of election, (ii) sending another person inside the polling place to alert the officers of election, or (iii) communicating with election officials in advance of coming to the polling place." For more information, see [2010 Op. Va. Att'y Gen. 46](#).

Curbside voting should be offered at every polling place possible! Consider the following steps for ensuring curbside voting goes smoothly:

- Clear and visible signage informing voters of the possibility of voting curbside, the location of the curbside voting, and how a voter is supposed to notify the election official that he/she is waiting curbside;

³⁶ *Id.*

³⁷ *Id.*

³⁸ [2010 Op. Va. Att'y Gen. 46](#).





- A location that allows the curbside voter to obtain information from candidates and others campaigning outside the polling place;
- A method for the voter to announce his/her arrival (buzzer or bell system);
- Timely response from election officials inside the polling station, and delivery of the information that is provided to voters inside the polling location;
- A portable voting system that is accessible and allows the voter to cast his/her ballot privately and independently.³⁹



Best Practice

Chief officers of election, or general registrars: assign an officer of election, election page, or volunteer to periodically check outside each polling location to make sure curbside voting is not needed.

5.3.9 Large Print Materials

The state must make available registration and voting aids, including the large print instruction posters in polling places and registrar's offices.⁴⁰

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

5.3.10 No Signature or Mark Required of Voter who is Blind



No signature or mark is required for a voter who is blind to receive assistance at the polling place from an officer of election.⁴¹ Applications for voter registration, absentee ballots and other forms include specific instructions about the applicable signature requirements.

³⁹ For more information on signage and accessibility, see U.S. Dep't of Just., [The Americans With Disabilities Act, and Other Federal Laws Protecting the Rights of Voters with Disabilities](#) (Sept. 2014).

⁴⁰ [52 U.S.C. §20104](#).

⁴¹ See the Code of Virginia §24.2-649.



5.4 OFFICER OF ELECTION TRAINING

Every training session for officers of election should include a section on working with persons with disabilities and operating the accessibility features of all voting equipment. Please emphasize these key best practices regarding interacting with the elderly or persons with disabilities in every training.



Best Practice

Officers of election have the most face-to-face contact with voters with disabilities.

Please –

- *look out for* and *where possible remove* – **obstacles** in the polling place;
- *when needed*, assistance with door-opening;
- *when requested*, other means of helping;
- *remember* the **legal rights** of persons with disabilities **to ask for assistance** with ballot-marking – ask your chief officer of election or general registrar for a recap if you aren't sure;
- *keep an eye out for* people requesting to **vote curbside** (offered for voters aged 65 or older and voters with disabilities) and
- *be sensitive* to the needs of voters with disabilities.

Remember that people with disabilities want, expect, and deserve reasonable accommodations to give them equal access. If the best alternative cannot be done, then try for the next best alternative.

Treat people the **way you want** to be treated;

Speak **directly to the person**, not to his/her companion;

Change your position so you are **at eye level** with the person;

Introduce yourself by name;

Respect **personal space**; do not touch the person or the person's wheelchair, service animal, etc. without their prior consent or request;

Ask the person **to repeat** what he said (including *writing it, or verbally repeating, or paraphrasing*)

Do not assume someone who is deaf or hard of hearing or who has an intellectual disability requires you to speak loudly or slowly;

Presume competence;

Let people be independent; **ask before** providing assistance; let the person control his/her movements;

Do not ask questions focused on the person's condition and do not express sympathy or admiration or other feelings related to the person's disability;

Treat adults as adults and with respect;

Use **People-First Language**, which puts the *person before the disability* (e.g. Instead of "a table for a wheelchair is needed," say "a table for a person using a wheelchair needed").



5.5 LIMITATIONS

Adherence to ADA is a requirement of polling locations. If questions arise regarding any limitations on a locality's ability to comply with federal and state accessibility laws, they should be directed to the locality's attorney and administrators.⁴²

5.6 ENFORCEMENT

5.6.1 Voting Accessibility for the Elderly and Handicapped (VAEHA)

Localities may be sued in a federal district court by either the United States Attorney General or any person who is personally aggrieved by the noncompliance by being prevented from registering to vote or casting a ballot. Before any person may sue a locality under this law, the complainant must first notify the Commissioner of Elections of the non-compliant condition and allow 45 days to pass before continuing the lawsuit. This law can be used to force a locality to remove an inaccessible condition, but not to award attorney's fees unless the fees were accumulated forcing a locality to comply with an original court judgment.⁴³

5.6.2 Americans with Disabilities Act (ADA)

Complaints of ADA 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.⁴⁴

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.

5.6.3 Help America Vote Act (HAVA)

The United States Department of Justice's Civil Rights Division enforces HAVA.⁴⁵ Congress did not authorize private enforcement (via litigation) of the requirements of HAVA. Instead, HAVA directs private complaints into state administrative processes and reserves judicial enforcement to the Department of Justice.⁴⁶



Regulation Note

1VAC 20-20-40: Virginia's Help America Vote Act Plan

Virginia's plan under the Help America Vote Act of 2002, 42 USC § 15301 et seq., states policy of the board and performance goals for the board to document and measure.

⁴² For more information from the Department of Justice on polling place accessibility requirements and the implementation of the Americans with Disabilities Act, see <https://www.justice.gov/usao-sc/civil-rights-laws-affirmative-civil-enforcement>.

⁴³ See [52 U.S.C. §20105](#).

⁴⁴ See [42 U.S.C. §12131](#).

⁴⁵ See [52 U.S.C. §21111](#).

⁴⁶ See [52 U.S.C. §21112](#).



5.6.4 Virginians with Disabilities Act (VDA)

Any person with a disability whose rights, guaranteed under the VDA, have been violated can bring a claim in state circuit court. The court can order the defendant (locality) to make changes to its practice or procedures, pay for the plaintiff's legal fees, and award compensatory damages not including payments for pain and suffering.

Localities are liable for violating the VDA for up to one year from the violation of a person's rights if the person started the action or filed a complaint by registered mail within 180 days of the alleged violation.⁴⁷

5.6.5 Code of Virginia

Virginia's adequate facilities provision has no separate enforcement mechanism; like other election law requirements for local governments, ELECT and local electoral boards play an important role educating local governments. DOJ has brought enforcement actions against localities failing to meet federal law mandates.

5.7 RESOURCES

Registrars and electoral board members are not expected to be experts on building structural issues, machine technology for those with disabilities, or other assistive technologies. There are several places and agencies that can provide information and assistance with these issues. The following lists are just some of the resources available in Virginia.

5.7.1 Election Assistance Commission (EAC) and Department of Justice (DOJ)

The federal Election Assistance Commission (EAC) publishes a helpful guide addressing polling place accessibility, election officer training and website accessibility. EAC has voter guides published in different languages, including Spanish, Chinese, Japanese, Korean, Tagalog, and Vietnamese.⁴⁸ The EAC website also provides other detailed reference materials on voting accessibility.⁴⁹

The EAC provides quick start guides for local elections officials; we strongly recommend you check them out. This image is taken from Quick Start Series No. 15; you can find the link [here](#) and at the beginning of the chapter in *Resources*.

1 Know the challenge

A disability is a condition (such as an illness or an injury) that damages or limits a person's physical or mental abilities.

Many disabilities are visible, but many others are not.

- From 1998 to 2008, the number of elderly voters doubled.
- 37.6 million adults have trouble hearing. 20.6 million have trouble seeing. 17.2 million have trouble walking. 75.4 million have trouble with at least one basic action.

⁴⁷ See the Code of Virginia [§51.5-46](#).

⁴⁸ Forms in alternate languages can be downloaded from the [EAC website](#).

⁴⁹ For more information on accessibility, please see the [EAC guide](#), and the [EAC voting accessibility website](#).





The United States Department of Justice provides compliance guidelines⁵⁰ in addition to a detailed polling place accessibility checklist with design standards, technical assistance materials and information about enforcement actions.⁵¹

5.7.2 ADA Information Line

The United States 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.⁵²

5.7.3 ADA Coordinators

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

5.7.4 ADA & IT Information Centers

The federally supported 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. Call 800-949-4232 or go to their website for more information.⁵³

5.7.5 Centers for Independent Living

Virginia law also provides for government supported Centers for Independent Living, private, non-profit and community-based advocacy organizations staffed by persons with disabilities.⁵⁴ These agencies can provide advice and assistance with a wide variety of disability issues. There are many such centers in Virginia.⁵⁵

5.7.6 Virginia Department for the Deaf and Hard of Hearing

This department can provide information about sign language, interpreters, special hearing devices, and communications issues: 1-800-552-7917.⁵⁶

⁵⁰ See [52 U.S.C. § 10303\(f\)](#), and [28 CFR 55](#). For more information, see the U.S. Dept. of Just. [voting section](#), and [guidelines](#).

⁵¹ To access the U.S. Dept. of Just. accessibility checklist and standards, please visit the [ADA website](#).

⁵² Please see the [ADA website](#) for more information on ADA requirements, assistance and claims.

⁵³ The [Mid-Atlantic ADA Center website](#) has more information on accessible information technology and training resources.

⁵⁴ See the Code of Virginia [§51.1-163](#).

⁵⁵ For more information on Centers for Independent Living, please visit their [website](#).

⁵⁶ Visit the Department for the [Deaf and Hard of Hearing website](#) for more information.



5.7.7 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: 1-800-622-2155.⁵⁷

5.7.8 Virginia Assistive Technology System

This is a program of the Virginia Department of Rehabilitative Services. It is a statewide project working to increase awareness and accessibility of assistive technology through programs, information, and technical assistance. Its website includes an equipment finder. Call 1-800-552-5019 or see the Virginia Assistive Technology System website.⁵⁸

5.7.9 Job Accommodation Network

[The Job Accommodation Network site](#) provides information on vendors and manufacturers of equipment and devices for people with disabilities: 1-800-526-7234.⁵⁹

5.8 FUNDING ACCESSIBILITY IMPROVEMENTS

Electoral boards and registrar offices (like all public bodies) operate with limited resources. Below are suggestions to help afford accessibility improvements when the local governing body may be reluctant or unable to provide funding:

- Local Disability Services Boards may suggest grant money that can be used to make such purchases. Contact the local board to find out how to apply for funding.
- The Lions Clubs will often take on projects to provide aids for persons with vision and hearing impairments. Check with the local club(s) to see if they are willing to sponsor an election accessibility project.
- Many other community service organizations (e.g. Kiwanis, Rotary, and the like) may be willing to help.
- The federal government offers tax incentives for businesses to make their facilities more accessible to people with disabilities.
- Check with any of the agencies listed in the Resources section above. Many of the agencies have funds for purchasing assistive technology or know of inexpensive sources for these items.
- Consider sharing costs of such items with other government offices that can use them when they are not needed for elections.

⁵⁷ Visit the Department for the [Blind and Vision Impaired website](#) for more information.

⁵⁸ The Virginia Assistive Technology System website can be accessed [here](#).

⁵⁹ Click [here](#) to visit the Job Accommodation Network website.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 6

Voter Registration

June 2018

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6. VOTER REGISTRATION

REQUIRED FORMS Approved Inquiry as to Residency (SBE-114(6)) Guidelines for Conducting Voter Registration Drives Virginia Voter Registration Application Online Voter Registration Application National Mail Voter Registration Form Federal Post Card Application. Federal Write in Absentee Ballot Approved Inquiry as to Residency (1 VAC 20-40-50)	ADDITIONAL RESOURCES Department of Elections College Student Registration webpage Secretary of the Commonwealth Restoration of Rights webpage State-designated Voter Registration Agencies list Library of Virginia Voter Registration and Election Records Retention Schedule Federal Voting Assistance Program (FVAP) webpage
REFERENCE National Voter Registration Act Virginia Department of Elections Website – Military & Overseas Voting FVAP Virginia Voting Assistance Guide	REGULATIONS 1VAC20-20-20: Electronic transmission of records containing sensitive personal information; encryption or redaction required 1VAC20-20-70: Duty to request assistance and to notify voters of denial of applications for voter registration or absentee ballots 1VAC20-40-10: Definitions 1VAC20-40-30: Presumptions 1VAC20-40-40: Review of Application 1VAC20-40-50: Supplemental Questions 1VAC20-40-60: Review of Supplemental Questions 1VAC20-40-70: Applications for Voter Registrations; affirmation of United States Citizenship 1VAC20-45-20: Voter Registration 1VAC20-45-30: Electronic Submission of Federal Post Card Application

6.1 CHAPTER ORGANIZATION

The purpose of this chapter is to discuss the multiple pieces that make up voter registration. Voter registration is the first step in an individual exercising his/her right to vote; thus, registration is a critical responsibility of the general registrar. The general registrar must contend with checking applications for eligibility standards and tracking and processing these documents within a limited amount of time as required by Virginia Election Code. §6.2 outlines the eligibility requirements that every applicant must satisfy prior to their application being processed and approved by the registrar. These requirements include: age, citizenship, residency, and no felony convictions. In particular, this section focuses on residency issues that often challenge registrars. Next, §6.3 provides information on the methods of registration that are available to applicants and discusses how, depending on the method of registration, the application will be processed. The Code of Virginia establishes deadlines for voter registration; thus, §6.4 focuses on these deadlines and any extensions provided depending on the status of the applicant. For example,



applicants categorized under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may be provided an extension past the normal deadline. §6.5 provides information on the type of voter registration applications available, such as: the Virginia Voter Registration Application, the application received through the Department of Motor Vehicles, and forms that combine the voter registration application and the absentee application. §6.6 discusses the procedures that a registrar should complete prior to processing an application, while §6.7 dives into how an application should be processed using Virginia Election and Registration Information System (VERIS). Lastly, §6.8 outlines the procedures for denying an application.

6.2 WHO IS ELIGIBLE?

To be eligible to vote in the Commonwealth of Virginia, an individual must meet the following qualifications:

1) Age:	Will be eighteen years of age or older by the date of the next general election; ¹
2) US citizenship:	Is a US citizen; ²
3) Residence:	Has domicile and place of abode in Virginia and in the precinct where he intends to vote; ³
4) No Felony:	Has not been convicted of a felony, or if convicted, has had his civil rights restored by the appropriate authority; ⁴
5) Mental Capacity:	Has not been adjudicated mentally incompetent (i.e., legally incapacitated) or, if so, has had his competency (legal capacity) restored; ⁵ and
6) Registration:	Provides all information required by law to be entered on the registration application material to determining qualification to vote. ⁶

6.2.1 Age Requirement

To qualify for voter registration, the applicant must be eighteen years of age or older on or before the date of the **next general** election. This policy applies to May elections in a town or city, which are considered general elections.

If otherwise qualified, a 17-year old that will turn eighteen on or before the date of the next general election may be registered and permitted to vote in any intervening special or primary

¹ See the Virginia Constitution [Art. II, §1](#). See also the Code of Virginia §§24.2-403 and 24.2-544(D).

² See the Virginia Constitution [Art. II, §1](#).

³ See the Virginia Constitution [Art. II, §1](#). See also the Code of Virginia §24.2-101 (defining “residence” as requiring domicile and place of abode).

⁴ See the Virginia Constitution [Art. II, §1](#).

⁵ See the Virginia Constitution [Art. II, §1](#).

⁶ See the Virginia Constitution [Art. II, §2](#). See also Virginia Administrative Code [1VAC20-40-40\(C\)](#) and [1VAC20-40-70\(B\)](#) (applications to register to vote cannot be denied for omitted information if they include all information required by law).



election.⁷ As for federal presidential years, any individual that will be 18 on or before the day of the next November general presidential election may register to vote and vote in any intervening presidential primary and any other primary held on the same day as the presidential primary.⁸

6.2.2 U.S. Citizenship

The current Virginia Voter Registration Application asks the applicant, as required by federal and state law, “Are you a U.S. citizen?”⁹ The applicant must answer this question.¹⁰

If an applicant leaves this section blank or answers “No” and signs the application, the application should be denied in VERIS and a denial notice sent. In the instance of an applicant leaving the answer blank, the denial notice should be sent with a new voter registration application.

6.2.3 Residency

An applicant must establish residency in the precinct in which she wishes to vote.¹¹ Residency requires both domicile and place of abode.¹² An applicant can establish domicile by living in a locality with the intention to remain.¹³ Abode is the **physical** place where a person lives.¹⁴ Residency regulations provide a rule of broad construction to “provide the greatest opportunity to register and to vote.”¹⁵ Failure to establish residency may be grounds for denying the voter registration application.¹⁶

Applicants must provide their house number and street name, or rural route and box number, unless homeless. Only under certain circumstances may a post office box may be accepted as a home address (discussed later in this chapter).¹⁷ Address of a mailing service or a business office cannot be accepted (unless the applicant actually lives in the office).

An applicant who lives in a rural area and receives mail at a post office box may not have a rural route and box number. Such applicants may enter the number of the highway on which they live. Any applicant who does not have a house number/street name should, in the space provided on the application, enter enough description of the location of his home to enable the registrar to determine his precise location for precinct assignment purposes.¹⁸

⁷ See the Code of Virginia §§24.2-403 and 24.2-544(D).

⁸ See the Code of Virginia §§24.2-403 and 24.2-544(D).

⁹ See the Virginia Constitution [Art. II, §2](#). See also the Code of Virginia §24.2-418(A).

¹⁰ See the Virginia Constitution [Art. II, §2](#).

¹¹ See the Virginia Constitution [Art. II, §1](#).

¹² *Id.* See also the Code of Virginia §24.2-101 (defining “residence” as requiring domicile and place of abode).

¹³ See the Code of Virginia §24.2-101.

¹⁴ See the Code of Virginia §24.2-101.

¹⁵ See Virginia Administrative Code [IVAC 20-40-30\(A\)](#).

¹⁶ See Virginia Administrative Code [IVAC 20-40-40\(A\)](#) (if information required by law is missing from the application, that is grounds for denial).

¹⁷ See the Code of Virginia §24.2-418(B).

¹⁸ See Virginia Administrative Code [IVAC20-40-30\(C\)](#).



The general registrar should ask any applicant who gives a residence address that will not also serve as a mailing address to supply a mailing address in the “Mailing Address” space. The Code does not specifically require this information, and 1VAC20-40-30(c) specifically states “no person shall be denied registration for failure to submit a mailing address.”

6.2.3.1 *Protected Voters*

Certain voters are allowed to request that their residence addresses not appear on lists provided for public inspection.¹⁹ These voters **must provide a post office box within Virginia** to receive protected voter status and are responsible to communicate changes in this address. The following individuals are permitted to provide alternative addresses:²⁰

- Active or retired law enforcement officers,
- Persons granted protective court orders (these persons may also apply to vote absentee) under the authority of any court of competent jurisdiction,
- Threatened or stalked individuals who have filed a complaint with a law enforcement official,
- Participants in the address confidentiality program, and
- Active and retired federal and Virginia justices and judges and attorneys employed by the United States Attorney General or Virginia Attorney General.

Applicants in any of these categories can have their residence address redacted on the registered voter list, the list of those who have voted, absentee applicant lists, and any other registration records available for inspection by third parties.²¹

P.O. Box addresses are only acceptable when the applicant cannot receive mail at their residence address (e.g., the residence address is not deliverable by the U.S. Postal Service)²² or when the applicant is a protected voter. This address does not have to be in the locality of residence, but protected voter alternative P.O. Box addresses must be in Virginia.

If an applicant fails to provide a reason code for protected voter status and the general registrar cannot reach out to the applicant for supplemental information, the voter should be denied the protected status; **however, if the applicant is otherwise qualified they must be registered.**

6.2.3.2 *Person whose domicile straddles two political subdivisions*

Property boundaries may not follow election district or locality boundaries. When an applicant’s domicile and place of abode straddles two (or more) jurisdictions, a decision must be made as to where the person should be registered. If the applicant’s dwelling unit falls totally within one jurisdiction, even if a portion of the applicant’s property is in

¹⁹ See the Code of Virginia §24.2-418(B).

²⁰ See the Code of Virginia §24.2-418(B).

²¹ See the Code of Virginia §§24.2-405(D), 24.2-406(D), 24.2-418(B), 24.2-444(C), 24.2-706, and 24.2-710.

²² See Virginia Administrative Code [1VAC20-40-10](#)



an adjacent locality, then the applicant can only be registered in the locality of the dwelling unit. If the dwelling unit straddles the boundary line, then the applicant is deemed to reside in the location of his bedroom or usual sleeping area.²³

6.2.3.3 *Homeless Applicants*

A person with no permanent address must describe on the application to register his actual physical dwelling place and may choose to list a mailing address where he can receive election mail.²⁴

6.2.3.4 *College Students*

You should consider the following when determining the residency for college students:

- College students should register to vote in the city or county in which they are legal residents.
- The student determines and declares the city, county and state in which he or she claims legal residence.²⁵ This may be the residence where his or her family lives, or the city or county and state where the school is located.
- A college student may claim residency at the school address at which the student lives only a portion of the calendar year if the student otherwise meets the qualifications of legal residence for voter registration.²⁶

6.2.3.5 *People Living In Different Locations for Different Seasons*

The residency status of persons who live elsewhere for a portion of the year (such as persons who spend winters in warmer climates, migrant workers, or persons who live part of the year on a sailboat, for example) will be determined by the applicant.²⁷ If the applicant has the intention to return to a location and considers the location their place of abode, they should be considered as having residency.²⁸

6.2.3.6 *Overseas Voters and Military Personnel*



Persons serving in the military, as well as their spouses and dependents, and overseas voters fall into a special class regarding residence. If a person, upon entering military service, wishes to declare his last residence before entering service (his home of record) as his legal residence, then he is considered to have residence there until he declares a different place his legal residence or leaves the service. “If that address is no longer a

²³ See Virginia Administrative Code [IVAC20-40-30\(E\)](#).

²⁴ See Virginia Administrative Code [IVAC20-40-30\(C\)](#).

²⁵ See Virginia Administrative Code [IVAC20-40-10](#) (registrars must presume the address of residence declared by the applicant is where applicant has domicile).

²⁶ See Virginia Administrative Code [IVAC 20-40-40\(C\)\(3\)](#) (registrars are to treat dormitories as permanent addresses) and [IVAC20-40-30\(B\)\(3\)](#) (registrars cannot make any presumptions about a person’s residence based on the person’s student status).

²⁷ See Virginia Administrative Code [IVAC20-40-10](#) (registrars must presume the address of residence declared by the applicant is where applicant has domicile).

²⁸ See the Virginia Constitution [Art. II, §1](#) and the Code of Virginia §24.2-101 (defining “residence” as requiring domicile and place of abode, and defining “domicile” as living in a locality with intent to remain).



recognized residential address, the voter must be assigned an address for voting purposes.”²⁹

Tax laws permit military members to claim a residence for tax purposes only. A military member may be exempt from paying local and state taxes if they file a Certificate of Legal Residence form with the state or local government. Filing this form for tax purposes does not prohibit the service member from claiming Virginia as their legal residence for voter registration purposes.³⁰

Great care must be taken before denying or canceling the voter registration of a service member. Action to deny registration can only be taken after considering the special rules applicable to military personnel and the relevant facts, which may require consulting Department of Elections staff for guidance or your local legal representative. Cancellation must always be authorized under one of the specific grounds detailed under the Code of Virginia §24.2-427. It is a violation of federal law punishable by a fine and up to five years imprisonment to knowingly deny or attempt to deny rights provided under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).³¹

6.2.3.7 *Reviewing Residency*



A registrar has limited discretion in reviewing the residency portion of the voter registration application. As discussed above, residency requires domicile and place of abode and the registrar must “presume that domicile is at the address of residence given by the person on the application.”³² If an applicant lists a location as where they sleep and this information is sufficient to assign the applicant to a polling place within the precinct, the application should be processed if the applicant meets all other eligibility requirements.³³

There are only five situations in which a registrar **must** ask for additional information regarding an applicant’s residency.³⁴ When a situation requiring more information arises, the registrar is prohibited from denying the application.³⁵ Instead, the registrar must request more information by providing a form to the applicant, to which the applicant must respond in writing.³⁶ The application cannot be accepted or denied while the registrar is awaiting the applicant’s response.³⁷ If the applicant does not provide the information by the last day to register before the election, and the registrar is unable to

²⁹ See the Code of Virginia §24.2-456.

³⁰ See Virginia Attorney General Opinion No. [06-048](#) (Oct. 3, 2006) (stating “a general registrar may not deny an application for voter registration or cancel the voter registration of a registered voter who is a service member of the armed forces of the United States based solely upon the filing of such certificate.”).

³¹ See [18 U.S.C. §608](#).

³² See Virginia Administrative Code [IVAC20-40-10](#).

³³ See Virginia Administrative Code [IVAC20-40-60\(A\)](#).

³⁴ See Virginia Administrative Code [IVAC20-40-40\(C\)](#).

³⁵ See Virginia Administrative Code [IVAC20-40-40\(C\)](#).

³⁶ See Virginia Administrative Code [IVAC20-40-40\(C\)](#).

³⁷ See Virginia Administrative Code [IVAC20-40-40\(C\)](#).



determine the applicant's residency through any other means, only then should the registrar deny the application.³⁸

Under 1VAC20-40-40, a general registrar must ask for additional information regarding residency when:

1. The applicant provides a mailing address in a different county, city, or state from his residential address.
 - The registrar must ask **and** mail the supplemental questions provided in the form titled *Approved Inquiry as to Residency*. This form must be answered and returned before the last day of registration.
2. The applicant provides a residential address that cannot receive mail or from which mail sent by the registrar's office is returned.
 - The registrar is required to ask for an alternate mailing address. However, no person shall be denied registration for failure to submit a mailing address.
3. The applicant provides a temporary address.
 - The registrar must ask the supplemental questions provided in the form titled *Approved Inquiry as to Residency*. This form must be answered and returned before the last day of registration.
4. The applicant provides a nontraditional residential address.
 - A nontraditional residential address includes industrial or commercial buildings. If the individual sleeps there and considers the location their residence, the application should be processed
5. The application causes a conflict with another existing voter in the statewide, voter registration system.

The applicant's application should be processed if, in responding to the supplemental questions, the applicant provides sufficient information for the registrar to assign the applicant to a polling place within the precinct and cancel any existing registration elsewhere. If the applicant does not provide sufficient information, the application must be denied.

6.2.4 Felony convictions

6.2.4.1 Virginia convictions

An applicant who has been convicted of a felony in Virginia has lost the right to vote and cannot legally register to vote in the Commonwealth until his voting rights have been restored by the Governor of Virginia.³⁹ The Governor has the authority to restore voting rights of persons convicted of felonies in Virginia.⁴⁰ An application to the Governor may be made through the Secretary of the Commonwealth or by circuit court petition.⁴¹

³⁸ See Virginia Administrative Code [1VAC20-40-40\(C\)](#).

³⁹ See the Virginia Constitution [Art. II, §1](#).

⁴⁰ See the Virginia Constitution [Art. V, §12](#).

⁴¹ See the Code of Virginia [§§53.1-231.1 – 231.2](#) (detailing process for restoration of civil rights).



6.2.4.2 *Convictions in other states*

A citizen moving to Virginia whose rights have been restored in the convicting state may register to vote in Virginia, indicating restored felon status on the Virginia voter registration application.⁴² The registrar should consult the Commonwealth's Attorney who represents the registrar on denials of registration, when any questions arise on restoration of rights for a convicted felon outside the Commonwealth. If restoration is not established, the application should be denied and the individual can appeal to the appropriate court.⁴³

6.2.4.3 *Verification*

A convicted felon whose rights have not been restored that attempts to register or votes may be prosecuted for false statements or illegal voting.⁴⁴ Therefore, general registrars should correct misunderstandings that may have been created by voter registration drives and others encouraging registration by former offenders.

Applicants may not know whether they have been convicted of a felony versus a misdemeanor, or whether their rights have been restored. The registrar may, as a matter of courtesy, work with the applicant, reach out to the Secretary of the Commonwealth, or other state authorities to help the applicant make this determination. However, the responsibility for such determinations ultimately rests with the applicant, who may need legal counsel.

If the proper classification is uncertain and cannot readily be determined from available information, the general registrar should request assistance from the Commonwealth's Attorney who represents the general registrar on registration matters.⁴⁵

Applicants whose rights have been restored may provide the registrar documents showing the restoration of their voting rights or simply provide the restoration date on the registration application. If the applicant only provides the restoration date, the registrar must contact the applicant to verify the date of restoration, determine the convicting jurisdiction, and if the convicting jurisdiction is in Virginia. A general registrar may also request documentation to confirm the restoration of voting rights of a person previously convicted of a felony.⁴⁶

If an applicant is not eligible to register, the registrar should provide appropriate information to the applicant regarding the restoration-of-rights process. An applicant who disagrees with the registrar's determination may submit an application, within 10

⁴² See Virginia Attorney General Opinion No. [99-087](#) (Aug. 3, 1999).

⁴³ See the Code of Virginia §24.2-422.

⁴⁴ See the Code of Virginia §§24.2-1004 (illegal voting and registrations) and 24.2-1016 (false statements).

⁴⁵ See the Code of Virginia §24.2-422(A).

⁴⁶ Virginia Attorney General Opinion [No. 06-048](#) (Oct. 3, 2006).



days of denial, and appeal the denial to the circuit court in the county or city of where he applied to register.⁴⁷

6.2.4.4 *Juvenile Convictions*

Sometimes an applicant will ask, "I was convicted of a felony as a juvenile. Can I register to vote?" or, "How do I answer the felony question?" The responsibility for such determinations ultimately rests with the applicant, who may need legal counsel.

NOTE: The place where the juvenile served his sentence (e.g. Department of Juvenile Justice facility as opposed to Department of Corrections' facility) **does not indicate whether he was convicted of a felony as an adult.** The most important factors are which court heard the case and the details of the conviction if it was heard in Circuit ("adult") Court. Contact your local Commonwealth's Attorney for information on determining conviction status.

6.2.5 *Persons Adjudicated Incapacitated*

The Virginia Constitution, Art. II §1 states, "no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished." It has been further codified in §24.2-101 that "[n]o person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law."

Adjudications of incapacity result in loss of voting rights unless a court order expressly preserves voting rights. Circuit court clerks are required to furnish voting officials with lists of persons ineligible to vote due to adjudications of incapacity.⁴⁸

Only a court adjudication of incapacity can take away a person's voting rights for mental incompetence. Unless a court has determined that a person is incapacitated, that person retains their voting rights. It is a crime to try to "vote for that person" - no matter how noble the aims may be (e.g., "I know how my family member would have wanted to vote"). Improperly completing an absentee ballot application, signing another's name, or otherwise rendering improper assistance, must be referred to the Commonwealth's Attorney in the locality in which the votes were cast or were attempted to be cast.

6.2.6 *Social Security Numbers*



A full social security number is only required when the applicant is providing an original voter registration application **and** has not checked the "No SSN" box on the application.⁴⁹ SSNs are not guaranteed to be unique and the Social Security Administration has advised that individuals may share the same valid SSN. While VERIS accepts the SSN for internal tracking and searching purposes, VERIS will assign a Voter ID unique identifier to each voter registered in the system. This assigned Voter ID protects each individual's vote against improper dilution and helps detect duplicate registration and fraud.

⁴⁷ See the Code of Virginia §24.2-422.

⁴⁸ See the Code of Virginia §24.2-410.

⁴⁹ See Virginia Administrative Code [1VAC20-40-70\(B\)\(1\)](#).



Occasionally an applicant will object to providing his or her SSN in order to register to vote. If the applicant has been issued a SSN and indicated they have a SSN on their voter registration application, they are required to provide this information for voter registration purposes.⁵⁰

The federal Privacy Act of 1974 and Virginia's Government Data Collection and Dissemination Practices Act ("Data Act") both require that applicants be informed of the legal basis for requesting the SSN and its possible uses.⁵¹

NOTE: SSN is not required for a transfer or a change of name or address. A transfer or change of name or address application from a voter who omits his SSN must still be processed.⁵²

6.3 METHODS OF REGISTRATION

Virginia authorizes six ways to apply for registration:

- Online by internet application to the Department of Elections,⁵³
- By application at the polls to an officer of election on election day,⁵⁴
- In person before a registrar,
- By application at a state designated voter registration agency,⁵⁵
- By directly mailing an application to the general registrar,⁵⁶ and
- By third-party voter registration.⁵⁷

While there are multiple methods of registration, an applicant does not become registered until the application is reviewed and accepted by his/her local general registrar. This distinction is important. Applications taken by personnel at the Department of Motor Vehicles or other agencies are only applications; they are not legally effective as registrations until the appropriate general registrar accepts them as complete and valid.

6.3.1 Online

Applicants have the option to register electronically by means authorized by the State Board of Elections using the Department of Elections website.⁵⁸ Applications submitted online to the Department of Elections can be accepted through 11:59 p.m. on the final day of registration preceding an election. To complete the application process and sign the application electronically, the applicant must have a driver's license or identification issued by the DMV.⁵⁹ A

⁵⁰ See Virginia Administration Code [1VAC20-40-70](#).

⁵¹ See [5 U.S.C. §552](#). See also the Code of Virginia [§2.2-3800](#) et seq.

⁵² See Virginia Administrative Code [1VAC20-40-70](#)(F) (applications from already registered voters must be processed as a request to transfer or change, as long as the application contains some new information and is signed).

⁵³ See the Code of Virginia §24.2-416.7(A).

⁵⁴ See the Code of Virginia §§24.2-653.

⁵⁵ See the Code of Virginia §§24.2-411.1 (Department of Motor Vehicles) and 24.2-411.2 (other state-designated voter registration agencies).

⁵⁶ See the Code of Virginia §24.2-416.1(A).

⁵⁷ See the Code of Virginia §§24.2-416.3.

⁵⁸ See the Code of Virginia §24.2-416.7(A).

⁵⁹ See the Code of Virginia §24.2-416.7.



voter may also check their status and/or update their voter registration electronically.⁶⁰ The web address for the online application is: <https://www.elections.virginia.gov/register>.

6.3.2 At the Polls on Election Day

Officers of election must provide any person offering to vote provisionally with an application to register.⁶¹ If the person's provisional ballot is not counted, but the person is qualified to register to vote and their application contains all information required by law, their submitted application should be processed and accepted.

6.3.3 In-Person Registration

6.3.3.1 In the Voter Registration Office

Eligible Virginia residents may complete a voter registration application in person at the registrar's office during legally authorized official business hours.

On the final day of registration preceding an election, applications must be accepted until 5:00 pm.⁶² At that time, the general registrar must list all applicants in line, and accept their applications as timely, if complete.⁶³

The registrar, or the electoral board, may establish additional office hours for registration beyond those normally scheduled.⁶⁴ All locations within the locality should comply with the extended hours.

Any extended public hours beyond regular office hours in the registrar's office and any additional locations for voter registration must be advertised. There are several provisions governing advertising of additional times and locations:

- For additional dates, hours, and locations of voter registration scheduled for the final day of registration, the general registrar must give notice at least 10 days in advance.⁶⁵ Shorter times apply for special elections. This notice must be posted on the locality website (if applicable) and published at least once in a newspaper of general circulation in the locality, or twice on TV.⁶⁶
- Any other extended hours or additional locations must be advertised at least three days in advance.⁶⁷ Notice must be posted on the locality website (if applicable), and either published at least once in a newspaper of general circulation in the locality or announced at least twice on a television station serving the locality.⁶⁸
- Notice is not required for:

⁶⁰ See the Code of Virginia §24.2-416.7.

⁶¹ See the Code of Virginia §§24.2-653.

⁶² See the Code of Virginia §24.2-414.1.

⁶³ See the Code of Virginia §24.2-414.

⁶⁴ See the Code of Virginia §24.2-415 (for hours outside of regular office hours, advance notice must be given).

⁶⁵ See the Code of Virginia §24.2-415.

⁶⁶ See the Code of Virginia §24.2-415.

⁶⁷ See the Code of Virginia §24.2-415.

⁶⁸ See the Code of Virginia §24.2-415.



- the regular office hours of the general registrar's office or of any co-located office normally staffed by at least one registrar,⁶⁹
- any office or location offering voter registration services or forms in the normal course of its daily business,⁷⁰ or
- any other locations that do not have a government employee statutorily authorized to receive voter registration applications present, but that offer mail-in forms.⁷¹ For example, § 24.2-416.3 provides for registration applications to be available through agents of the Department of Game and Inland Fisheries statewide. However, since these agents are not authorized to accept applications and applicants are responsible for sending their own applications to the appropriate registrar, these agents are not subject to the public notice requirement.

6.3.3.2 Other Registration Sites

As an alternative or in addition to expanded office hours, the general registrar or electoral board may establish additional registration sites to meet the registration needs of the locality. Like additional office hours, these additional sites must be advertised to the public; including posting the notice on the locality website if applicable.⁷²

6.3.3.2.1 School Sites

The Department of Elections encourages each general registrar to work with each local high school at least annually to encourage registration. In the spring, most seniors meet age requirements. When scheduling, be aware of close of books deadlines for town or city elections in May that might affect new registrants. Before the high school visit, the school administration and government teachers should be contacted about arranging an opportunity to speak to the students about voter rights and responsibilities and to encourage service as a volunteer or officer of election. Because classrooms are not open to the general public under Va. Code §24.2-412, the registrar staff should not collect applications; students can submit the applications themselves, encouraged to apply online, or a teacher could collect and submit the applications to the registrar.

6.3.3.2.2 Registration through State Agencies

As part of the National Voter Registration Act (NVRA), certain public agencies must offer voter registration applications to most customers at their state, regional, or local offices.⁷³ 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

⁶⁹ *Id.*, at (B).

⁷⁰ *Id.*

⁷¹ See the Code of Virginia §24.2-415(B). It is the participation of one of these authorized government employees or a registrar that triggers the public notice requirement.

⁷² See the Code of Virginia §24.2-415.

⁷³ See the Code of Virginia §24.2-411.2(A).



address.⁷⁴ Agency personnel must assist clients with completing voter registration forms as they would for their own forms, unless the applicant refuses such assistance.⁷⁵

The law does not specify what assistance must be provided and permits flexibility to develop solutions to accommodate particular needs of persons with disabilities (however, Virginia law prohibiting discrimination against persons with disabilities must be followed⁷⁶). For example, non-English speaking clients may be referred to the Department of Elections for language translations of the Virginia Voter Registration Application and other forms. The federal Election Assistance Commission website may provide translations of the National Mail Voter Registration Form in additional languages such as Spanish or Korean.⁷⁷ Designated agency personnel do not consider issues of client eligibility to register to vote. Eligibility determination is the responsibility of the general registrar.

The state office of each designated public agency sets policy for distributing, displaying, collecting, and returning applications in accordance with NVRA requirements.

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

The Code of Virginia designates the following agencies as registration sites in accordance with NVRA and §§24.2-411.1 and 24.2-411.2:

- Department of Motor Vehicles
- Agencies whose primary function is to provide public assistance
- Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities
- Armed Forces recruitment offices
- Regional offices of the Department of Game and Inland Fisheries and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8



Agencies are required to transmit applications to the Department of Elections no later than five business days after the date of receipt.⁷⁸

6.3.3.2.3 Registration at the Department of Motor Vehicles

Any person who comes to an office of the Department of Motor Vehicles (DMV) to apply for, replace, renew, or change an address on a driver's license or special identification card ("qualifying transactions") must be given the opportunity to apply for voter registration at the same time.⁷⁹ Although the law does not dictate the form of the voter registration

⁷⁴*Id.*, at (D)(1).

⁷⁵ See National Voter Registration Act (NVRA), [52 U.S.C. §20506\(a\)\(6\)\(C\)](#). See also the Code of Virginia §24.2-411.2(C)(2).

⁷⁶ See the Code of Virginia [§51.5-43](#) ("No person with a disability ...shall be denied the opportunity to register or vote...because of such disability").

⁷⁷ See [EAC website](#) for additional languages.

⁷⁸ See the Code of Virginia §§24.2-411.1(C) (DMV) and 24.2-411.2(G) (all other state-designated voter registration agencies).

⁷⁹ See NVRA, [52 U.S.C. §20504](#). See also the Code of Virginia §24.2-411.1(A).



application to be used at DMV offices, it does specify that the form cannot duplicate information required on the license portion 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.⁸⁰

If ELECT is unable to process an applicant's signature through the DMV process, the application should be considered incomplete and cannot be processed by the registrar.⁸¹ The registrar must send a new application to any applicant whose application was unsigned.⁸²

As with other agencies, the DMV must transmit the voter registration section of the form within five business days according to directions from the Department of Elections. The Department of Elections must then forward applications to the appropriate registrar.⁸³ In some localities, the general registrar has established a permanent staff presence at a DMV customer service center and all voter registration applications are directed to registrar personnel. Other localities have established a program in cooperation with a local DMV customer service center and have the approval of the Department of Elections to regularly collect and distribute all applications received at one or more DMV location(s).



Beginning in July 2016, the Department of Elections and the DMV partnered to simplify the method of voter registration application for most DMV customers. Customers in DMV customer service centers can now complete a voter registration application or submit a notice of change of address or other information electronically. The introduction of the electronic motor voter application process has dramatically reduced the number of paper applications received by localities. Customers at DMV customer service centers who apply for or replace a driver's license or DMV ID card, renew a license or ID card, or update an address on file with DMV will be presented with the opportunity to register to vote as required by the National Voter Registration Act. If the voter agrees, the information will be transmitted to general registrars for processing within five days of receipt.

When a customer goes into a DMV, if the customer is not already a registered voter, he must be asked if he is a United States citizen and if so, whether he wants to register to vote or update his voter registration information. If the voter states he is not a citizen, no voter application is provided to the customer. If customer affirms US citizenship and answers "YES" to voter registration the customer will be prompted to answer a series of questions that will complete his registration application.

Similarly, a DMV customer using the DMV website to conduct any one of the transactions mentioned above, will be provided the opportunity to electronically transmit a voter registration application.

The electronic DMV applications are processed by general registrars in a manner consistent with other electronically received registration applications.

⁸⁰ See NVRA, [52 U.S.C. §20504](#)(c)(2)(A)-(B). See also the Code of Virginia §24.2-411.1(B).

⁸¹ See NVRA, [52 U.S.C. §20504](#)(c)(2)(C)(iii) and the Code of Virginia §24.2-411.1(B) (all DMV voter registration applications must be signed). See also the Virginia Constitution [Art. II, §2](#) (all applications to register in general must be signed).

⁸² See the Code of Virginia §24.2-422(B).

⁸³ See the Code of Virginia §24.2-411.1(C)



6.3.4 Mail Registrations

Voters can register by mailing an application directly to a voter registration office or the Department of Elections.⁸⁴ Voters may also complete an application and give it to a third party (someone other than a sworn registrar or state-designated agency employee) to forward to a voter registration office.⁸⁵ Persons entitled to vote absentee under the Uniformed and Overseas Citizens Voting Act may combine a registration application with an application for an absentee ballot on a Federal Post Card Application (FPCA) or a ballot using the Federal Write-In Absentee Ballot (FWAB).

Applications received through any form of mail service, including the U.S. Postal Service, Federal Express, United Parcel Service, DHL, or any other mail carrier, are considered to have been received through the mail and should be coded as “S” in VERIS.

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, except in certain circumstances detailed below.⁸⁶ This vote in person requirement does not apply to mail applications received from persons already registered in Virginia which are transfer applications or updates of information such as name changes or address changes. These individuals are not required to vote in person, provided they have previously voted in person in Virginia.

The following individuals who apply by mail registration are not required to vote in person even if they have never before voted in Virginia:⁸⁷

- Persons entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act⁸⁸ (generally active duty military, overseas residents, and their spouses and dependents);
- Elderly (defined as age 65 or older) or handicapped (permanently or temporarily) voters who come under the Voting Accessibility for the Elderly and Handicapped Act;⁸⁹
- Full-time students at institutions of higher learning;
- Voters voting only for the offices of President and Vice-President; or
- Any others entitled to not vote in person by other federal law

If VERIS indicates a voter must “Vote in Person,” the system will not allow processing an absentee ballot to mail or email to the voter until an appropriate reason code is selected corresponding to the exceptions listed above. A nonexempt voter who must vote in person may vote by absentee ballot only if they do so in person.

6.3.5 Third Party Registration Drives

Anyone can distribute and receive registration applications.⁹⁰ Any individual or group obtaining 25 or more voter registration applications from the Department of Elections or a local office is

⁸⁴ See the Code of Virginia §24.2-416.1(A).

⁸⁵ See the Code of Virginia §24.2-416.3(A).

⁸⁶ See the Code of Virginia §24.2-416.1(B).

⁸⁷ *Id.*

⁸⁸ See Uniformed and Overseas Citizens Absentee Voting Act, [52 U.S.C. §20302 et seq.](#)

⁸⁹ See Voting Accessibility for the Elderly and Handicapped Act, [52 U.S.C. §20101 et seq.](#)



required to register with the Department of Elections or local office, provide information as required by the Department of Elections, receive training, and execute a sworn affidavit that they will abide by all Virginia voter registration laws and rules.⁹¹

The Department of Elections is required to furnish a reasonable number of blank mail applications to any individual or group who requests them.⁹² 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 Department of Elections. Individuals with blank applications may go door-to-door, set up display boxes with applications at business or other establishments, distribute applications to members of their organizations, or otherwise distribute applications however they wish. Individuals and groups conducting voter drives are not subject to the same restrictions imposed on “official” registration sites conducted by a registrar.⁹³ Restrictions on official sites that are not applicable to third parties include prohibitions on conducting registration at events requiring an entry fee to access the registration location or where campaigning is taking place at the same location.⁹⁴ However, a third party may not pay its volunteers or employees based on the number of completed voter registration applications they collect.⁹⁵

When the local registrar or electoral board furnishes individuals or groups multiple copies of the voter registration application (even if providing fewer than 25 copies), it must also provide the instructions and an outline of penalties for destruction of, or failure to mail or deliver signed applications.⁹⁶

Third-party registration drives may decide to simply distribute applications and put the responsibility on the applicants to mail their applications to the voter registration office or Department of Elections. A third party which offers to return the completed applications to the voter registration office must provide the applicant a receipt.⁹⁷ In either case, the application must be treated as a mail application.

If the third party offers to return a completed and signed application for the applicant, return must be made within ten days or by the close of registration, whichever comes first. Not doing so is a Class 1 misdemeanor.⁹⁸ Unlawful use or disclosure of social security numbers or parts thereof is a felony.⁹⁹ Unlawful disclosure of other personal information may facilitate identity theft.¹⁰⁰

⁹⁰ See the Code of Virginia §24.2-416.3(B).

⁹¹ See the Code of Virginia §24.2-416.6.

⁹² See the Code of Virginia §24.2-416.3(A).

⁹³ See the Code of Virginia §24.2-412(C).

⁹⁴ See the Code of Virginia §24.2-1003.

⁹⁵ See the Code of Virginia §24.2-416.6.

⁹⁶ See the Code of Virginia §24.2-416.6.

⁹⁷ See the Code of Virginia §24.2-418.1.

⁹⁸ See the Code of Virginia §24.2-1002.01.

⁹⁹ See the Code of Virginia §24.2-1002.1.

¹⁰⁰ See the Code of Virginia [§18.2-186.3](#).



6.4 SUBMISSION DEADLINES



With the exception of online voter registration applications, voter registration for general and primary elections closes at the normal close of business¹⁰¹ on the twenty-second day before the election and remains closed for the **twenty-one days preceding the election and on election day**.¹⁰² Electronic applications may be submitted until 11:59 p.m. on twenty-second day preceding the election.

For any special election that has been called by the Governor, Speaker of the House of Delegates, President pro tempore of the Senate, or by either House of the General Assembly, registration must be closed for the **six days preceding the election and election day**.¹⁰³

For any other special election, registration must be closed for **thirteen days preceding the election and election day**.¹⁰⁴

After books are closed for any election, the registrar can accept applications during this time, but applications cannot be approved and processed until registration reopens the day after the election.

6.4.1 Applications Received by Mail

If an application is received through the U.S. Postal Service (USPS) and is postmarked on or before the final day of registration, the application must be accepted as timely regardless of when it is actually received.¹⁰⁵ If an application is received through the USPS and its postmark is missing, illegible, or has no date, the application must be accepted as timely if received by the fifth day after registration closed.¹⁰⁶

If a mail application is received by any other means – through another mail system such as UPS or Federal Express, or through a third party – it must be accepted as timely only if it was received by 5:00pm on the final day of registration, regardless of when it was postmarked or sent.¹⁰⁷

6.4.2 Exceptions to Normal Application Deadline



In certain situations, the law allows for a registration to relate back or be considered effective as of the date of application. For example, in the context of provisional voting, a voter whose name does not appear on the pollbook may vote provisionally and fill out an registration application at the polls.¹⁰⁸ If it is found that the person is a qualified voter, and the person provides evidence

¹⁰¹ See the Code of Virginia §24.2-414.1.

¹⁰² See the Code of Virginia §24.2-416.

¹⁰³ See the Code of Virginia §24.2-416.

¹⁰⁴ See the Code of Virginia §24.2-416.

¹⁰⁵ See the Code of Virginia §24.2-416.4(A).

¹⁰⁶ See the Code of Virginia §24.2-416.4(A).

¹⁰⁷ See the Code of Virginia §24.2-416.4.

¹⁰⁸ See the Code of Virginia §24.2-653(A).



of having submitted a timely registration application at the Department of Motor Vehicles or another state-designated voter registration agency prior to the close of registration, the person's election day application will become effective as of the day the person initially applied.¹⁰⁹

Certain citizens receive an extended deadline to register *by mail* regardless of the postmarked date. If the citizen is eligible to be registered and, if by reason of active duty, they are normally absent from the city or county they reside, the citizen's application may be accepted and approved.¹¹⁰ The following individuals' application may be submitted with an application for an absentee ballot or a federal write-in absentee ballot:

- Any member of a uniformed service on active duty;
- Any spouse or dependent residing with a person listed as active duty; and
- Any person temporarily residing outside the US.

Certain categories of citizens are allowed an extended time to register. Applicants who fall into any of these categories may register *in person* up to and including election day:¹¹¹

- Active duty members of the uniformed services, their spouses, and dependents residing with them, who, by reason of such active duty, meet one of the following criteria:
 - Are normally absent from the locality in which they reside.
 - Have been absent from the locality and returned to reside there within the twenty-eight days prior to the election.¹¹²
- Persons formerly on active duty in the armed forces who were discharged from service during the sixty days preceding the election, their spouses, and their dependents (whether or not residing with them).¹¹³
- Persons who reside temporarily outside the United States, their spouses, and dependents residing with them who, by reason of such temporarily overseas residency, meet one of the following criteria:
 - Are normally absent from the locality in which they reside.
 - Have been absent from the locality and returned to reside there within twenty-eight days prior to the election.¹¹⁴

6.5 APPLICATIONS

There are several different types of voter registration applications. The State Board of Elections must approve all types of state applications for use.¹¹⁵ Where available, application forms may be downloaded from the Internet, printed, and used like pre-printed registration applications. A fax submission of an application is not acceptable, except in the case of a Federal Postcard

¹⁰⁹ See the Code of Virginia §24.2-653.

¹¹⁰ See the Code of Virginia §24.2-419.

¹¹¹ See the Code of Virginia §24.2-420.1.

¹¹² *Id.*, at (A).

¹¹³ *Id.*, at (B).

¹¹⁴ *Id.*, at (A).

¹¹⁵ See the Code of Virginia §24.2-418(A) ("The application to register shall be only on a form or forms prescribed by the State Board"). See also Virginia Administrative Code [IVAC20-40-70\(A\)](#).



Application (FPCA) (discussed below), or for a change of address or transfer. The following types of official application forms, both current and prior versions¹¹⁶, as well as approved Spanish translations, can be accepted:

- Virginia Voter Registration Application (paper or online)
- Department of Motor Vehicles Application
- National Voter Registration Application
- Federal Post Card Application (FPCA)
- Federal Write In Absentee Ballot (FWAB)

6.5.1 Virginia Voter Registration Application (VA-NVRA-1)

This form may be used in-person, by mail, by third party groups, and agency applicants and can be distributed by the general registrar throughout the locality in display boxes. The Department of Elections may provide these boxes, or registrars may design and purchase their own display boxes.

The current application is titled Virginia Voter Registration Application (VA-NVRA-1). When properly completed, the form contains all the information necessary to process the application.

This application is available in printed form with instructions on completing the form. This form cannot be emailed or faxed to registrars or the Department of Elections (unless being used only as a change of address for someone already registered). It must be downloaded, printed, and mailed or delivered; electronic submission by email or fax is not authorized. Photocopies of this application are acceptable as long as the signature is original. An original signature may be applied or affixed electronically.¹¹⁷

Printed forms can be ordered from the Department of Elections using the contact information on its website.

6.5.2 Older Versions of the Virginia Application

Various versions of the official Virginia Voter Registration Application (VA-NVRA-1) form remain in circulation, including a previous 5" X 11" version (with a 3" X 5" perforated tear-off portion on the left side) used immediately before and after Virginia's implementation of NVRA in 1996.

Prior versions of any voter registration application must be accepted by registrars for voter registration under 1VAC20-40-70: Applications for Voter Registration; Affirmation of United States. Prior versions of any voter registration application may not be denied for failure to provide information that is deemed not material.

Unless the Department of Elections instructs otherwise, registrars should accept these older applications. However, some of these older applications request information no longer required

¹¹⁶ See Virginia Administrative Code [1VAC20-40-70\(J\)](#)

¹¹⁷ See Virginia Attorney General Opinion [No. 13-111](#) (Sept. 26, 2014) (SBE has authority to direct acceptance of electronically signed applications and establish criteria to preserve the security of confidential voter information and to ensure the authenticity and validity of electronic signatures).



by law. If processing an application using one of these older forms, registrars should not deny the application for failure to provide information no longer required.¹¹⁸

6.5.3 National Application

The National Mail Voter Registration Form is designed by the United States Election Assistance Commission (EAC).¹¹⁹ 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 National Application is also available for download from the Internet, but it cannot be emailed or faxed to registrars or the Department of Elections (unless it is only serving as a change of address). It must be downloaded, printed, and mailed; electronic submission of the initial application for registration is not authorized except through the Department of Elections online voter registration system or from the DMV.

Translations of the National form and instructional booklet are available from the EAC website.¹²⁰ Armed Forces recruitment offices use a variant of the National form. It is printed in red and is labeled “DD 2644” in the corner.

6.5.4 Combined Voter Registration and Absentee Application-- Federal Post Card Application (FPCA) and Federal Write-In Absentee Ballot (FWAB)

Overseas citizens, military members, and their dependents may use FPCA or FWAB. They are available at the website of the Federal Voting Assistance Program (FVAP).

FPCA forms may serve as applications both for voter registration and for absentee ballots.¹²¹ Forms received for both purposes should be photocopied; the original form should be retained as the registration application, and the photocopy retained as the application for an absentee ballot.

Unlike other registration application forms, the FPCA may be sent by fax or scanned email attachment to registrars or the Department of Elections. As long as it is complete, an emailed or faxed FPCA is sufficient to apply for registration, and mailing the original is not required.¹²²

The FWAB is designed for use as a backup ballot if an applicant’s timely requested absentee ballot does not arrive in time. The FWAB, commonly called the federal “backup” ballot, includes a registration application page similar to the FPCA. Virginia allows use of the FWAB for all

¹¹⁸ See Virginia Administrative Code [1VAC20-40-70\(J\)](#).

¹¹⁹ See [Election Assistance Commission website](#).

¹²⁰ See [Election Assistance Commission website](#).

¹²¹ See the Code of Virginia §24.2-458(B).

¹²² See Virginia Administrative Code [1VAC20-45-30s](#).



elections in which the voter is eligible to vote.¹²³ The FWAB is also available for download from the FVAP.

In processing a FPCA or FWAB, keep in mind not all information requested on the form is material for registration. If information that is not material is omitted, the application for voter registration should still be processed. The following omissions are not material:¹²⁴

- On an application that declares active duty military status: Service ID number, rank, grade, or rate.
- On an application that declares temporary overseas residence with a date of last residence: Employer name and address.
- On an application that declares indefinite overseas residence: Date of last residence.

6.6 PROCEDURES UPON RECEIPT OF VOTER REGISTRATION APPLICATIONS

6.6.1 Determine Which Applications Belong to Other Localities

Registrars will likely receive some applications that are not for their locality. **The registrar must determine to which locality these applications belong and forward them to the appropriate voter registration office.**¹²⁵ If the registrar is uncertain about the correct locality, calling the registrar in the locality where the application may belong may help.



It is not up to the registrar receiving such an application to determine if the application is complete and acceptable. Only the registrar in the locality for which an applicant is applying for registration can make that determination.¹²⁶

The original application should be forwarded immediately to the correct locality as soon as practicable. The sending general registrar must indicate to the receiving general registrar the origin of the application by a note attached to each application or a cover sheet (similar to that used by the Department of Elections) for a group of applications indicating the common origin of the applications.

General registrars should make a file copy of any forwarded application to document compliance with HAVA processing standards.

6.6.1.1 Forwarding Applications near the Registration Deadline



Mailed applications received during the final two days before the close of registration that belong to another locality, as well as those received after the close of registration but that appear to be timely, should be transmitted by using one of the following methods:

- Fax the application to the appropriate locality **and** mail the original application, making a photocopy of each before sending. Remember to redact sensitive personal information from an application before faxing or emailing, unless the email is encrypted. Sensitive personal information includes: date and month of birth, any

¹²³ See the Code of Virginia §§24.2-461 and 24.2-702.1(A).

¹²⁴ See Virginia Administrative Code [1VAC20-45-20\(B\)](#).

¹²⁵ See the Code of Virginia §24.2-114(6).

¹²⁶ See the Code of Virginia §24.2-114(6).



part of the social security number, and **residence addresses of protected voters**.
The year of birth is not required to be redacted.¹²⁷

- Arrange to deliver the applications in person.

6.6.1.2 Ensuring Receipt

Making file copies of applications forwarded by mail assures that a record of the application exists in case it becomes lost in delivery. GRs should confirm receipt by conducting a VERIS search for the social security number in Active, Incomplete and Rejected statuses. If a reasonable period of time has passed and VERIS indicates no record of action by the receiving registrar, the forwarding registrar should call to determine if the application has been received. Delivery confirmation service may also be considered.

6.6.2 Determine Application Completeness

A completed application is required in order to register a new applicant for voter registration.
A completed application means an application that provides all required information.

A fully completed application is not necessary to transfer or change the address of a currently registered voter. A currently registered voter only needs to submit (in person, mail, email, or fax) a signed statement in order to update or transfer his or her registration.¹²⁸ An update is not required to have all the same information as a new applicant.

Registrars receive many applications that do not contain all of the information required by law, and have the legal duty to deny any application from a **new applicant** (a person who is not already registered) that is incomplete when received.¹²⁹

Revised in 2016, the State Board of Election restated policies governing incomplete applications for registration. The regulation implements federal law by identifying certain information as neither material to determining voter qualification or required by the Code of Virginia, and prohibits a registrar from denying an application for the failure of an applicant to provide any of the following information:

1. Social security number if the applicant checks the box indicating no SSN was ever issued;
2. Gender;
3. Generational suffix;
4. Middle name if the voter checks the box indicating none;
5. Email address;
6. Daytime telephone number;
7. Response indicating protected voter status, military status, overseas status, or any other information requested in Box 4;
8. Mailing address;

¹²⁷ See Virginia Administrative Code [1VAC20-20-20](#).

¹²⁸ See Virginia Administrative Code [1VAC20-40-70\(F\)](#) (all applications, even if incomplete, from already registered voters must be processed as a request to transfer or change, as long as the application contains some new information and is signed).

¹²⁹ See Virginia Administrative Code [1VAC20-40-40\(A\)](#).



9. State in which the applicant is currently registered if the applicant is currently registered in Virginia;
10. Response indicating interest in serving as an officer of election;
11. Signature of applicant if applicant indicates that he is an individual with physical disabilities;
12. Response indicating the applicant has a physical disability if the application is signed by the applicant; or
13. Date of the application.

Current regulations do not require the registrar to request nonmaterial missing information. If any nonmaterial missing information is obtained, the registrar must add the information manually, including the registrar's name and the date of the addition on the reverse side of the form to indicate that the general registrar made the alteration. However, the registrar is prohibited from changing information provided by the applicant on the application without written, signed authorization from the applicant.¹³⁰

6.6.2.1 *Registration Date*

The general registrar accepting an application enters the date of acceptance on the application form as follows:

- Standard Virginia Voter Registration Application form (VA-NVRA-1): This form includes a "For Office Use Only" area for the registrar to enter the date of accepting the registration application, along with other helpful information the registrar may want to enter such as precinct name or number or the town code, if applicable.
- Federal forms (National, FPCA, FWAB): the registrar must enter the date of registration on any available space on the form.

The registration date in VERIS will automatically default to the date of data entry for a new voter and will remain the original registration date for an existing voter, but it may be changed if necessary. In general, this should be the date that the registrar accepted the application and deemed it complete. Limited exceptions include:

- Any valid application received in person by one registrar and forwarded to another registrar should show the date received by the first registrar as the registration date;
- Any valid application received in person at the DMV or any other state-designated agency should show the date it was received by that agency as the registration date;
- Mailed applications that are complete and show a timely postmark before the deadline, as well as applications lacking a postmark that are received by mail within 5 days after the deadline, are considered timely and should show the final day of registration as the registration date¹³¹ (unless eligible for extended registration for certain military and overseas voters);
- Active duty uniformed services members, overseas voters, and their eligible family may register in person up to and including the day of the election;¹³²

¹³⁰ See Virginia Administrative Code [1VAC20-40-70\(D\)](#).

¹³¹ See the Code of Virginia §24.2-416.4(A).

¹³² See the Code of Virginia §24.2-420.1.



- Registration applications from active duty uniformed services members and their eligible family accompanying applications for absentee ballots must be accepted regardless of the close of books.¹³³

6.6.2.2 Name

The applicant's full name is required and because a middle name may be material to determining voter qualification, registrars are required to do the following under 1VAC20-40-70(c):

- Contact the applicant, if the applicant indicates that they have no middle name, the registrar shall process the application.
- Contact the applicant, if the applicant indicates that they have a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.
- If the registrar is unable to contact the applicant, and is therefore unable to determine if the application is incomplete, the registrar shall give the benefit of doubt to the applicant and process the application.

Many applicants enter their middle initial instead of middle name. For some applicants, the initial *is* their middle name; while other applicants have no middle name. In order to determine if the applicant has a more complete middle name than appears on the application, the registrar can either perform a "Voter Search" or after entering information on the "Add Voters" page, select "Process" for a system search for duplicates. If the registrar determines the applicant is already registered with a middle name, that registration only should be updated. DMV data, if available, can also be checked to see if the applicant has a more complete middle name on file at the DMV.

Alternatively, the registrar can try to contact the applicant. If the registrar can obtain a more complete name, it should be used when entering the applicant in the VERIS. If the registrar cannot get a more complete name and is unable to determine whether the applicant has a middle name or not, registrars are required to accept the name as printed on the application.¹³⁴

6.6.2.3 Age

A new applicant must provide their date of birth. If the date of birth question is not completed, the registrar may attempt to contact the applicant by phone or letter to obtain a signed statement or send the voter a denial notice. If the registrar is able to obtain a signed affirmation of the applicant's date of birth and is therefore able to determine the applicant meets the age requirement, the incomplete application in VERIS can be entered as "Approve" to register the otherwise qualified voter. If the applicant cannot be reached, the application must be denied.¹³⁵

¹³³ See the Code of Virginia §24.2-419.

¹³⁴ See Virginia Administrative Code [1VAC20-40-70](#).

¹³⁵ See the Virginia Constitution [Art. II, §2](#) (date of birth is required information). See also Virginia Administrative Code [1VAC20-40-40\(A\)](#) (applications missing information required by law must be denied).





VERIS will automatically provide an alert if an applicant is not 18 on or before the date of the next general election. The application should be denied. The system will automatically generate a notice of denial stating this reason.

6.6.2.4 *Residency – Protected Voters*

If an applicant has claimed protected status on the application form and provided a Virginia P.O. Box address anywhere in the Commonwealth, then the registrar must indicate this protected status on the “Add Registration” page of VERIS by checking the appropriate box for protected voter.

Do not deny a voter registration application if no P.O. Box address was supplied. Instead, the general registrar should contact the applicant to explain this provision of the law and give the applicant the opportunity to provide the needed information. The Attorney General’s Address Confidentiality Program (ACP) provides a free post office box option to victims of domestic violence or stalking.¹³⁶ VERIS requires that the registrar enter a P.O. Box in the mailing address field in order to process and approve an application once the protected voter status box is checked. USPS post office boxes and other commercial mailboxes may be provided as alternative addresses for publication in lists.¹³⁷

6.6.2.5 *Social Security Number*



It is extremely rare for a U.S. citizen not to have a SSN. If the applicant is not currently in VERIS and has indicated “none” in the space for the SSN, the application should be accepted and entered in VERIS with the SSN field left blank. Select the “Applicant has not been issued SSN” checkbox when processing the application in order to “Approve” the application and register the otherwise qualified voter. VERIS will generate a unique “Voter ID.” However, if the space for the SSN is simply left blank, and the applicant is not currently in VERIS, the application should be denied as “Incomplete.”¹³⁸ Then, select the checkbox for missing SSN. This action will automatically generate a notice of denial to send to the applicant stating that the SSN was missing. If, in response to this letter of denial, the otherwise qualified applicant states that he has no SSN, then the application can be accepted and VERIS will generate a unique “Voter ID.”

Applicants who continue to refuse to provide a social security number may be informed that the Code requires that her application must be denied and they have the right to appeal the denial to the circuit court.¹³⁹

¹³⁶ See the [Office of The Attorney General website](#) for more information on the Address Confidentiality Program.

¹³⁷ See Virginia Administrative Code [1VAC20-40-10](#).

¹³⁸ See the Virginia Constitution [Art. II, §2](#) (social security number is required information if applicant has one). See also Virginia Administrative Code [1VAC20-40-70\(B\)\(1\)](#) (omission of social security number is only immaterial if applicant indicates they have no SSN).

¹³⁹ See the Code of Virginia [§24.2-422\(A\)](#).



6.6.2.6 Gender



No application may be denied for failure to indicate gender.¹⁴⁰ In VERIS, the registrar may enter an applicant's gender as male, female, or unknown.

6.6.2.7 Conviction of Felony/ Adjudication of Incapacity– Restoration of Rights

A new applicant must provide information regarding their rights and disqualification of voting rights. The application asks: "Have you ever been convicted of a felony or judged mentally incapacitated and disqualified to vote?" This question must be answered by new, unregistered applicants.

If the applicant answers "YES," the applicant must also provide an answer regarding if their right to vote was restored. If the applicant answers "YES," and the applicant is otherwise qualified, the application should be approved.

6.6.2.8 Signature and Date

The applicant must sign the application in the box provided.¹⁴¹ By signing, the applicant is affirming the following registration statement:

I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true. I authorize the cancellation of my current registration and I have read the Privacy Act Notice.

Failing to enter a date does not invalidate the application.¹⁴² However, failing to sign the application does require that the unsigned application must be denied as incomplete.¹⁴³ An applicant unable to sign due to physical disability may make a mark or an assistant may sign the application, including their name and address below the signature line.¹⁴⁴ A small checkbox below the signature line allows the applicant to request assistance with voting.

6.6.3 How to Process Incomplete Applications



Incomplete applications must be processed in VERIS to:

- Deny a new voter's application because required information is missing,¹⁴⁵ or
- Enter an application as "Incomplete" while attempting to contact the applicant to gather the missing required information.

VERIS allows the registrar two ways to determine whether an applicant is currently registered when processing an incomplete application:

- Searching for the applicant on the "Voter Search" page by a number of criteria including the voter's name, SSN, or portion thereof

¹⁴⁰ See Virginia Administrative Code [1VAC20-40-70\(B\)\(2\)](#).

¹⁴¹ See the Code of Virginia §24.2-418(A).

¹⁴² See Virginia Administrative Code [1VAC20-40-70\(B\)\(13\)](#).

¹⁴³ See the Virginia Constitution [Art. II, §2](#). See also the Code of Virginia §24.2-418(A).

¹⁴⁴ See the Code of Virginia §24.2-418(A). See also Virginia Administrative Code [1VAC20-40-70\(B\)\(11\)](#).

¹⁴⁵ See Virginia Administrative Code [1VAC20-40-40\(A\)](#).



- Selecting “Add Voters” from the VERIS navigation bar and entering the information that is present on the application. Once the “Process” button is selected, the system will search for and return any duplicate registrations.

If the applicant is not currently registered in Virginia, the registrar may not “Approve” the registration until complete information is received. The application should be saved as “Incomplete” in order to contact the applicant and obtain the missing information if possible; otherwise, the application must be denied. When denying such an application, “Incomplete” should be selected as the reason for denial with the appropriate boxes checked to indicate what information was missing. This will automatically generate a denial notice to send to the applicant that lists the specific items that were incomplete. If the application is unsigned, the new application containing new registration information must be denied regardless of whether the applicant was currently registered.¹⁴⁶ A new application must be sent with the denial notice if the applicant was eligible for registration.¹⁴⁷

6.6.4 Processing Updates

If the voter is currently registered, the registrar **must** accept the application and update the voter’s registration if the change request application contains new information and is signed.¹⁴⁸ If the application contains no new information, it should still be accepted which will show as a duplicate or re-registration with no new information or updates. If the new application indicates any new information that would serve to cancel the voter’s registration, such as felony conviction or adjudication of incapacity without a restoration of rights, then the registrar must deny the application and cancel the voter’s registration.¹⁴⁹ If the registrar determines that a potential duplicate matches the voter on the application, the existing voter registration should be updated with information from the new signed application.

6.6.5 Transfers and Reinstatements

This section of the voter registration application requires the applicant to indicate whether or not he is currently registered to vote at another address.

If the applicant indicates a current registration in Virginia, this section can be disregarded because processing the application will automatically transfer the voter’s registration from the other Virginia locality. If the voter applied using the paper Virginia registration form, the “previous registration” portion of the application can be removed but must be retained until destruction is authorized in compliance with the GS-01 records retention schedule.¹⁵⁰ The receiving registrar need not notify the registrar in the applicant’s former locality because VERIS

¹⁴⁶ See the Virginia Constitution [Art. II, §2](#). See also Virginia Administrative Code [1VAC20-40-70\(F\)](#) (incomplete applications from currently registered Virginia voters may only be processed as updates if signed).

¹⁴⁷ See the Code of Virginia §24.2-422(B).

¹⁴⁸ See Virginia Administrative Code [1VAC20-40-70\(F\)](#).

¹⁴⁹ See the Code of Virginia §24.2-427(B).

¹⁵⁰ See Chapter 9, Records Access and Retention.



automatically transfers the applicant from the old locality and informs the registrar there of the transfer.¹⁵¹

VERIS will also automatically notify the registrar when a cancelled voter is reinstated by registering to vote in a new locality. This notice is in the form of a new transfer record in the former locality's hopper. The new hopper notice should be retained to remind the registrar in the former locality to send any records for the reinstated voter to the voter's new locality, retaining a copy until receipt is confirmed.

ELECT recommends that localities scan all paper forms received to simplify the registration and transfer process.

6.7 PROCESSING A VALID VOTER REGISTRATION APPLICATION IN VERIS

6.7.1 Entering applicants on VERIS



Processing voter registration applications is a major element of registrars' duties.¹⁵² Depending on the size of the locality and the resources available, a registrar may find themselves overwhelmed. Processing applications must be completed under tight deadlines; thus, a registrar should seek assistance from their local board to assure compliance with state and federal law.¹⁵³ Refer to VERIS User Manual Step-by-Step *Add-Update Voter* for more information on processing applications.

¹⁵¹ See the Code of Virginia §24.2-424(D).

¹⁵² See the Code of Virginia §24.2-114.

¹⁵³ See Virginia Administrative Code [1VAC20-20-70\(A\)](#).



6.7.1.1 Application Origin Codes

NVRA Tracking ID is used in VERIS to identify the source of each voter registration application. Codes to be used for identifying these sources in VERIS are as follows:

Code	NVRA Tracking ID
M	Military Recruiting
F	Federal Forms (FPCA or FWAB)
A	Public Assistance
S	State Mail In Form
D	Discretionary Agencies
C	Disability Offices
T	Third Party Voter Drive
N	National Form
R	Confirmation Notice
I	Voter Card
O	Other Document/ Information
V	Department of Motor Vehicles
R	Confirmation Transfer

6.7.2 Correspondence

Once an application is approved, VERIS will automatically generate a voter registration notice and any other information necessary to send to the voter. Notices and cards can be printed off in batch mode or individually. It is best to wait until verifying the accuracy of the data entry before printing. Any notices needing to be removed due to error can be removed before printing by removing the page from the print job. Corrections can also be added so that only the revised, correct voter registration notices will print in that batch.

6.7.3 Processing an Out-of-State Cancellation

If the applicant has indicated previous registration in another state, the election authorities in that state will be notified that the individual is now registered in Virginia.¹⁵⁴ Once you enter the previous state of residence in VERIS, the Department of Elections will send notices to the state of previous residence.

6.8 DENYING A REGISTRATION APPLICATION

There are several reasons for denying an application. When a registrar makes the determination to deny an application, the applicant should receive a notice of the denial and the specific reason his application was denied.¹⁵⁵ The denial notice and correspondence is automatically generated through VERIS.

The following are reasons for voter registration application denials:

- The applicant has provided incomplete information on the application.¹⁵⁶

¹⁵⁴ See the Code of Virginia §24.2-114(15).

¹⁵⁵ See Virginia Administrative Code [1VAC20-20-70\(B\)](#). See also the Code of Virginia §§24.2-114(9).

¹⁵⁶ See Virginia Administrative Code [1VAC20-40-40\(A\)](#).



- The applicant has provided information that indicates he is not qualified to register (*e.g.*, too young, convicted felon, or not a citizen).¹⁵⁷
- The applicant did not sign the application.¹⁵⁸
- The registrar determines the applicant matches a prohibited voter record.

6.8.1 Steps for Processing

1. Mark the application

If using the standard Virginia application, enter the date of denial and the reason for the denial in the space provided in the application. If using other application forms, write the date and reason wherever you can find space on the form.

2. Enter the application into VERIS

Applications can be entered in VERIS either by first completing a “Voter Search” or going straight to the “Add Voters” page as noted above.

After the application to be denied is entered, the “Deny” button is selected with the appropriate reason for denial from the drop down box. Space is also provided for any other comments needed. If the denial reason selected is “Incomplete,” the appropriate boxes are checked to indicate what was missing.

The system will automatically generate denial notices listing the reason for denial selected and will insert any other comments provided. These letters can be printed individually or in batch mode. Selecting batch reporting allows selecting the appropriate Voter Registration Acknowledgment report and either printing all letters or selecting individual letters to print.

By entering all denied applications and entering the NVRA Tracking ID, it is not necessary to keep a separate tally of all denied applications. VERIS will be able to report the number of denials entered for each Application Origin Code. VERIS will also enable the registrar to search for all denied applications.

3. Copy and File

Mail the denial letter to the applicant. If the applicant was denied due to incomplete information, include a new application form with the mailing.¹⁵⁹

If the applicant was denied due to a felony conviction, include information from the Secretary of the Commonwealth that describes procedures for applying for restoration of voting rights.

¹⁵⁷ See the Virginia Constitution [Art. II, §2](#).

¹⁵⁸ See the Code of Virginia §24.2-418.

¹⁵⁹ See the Code of Virginia §24.2-422(B).



6.8.1.1 *Transferring Registrations*

Localities receiving applications for transfers should request from the losing locality the alpha card.

1. Create an empty envelope library with each localities' number and address. Most of you already have something like that in place.
2. Run the **Transfer_Out_Registrations** report each Friday. Date set to previous Friday to Thursday i.e.: Running a report for 02/02 means setting the start date as Friday, Jan 26 with an end date of Thursday, Feb 1.
3. If you are a **non-scanned** alpha location, pull the alphas using the report and note the receiving locality name or number in a corner of the alpha.
4. Once alpha cards are pulled, insert them into the receiving localities' envelope and put it in the mail.





VERIS INFORMATION INDEX

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Timeliness of Applications

- See [section 3.4](#)

Application Origin Codes

- See [section 3.5.6.](#)

Procedures Upon Receipt of Voter Registration Applications

- See [section 3.6.](#)

Processing a Valid Voter Registration Applications in VERIS

- See [section 3.7.](#)

Denying an Application

- See [section 3.8.](#)

Can't find what you're looking for? See the VERIS [Step-by-Step](#) guide for a walkthrough of all of VERIS's processes.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 7

Absentee Voting

June 2018

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Appendix A: Absentee Ballot Charts

Appendix B: Frequently Asked Absentee Questions



7. Absentee Voting

REQUIRED FORMS Virginia Absentee Ballot Application Form (ELECT-701) Annual Absentee Ballot Application (ELECT 703.1) Absentee Envelope B (SBE 706.2) Absentee Envelope A (ELECT-706.1) <i>Virginia Absentee Ballot Application</i> (ELECT-701) <i>Federal Post Card Application</i> (FPCA or Standard Form 76) <i>Federal Write-In Absentee Ballot Application</i> (FWAB or Standard Form 186). <i>Annual Application for the Ill or Disabled</i> (ELECT-703.1) <i>Emergency Absentee Ballot Application</i> (Green) (ELECT-705(1)), for the hospitalized or otherwise incapacitated <i>Emergency Absentee Ballot Application</i> <i>Business/Personal/Medical Emergency</i> (Buff/Cream) (ELECT-705.1, -705.2)	ADDITIONAL RESOURCES Instructions for Voting an Absentee Ballot (ELECT-706.4) Important Notice to Absentee Voters (ELECT HAVA-1) Instructions for Voting an Absentee Ballot for Uniformed and Overseas Voters (SBE 706.4) Request for Assistance in Voting an Absentee Ballot (ELECT 649) Statement of Designated Representative of Hospitalized or Otherwise Incapacitated Voter (ELECT 705.2) Emergency Absentee Ballot Application Hospitalized or Otherwise Incapacitated Voter (ELECT 705.1) Emergency Absentee Ballot Application emergency Travel for Business, Hospitalization or Death in Immediate Family (Cream) (SBE 705.1, 705.2) Instructions for Voting an Emergency Absentee Ballot (SBE-705(2)) (Green) Emergency Absentee Ballot Applicants List (SBE-710-Supp) Statement of Voter AB Ballot Not Received or Lost (SBE-708) Instructions for Voting a Replacement Absentee Ballot (SBE 703.2) Statement of Designated Representative of a Voter with a Disability, Illness or Pregnancy (ELECT 703.2(1))
REFERENCE Virginia Acts of Assembly – 2014 Session, Chapter 604 Virginia Department of Elections Website – Military & Overseas Voting FVAP Virginia Voting Assistance Guide SBE Meeting May 2015 Materials	REGULATIONS 1VAC20-20-20 Electronic transmission of records containing sensitive personal information; encryption or redaction required 1VAC20-45-20: Voter Registration 1VAC20-45-30 Electronic Submission of Federal Post Card Application 1VAC20-45-40 Material Omissions from Federal Write-In Absentee Ballots 1VAC20-60-40: When Ballot Cast 1VAC20-70-20: Material Omissions from Absentee Ballots 1VAC20-70-40: Alternative Processing Procedures for Absentee Ballots Returned Before Election Day

7.1 CHAPTER ORGANIZATION

This chapter serves as a guide to help registrars and electoral boards perform their responsibilities for absentee voting in accordance with the Code of Virginia, the Virginia Administrative Code, and the State Board of Elections' policies. 2015 legislation shifted much of the day-to-day responsibilities for absentee ballot processing from the electoral board to the general registrar.¹ The chapter follows the sequence of absentee ballot processes during an election cycle, and

¹ Chapters 1 and 2 (General Registrar and Local electoral boards) discuss these responsibilities in more detail.



explains steps and preparations both general registrars and local electoral boards must take to facilitate absentee voting.

This chapter begins with discussions and guidance for administering a locality's absentee program. §7.2 provides a list of the reasons people may vote absentee, highlights the 45 day deadline, and the 3 days within receipt deadline. §7.3 provides a list of important absentee deadlines at a high level. §7.4 addresses records, and §7.5 briefly outlines the three kinds of special ballots Virginia voters may use in certain circumstances.

Part One: Pre-Election Day Absentee Voting includes §7.6, discussing absentee readiness including ballot printing and certification. §7.7, the largest section in the Absentee Voting chapter, outlines the different types of absentee applications to vote by mail, the requirements of each application, and general processes related to each specific kind of absentee application. §7.8 addresses in-person absentee voting. Both §§7.7 and 7.8 discuss the procedures that must be taken by general registrars and local electoral boards, and establish requirements of voters to be eligible to vote either by mail or absentee in-person.

Part Two: Military and Overseas Voters includes §§7.10 and 7.11, which explain how to administer absentee voting with respect to military and overseas voters.

Part Three: Election Day addresses curbside voting, and provides guidance on what to do if a voter needs assistance voting at the absentee precinct.

Part Four: Processing Absentee Ballot outlines how to receive mailed ballots, issue replacement ballots, process ballots before election day and what to do if a UOCAVA voter's ballot has returned after the polls close.

7.2 IN GENERAL

7.2.1 Reasons that Qualify a Voter to Vote Absentee

The Code of Virginia requires an eligible voter to provide a reason that (s)he will not be able to visit the polls on election day.

The following reasons qualify a voter to vote by absentee ballot²:

- 1A Student
- 1B Spouse of Student
- 1C Business
- 1D Personal Business or Vacation
- 1E Working/Commuting to/from home for 11 or more hours between 6 am and 7 pm on Election Day
- 1F First Responders (law enforcement, fire fighters, emergency techs, search and rescue)
- 2A Disability or Illness
- 2B Primary Caregiver for Family Member
- 2C Pregnancy of Voter
- 3A Confined, Awaiting Trial
- 3B Confined, Convicted of a Misdemeanor

² See the Code of Virginia §24.2-700; see also Virginia Absentee Ballot Application. A revision of the Virginia absentee ballot application is under consideration that may result in combining some of these reasons.



- 4A Electoral Board Member, Registrar, Officer of Elections or Voting Equipment Custodian
- 5A Religious Obligation
- 6A Active Duty Merchant Marine or Armed Forces
- 6B Spouse or Dependent Living with a Member of 6A
- 6C Temporarily Residing Outside the US
- 6D Temporarily Residing Outside the US for Employment/Spouse or Dependent of Same Residing With
- 7A Requesting a Ballot for President and Vice President Electors only
- 8A Designated Representative of Candidate or Party *inside* the Polls
- 9A Protective Order³

Many of the permitted reasons for absentee voting require the voter to provide supporting information about his/her absence.⁴

7.2.2 Shared Responsibilities

Absentee voting is primarily a general registrar's responsibility in terms of day to day administrative tasks such as approving applications and sending ballots but electoral boards have overall supervisory responsibility.⁵

7.2.3 The 45 Day Absentee Deadline



Send ballots for all absentee applications on hand as soon as the ballots are received from the printer, but **“not later than 45 days prior to any election or within three business days of the receipt** of a properly completed absentee ballot application, whichever is later. In the case of [a nonfederal special election] if time is insufficient to meet the applicable deadline [...], then the general registrar [must] make printed ballots available as soon after the deadline as possible.”⁶

In-person absentee voting begins when printed ballots for the election are available and continues through the Saturday prior to election day.⁷

7.2.4 Required to send Absentee Ballot within 3 Days of Receiving Complete Application

Ballots must be sent within 3 business days of receipt of a properly completed application following ballot ready deadline. Electoral boards and general registrars have shared statutory responsibilities under §§24.2-612 and 24.2-706 to send ballots out on time.

- Process absentee ballot applications on a regular schedule throughout the year.
- Enter absentee ballot applications promptly into VERIS as they are received for the upcoming election. Entering applications into VERIS allows the voter to check his absentee ballot status online and assures the voter that the application has been received.



EXCEPTION: An absentee ballot application from an applicant who has registered to vote in person “[must] be held and processed no sooner than [five days] after the date that the applicant registered to vote.” **Military and overseas voters are exempt from this requirement.**⁸

³ HB1912 (2017) entitles a person to vote absentee if the person has been granted a **protective order** issued by or under the authority of any court of competent jurisdiction. Local election officials must be informed and prepared for these changes to take place by **July 1, 2017**.

⁴ See the Code of Virginia §24.2-701.

⁵ See the Code of Virginia §§24.2-612 and 24.2-706.

⁶ See the Code of Virginia §24.2-612.

⁷ See the Code of Virginia §24.2-707 and 24.2-701.

- Run absentee reports regularly, check the applications against the report, and make corrections as needed.

7.2.5 Absentee Voting Locations Must Still Follow Polling Place Rules

Remember that regular polling place rules apply to in-person absentee voting at all absentee voting locations:

- Voter photo ID is required.⁹
- Voters may not be accompanied into the voting booth by anyone other than an authorized assistant or his/her child age 15 or younger.¹⁰
- No political activity is permitted within 40 feet of the entrance of the polling place structure.¹¹ Such prohibited activity includes, “loiter[ing] or congregat[ing] within 40 feet of any entrance of any polling place [...] within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote.”¹²

Follow procedures for issuing provisional ballots: e.g., the voter does not have acceptable photo ID; or the voter is not listed in VERIS and voter says he/she registered at the DMV.¹³

A **change to a person’s name** needs to be reported and changed in VERIS. The name change has no effect on the voter’s eligibility to vote, but may affect identification and require provisional voting.¹⁴ More about why or when a voter may have to vote a provisional ballot can be found in Chapter 13 Provisional Ballots. You **must count** a ballot that has been cast by a voter prior to his/her death. State Board of Elections’ regulation 1 VAC 20-60-40 defines when an absentee ballot voted other than in person is cast.



Regulation Note

1VAC20-60-40: When Ballot Cast. A voter has not cast a vote until a permanent record of the person’s vote is preserved. 20-60-40(B) provides that this can be done by **inserting an optical scan ballot** into a counter. A vote is not cast until the voter (or an officer of election or assistant if requested and desired by the voter) completes one of those actions.

Remember: No one else can cast a voter’s ballot unless doing so at the direction of the voter. However, if a voter inserts a ballot into an optical scanner, leaves, and then the ballot is returned by the scanner due to an over vote or under vote, the officer of election can cast the ballot for that voter. Absentee voters are considered to have cast their ballots at the moment they personally deliver the ballot to the general registrar, electoral board, or an authorized carrier for returning the ballot.

⁸ See the Code of Virginia §24.2-701.

⁹ See the Code of Virginia §643.

¹⁰ *Id.*

¹¹ See the Code of Virginia §24.2-604; see *also* Chapter 11 (Election Day) *referring to polling places*.

¹² *Id.*

¹³ See Chapter 13 (Provisional Ballots) *explaining provisional voting*.

¹⁴ See Chapter 13 (Provisional Ballots)



7.3 ABSENTEE DEADLINES

- 5 days after registration: when absentee application can be processed after in person registration.¹⁵
- 22 days before the election: Deadline to register to vote.¹⁶
- 21 days before the election: Books are closed.¹⁷
 - 12 months before the election: Earliest to apply for an absentee ballot.¹⁸
 - 45 days before the election: Deadline for absentee ballots to be mailed or emailed for applications on file.¹⁹
 - 5 pm EST on Tuesday before the election: Deadline to apply for an absentee ballot by mail.²⁰
 - Noon on Saturday before the election: Earliest that a person can learn of his/her need for an emergency absentee ballot.²¹
 - 5 pm on Saturday before the election: Deadline to apply in-person for an absentee ballot.²²
 - 5 pm on Saturday before the election: Deadline for a disabled, ill or pregnant voter to request a replacement ballot using a designated representative.²³
 - 2 pm on the day before the election: Deadline to request an Emergency Absentee Ballot Application for hospitalized or incapacitated voter; Green Form.²⁴
 - 5 pm on day before election: Deadline for designated representative to return with completed application for hospitalized voter and to pick-up ballot.
 - 2 pm on the day before the election: Deadline for late in-person Business/Personal/Emergency voters to vote; Buff/Cream Form.²⁵
 - Election Day: electoral board members must deliver all returned absentee ballots to precincts or CAP.²⁶
 - Close of Polls on Election Day: Deadline to receive mailed absentee ballots not eligible to be counted late.²⁷
 - 7 pm Election Day: Deadline for FWAB to be received and serve as the absentee application and ballot based on voter affirmation of timely completed FPCA, if registered or eligible for late registration.²⁸
 - Immediately after 7 pm on Election Day: Deliver any remaining returned ballots to precincts or CAP.²⁹

¹⁵ See the Code of Virginia §24.2-701.

¹⁶ See the Code of Virginia §24.2-414.

¹⁷ See the Code of Virginia §24.2-416.

¹⁸ See the Code of Virginia §24.2-701(A).

¹⁹ See the Code of Virginia §24.2-612; see also [52 USC § 20302](#).

²⁰ See the Code of Virginia §24.2-701(B)(2).

²¹ See the Code of Virginia §§24.2-705.1 and 24.2-705.2.

²² See the Code of Virginia §24.2-701.

²³ See the Code of Virginia §24.2-703.2.

²⁴ See the Code of Virginia §24.2-705.

²⁵ See the Code of Virginia §§24.2-705.1 and 24.2-705.2.

²⁶ See the Code of Virginia §24.2-710.

²⁷ See the Code of Virginia §24.2-709(A).

²⁸ See the Code of Virginia §24.2-702.1

²⁹ See the Code of Virginia §24.2-709.



- After the completion of the canvass: registrar must transmit original absentee ballot applications to the clerk of the circuit court.³⁰
- 5 pm on second business day before Department of Elections meets to certify results: Deadline to return voted ballot or FWAB late if ballot requested but sent late after 45 day deadline in §24.2-612.³¹
- After the Election on date instructed by Department of Elections (normally 30 days after): Deadline to send late ballots received after the election to the Clerk of the circuit court, provided the ballots were not eligible to be counted late.³²
- December 15: Registrar must send all previously enrolled applicants, who are still registered, a blank *Annual Absentee Ballot Application Due to Disability or Illness*.³³



Deadlines stated as a time of day must be adjusted for daylight savings time when applicable.

7.4 ABSENTEE BALLOT RECORDS

7.4.1 Copies Requested for Inspection

If copies of AB applications are requested for inspection by a Virginia registered voter, they must have the social security number, day and month of birth redacted so they are not visible. “No list or application containing an individual’s social security number, or any part thereof, or the individual’s day and month of birth, shall be made for inspection or copying by anyone.”³⁴



- For Protected Voters, **redact the residence address in addition to all other personally identifying information.**
- Please see Chapter 9 Records Retention for the appropriate retention schedule.

7.4.2 Absentee Ballot Application Chain-of-Custody

The general registrar is required to deliver the original applications, under seal; to the clerk of the circuit court after the electoral board canvass is complete.



Exception: This does not include the original FPCAs and FWABs that are retained for registration. Retention for registration records is 4 years after cancellation.³⁵ Copies of these are sent to the Clerk.

7.5 SPECIAL BALLOTS

Virginia provides special ballots to certain voters in certain situations. The three special ballots are

- Federal-only absentee ballot
- Presidential-only absentee ballot
- Federal write-in absentee ballot (FWAB)

In ordering ballots, §24.2-646.1(6) allows using paper ballots for the federal only and presidential only ballot styles.

³⁰ See the Code of Virginia §24.2-710.

³¹ See the Code of Virginia §24.2-709.

³² See the Code of Virginia §24.2-710.

³³ See the Code of Virginia §24.2-703.1.

³⁴ See the Code of Virginia §24.2-706.

³⁵ See the Code of Virginia §24.2-114(8).



7.5.1 Federal-Only Absentee Ballots

7.5.1.1 *In General*

Some overseas voters only qualify for ballots for Federal offices. These are voters who have moved overseas, have no place of abode in Virginia and did not provide an employment reason for being overseas.³⁶ Voters must request a Federal only ballot using either the Virginia Absentee Ballot Application or the FPCA.

7.5.1.2 *Eligibility*

Federal-only ballots are issued to applicants residing overseas who meet the following qualifications:

- No longer have a Virginia place of abode but their last place of residence in the U.S. was in Virginia³⁷
- Are not military voters, including spouses or dependents residing with the member of the military
- Did not provide an employment reason for moving overseas, or show that the applicant “is the spouse or dependent of a person employed overseas.”³⁸

7.5.1.3 *General Registrar Action*

- Mark these applications with “Federal-Only Ballots” in the upper right corner of the form.
- Enter into VERIS in the usual manner.³⁹
 - Select the applicable reason code.
 - Enter all information concerning registration and last date of residence.
 - Registration is permanent under 2012 legislation.
 - VERIS will limit the ballot to Federal-Only.
 - Issue the ballot in the usual manner

7.5.2 Presidential-Only Absentee Ballot

Federal and Virginia law require issuing an absentee voter a ballot limited to Presidential and Vice Presidential electors in **one situation only**:⁴⁰

- A registrant who has moved from the Commonwealth of Virginia fewer than thirty days before a Presidential Election. Enter these applications into VERIS using the reason code 7A for “Presidential-Only,” which is available for selection during the presidential election.
- After the election, these Presidential-Only voters must be cancelled based on moving their residence to a new state shown on the application.⁴¹
- Reason code 7A should not be used unless the voter has a new address in another state. Applications lacking this information may qualify under a reason allowing a full ballot be issued. The registrar should contact the voter about his options.

³⁶ See the Code of Virginia §24.2-453.

³⁷ See the Code of Virginia §24.2-101 for definition of residency.

³⁸ See the Code of Virginia §24.2-453.

³⁹ See VERIS Step-by-Steps (instructions for data entry).

⁴⁰ See [52 USC §§20302\(a\)\(2\)](#) and [§20310\(5\)\(B\),\(C\)](#); see also the Code of Virginia §24.2-402. See Section 11.7. The *presidential only* ballot differs from a *federal only* ballot required in federal elections for an overseas citizen eligible to vote absentee under UOCAVA or UMOVA who has no Virginia place of abode.

⁴¹ See the Code of Virginia §§24.2-402 and 24.2-427(B)(iii).



- Keep an additional copy of completed 7A applications for your voter registration files to process as voter requests for cancellation after the election.



This provision does not apply to a Presidential Primary.



An application that indicates a voter is moving overseas rather than to another state must be processed under the procedures for UOCAVA voters; the FPCA may be a better choice for the voter.⁴²

Like “federal only” ballots required for certain overseas citizens, these “presidential only” ballots for departing citizens moving to other states require special handling to assure voters entitled to full ballots are not disenfranchised on the one hand, and voters ineligible for other elections do not vote illegally on the other.

7.5.3 Federal Write-In Absentee Ballots (FWAB)

7.5.3.1 In General

The FWAB is designed “for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States absentee ballots.”⁴³ Applicants often mail a FWAB about the same time as an FPCA.

- “An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State ballot, may submit the State absentee ballot” regardless of whether a FWAB has been received.⁴⁴ §24.2-1004 clarifies there is no double voting since the FWAB is not counted if the regular state ballot is also received in time.
 - The regular state ballot will be easier to process and count than if the choices on the FWAB are handwritten.



FVAP has developed technology on its website for federal elections to enable voters to print a FWAB with their choices from ballot data provided by Department of Elections. This technology makes it less important for these voters to return the regular state ballot.

⁴² See Federal Post Card Application (FPCA, Standard Form 76).

⁴³ See [52 U.S.C. §20303](#).

⁴⁴ See [52 U.S.C. §20303](#).



PART ONE: PRE-ELECTION DAY ABSENTEE VOTING

7.6 ABSENTEE BALLOT READINESS

7.6.1 When and How to Order Printed Ballots



When. As soon as the electoral board receives the certification of candidates and certification of referendums (if applicable) from Department of Elections, the board should verify that the ballot printer has all the information required to print the ballots. Remember that your ballots must be proofed and approved by ELECT before printing. The Department of Elections provides SBE's ballot standards that should be followed when producing ballots⁴⁵.

How Many. Consider the following when ordering ballots:

- Number of active registered voters⁴⁶
- Historical election data, including voter turnout⁴⁷
- Number of ballots to order using past history from similar elections
- Number of ongoing applications
- Expected turnout for the race
- Emergency ballots (paper supply for the precincts and at CAP)
- Authorization of paper ballots for limited ballot styles (federal only, presidential).



Note: The number of ballots to be printed is subject "to approval by the electoral board."⁴⁸

7.6.2 Start Absentee Voting When Ballots Received From Printer

First certify the number of all ballots received from the printer, including the ballots to be used for absentee voting.⁴⁹ Remember to file a copy of the receipt in the electoral board minutes.⁵⁰

- The applications for absentee ballots must be entered into VERIS and proofed before the printed ballots are received.

Begin absentee voting as soon as the ballots are received. Do not wait for the mandated 45-day deadline.



Best Practice

Conduct logic and accuracy testing on the ballots before you send out any absentee ballots.

7.6.3 The 45 Day Absentee Ballot Deadline

At least **45 days prior** to any election⁵¹, **ballots must be sent for all applications on file, and ballots must be ready for in-person absentee voting.**



Exception: For **non-federal special elections:** " if time is insufficient to meet the applicable deadline [45 days before an election], then the general registrar [must] make printed ballots

⁴⁵ See [Forms Warehouse](#), Election Management/Ballots/SBE Ballot Standards and Verification Procedures.

⁴⁶ See the Code of Virginia §24.2-612.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See the Code of Virginia §24.2-618.

⁵⁰ *Id.*

⁵¹ See the Code of Virginia §24.2-612.

available as soon after the deadline as possible.”⁵² The Department of Elections will send a survey at the deadline to verify compliance.

7.6.3.1 Be Ready to Email Ballots

Localities should have a specific email address established for correspondence with eligible overseas and military voters. Once you have approved your ballots you should create template email files ready to send to UOCAVA voters. The ballot printer can provide a PDF (portable document format) file of all ballot styles used in your locality. Incorporate this PDF file into the email to UOCAVA voters along with the additional materials the voter will require to complete the ballot⁵³. Department of Elections may offer to deliver Virginia military and overseas ballots to electoral boards through a website instead of through e-mail on an opt-in basis.⁵⁴

7.6.3.2 Be Ready with Ballots for In-Person Absentee Voting⁵⁵

In-person absentee voting may take place in the office of the general registrar, or at another location or locations in the county or city approved by the electoral board, before a registrar, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board.⁵⁶

Most absentee voters in the Commonwealth cast ballots in-person. Therefore, you should plan accordingly to ensure that a sufficient number of ballots are on-hand of each ballot style in your locality. If your locality uses ballot on demand technology please recall that ballots may be slow to print and there is no substitute for having a sufficient number of pre-printed ballots on-hand. Additionally, you should ensure that a sufficient number of absentee applications is available; writing implements, clip boards, and other materials that need to be available for in-person absentee voters. A well-documented process for entering absentee applications in VERIS should be adhered to by staff and officers of election conducting in-person absentee voting.

7.6.4 Certify Ballot Readiness to ELECT

The general registrar must certify in writing to Department of Elections that ballots were ready by the required date and that all applicants on file were sent ballots by the 45 day deadline.⁵⁷

If the general registrar’s office is closed on Saturday, the certification must be provided to the Department of Elections after the close of business on Friday. If the office is open on Saturday, the certification must be provided to the Department after the close of business on Saturday.

Additional reporting may be required. For each election, the Department of Elections will notify you when an electronic survey is available to collect the required certification of the compliance deadline and review of ballot orders.

⁵² See the Code of Virginia §24.2-612.

⁵³ See [Forms Warehouse](#), Absentee Voting/Ballots-UOCAVA.

⁵⁴ See the Code of Virginia §24.2-455.

⁵⁵ See Chapter 12 Voting Equipment.

⁵⁶ See the Code of Virginia §24.2-707.

⁵⁷ See the Code of Virginia §24.2-612.



7.7 APPLICATIONS TO VOTE ABSENTEE BY MAIL

Following are the types of applications and instructions used for voters requesting a ballot by mail.

7.7.1 Virginia Absentee Ballot Application (ELECT-701)

7.7.1.1 *In General*

A separate application [must] be completed for each election in which the applicant offers to vote.⁵⁸ Anyone may request an application. Applications must be returned to the Registrar's office completed in full and signed. Applications may be filed no more than twelve (12) months before an election. The application must be submitted to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election, which would be the Tuesday preceding the election. An application may be made in-person through the Saturday immediately preceding any election if the voter casts an in-person absentee ballot.

Applications may be signed electronically, and can be received by mail, fax, in person, or by email with electronic signature. Applicants applying in person may request a ballot be mailed to them.

Ballots are sent by mail to applicants who apply by mail, fax, or email (see exception below). Ballots are issued to any applicant who applies in person and chooses to vote at the time they complete the application (provided that in-person voting is available at that time). Citizens covered by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may apply on the Virginia application for the upcoming election only. They are eligible to have their ballots sent to them by email, fax or mail.⁵⁹

7.7.1.2 *Eligibility*

All absentee applicants must be registered voters of the Commonwealth and meet additional qualifications to be eligible to receive a ballot by mail, email or in person.⁶⁰

- UOCAVA citizens who apply using the *Virginia AB Application* are eligible to have their ballots sent to them by email or fax, but only for the one election requested.

If the absentee applicant is not currently registered and the books are not closed, the applicant may register in person but must then wait at least five days after his registration application is granted before his absentee ballot application can be processed.⁶¹ Military and overseas voters are exempt from this requirement.

- Some voters may be eligible for late registration, if they qualify under §24.2-419 or §24.2-420.1.

⁵⁸ See the Code of Virginia §24.2-701.

⁵⁹ See below discussion on use of the *Federal Post Card Application* (FPCA).

⁶⁰ See the Code of Virginia §24.2-700 for qualifications.

⁶¹ See the Code of Virginia §24.2-701.



7.7.1.3 How to Process the Virginia Absentee Application for a Ballot by Mail⁶²

Check each application for missing information. Each application **must** contain the following:

- The election for which the ballot is being requested:
- The applicant's **printed name**, the **last four digits** of the applicant's **social security number**, and the **reason the applicant will be absent** or cannot vote at his polling place on [election day].
- The complete **address** to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when printed ballots are available and the applicant chooses to vote in person after completing the] application. The following are allowable addresses:
 - The address of the applicant on file in the registration records.
 - The address at which he will be located while absent from his county or city.
 - The address at which he will be located while temporarily confined due to a disability or illness.
 - In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name of the institution of confinement. **Note:** this address is for sending the ballot; only the name of the institution of confinement is required to apply.
 - In the case of a student, or the spouse of a student, who is attending a school or institution of higher education, the name of the school or institution of higher education.
 - In the case of a person who will be absent on election day for business reasons, the name of his employer or business.
 - In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling.
 - The email address/fax number if the voter is an overseas citizen or a military voter or spouse or dependent .
 - Ballots may *not* be sent in care of any other person.
- Unless the applicant is disabled, all applications for absentee ballots must be signed by the applicant."
- Voter needs assistance: If checked, indicate that in VERIS and be certain to send the *Request for Assistance in Voting an Absentee Ballot* form with the ballot (ELECT-649 (AB)).
- If the voter has moved:
 - Enter change of address in VERIS if *AB Application* is received before the books close.
 - **Do not** enter change of address in VERIS if the books have closed.
 - **Note:** Moving conditions apply.⁶³
- Then, look up voter in VERIS:
 - Compare the information on the application with the data recorded in VERIS.
 - If the information matches, move to "Absentee History" in VERIS and check for any absentee application already on file.

⁶²See the Code of Virginia §24.2-701.

⁶³ See section on changes of address in this Chapter for details.



- If VERIS information for the voter shows “Vote in Person” or “Verify ID” flags, refer to these sections in this Chapter.
- **If there is no absentee application on file, enter the absentee data and process the application.**
- Refer to VERIS Step-by-Steps for detailed processing instructions.
- Complete the “Office Use Only” block on the form.
- The voter is now ready for a ballot to be mailed, emailed or faxed.
- Follow instructions for mailing, emailing and faxing ballots.

7.7.1.4 *Incomplete Virginia Absentee Ballot Application (ELECT-701)*

“In reviewing the application for an absentee ballot, the general registrar [must] not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.”⁶⁴



Best Practice

If information is missing from an application an absentee ballot, try to collect the missing information by phone, email or fax for anything other than the signature. Indicate the name of the person providing the information, the date and initial the form or attach a copy of the fax or email response. If no one can be reached within 3 business days, deny the application in VERIS.

Please note that the voter’s full SSN is requested on the application to assist in finding the voter’s record, but it is *not* required.⁶⁵ A voter cannot be denied an absentee ballot for failure to provide the full SSN.

Frequently Asked Questions



What if the voter forgets to include the last four digits of SSN?

§24.2-706 requires the general registrar to determine if the omission prevents determining qualification to vote absentee.⁶⁶

What if the voter forgets to sign the application? The voter’s signature is required. The voter must be denied for failure to sign.⁶⁷ You should send a new application to the voter with the denial letter generated by VERIS.

⁶⁴ See the Code of Virginia §24.2-706.

⁶⁵ See the Code of Virginia §24.2-701. §24.2-701(C) provides authority for the application to collect the last four digits of the voter’s social security number.

⁶⁶ See also [52 USC §10101\(a\)\(2\)\(B\)](#).

⁶⁷ See the Virginia Administrative Code [1VAC20-70-20](#).





Policy Note on Electronic Signatures for Absentee Ballot Applications

The State Board of Elections in May 2015 determined that applications requesting absentee ballots may be signed electronically.¹ Registrars are directed to accept electronic signatures *as long as* the applicant is required to affirmatively check a box confirming acknowledgement of the Affirmation Statement on the Absentee Ballot Application and the completed Application includes a disclaimer indicating that it includes an electronic signature.

Accepting electronic signatures increases voter convenience and makes it easier for currently registered voters who are qualified to cast an absentee ballot.

7.7.1.5 Must Vote in Person Requirement but has Applied to Vote by Mail

“Any person, who applies to register to vote by mail [...] and who has not previously voted in the county or city in which he registers to vote, [must] vote in person, either at the polls on election day or in-person absentee.”⁶⁸ “However, this requirement to vote in person [does] not apply” in these circumstances:⁶⁹

- 1A -- Full-time students
- 2A -- Voting Accessibility for the Elderly and Handicapped Act which include
 - Voter with illness or disability, temporary or permanent
 - If the voter is qualified to vote for any reason on the ELECT-701 and is 65 years old or older, the voter is exempt from vote in person. **Age alone is not a qualifying reason to vote absentee.**
- All number 6 reason codes--UOCAVA voters
- 7A -- Presidential Only voters moving to another state fewer than 30 days before a presidential election.
- VERIS will send an on-screen warning message if the applicant must vote in person.
- If this message is received, the application must be denied, and the voter must be notified.
- VERIS will create a letter for the notice to the voter.

7.7.1.6 Help America Vote Act (HAVA) ID Requirement by Mail⁷⁰

In a federal election, first-time voters who registered by mail will be noted with “Verify ID” flag in VERIS.

- **Permissible forms of ID** for these voters *when voting by mail* include the following⁷¹:
 - Virginia Voter Card
 - Virginia Driver’s License
 - “Copy of a current and valid photo identification”⁷²
 - “Copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter”⁷³

⁶⁸ See the Code of Virginia §24.2-416.1.

⁶⁹ *Id.*

⁷⁰ See the Code of Virginia §24.2-706.

⁷¹ *Id.*

⁷² See the Code of Virginia §24.2-706.

⁷³ *Id.*



- **Exemptions** from HAVA ID when voting by mail:⁷⁴
 - Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters
 - Other federal entitlement
 - Commissioner of Elections determines no accessible polling place available for voter with physical disability or age 65 or older.

Nonexempt first-time voters must be sent the HAVA ID notice (ELECT-HAVA-1) with ballots for *federal elections*; this includes students.

- Must return a copy of the required ID with his or her ballot
- If HAVA ID is returned, edit absentee ballot information in VERIS to indicate that ID was returned by checking the “ID Provided” box in VERIS.
- Failure to return proper HAVA ID requires Provisional Ballot processing.⁷⁵
- Change the ballot status in VERIS to “Provisional” and note on the absentee ballot record that the ballot was cast as Provisional.

7.7.1.7 *Change of Address Scenarios for Ballots by Mail*⁷⁶

The action taken is dependent upon whether the books are open or closed. After the books close, the date the voter moved is essential in determining whether the voter is qualified to vote in the election(s) in which he/she offers to vote. Ballots must be mailed within 3 business days upon receipt of a properly completed application (if the voter registered in person, count the 3 business days from acceptance of the registration application).⁷⁷ Act on missing information or problems immediately, and document your actions. If problems cannot be resolved quickly, deny the *AB Application* in VERIS.

Use your resources. Refer to “What If” document for current moving conditions. Below are different change of address scenarios with guidance on how to process these applications.

7.7.1.7.1 *The Voter has Moved to a New Address Within Your Locality and Wants a Ballot by Mail*⁷⁸

If the application is received **before** the books close, change address in VERIS and process the application using the voter’s new address.

If the application received **after** the books close:

- Do not change address in VERIS.
- If the voter meets the moving conditions in §24.2-401, process the application using the old address.
 - Keep a copy of the *AB Application* to make address change *after* the election.
- If the voter does not meet the moving conditions in §24.2-401, the application must be denied.
 - Enter the denial in VERIS and state the reason.
 - Mail denial notice to the voter.
 - Voter may not vote by mail or in person.
 - Keep a copy of the *AB Application* to make address change *after* the election.

⁷⁴ See [52 USC §21083](#); see also the Code of Virginia §24.2-706.

⁷⁵ See Chapter 17 Provisional Ballots.

⁷⁶ See the Code of Virginia §24.2-401.

⁷⁷ See the Code of Virginia §24.2-612.

⁷⁸ See the Code of Virginia §24.2-401.



7.7.1.7.2 The Voter has Moved to a New Address Within Your Locality but is Registered in Another Virginia Locality and Wants a Ballot by Mail⁷⁹

If the application is received **before** the books close, request a copy of the voter's record from the other locality to be sent to you immediately. Social Security number must be redacted⁸⁰ unless encrypted.⁸¹



- Update the voter's registration record in VERIS and process the application for a ballot by mail
- Make a comment in the VERIS voter record that you are waiting for the original voter registration record to be received from previous locality.

If the application is received **after** the books close, send *AB Application* to old locality with Social Security number redacted. The old locality will determine whether the voter is eligible to vote under moving conditions in §24.2-401 or if application should be denied. The old locality is responsible for sending the denial notice, if needed.



Regulation Note

1VAC20-20-20. Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required.

Election officials must use encryption technology that meets the Security Requirements for Cryptographic Modules, FIPS PUB 140-2, with change notices through December 2002, of the National Institute of Technology of the United States Department of Commerce to transmit any records containing sensitive personal information. This includes e-mails and faxes including sensitive information. This regulation defines "sensitive personal information" as: more than four digits of a social security number or other identifier other than a voter identification number, day and month of birth, and the residence address of voters qualified for protection under 24.2-418. If encryption is not used, all sensitive personal information must be redacted before being electronically transmitted. "Redact" means to alter or truncate data so no sensitive personal information is accessible.

7.7.1.7.3 The Voter has Moved to a New Address in Another Virginia Locality and Wants a Ballot by Mail⁸²

If the application is received **before** the books close, send a copy of the voter record with the *AB Application* to the new locality.



Remember: The **full** Social Security number must always be covered before faxing or emailing unless encrypted.⁸³

- The new locality will process the transfer, then process the *AB Application* and send ballot.
- **Do not send a ballot from the old locality.**

If the application is received **after** the books close, confirm date voter moved to new address on *AB Application*.

⁷⁹ See the Code of Virginia §24.2-401.

⁸⁰ Redact means to alter or truncate data so that no sensitive personal information is accessible.

⁸¹ See the Virginia Administrative [Code 1VAC20-20-20](#).

⁸² See the Code of Virginia §24.2-401.

⁸³ See the Virginia Administrative Code [1VAC20-20-20](#).



- If not listed on the *AB Application*, voter must be contacted.
- If the voter meets the allowable moving conditions in §24.2-401 and is eligible to vote in old locality:
 - Look up voter in VERIS.
 - Check for any absentee ballot record.
 - Process the *AB Application* for a ballot by mail using the voter's old address.
- If the voter does not meet the moving conditions, the application must be denied.
 - Enter the denial in VERIS and state the reason.
 - Mail denial notice to the voter.
 - Voter may not vote by mail or in person.
 - Keep a copy of the *AB Application* to make address change *after* the election
- After the election use a copy of the *AB Application* as authorization to transfer the voter to his/her new locality. Send the application copy to the new locality.

7.7.1.7.4 The Voter has Moved to a New Address in Another State and Wants a Ballot by Mail⁸⁴

"The general registrar may cancel the registration of any person for whom a notice has been submitted [...] and forwarded to the general registrar that the voter has moved from the Commonwealth."⁸⁵ The signed *AB Application* is your authorization to cancel the voter. Thus, the *AB Application* should be denied and his/her voter registration cancelled.

- Before cancellation, the general registrar must "mail notice of such cancellation to the person at both his new address, [...] and the address at which he had most recently been registered in Virginia."⁸⁶
- Send denial letter and keep a copy of the *AB Application* as your authorization for the cancellation.



Exception for Presidential Election only: If a voter has moved to another state less than 30 days before a Presidential General Election, he/she may be eligible for a Presidential Only ballot from his/her old Virginia address.⁸⁷ After the election, the voter's Virginia voter registration must be cancelled in VERIS.

7.7.1.7.5 The Voter has Moved to Your Locality but VERIS Flags a Warning that the Voter has Been Issued a Ballot from His Old Locality and the Voter Wants a Ballot by Mail

- **Application received before the books close:**
 - Begin processing the transfer.
 - Warning message will appear in VERIS depending on "Ballot Status."
 - **If Status = Marked**
 - Warning message will read "Warning: Active Absentee Application in _____ County/City will be cancelled."
 - Update voter's registration.
 - VERIS will automatically cancel/void any ballot in the old locality after the transfer is complete (The ballot cannot be counted in the old locality).

⁸⁴ See the Code of Virginia §§24.2-402 and 24.2-427.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ See the Code of Virginia §24.2-402.



- Process the *AB Application* and send ballot from new locality.
- **If Status = On Machine**
 - Warning message will read “Warning: Voted ballot in _____ County/City.”
 - Voter cannot vote in new locality because ballot has already been cast.
 - The application and the ballot from the old locality will remain unchanged as this voter has already cast his/her ballot.
 - DO NOT process the new *AB Application* in VERIS.
 - New locality should notify voter that application has been denied because a ballot has already been cast in this election from his/her old locality.
 - Inform voter that his/her new address will be updated after the election.
 - Keep a copy of the application to request alpha card from the old locality and update after the election.
 - If the voter denies having already cast a ballot, offer a provisional ballot.
- **Application received after the books close:**
 - Voter cannot vote in new locality.
 - New locality should notify voter that application has been denied because a ballot has already been issued for this election from the old locality.
 - Inform voter that his/her new address will be updated after the election.
 - Keep a copy of the *AB Application* to request alpha card and update after the election.

7.7.1.7.6 The Voter Did Not Complete the Change of Address Option and Wants a Ballot by Mail

- If applicant did not specifically request a change of address and the residence address does not match the address listed in VERIS, call or email the voter to confirm he/she has moved.
 - Note the information provided by the voter on the *AB Application* and date and sign in red pen.
 - If the voter is qualified, send a ballot.
 - If the voter is not qualified, deny the *AB Application*.
- If applicant is not registered in your locality, call or email the voter to confirm whether to update his/her voter registration.
 - If the voter is qualified, send a ballot.
 - If the voter is not qualified, deny the *AB Application*.
- The *AB Application* can serve to transfer voter because it is a signed statement indicating a change of address.
- Prior address and date moved are not required to be stated on *AB Application* but may be needed after the books close to apply moving conditions of §24.2-401.

7.7.2 Federal Post Card Application (FPCA, Standard Form 76)

7.7.2.1 In General

Most FPCAs are submitted by military members, overseas citizens and their families. The FPCA can serve as both a registration application and an absentee ballot request.⁸⁸ All revisions of the form containing the required information are acceptable.

⁸⁸ See the Code of Virginia §24.2-703.



7.7.2.2 *Attorney General 1971 Opinion on “Place of Abode” for Military*

In a 1971 opinion, the Virginia Attorney General stated that servicemen who had a place of abode in Virginia prior to their assignment to active duty elsewhere must constructively retain the Virginia place of abode, otherwise these members of society would be deprived of the electoral franchise. Such servicemen should be permitted to register to vote as though he still resided at this old place of abode, and should be put in the precinct where such place of abode is located.⁸⁹

7.7.2.3 *Who is Eligible to Use FPCA*

Block 1 of the FPCA identifies the following eligible classes of voters:

- “A member of a uniformed service on active duty who [...] is absent from the place of residence where [...] otherwise qualified to vote.”⁹⁰
- “A member of the merchant marine who [...] is absent from the place of residence where [...] otherwise qualified to vote.”⁹¹
- “A spouse or dependent of a member [of a uniformed service or merchant marine] who [...] is absent from the place of residence where the spouse or dependent is otherwise qualified to vote.”⁹² (VERIS Codes 6A, 6B, 6E, 6F)
- U.S. citizens residing outside the U.S. and is qualified to vote in the last place in which the person was domiciled before leaving the U.S.⁹³ (VERIS Code 6C or 6D)
- These registrations are permanent with full ballot eligibility dependent upon whether the application indicates:
 - the voter retains a place of abode in Virginia.
 - the voter is employed overseas or eligible family.⁹⁴

7.7.2.4 *State Law Definitions – Uniform Military and Overseas Voting Act (UMOVA)*⁹⁵

- Provides additional definitions expanding federal law protections on voting rights of absent military and overseas citizens.
- Permits U.S. citizens residing overseas, whose last residence in the U.S. was in Virginia but who no longer maintain an abode in Virginia, to receive absentee ballots for elections for federal office.⁹⁶
- Persons born overseas to Virginia parents may be eligible to vote in Virginia elections.⁹⁷
- Eligibility for full ballot is defined by state law based on retaining place of abode in Virginia or employment overseas.⁹⁸

7.7.2.5 *Late Military Registrant By Mail*⁹⁹

The applicant must:

⁸⁹ See 1971-1972 Op. Atty Gen. Va. 153.

⁹⁰ See [52 U.S.C. §20310](#).

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See the Code of Virginia §24.2-453.

⁹⁵ See the Code of Virginia §§24.2-451 and 24.2-470.

⁹⁶ See the Code of Virginia §24.2-452.

⁹⁷ *Id.*

⁹⁸ See Va. Const. Art. I, §1; see also the Code of Virginia §24.2-453.

⁹⁹ See the Code of Virginia §24.2-419.



- Be eligible to register and otherwise qualified to vote
- Be a member of the uniformed services of the US on active duty, a member of the merchant marine or the spouse or dependent residing with the same, and
- By reason of active duty or merchant marine service be normally absent from the city or county in which he/she resides.¹⁰⁰

Persons eligible for late voter registration may do so after the books are closed up to and including Election Day.¹⁰¹ They must be given a registration date equal to the final day of registration (effective date).

7.7.2.6 *FPCA Duration of Eligibility – How Long Ballots Must be Sent*

“An application [...] that is received by the general registrar no later than 5:00 p.m. on the seventh day prior to the election shall be considered a standing request for absentee ballots through December 31 of the year following the calendar year of [their] application.”¹⁰²

7.7.2.7 *How to Process the FPCA*

Board regulation 1 VAC 20-45-30 allows accepting a faxed or scanned email attachment as an original application for registration and absentee ballot request.¹⁰³

- FPCA may be signed electronically for registration and absentee ballot request.
- FPCA may be returned by mail, in person, by fax or email.
- The FPCA is both voter registration and absentee ballot request.
 - Make a copy of the FPCA for the absentee application.
- Overseas voters on short vacations or business trips less than a year should use the “Virginia Absentee Ballot Application,” not the FPCA which provides continuing ballots through the next calendar year.



Regulation Note

1VAC20-45-30: Electronic Submission of Federal Post Card Application

An applicant who is eligible for registration and applies for registration and requests an absentee ballot on a Federal Post Card Application may apply for registration and the absentee ballot by facsimile or e-mail. Electronically submitted FPCA applications are sufficient for registration and requesting an absentee ballot if signed and otherwise complete.

7.7.2.8 *FPCA Acknowledgment*

If ballots are not ready to be mailed and the FPCA is properly completed and ready for a ballot, the “FPCA Acknowledgement Form” or a document of your design may be completed and sent to the voter.

- The acknowledgement form should inform the voter of the type of ballot he or she will receive.
- It should also indicate when and how you will send the ballot (i.e.: mail, email or fax).

¹⁰⁰ See also the Code of Virginia §24.2-425.

¹⁰¹ See the Code of Virginia §24.2-419.

¹⁰² See the Code of Virginia §24.2-703.

¹⁰³ See also the Code of Virginia §24.2-457.



7.7.2.9 *Checking the FPCA*

- Section 1 is the classification of voter type (uniformed services, etc.)(additional information in Section 9 determines ballot eligibility full or federal only).
- Section 2 is for political party preference:
 - If a party is provided, primary ballots are sent for that party primary.
 - If no party is provided, no primary ballot is sent.
- Sections 3 and 4 are for name, suffix, previous name, date of birth and Social Security Number:
 - **Social Security Number:** If the applicant is already registered, only the last four digits of the social security number (SSN) are needed. **If the person is not yet registered, the full SSN is required.**
 - If a voter does not have a Social Security number and “none” is written in the box, VERIS will assign an identification number. Department of Elections staff can check the DMV record to verify no SSN.¹⁰⁴
- Section 5 is for contact information (telephone, email and fax).
- Section 6 is the ranked preference of method for receiving ballot (mail, fax, email).
- Section 7 is for a valid residence address in your locality.
- Section 8 is for:
 - current military or overseas address to which ballot should be sent.
 - an alternate address to mail the ballot.
 - preferred method for sending the ballot (mail, fax, email).
- Section 9 is for additional information about branch of service, being employed overseas and for which elections the voter is requesting a ballot.¹⁰⁵
- Voter’s signature to the affirmation statement

**Regulation Note**

1VAC20-45-20: Voter Registration. No presumption for or against residence may be based on a person’s presence or absence in the following circumstances: being employed in the service of the Commonwealth or the United States, whether military or civilian.

With respect to material omissions on Federal Write-In Absentee Ballots, the following omissions are **not material**: omitting service identification number, rank, grade, or rate on an application that declares active military duty status, employer name and address on an application that declares temporary overseas residence with no date of last residence, employer name and address on an application that declares temporary overseas residence with a date of last residence, and date of last residence on an application that declares indefinite overseas residence (20-45-20(B)(4)).

Eligibility for a full absentee ballot requires providing the name and address of an employer outside the United States (20-45-20(B)(3)). Lastly, the date of last residence for an application declaring indefinite overseas residence without indicating the date of last residence in the United States is the **date the application is signed** (20-45-20(B)(4)).

¹⁰⁴ See the Code of Virginia [§46.2-208\(B\)\(9\)](#).

¹⁰⁵ See the Virginia Administrative Code [1VAC20-45-20](#) on material omissions.



7.7.2.10 *Processing a Properly Completed FPCA*



- Perform a “Voter Search” in VERIS to determine if the voter is registered to vote at the address given in Part 3.
 - If the voter is not registered and the books are open, process as a new registration in VERIS according to the VERIS Step-by-Steps. Use the original FPCA you received for registration and a copy for the absentee ballot application.
 - If the voter is registered, proceed to “Absentee History” and check for an AB application already on file. If no application has been processed, enter the data into VERIS according to the Step-by-Steps.
- If the voter is not registered and the books are closed, consider if the applicant is eligible for late military registration.¹⁰⁶
- If needed you may attach the properly completed FPCA to a sheet of paper on which an “Office Use Only” section has been printed and complete that information.
- Check VERIS to verify that the proper full or federal only ballot status is assigned based on the information provided. Federal only ballots are for US citizens residing abroad who have no current place of abode in Virginia and who are neither employed overseas nor eligible family of a person employed overseas or a uniformed services voter. “To be eligible to vote in state and local elections, the application of an overseas voter who has given up his place of abode in Virginia must show that the applicant is employed overseas or the spouse or dependent of a person employed overseas.”¹⁰⁷

7.7.2.11 *Processing an Incomplete FPCA*

- Contact the voter to obtain any missing information. Email is the fastest method.
- Process the application as soon as the missing information is obtained.
- If the signature is missing, the voter must send a new completed FPCA.
 - Deny the application in VERIS.
 - Send a new FPCA or the link to FVAP.
 - Send the denial by email whenever possible.

7.7.2.12 *Using the FPCA for Multiple Elections – Ongoing Application*

The FPCA is valid for all elections, and is “considered a standing request for absentee ballots through December 31 of the year following the calendar year of the date of the application.”¹⁰⁸

- Once the FPCA has been processed and approved, VERIS treats it as an ongoing application through the expiration date, and it does not have to be reentered for each eligible upcoming election.
- The application for ongoing ballots may be submitted at any time after the previous year’s November general election.

¹⁰⁶ See *above* late military registration.

¹⁰⁷ See Va. Const. Art. II, §1; see *also* the Code of Virginia §24.2-453.

¹⁰⁸ See the Code of Virginia §24.2-703.



- The applicant must meet applicable deadlines for both voter registration and absentee ballot request.
- Ongoing applicants on file are eligible for ballots for special elections held in November or December provided their applications have not yet expired **unless otherwise specified in the FPCA**.
- Any voter sending in the FPCA after the November general election for the *next year* and at least 7 days before the special election are also eligible to receive ballots for that special election provided the voter has met the voter registration deadline.
- “If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots [may] be sent” to the voter until a new application is filed and accepted.¹⁰⁹
 - Double check mailing and email addresses.
 - The default method to send ballot is **by mail** if nothing is selected.¹¹⁰

7.7.2.13 Activating the Ongoing Application

Activating the ongoing applications will allow VERIS to generate a ballot line for the specified election in which the applicant is eligible for a ballot. All ongoing applications for a specified election are activated at one time.



- To activate ongoing applications take the following steps:
 - Click on the absentee link.
 - Click on the ongoing absentee ballots link.
 - Select the appropriate election from the dropdown menu.
 - Click on the “Generate Ballots” button.



VERY IMPORTANT: You *must* activate your ongoing applications *for every election* before you set your ballot ready date *for every election*! All ongoing applications are activated at one time. Annual applications will be updated along with any military or overseas voters, if you have them.

- Print the Daily Absentee Ballots List.
- Copy each application that is eligible for a ballot and proof it against the report. The report and applications should match.
- Resolve any issues with missing applications or missing entries on the report.
- Complete this process in time to mail your ballots. “The general registrar [must] make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application.”¹¹¹
- When ballots are ready and the ballot ready date is set, each ongoing ballot line will be updated to show the ballot sent date.
- Refer to VERIS Step-by-Steps for data entry details.¹¹²

¹⁰⁹ *Id.*

¹¹⁰ See the Code of Virginia §24.2-706.

¹¹¹ See the Code of Virginia §24.2-612.

¹¹² See *also* section on Procedure for Mailing/Emailing/Faxing Ballots.



7.7.3 Federal Write-In Absentee Ballots (FWAB)

7.7.3.1 In General

The FWAB is designed “for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States absentee ballots.”¹¹³ Applicants often mail a FWAB about the same time as an FPCA.

- “An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State ballot, may submit the State absentee ballot” regardless of whether a FWAB has been received.¹¹⁴ §24.2-1004 clarifies there is no double voting since the FWAB is not counted if the regular state ballot is also received in time.
 - The regular state ballot will be easier to process and count than if the choices on the FWAB are handwritten.



FWAB has developed technology on its website for federal elections to enable voters to print a FWAB with their choices from ballot data provided by Department of Elections. This technology makes it less important for these voters to return the regular state ballot. The Department of Elections may offer similar technology to enable localities to issue ballots by sending links a voter can use to download and print a ballot for return by mail.

7.7.3.2 What the FWAB is Used For

“A covered voter may use the [...] federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if [the declaration accompanying the FWAB] is received by the applicable deadline.”¹¹⁵

- “If the declaration is received after that date, [the FWAB] must be treated as an application to register to vote for subsequent elections.”¹¹⁶
- “A covered voter may use the [...] federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot.”¹¹⁷
- Absentee Ballot Application for the enclosed ballot only.
- Voted Ballot for one election only.

7.7.3.3 Who May Use the FWAB

“Covered voters” include¹¹⁸:

- “A uniformed-service voter or an overseas voter who is registered to vote in this state;”¹¹⁹
- “A uniformed-service voter [...] whose voting residence is in this state and who otherwise satisfies this state’s voter eligibility requirements;”¹²⁰

¹¹³ See [52 U.S.C. §20303](#).

¹¹⁴ See [52 U.S.C. §20303](#).

¹¹⁵ See the Code of Virginia §24.2-457(B).

¹¹⁶ *Id.*

¹¹⁷ See the Code of Virginia §24.2-458(D).

¹¹⁸ See the Code of Virginia §24.2-452(I) (defining “covered voters”).

¹¹⁹ *Id.*

¹²⁰ *Id.*



- “An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements;”¹²¹
- “An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter been of voting age and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements;”¹²²
- “An overseas voter who was born outside the United States, is not described in [the bullets above] and, except for a state residency requirement, [...] satisfies this state’s voter eligibility requirements, if:”¹²³
 - “The last place where a parent or legal guardian of the voter was, or [...] would have been, eligible to vote before leaving the United States is within this state; and”¹²⁴
 - “The voter has not previously registered to vote in any other state.”¹²⁵

7.7.3.4 When Can the FWAB Be Used

Federal law mandates, and Virginia law allows, that UOCAVA applicants may use the FWAB as a back-up ballot.¹²⁶ A qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of §24.2-700 may use a federal write-in absentee ballot in any election.¹²⁷ A FWAB cannot be rejected on the basis that no FPCA can be found or because the applicant indicates on the FWAB that no FPCA has been submitted.¹²⁸ However, no regular ballot can be sent without a FPCA or Virginia absentee application, nor will ballots continue without a FPCA or Virginia annual absentee application. General registrars should encourage absent military and overseas citizens to submit a FPCA, using a FWAB only if concerned a regular ballot will not arrive on time.¹²⁹ When the FWAB is received affects the action to take if no FPCA can be found:

- More than 45 days before election with sufficient time to submit FPCA—general registrar should contact voter to request FPCA so a regular ballot can be issued and ballots sent for future elections.
- Less than 22 days before election from an unregistered overseas citizen—FWAB is valid as registration for future elections only.
- Less than 7 days before election—if military or registered overseas citizen, voted ballot can be accepted; if unregistered overseas citizen, FWAB is valid as registration for future elections only.¹³⁰

7.7.3.5 FWAB Mailing Deadlines Allowed

Active duty military, their spouses and dependents may mail their FWAB from any location in the US or overseas. Federal law stipulates that non-military overseas citizens

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ See the Code of Virginia §24.2-452(1).

¹²⁶ See [52 USC §20303](#).

¹²⁷ See the Code of Virginia §24.2-702.1.

¹²⁸ See the Code of Virginia §§24.2-457 and 24.2-458.

¹²⁹ See [Department of Elections website](#) and [FVAP Virginia Voting Assistance Guide](#).

¹³⁰ See the Code of Virginia §24.2-459.



must mail their FWAB from outside the United States for the ballot to count.¹³¹ The FWAB instructions include addressing the voted ballot to the appropriate general registrar or Electoral Board.¹³² FWABs may not be returned electronically as a voted ballot. Any applicant sending a FWAB electronically should be notified immediately that this method of return is not authorized for any voted ballot and a FPCA is required to request ballots sent.¹³³

7.7.3.6 *How the FWAB is to be Mailed*

Remember the Code of Virginia §24.2-416.4 timely mailing rule if FWAB is used for registration. There is no five day hold for mailed applications from military and overseas applicants eligible under §24.2-700(2).¹³⁴

- **Before Books Close:** “A covered voter may use the [...] federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the [FWAB], if the declaration is received by the applicable deadline for registration.”¹³⁵ This means that accepting a completed FWAB received by the **registration** deadline is timely for registration, absentee ballot application, and voted ballot.
- **After Books Close:** “If the [completed FWAB] is received after [the registration deadline], it must be treated as an application to register to vote for subsequent elections.”¹³⁶ This means that accepting a completed FWAB received by the deadline for returning ballots (7 pm on Election Day) is timely for registration, absentee ballot application and voted ballot **only if** the applicant is eligible for late registration.¹³⁷ You can accept a completed FWAB received by the deadline for returning ballots, but after close of books, as timely for an absentee ballot application and voted ballot if the applicant is already registered to vote in the jurisdiction.¹³⁸

¹³¹ See [52 USC §20303](#).

¹³² See the Code of Virginia §24.2-462.

¹³³ See the Code of Virginia §§24.2-702.1 and 24.2-707; see also [FVAP Virginia Voting Assistance Guide](#).

¹³⁴ See the Code of Virginia §§24.2-416.4 and 24.2-706.

¹³⁵ See the Code of Virginia §24.2-457(B).

¹³⁶ *Id.*

¹³⁷ See the Code of Virginia §24.2-419 (addressing late military registration).

¹³⁸ See the Code of Virginia §24.2-702.1.





Regulation Note

1VAC20-45-40: Material Omissions from Federal Write-in Absentee Ballots. Timely received FWAB applications are not valid unless an omission from the application is material. In order to be accepted as timely, the applicant must meet the applicable registration deadline, but §24.2-419 extends the mail in deadline for certain military applicants (20-45-40(B)).

The following are **always considered material omissions**; any application containing these omissions are invalid: the applicant did not sign or check the assistance box, the witness did not sign, there is no declaration/application page, information on the declaration/application page needed to determine the voter's identity or eligibility, which may include, but is not limited to, current military or overseas address.

The following are **immaterial omissions** that **do not render the application invalid**: not listing the applicant's name as "Last, First, Middle," listing a middle initial or maiden name instead of a full middle name, omitting the street identifier, such as "Street" or "Avenue", the county, city or zip code if the locality is clearly identifiable based on the address given, omitting the date the voter signed the ballot, omitting the address of the witness (20-45-40(D)(7)), omitting the date the witness signed the ballot (20-45-40(D)(8)), not sealing the ballot in the security envelope, so long as the outside envelope containing the ballot and declaration/affirmation page was sealed (20-45-40(D)(9)), and submitting a ballot containing offices or issues for which he is not eligible (20-45-40(D)(10)).

7.7.3.11 Additional Tools Available

- Processing Federal Write-in Absentee Ballot Step-by-Steps
- Department of Elections Regulation 1 VAC 20-45-40: "Material Omissions from Federal Write-in Absentee Ballots."

7.7.3.12 Tables

- **Table 1** summarizes the action to be taken when only a FWAB is received.
- **Table 2** summarizes the action to be taken when both an FPCA and a FWAB are received for the same applicant.
- **Table 3** summarizes the action to be taken when both a voted state ballot and FWAB are received from the same applicant.
- **Table 4** summarizes the action to be taken when a FWAB is received after the election.



Table 1—Instructions for Processing FWABs Alone		
Description	Action to Take with FWAB	Code
Applicant is registered or meets applicable registration deadline and FWAB is received by the deadline for returning ballots.	• Retain original FWAB Voter Declaration for registration file and make 2 additional copies of the Voter Declaration, one for AB Application and one to go with ballot to serve as the Statement of Voter. • Enter declarations that have made the applicable deadline for permanent registration¹³⁹ • Enter the FWAB as both AB Application and a received ballot. • Indicate the date, time received and the precinct code. • Indicate Congressional, Senate and House as needed. • Send FWAB to CAP or appropriate precinct on Election Day. • No further ballots are issued under the FWAB.	§24.2-416 §24.2-419 §24.2-702.1
Unregistered applicant does not meet applicable registration deadline and is not eligible for late registration (e.g., a FWAB received for unregistered overseas citizen after COB deadline).	• FWAB is eligible for registration; FWAB ballot not counted and no ballot sent without FPCA. • Keep original FWAB and make one or two copies of the FWAB Voter Declaration page for denied absentee application. • Write "VOID" on the original FWAB. • Place the ballot in the "Federal Write-In Absentee Ballots Voided" (SBE-FED) envelope for your locality. • Within 90 days of rejection, electoral board must "send a written explanation of the reason for rejection of an absentee ballot to the voter whose absentee ballot was rejected" (e.g., no timely registration application, ballot received after election, etc.).¹⁴⁰ • The FWAB is effective for registration after the election. • Voter must submit a new FPCA in order to request ballots for future elections.	§24.2-416 §24.2-419 §24.2-702.1

¹³⁹ See the Code of Virginia §§24.2-457(B) and 24.2-458(D).

¹⁴⁰ See the Code of Virginia §24.2-711.1.



Table 2—FPCA and FWAB for Same Applicant—Ballot Issuance			
Description	Action to Take with FPCA	Action to Take with FWAB	Code
FPCA and FWAB are received together and meet Absentee Ballot Application deadline, and applicant is registered or meets applicable registration deadline.	- Process as AB Application. - Issue regular state absentee ballot, full or federal only, depending on registration status.	- Hold the FWAB until Election Day to allow time for the state ballot to be returned. - If the state ballot does not come back by 7 pm on Election Day, process the FWAB as a voted ballot and send to CAP or appropriate precinct.	§24.2-702.1 §24.2-703 §24.2-706
Neither FPCA nor FWAB meets applicable registration deadline and voter is <i>not</i> eligible for late registration (e.g., a FWAB is received for unregistered overseas citizen after COB deadline).	- FPCA is not eligible for this election. - Retain FPCA to process after the election. After the Election - If not registered, use FPCA for registration. - Process FPCA as AB Application for future elections. - This application will continue as an ongoing AB Application for statutory period.	- FWAB is <i>not</i> eligible for registration, Absentee Ballot Application or voted ballot for current election. - Keep original FWAB and make one or two copies of the FWAB Voter Declaration page to keep for registration and denied absentee application. - Write “void” on the original FWAB going with ballot. - Place the ballot in the “Federal Write-In Absentee Ballots Voided” (SBE-FED) envelope for your locality. - Within 90 days of rejection, electoral board must “send a written explanation of the reason for rejection of an absentee ballot to the voter whose absentee ballot was rejected” (e.g., no timely registration application, ballot received after election, etc.).¹⁴¹	§24.2-416 §24.2-419 §24.2-702.1 §24.2-703
FPCA and FWAB are received together but FPCA has NOT met regular AB Application deadline (7 days prior to Election Day).	- FPCA not eligible for this election - Retain FPCA to process after the election. After the Election: - If not registered, use FPCA for registration. - Process FPCA as AB Application for future elections. - This application will continue as an ongoing AB Application for statutory period.	If voter is registered or eligible for late registration: - Process FWAB as AB Application and as a voted ballot. <i>Do not</i> send a state ballot. If voter is not registered: - Follow instructions under “Does not meet applicable registration deadline” found above.	§24.2-702.1 §24.2-703

¹⁴¹ See the Code of Virginia §24.2-711.1.



Table 3—State Ballot Issued and FWAB Received for Same Applicant Before Election—Counting Ballots			
Description	Action to Take with State Ballot	Action to Take with FWAB	Code
Regular state ballot was issued. Both state ballot and FWAB are received before Election Day (VERIS shows state ballot was sent but not yet received).	- Enter the state ballot as received, selecting “Marked” as the ballot status. - Send state ballot to CAP or appropriate precinct on Election Day.	- Write “VOID” on the FWAB. - Place the FWAB in the “Federal Write-In Absentee Ballots Voided” (SBE-FED) envelope for your locality.	§24.2-702.1 §24.2-703 52 USC §20303
Regular state ballot was issued but <i>not</i> received; only FWAB was received by deadline for returning ballots.	No action needed	- Enter FWAB ballot as received, using the edit function. - Select “FWAB” as the ballot status. - Indicate the date, time received and precinct code. - Indicate Congressional, Senate and House as needed. - Place this ballot with all other ballots for the precinct.	§24.2-702.1 §24.2-709 52 USC §20303



Table 4—FWAB Received After Election		
State Ballot Sent on Time		
Description	Action to Take with FWAB	Code
FWAB is received after the election but VERIS shows state ballot was issued and received as a voted ballot.	- No action needed for FWAB as state ballot was already received. - Place the FWAB in envelope labeled “Ballots Received after Election” for Clerk of the Court.	§24.2-710
FWAB is received after the election but VERIS shows state ballot was issued on time but was <i>not</i> received as a voted ballot.	Best Practice: Registrars may choose to process the FWAB as a ballot returned “LATE” on VERIS for tracking purposes. Use the edit function on the ballot line. - Rejecting the ballot will allow the voter to check the status of the FWAB on the Department of Elections website after the election. - Place the FWAB in envelope labeled “Ballots Received after Election” for Clerk of the Court.	§24.2-710
State Ballot NOT Sent on Time		
Original state ballot requested by FPCA or ELECT-701 on or before, but <i>not</i> sent by, the 45-day deadline . State ballot NOT returned, only FWAB is received after election	- FWAB is received before 5 pm on the second business day before the State Board of Elections meets to ascertain the results of the election. - Process as a received “FWAB” ballot using the edit function on the ballot line. - Count FWAB or reject for material omission.¹⁴²	§24.2-612 §24.2-709(B)
NO State Ballot Sent		
FWAB is received after the election and VERIS shows NO state ballot was issued.	- The FWAB is effective for registration after the election. - Voter must submit FPCA in order to request ballots for future elections. Best Practice: Inform voter that FWAB was received after the election and that a FPCA must be submitted to request ballots for future elections. - Place the ballot in envelope labeled “Ballots Received after Election” for Clerk of the Court.	§24.2-702.1 §24.2-710

¹⁴² See the Virginia Administrative Code [1VAC20-45-40](#).



7.7.4 Annual Absentee Ballot Application (Disabled or Ill Voter ELECT-703.1; Reason Code 2A or 2C)

7.7.4.1 In General

“Any person who is eligible for an absentee ballot [due to] disability or illness and who is likely to remain [incapacitated] for the remainder of the calendar year [is] eligible to file a special annual application to receive ballots for all elections in which he [or she] is eligible to vote in a calendar year.”¹⁴³



If a voter with an annual application on file submits a new ELECT-701 AB Application, you should contact the voter to confirm whether he/she intends to supersede the ongoing *Annual Absentee Ballot Application* (ELECT-703.1).

7.7.4.2 Eligibility

The voter must be eligible to vote absentee due to disability or illness and is likely to remain so for the remainder of the calendar year.¹⁴⁴ The “first such application [must] be accompanied by a [form that is] signed by the voter and his physician, provider as defined in §37.2-403, or accredited religious practitioner, that the voter is eligible for an absentee ballot.”¹⁴⁵ The voter must apply annually.¹⁴⁶

7.7.4.3 Registrar Requirements

- Keep the original certified application on file indefinitely.
- “The general registrar [must] send each such enrolled applicant a blank application by December 15 for each ensuing calendar year.”¹⁴⁷
- “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 [should] be sent to the voter until a new application is filed and accepted.”¹⁴⁸

7.7.4.4 Processing the Application

Confirm the application is properly completed and contains each of the following:

- Part A: Absentee Voter’s Statement
 - Voter’s county or city of residence;¹⁴⁹
 - Has a disability or illness likely to continue;¹⁵⁰
 - Calendar year in which applying;
 - Party affiliation, if any
 - If neither party is checked, ballots for primaries will not be sent;¹⁵¹
 - Whether assistance is needed;¹⁵²
 - Where to mail the ballot;¹⁵³
 - Printed name and address, last four digits of the SSN, and signature¹⁵⁴

¹⁴³ See the Code of Virginia §24.2-703.1.

¹⁴⁴ See the Code of Virginia §24.2-703.1.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ See the Code of Virginia §24.2-701(C)(6).

¹⁵⁰ See the Code of Virginia §§24.2-701(C)(6) and 24.2-703.1.

¹⁵¹ See the Code of Virginia §24.2-703.1.

¹⁵² See the Code of Virginia §24.2-704.

¹⁵³ See the Code of Virginia §24.2-701(C)(6).



- “No action undertaken to fulfill any requirement [...] to register or vote [is] valid or complete when the action is based on the exercise of a power of attorney.”¹⁵⁵
- “No ballot [can] be sent to, or in care of, any other person.”¹⁵⁶
- Part B: Assistant’s Statement (only if required)
 - Assistant’s full name, residence address and signature;¹⁵⁷
 - Voter unable to sign, if applicable.¹⁵⁸
- Part C: Statement of Disability or Illness (Required for FIRST Annual Application only)¹⁵⁹
 - Printed name of person certifying the disability or illness;
 - Signature of person certifying, date and phone number;
 - Signer must select his/her title.
- Part D: Change of Address
 - Look up voter in VERIS.
 - Enter change of address in VERIS if Annual Application is received before the books close.
 - **Do not** enter change of address in VERIS if the books have closed.
 - **Note:** Moving conditions may apply.
 - Compare the information on the application with the data recorded in VERIS.
 - If the information matches, move to “Absentee History” in VERIS and check for any AB Application already on file.
 - If there is no AB Application on file, enter the absentee data and process the application.
 - Enter December 31, 20__ as expiration date.
 - Refer to VERIS Step-by-Steps for detailed processing instructions.
 - Complete the “Office Use Only” block in the top right corner of the form.
 - The voter is now ready for a ballot to be mailed.
 - Follow instructions for mailing ballots.

7.7.4.5 *Activating Ongoing Applications*

Activating the ongoing applications will allow VERIS to generate a ballot line for the specified election in which the applicant is eligible for a ballot. All ongoing applications for a specified election are activated at one time. Follow the steps below to activate ongoing applications in VERIS:

- Hover cursor over absentee tab on VERIS menu bar.
- Click on the absentee link.
- Click on the ongoing absentee ballots in the drop down menu.
- Select the appropriate election from the dropdown menu.
- Click on the “Generate Ballots” button.

¹⁵⁴ *Id.*

¹⁵⁵ See the Code of Virginia §24.2-123.

¹⁵⁶ See the Code of Virginia §24.2-701(C)(3).

¹⁵⁷ See the Code of Virginia §24.2-704.

¹⁵⁸ *Id.*

¹⁵⁹ See the Code of Virginia §24.2-703.1.





VERY IMPORTANT: You must activate your ongoing applications for every election before you set your ballot ready date for every election.

All ongoing applications are activated at one time. Annual applications will be updated along with any military or overseas voters, if you have them.

- Print the “Daily Absentee Ballots List” after you activate the ongoing applications.
- Copy the applications that are eligible for a ballot and proof them against the report. The report and applications should match.
- Resolve any issues with missing applications or missing entries on the report.
- Complete this process in time to mail your ballots.¹⁶⁰
- When ballots are ready and the ballot ready date is set, each ongoing ballot line will be updated to show the ballot sent date.
- Refer to VERIS Step-by-Step instructions for data entry details.

7.7.5 Emergency Absentee Ballot Application (Hospitalized or Otherwise Incapacitated Voter ELECT-705; On Green Paper)

7.7.5.1 In General

“Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to 2:00 p.m. on the day preceding the election that an emergency absentee ballot application be delivered to him.”¹⁶¹ Also, “a voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable [...] to request an absentee ballot earlier than the seventh day preceding the election may request [...] that an emergency absentee ballot be delivered to him.”¹⁶²

7.7.5.2 Eligibility

- Voter or designated representative must request the application be delivered to him or her “prior to 2:00 p.m. on the day before an election.”¹⁶³
- Voter became ill or incapacitated on or after the 7th day preceding the election.¹⁶⁴
- Voter became hospitalized on or after the 14th day preceding the election, but has been unable, due to her condition, to request an absentee ballot earlier than the 7th day before an election and is still in the hospital.¹⁶⁵
- “For purposes of this section ‘incapacitated’ means :
 - Hospitalized¹⁶⁶
 - Ill and confined to his residence
 - Bereaved by the death of a spouse, child, or parent
 - Otherwise incapacitated by an emergency which is found by the general registrar to justify providing an emergency ballot application.”¹⁶⁷ 2015

¹⁶⁰ See the Code of Virginia §24.2-612.

¹⁶¹ See the Code of Virginia §24.2-705.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ See full definition of “hospital” below.



legislation reassigned this responsibility from the electoral board to the general registrar.¹⁶⁸

7.7.5.3 *Definition of a Hospital*

“Hospital,” for purposes of this section, means a hospital “as defined in §§32.1-123 or 37.2-100 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.”¹⁶⁹

- In §32.1-123, “hospital” is defined as any licensed facility “in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals,” including hospitals known by varying names or designations, such as children’s hospitals, sanatoriums, and outpatient surgical hospitals.¹⁷⁰
- “Hospital”, as defined in §37.2-100, “means a state hospital and a licensed hospital that provides care and treatment for persons with mental illness.”¹⁷¹

7.7.5.4 *Request for Emergency Absentee Ballot Application (ELECT-705)*

The voter or designated representative must ask the Registrar to provide an *Emergency Absentee Ballot Application* by phone or in writing at any time prior to 2 pm on the day preceding the election and provide the name of the person selected to be the representative.¹⁷² The designated representative must “be age eighteen or older and [cannot] be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.”¹⁷³

- “On receipt of the request, the general registrar shall provide an emergency absentee ballot application to the incapacitated voter’s designated representative who [will] deliver the application to the voter.”¹⁷⁴
- The *Emergency Absentee Application* (ELECT-705) is given to the designated representative for delivery to the hospitalized voter at the hospital or to the incapacitated voter at the voter’s current residence as shown on the registration records. The *Emergency AB Application* may be faxed to the designated representative or to the voter.¹⁷⁵

7.7.5.5 *Return of Completed Application*

“On receipt of the completed application and a determination of the qualification of the applicant to vote, the general registrar shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the incapacitated voter.”¹⁷⁶

¹⁶⁷ See the Code of Virginia §24.2-705.

¹⁶⁸ See [H.B. 1433, Gen. Assemb., 2015 Sess. \(Va. 2015\)](#).

¹⁶⁹ See the Code of Virginia §24.2-705.

¹⁷⁰ See the Code of Virginia §32.1-123.

¹⁷¹ See the Code of Virginia §37.2-100.

¹⁷² *Id.*

¹⁷³ See the Code of Virginia §24.2-705.

¹⁷⁴ *Id.*

¹⁷⁵ See the Code of Virginia §24.2-705.

¹⁷⁶ *Id.*



- The general registrar must verify the following:¹⁷⁷
 - That the applicant is a qualified voter;
 - That the name of the designated representative is listed;
 - That the completed application is received “no later than 5:00 pm on the day preceding the election;”
 - That the certificate portion has been completed and signed by one of the following:
 - “A hospital administrative official, a licensed physician attending the applicant, or [mental health] provider” if applicant is hospitalized.¹⁷⁸
 - “A licensed physician, [mental health] provider [...], or an accredited religious practitioner” if applicant is ill and confined to his/her residence.¹⁷⁹
 - “A licensed physician, an accredited religious practitioner, or a funeral service licensee,” if the applicant is bereaved.¹⁸⁰
 - **NOTE:** “If the voter is otherwise incapacitated as determined by the general registrar, the general registrar shall certify on the form to the incapacity of the applicant and the applicant’s inability to be present at the polls on election day.” In this case, the certificate portion of the form is signed by the general registrar.¹⁸¹
 - That the hospitalized or incapacitated voter has properly completed and signed the application;
 - That the designated representative has signed and completed the witness portion of the form;
 - That the information provided indicates that the voter was hospitalized or incapacitated 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.

7.7.5.6 *Providing the Absentee Ballot for the Hospitalized/Incapacitated Voter*

- Prepare the absentee ballot in the same manner as a mailed absentee ballot but include the *Instructions for Voting an Emergency Absentee Ballot* (ELECT-705(2)).
- Request ID from the designated representative to assure that he/she is the person designated by the voter. Picture ID is preferred, but any item bearing the representative’s name is acceptable.
 - Failure to provide identification will not disqualify the application.
- Enclose the instructions with the ballot that advise the representative that the completed absentee ballot must be delivered to the general registrar’s office prior to 7:00 pm on Election Day.
- Enclose a *Request for Assistance* (ELECT-649 (AB)) form if the voter indicates he/she will need assistance with the absentee voting materials.
- Enter the hospitalized or incapacitated applicant’s name on the Emergency Absentee Ballot Applicants List (ELECT-710-Supp).

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*



7.7.5.7 *Statement of Designated Representative*

Upon returning the absentee ballot, the representative must complete the *Statement of Designated Representative of Hospitalized or Incapacitated Voter (Green)* (ELECT-705(2)) stating under oath that he:

- Is the designated representative,
- Meets the qualifications of a representative,
- Personally delivered the ballot to the voter who applied,
- Was in the presence of the voter when he/she marked the ballot; that it was placed in the envelope provided; the envelope sealed and the statement on its reverse side completed by the voter, and
- Returned the sealed ballot to the Electoral Board at the Registrar's office.

7.7.5.8 *Registrar's Certification*

After the representative has executed the affidavit, the Registrar or Assistant Registrar must complete the lower portion of the form by inserting the following:

- Application number,
- Precinct name and number,
- Date ballot returned, and
- Time ballot returned.
- The Registrar or Assistant Registrar must sign the form and attach it to the *Emergency Absentee Ballot Application* for that voter.

7.7.5.9 *Entering Into VERIS*



- Enter the application information into VERIS.
- The *Emergency AB Application* is listed as an application type in the absentee application drop down menu.
- Select "*Emergency Application*" (ELECT-705).
- Received by method will automatically populate with "designated representative."
- The reason type will populate and only allow "illness or disability."
- Use "illness or disability" even if the reason is bereavement or otherwise incapacitated and use the comments field to explain.
- The ballot sent by method will self-populate with "designated representative."
- Complete the application process and the received ballot process.

7.7.5.10 *Delivery of Ballots*

"The ballot shall be counted only if the ballot is received by the general registrar prior to the close of polls, and the general registrar shall deliver the ballot to the officers of election at each appropriate precinct."¹⁸² (ELECT-710 Supp). "Before the polls close on [election day], the electoral board [must] deliver the absentee ballot containers to, and obtain receipt from, the officers of election at each appropriate precinct."¹⁸³ "Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but

¹⁸² See the Code of Virginia §24.2-705.

¹⁸³ See the Code of Virginia §24.2-710.

after the ballot container has been delivered, [must] be delivered in an appropriate container to the officers of election at each appropriate precinct.”¹⁸⁴

7.7.6 Emergency Absentee Ballot Application (Emergency Travel for Business, Hospitalization or Death in Immediate Family and Late Assignment of Election Officer ELECT-705.1; Buff/Cream Paper)

7.7.6.1 Eligibility

“Any person registered and otherwise qualified to vote who becomes obligated after 12:00 noon on the Saturday before an election to be absent from his county or city on election day” may be eligible.¹⁸⁵

7.7.6.2 Qualifying Reasons

- 1C or 1F: Voter will be absent on “business, profession or occupation;”¹⁸⁶
- 1D: “Death of a member of [voter’s] immediate family;”¹⁸⁷
- 2A: Voter or a member of voter’s immediate family has been hospitalized;¹⁸⁸
- 4A: An Officer of Election who is assigned after 12 noon on the Saturday before the election to work at a precinct outside his/her own voting precinct.¹⁸⁹

i “Immediate family” means the children including adopted children, grandchildren, grandparents, parents, legal guardian, siblings, whether whole or half blood, and spouse of the applicant.”¹⁹⁰ “Hospital” under this reason is defined the same as under “hospitalized or incapacitated” above. “Hospital” is limited to Virginia, D.C. or a state contiguous to Virginia.¹⁹¹

Note: the general registrar may also determine an emergency qualifies under the “otherwise incapacitated” provision of §24.2-705.

7.7.6.3 Voter Requirements

“The applicant [must apply] in person for an absentee ballot on the Monday immediately preceding the election, before 2:00 p.m., at the principal office of the registrar.”¹⁹² Complete and sign the *Emergency Absentee Ballot Application Travel* (ELECT 705.1).¹⁹³ Vote absentee in-person.

¹⁸⁴ *Id.*

¹⁸⁵ See the Code of Virginia §24.2-705.1.

¹⁸⁶ See the Code of Virginia §24.2-705.1.; see also the Virginia Department of Elections website on absentee voting.

¹⁸⁷ *Id.*

¹⁸⁸ See the Code of Virginia §24.2-705.1.; see also the Virginia Department of Elections website on absentee voting.

¹⁸⁹ See the Code of Virginia §24.2-705.2..

¹⁹⁰ See the Code of Virginia §24.2-705.1.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ See the Code of Virginia §§24.2-705.1 and 24.2-705.2.



7.7.6.4 *Enter into VERIS*

- Application type = emergency application
- Received by method = in-person or other
- Reason type = business, illness or disability or election official
- Ballot sent by method = in-person
- Complete the application process and the received ballot process.
- See VERIS Step-by-Steps.

7.7.7 Mailing Absentee Ballots

7.7.7.1 *In General*

“The general registrar [must] make printed [absentee] ballots available [...] not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later.”¹⁹⁴

**Best Practice**

Proof applications against labels/reports for every mailing.

Check for “Needs Assistance (NA)” or “ID Required” on the label.

Be very careful when processing in-person applications versus applications for ballots to be mailed. You do not want labels generated for in-person voters.

If the voter is registered, send a new application to the voter with the letter

generated by VERIS requesting the missing information. If the voter has provided a fax number or email, save time by faxing or emailing the letter and a new application.

If the voter is not registered, use one of the Department of Elections-provided templates from SharePoint or create your own to notify the voter.

VERIS

VERIS reports are used for processing ballots for applications previously entered. Reports can be scheduled one time, daily, weekly, or monthly.

- Daily Absentee Ballots List
- Certificate of Mailing
- Absentee Ballot Mailing Labels
- Generated Ongoing Ballots List

If a voter has applied in-person for a ballot but would like the ballot to be mailed, be certain “MAIL” is selected in the “Ballot Sent By” field in VERIS.

¹⁹⁴ See the Code of Virginia §24.2-612.

7.7.7.2 Assembling Ballots

Assemble as follows for each ballot to be mailed on the Certificate of Mailing (COM):

- Obtain *Instructions for Voting an Absentee Ballot* for ballot type (ELECT-706-4).
- Seal the ballot set in the *Ballot Within Envelope A* (ELECT-706-1).
- Use *Envelope B - Statement of Voter* - for which there are two versions:
 - UOCAVA (for UOCAVA voters only).¹⁹⁵
 - Statement of Voter (for all voters other than UOCAVA). (ELECT-706-2)
- Self-address a return envelope with the VERIS generated return label.
- Use the left-hand label printed from VERIS for the “Return Envelope.”
- Insert the “Return Envelope” and all the above materials into the “Mailing Envelope.”
- Affix the right-hand label to the “Mailing Envelope” and seal.
- Use postage free “Mailing Envelope” for UOCAVA ballots.

7.7.7.3 Special Forms that may also be Included

- *Request for Assistance Form* if needed (ELECT-649(AB))
- *HAVA ID Form* if needed (ELECT-HAVA-1)
- FPCA if needed¹⁹⁶

7.7.7.4 Certificate of Mailing

- Print labels first
- Printing labels generates the “Certificate of Mailing”

7.7.7.5 Order for Printing Labels and Certificate of Mailing

- Ballot Style – Full or Federal Only
- Congressional District
- Senate District
- House District
- Voting Precinct
- Alpha Order

Postage free ballots are listed after the “Certificate of Mailing” labels and are repeated in the same order.

Mail the absentee ballots using the “Certificate of Mailing.” The Certificate provides the proof that the ballots were mailed and the address to which they were mailed. The number of ballots mailed must equal the number of names on the “Certificate of Mailing.” Make corrections and adjustments to the totals on the “Certificate of Mailing” accordingly.

Deliver the ballots and the “Certificate of Mailing” to the Post Office. USPS will stamp the “Certificate of Mailing” as proof that the ballots were mailed.

¹⁹⁵ See [52 USC §20302\(b\)](#).

¹⁹⁶ See the Code of Virginia §24.2-706(5).



NOTE — the Code of Virginia authorizes expedited mailing of ballots through commercial carriers other than USPS and authorizes use of alternative forms of evidence of mailing that may be less costly such as intelligent mail bar coding. Work with your local administration and USPS on economies that may be available to lower absentee mailing costs.¹⁹⁷

7.7.8 Emailing or Faxing the Ballots

The general registrar is required to send the blank ballot, the form for the envelope for returning the marked ballot and instructions to the voter by these electronic procedures if the UOCAVA applicant so requests.¹⁹⁸

7.7.8.1 Procedures

- Only UOCAVA voters may request ballots emailed or faxed.¹⁹⁹
- Absent military voters within Virginia who will be absent from the locality of voting residence on Election Day are also eligible for ballots by email or fax.²⁰⁰
- Proof your daily email/fax ballot applications against the “Daily Absentee Applicants” or “Daily Absentee Ballots” list.
- If practical, arrange for a time that the voter will be at the fax machine to receive his/her faxed ballot.
- If arranging for a time to send the ballot by fax is a problem, you can inform the voter that emailing the ballot is also an option.

7.7.8.2 E-mailed or Faxed Ballot Assembly

Include the following with each e-mailed or faxed ballot:

- VotingInstructions.pdf
- BallotWithin.pdf = Envelope A
- ABEnvelope.pdf = Envelope B
- ReturnEnvelopeTemplate.pdf = Outside Return Envelope
- FPCA, if needed²⁰¹

¹⁹⁷ See the Code of Virginia §24.2-706.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ See the Code of Virginia §24.2-706(5).



7.8 VOTING ABSENTEE IN-PERSON

7.8.1 In General

All other rules for voting at a polling place apply to In-Person Absentee Voting at the general registrar's office, including voter identification with the voter allowed until Friday noon following the election to provide a copy of acceptable identification to the electoral board.²⁰²

- Voters may not be accompanied by anyone other than an authorized assistant or his/her child age 15 or younger;
- No political activity is permitted within 40 feet of the entrance of the polling place structure.²⁰³

Absentee voters may need to be offered a provisional ballot; *e.g.*, the voter does not have ID or is not listed in VERIS and claims to have registered at the DMV.²⁰⁴

Virginia law prohibits persons registering to vote in person from also voting absentee in person at the same time; "an application that is completed in person at the same time that the applicant registers to vote [must] be held and processed no sooner than the fifth day after the date that the applicant registered to vote."²⁰⁵



EXCEPTION: This five-day waiting period does not apply to "covered" military and overseas voters voting absentee under §24.2-700(2).²⁰⁶

7.8.2 Completing the Absentee Application for Voting In-Person

During the 2018 Legislative Session, the General Assembly removed the requirement for in-person absentee voters to include the last four digits of their social on the application.

Have the voter complete the *In-Person Virginia Absentee Ballot Application*. Provide assistance if necessary. Each application must contain the following:

- "The applicant's printed name, and the reason the applicant will be absent or cannot vote at his polling place on [election day];"²⁰⁷
- No mailing address is needed
- Voter needs assistance. If checked, indicate that in VERIS and be sure to give the voter a *Request for Assistance in Voting an Absentee Ballot* form (ELECT-649 AB)
- Applicant's signature, a date and residence address

²⁰² See Chapter 13 Provisional Ballots.

²⁰³ See Chapter 3 Precinct or Polling Place Requirements and Procedures (discussing polling places).

²⁰⁴ See Chapter 13 Provisional Ballots (discussing provisional voting).

²⁰⁵ See the Code of Virginia §24.2-701.

²⁰⁶ See the Code of Virginia §24.2-452.

²⁰⁷ See the Code of Virginia §24.2-701.



7.8.2.1 Procedures

In-Person absentee voting may begin as soon as ballots are available.²⁰⁸ The deadline to vote in person is close of business on the Saturday before the election.²⁰⁹ Any eligible applicant may vote at the time of application, so long as ballots are ready.²¹⁰ The voter may choose to have ballot mailed, if mail application deadline has not passed.²¹¹ If the voter's address has changed, refer to Change of Address Section for examples.

Take the following steps for in-person absentee voting:

- Check the application for completeness.
- Ask the voter for *one* form of acceptable *photo* identification before the voter is allowed to vote. ID is for identifying the voter only.²¹²
- Look up voter in VERIS to determine if the applicant is registered in your locality and at the address provided on the application.²¹³
- Compare the information on the application with the data recorded in VERIS.²¹⁴
- Check for Military, Overseas, Verify ID, Vote in Person flags.
- Check Absentee History for any absentee application already on file.
- If there is no current absentee application on file, enter the absentee information and process the application.
 - Refer to VERIS Step-by-Steps for detailed processing instructions.
- If there is an application on file, see sections dealing with Voter Listed as Absentee, military and overseas voters.
- Complete the "Office Use Only" block.
- Complete the In-Person information for "On Machine" or "Marked" in VERIS.
- If marked to request assistance, be sure to check the "Assistance Requested" box in VERIS.
- The voter is now ready to use the voting equipment or a paper ballot. See next two sections for details.

7.8.3 Voting Machines Used for Absentee Voting

- Follow the proper control procedures established for the equipment used in your locality.
- Provide the voter with a private place to vote.
- Instruct the voter on how to use the voting machine.
- Be sure to enter the ballot in VERIS as follows:
 - Ballot issued = "In Person"
 - Ballot received = "In Person"
 - Ballot status = "On Machine"

²⁰⁸ See the Code of Virginia §24.2-706.

²⁰⁹ See the Code of Virginia §§24.2-705.1 and 24.2-705.2.

²¹⁰ See the Code of Virginia §24.2-706.

²¹¹ See the Code of Virginia §24.2-419.

²¹² See the Code of Virginia §24.2-706; see also Chapter 17 Provisional Ballots for acceptable ID changes and provisional voting for lack of acceptable ID and other reasons.

²¹³ See Late Voter Registration (describing eligibility for late registration).

²¹⁴ See Change of Address (describing procedures when information is inconsistent).



7.8.4 Absentee Ballots not fed into a Counter by the Voter

- Provide the voter with a private place to vote.
- Issue a ballot packet to include:
 - The absentee ballot for the voter's district sealed in Envelope A
 - Voting instructions
 - Envelope B
 - Outside return envelope
 - Ballot marking device (pen, pencil or special tool as needed; never use a highlighter)
- When voting is finished, witness the voter's signature on the back of the completed Envelope B. Sign that you have witnessed. Place the marked ballot envelope inside an envelope addressed to the Electoral Board and deposit the ballot into a locked container.
- Be sure to enter the ballot issued as "In Person," the ballot received by method as "In Person," and the ballot status as "Marked" in VERIS.

7.8.5 Voter Listed as an Absentee Voter Comes to Vote in Person

7.8.5.1 In General

A voter who has already been issued an absentee ballot might come to the general registrar's office before Election Day, or to the Central Absentee Precinct (CAP) or regular precinct polling place on Election Day. The action to take depends on the "Ballot Status" in VERIS and whether the voter has the absentee ballot in hand. The following can occur:

- Voter comes in with ballot already voted.
- Voter comes in with blank ballot.
- Voter comes in with or without a defaced ballot.
- Voter comes in without the ballot because it has been lost, defaced or not received.

To void a ballot, a general registrar or officer of election should mark the ballot as spoiled. Record the name, voter ID and precinct for all voided ballots on the *Statement of Results* or on a separate sheet to be attached to the *SOR*.

"What If" **problem 19** addresses the absentee voter who appears on Election Day at the CAP or regular polling place.

- If the absentee voter surrenders a damaged ballot to the officer of election, the voter can vote normally.²¹⁵
- If the absentee voter brings a voted ballot, he may ask the officer to void his absentee ballot and vote normally.²¹⁶
- If the absentee voter has no ballot, he may cast a provisional ballot, unless the officer of election, general registrar or electoral board member can confirm return of the ballot unused or defaced before Election Day.²¹⁷

²¹⁵ See the Code of Virginia §24.2-708.

²¹⁶ *Id.*

²¹⁷ *Id.*



- If an absentee voter abandons his ballot at the polling place with no communication with an officer of election, the ballot should be rejected so that voter can be sent a notice.²¹⁸ This action can be noted on the SOR.

7.8.5.2 The Process in the Office Before Election Day

- Voter brings a voted ballot to the office before Election Day:
 - Follow your office procedures for receiving voted ballots.
- Voter brings the unmarked and/or defaced ballot:
 - **Option A:** If unmarked, encourage voter to vote the ballot he/she has in hand. Offer to be the witness.
 - **Option B:** If the voter requests to vote on the machine proceed to the following:
 - Confirm ballot belongs to voter.
 - Look up the voter in VERIS.
 - Ballot status should be “Issued” for the current election.
 - Write VOID across the ballot envelope and place in Envelope 4.
 - Have the voter complete a new *AB Application*.
 - Process the *AB Application* as “new” in VERIS for an in-person/on machine voter.
 - Add a comment in the “Status Change Reason” box that the voter returned the paper ballot “Unmarked.”
 - Voter may now proceed to vote normally on equipment.
- ⓘ Keep in mind that a ballot initially issued by mail in VERIS would be superseded by a ballot later issued in person/on machine.
- Voter does not bring the ballot (ballot was lost, not received or defaced)
 - Look up the voter in VERIS.
 - Ballot status should be “Issued” for the current election.
- If the ballot status is “Marked” or “On Machine,” the voter has already voted and cannot be reissued a second ballot.
- If the voter insists he/she has not voted, a provisional ballot should be offered.
 - If Ballot status is “Issued,” have the voter complete a new *AB Application* (ELECT- 701) along with the *Statement of Voter* form (*Gold Form*, ELECT-708). Both forms are advised.
 - Attach the *Gold Form* to the *AB Application*.
 - Process the application as “new” in VERIS for an in-person/on machine voter.
- Add a comment in the “Status Change Reason” box that the voter’s ballot was not received, was lost or was defaced and *Gold Form* was signed.
 - Voter may now proceed to vote normally.
- ⓘ Keep in mind that a ballot initially issued by mail in VERIS would be superseded by a ballot later issued in person/on machine.

²¹⁸ See the Code of Virginia §24.2-709.



7.9 CHANGE OF ADDRESS ISSUES FOR IN-PERSON VOTERS

7.9.1 In General

The action to be taken depends upon whether the books are open or closed. After the books close, the date voter moved is key in determining whether the voter is qualified to vote in the election in which he/she offers to vote.

- “A person who is qualified to vote except for having moved his residence from one precinct to another within the Commonwealth may vote in the precinct from which he has moved [...] unless his registration has been transferred or cancelled as provided in” the Code of Virginia Chapter 4.²¹⁹
- “A person may continue to vote in the precinct from which he has moved [for a limited period of time], provided that:
 - He has moved his residence from one precinct to another in the same registrar’s jurisdiction and the same congressional district;
 - He has failed to respond to the notice provided [...];
 - His registration has not been transferred or cancelled [...];
 - He has affirmed [...] his new address before an officer of election.”²²⁰

7.9.2 The Voter has Moved to a New Address within Your Locality

7.9.2.1 Application Received before the Books Close

- Change address in VERIS and process the *AB Application* using the voter’s new address.

7.9.2.2 Application Received after the Books Close

- Do not change address in VERIS.
- If the voter meets the moving conditions, process the *AB Application* using the old address.²²¹
 - Keep a copy of the *AB Application* to make address change after the election.
- If the voter does not meet the moving conditions, the *AB Application* must be denied for the current election.
 - Voter may not vote in person.
 - Enter the denial in VERIS and state the reason.
 - Keep a copy of the *AB Application* to make address change after the election.
- If voter is not eligible to vote at the old address and the voter says he has changed address by mail or at DMV, a provisional ballot may be offered.

7.9.3 The Voter has Moved to a New Address Within Your Locality but is Registered in Another Virginia Locality

7.9.3.1 Before the Books Close

- Voter should complete the name and address portions of the *Virginia Voter Registration Application* for his/her new address or otherwise provide the relevant address change information.
- Process the voter registration in VERIS as a new registrant.
- Process the *AB Application* in VERIS using the new address.

The voter is now ready to use the voting equipment.

²¹⁹ See the Code of Virginia §24.2-401.

²²⁰ *Id.*

²²¹ See the Code of Virginia §24.2-401 (describing the moving conditions).



7.9.3.2 After the Books Close

- If eligible to vote in old locality under §24.2-401, offer the voter the option of going there to vote absentee.
- Have the voter complete a *Virginia Voter Registration Application* before he/she leaves your office to be processed after the election, or offer another means for the voter to change her address.
- If voter is not eligible to vote at the old locality and the voter says he/she has changed address by mail or at DMV, a provisional ballot may be offered.

7.9.4 The Voter has Moved to a New Address in Another State

- The *AB Application* should be denied and his/her voter registration cancelled.
- The signed *AB Application* is your authorization to cancel the voter.



Exception for Presidential elections only: “A person who is qualified to vote except for having moved his residence from the Commonwealth after the [30th] day preceding a presidential election may vote in the precinct from which he has moved only in that election and only for [the offices of President and Vice President].”²²²

- After the election, the voter’s registration must be cancelled in VERIS.
- Keep a copy of the *AB Application* as your authorization for the cancellation.

7.9.5 The Voter has Moved to your Locality, but VERIS Flags a Warning that the Voter has been Issued a Ballot from his old Locality

7.9.5.1 Application Received Before the Books Closed

- Begin processing the transfer.
- Warning message will appear in VERIS depending on “Ballot Status.”
- **Status = Marked**
 - Warning message will read “Warning: Active Absentee application in _____ County/City will be cancelled.”
 - Update the voter’s registration.
 - VERIS will automatically cancel/void any ballot in the old locality after the transfer is complete (the ballot cannot be counted in the old locality).
 - Process the *AB Application* to allow voter to vote in-person.
- **Status = On Machine**
 - Warning message will read “Warning: Voted ballot in _____ County/City.”
 - Voter cannot vote normally in new locality because ballot has already been cast. However, if the voter denies having voted, then a provisional ballot must be offered.
 - The *AB Application* and the ballot from the old locality will remain unchanged as this voter has already cast his/her ballot.
 - *Do not* process the new *AB Application* in VERIS.
 - Voter should complete a new *Virginia Voter Registration Application* to be processed after the election or provide another method of address change.

7.9.5.2 Application to Vote In-Person Received After the Books Close from Applicant not Eligible for Late Registration

Voter cannot vote in new locality because registration has closed until after the election. Advise voter he may return to vote in old locality if eligible under moved voter rules or provisionally. If voter insists eligible in new locality, offer a provisional ballot.

²²² See the Code of Virginia §24.2-402.



PART TWO: UNIFORMED, OVERSEAS CITIZEN VOTERS

7.10 VOTERS FLAGGED IN VERIS – UOCAVA

7.10.1 In General

A UOCAVA flag is added to a voter's registration in VERIS in the following circumstances:

- A *Virginia Voter Registration Application* (VA-NVRA-1) is entered with a military or overseas mailing address and the UOCAVA flag is checked.
- A *Federal Post Card Application* (FPCA) is entered for registration and/or absentee ballot request.
- A *Federal Write In Absentee Ballot* (FWAB) is entered for registration and/or absentee application and voted ballot.
- A *Virginia Absentee Ballot Application* (ELECT-701) is entered as an absentee ballot request using a reason code of 6A – 6D.

A UOCAVA flag does not automatically mean an active ongoing absentee record is on file:

- If the FPCA or FWAB has expired and the voter has not updated his registration, the UOCAVA flag still shows.
- If an ELECT-701 AB Application is used, with a reason code of 6A – 6D, the UOCAVA flag is not automatically deleted after the election, even though the application is a one-time use only.

The UOCAVA flag is not automatically removed.

7.10.2 UOCAVA Voter Comes to Vote Absentee in Person before Books Close

7.10.2.1 UOCAVA, Federal Only Flags – Ballot not Issued

The voter should be asked “Have you returned to the U.S. permanently or separated from the Military?”

- If “yes,” do the following:
 - Have voter complete a new *Virginia Voter Registration Application* to update address or provide another means for the voter to update her address.
 - Update the voter's record in VERIS.
 - Be certain to remove the UOCAVA flag.
 - Have voter complete an *AB Application* (ELECT-701) for the current election.
 - Allow the voter to vote routinely.
- If “no,” do the following:
 - Have voter complete an *AB Application* (ELECT-701) for the current election.
 - Have voter complete a new FPCA for future elections.
 - Voter may now proceed to vote routinely.

7.10.2.2 Military, Overseas, Federal Only Flags – Ballot Issued

The voter should be asked “Have you returned to the U.S. permanently or separated from the Military?”

- If “yes” and the voter did *not* receive the ballot, do the following:



- Have the voter complete a new *Virginia Voter Registration* application to confirm address and other information provide another means for the voter to update her address.
- Be certain to remove the UOCAVA flag.
- Have voter complete an *AB Application* (ELECT-701) along with the *Statement of Voter (Gold Form)* for the current election.
- Attach the *Gold Form* to the *AB Application*.
- Update voter's registration in VERIS.
- Process the *AB Application* as "new" in VERIS for an in-person/on machine voter.
 - Add a comment in the "Status Change Reason" box that the voter's ballot was not received or was lost and *Gold Form* was signed.
- Voter may now proceed to vote routinely.
- ① Keep in mind that a ballot initially issued by mail in VERIS will be superseded by a ballot later issued in person/on machine.
- If "yes" and the voter has the ballot in hand, do the following:
 - **Option A:** If voter's residence address has *not* changed
 - Encourage voter to vote the ballot he/she has in hand. Offer to be the witness.
 - Have the voter complete a new *Virginia Voter Registration Application* (VA-NVRA-1) to confirm address and other information.
 - Be certain to remove the UOCAVA flag after the election.
 - **Option B:** If voter's residence *has* changed
 - Have the voter complete a new *Virginia Voter Registration* (VA-NVRA-1) application to update address and other information or provide another means for the voter to update her address.
 - Be certain to remove the UOCAVA flag.
 - Update the voter's registration in VERIS.
 - Confirm that the voter's voting districts are the same.
 - If they are the same
 - The voter may vote the ballot in hand.
 - If they are *not* the same
 - Write "VOID" across the ballot envelope and place in Envelope 4.
 - Have the voter complete a new *AB Application*.
 - Process the *AB Application* as "New" in VERIS for an in-person/on machine voter.
 - Add a comment in the "Status Change Reason" box that the voter returned paper ballot "Unmarked" and has a new residence.
 - **Option C:** If the voter requests to vote on the machine and the voter's residence has *not* changed
 - Confirm ballot belongs to voter.
 - Inquire the voter in VERIS.
 - Ballot status should be "Issued" for the current election.
 - Write "VOID" across the ballot envelope and place in Envelope 4.
 - Have the voter complete a new *AB Application* to confirm address and other information.



- Process the *AB Application* as “New” in VERIS for an in-person/on machine voter.
 - Add a comment in the “Status Change Reason” box that the voter returned paper ballot unmarked.
- Voter may now proceed to vote routinely.
- ❗ Keep in mind that a ballot initially issued by mail in VERIS will be superseded by a ballot later issued in person/on machine.
- If “no”
 - Choose the scenario best suited to the voter from the previous section above for the applicable action to be taken noting the following:
 - Do *not* update voter’s registration prior to voting.
 - No *Virginia Voter Registration Application* is needed.
 - Have the voter complete a new FPCA to request absentee ballots for future elections.
 - Process this FPCA *after* the election.

7.10.3 UOCAVA Voter Comes to Vote Absentee in Person after Books Close

For the applicable actions, determine which scenario is best suited to the voter from UOCAVA Voter Comes to Vote Absentee in Person before Books Close (§7.8.2) above. Follow those procedures while noting the following:

- Do not update voter’s registration until after the election unless eligible for late registration.
- A Federal Only voter is not eligible to vote in a Non-Federal election unless returning permanently and voter qualifies for late registration.
- Moving conditions apply to any voter that has changed *permanent* residence and not eligible for late registration.²²³
 - Apply moving conditions beginning with the day the voter returned to the U.S.
- Moving conditions may not apply in the following circumstances:
 - The voter has returned to the U.S. for a short term assignment.
 - The voter is in temporary housing waiting to move into his/her new permanent residence. The moving conditions will not begin until the voter has acquired the new permanent residence.

7.11 UOCAVA VOTERS’ LATE VOTER REGISTRATION (AFTER BOOKS CLOSE)

7.11.1 Eligibility

- “Any member of a uniformed service of the United States, as defined in §24.2-452, who is on active duty;”²²⁴
- “Any person who resides temporarily outside of the United States;”²²⁵
- “Any spouse or dependent residing with a person listed [above].”²²⁶
 - These individuals may apply by mail²²⁷ or in-person.

²²³ See the Code of Virginia §24.2-420.1.

²²⁴ See the Code of Virginia §§24.2-419 and 24.2-201.

²²⁵ *Id.*

²²⁶ *Id.*



- Registration on the FPCA also serves as an absentee ballot application.²²⁸
- “Any person who was on active duty as a member of a uniformed service [...] and discharged from the uniformed service during the sixty days immediately preceding the election, and his spouse or dependent.”²²⁹
 - These individuals must apply in person to register late.
- Persons who, by reason of active duty or temporary overseas residence who are “normally absent from the city or county in which they reside or [...] have been absent from such city or county and returned to reside there during the twenty-eight days [...] preceding the election.”²³⁰
 - These individuals must apply in person to register late.

7.11.2 Date of Registration

Persons eligible for late voter registration may “be entitled to register in person up to and including the day of the election.”²³¹ They must be given a date of registration equal to the final day of registration.

²²⁷ See the Code of Virginia §§24.2-419 and 24.2-201.

²²⁸ See the Code of Virginia §24.2-419.

²²⁹ See the Code of Virginia §24.2-420.1.

²³⁰ *Id.*

²³¹ *Id.*



PART THREE: ELECTION DAY

7.12 VOTER NEEDS ASSISTANCE AT CENTRAL ABSENTEE PRECINCT

For any voter who needs assistance with using the voting equipment or reading or understanding the ballot and/or voting procedures take the following steps:

- The voter and assistant must complete the *Request for Assistance* form (ELECT-649 (AB)).
- Follow the instructions on the form carefully.
- The voter may request assistance because of a physical disability or inability to read or write. “If [the voter] is unable to read and write or disabled for any cause other than blindness, [he or she] may designate an officer of election or some other person to assist [...] other than the voter’s employer or agent of that employer, or officer [...] of the voter’s union.”²³²
- A blind voter may “designate an officer of election or any other person to assist him.”²³³
- “In any precinct in which an electronic voting machine is available that provides an audio ballot, the officers of election shall notify a voter requiring assistance [...] that such machine is available for him [or her] to use to vote in privacy without assistance.”²³⁴ However, the voter is not required to use this equipment.
- **Blind or sight-impaired voters do not have to sign the assistance form;** blind voter’s assistant must sign.²³⁵
- ““Neutral observers” or “authorized representatives” from the party/candidate at the polling place “**shall not be allowed** in any case to provide assistance to any voter [...] or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.”²³⁶
- If a voter requests that her ballot be translated and has not designated an individual to assist her take the following steps:
 - “An officer of election, before he assists as interpreter, [must] inquire of the representatives authorized to be present [...] whether they have a volunteer available who can interpret for the voter.”²³⁷
 - However, authorized representatives or volunteer interpreters often will not be present at absentee voting locations.
 - If available, only one interpreter from each party shall be allowed to listen to interpretation by the Officer of Election.²³⁸
 - “The voter may designate one of the volunteer party or candidate interpreters to provide assistance.”²³⁹
 - Whoever assists must be qualified to assist and must complete the necessary parts of *Request for Assistance* form.

²³² See the Code of Virginia §24.2-649(B).

²³³ *Id.*

²³⁴ See the Code of Virginia §24.2-649(E).

²³⁵ See the Code of Virginia §24.2-649(B).

²³⁶ See the Code of Virginia §§24.2-604(C),(I).

²³⁷ See the Code of Virginia §24.2-649(C).

²³⁸ *Id.*

²³⁹ *Id.*



- If voter denies assistance, he/she must cancel the request on the *Request for Assistance* form.

7.13 CURBSIDE VOTING ON ELECTION DAY

Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place” so long as he or she is otherwise qualified to vote absentee for reasons listed in §24.2-700.²⁴⁰

- Make the process simple for the voter; avoid making multiple trips from the office to the car if possible.
- Make sure the voter resides in your locality.
- All change of address and other eligibility requirements apply to the voter.

7.13.1 Voting on Paper

7.13.1.1 *The Packet*

- Prepare curbside voting materials in advance. The curbside voting packet should include:
 - *In-Person Virginia Absentee Ballot Application*;
 - The absentee ballot for the voter’s district sealed in Envelope A (Keep the ballots in Envelope A in a secure place until needed for the OP voter then join the ballot with the OP packet);
 - Voting instructions;
 - Envelope B;
 - Outside return envelope;
 - Ballot marking device (pen, pencil or special tool as needed; never use a highlighter);
 - Clipboard;
 - *Request for Assistance* form;
 - *Provisional ballot materials* (Envelopes, Notice to Voter, Officer of Election Instructions);²⁴¹
 - “I Voted” sticker.

7.13.1.2 *The Process*

- Perform a voter/absentee search in VERIS before going to the car if you have the voter’s information and write it on a piece of paper.
- Have the voter complete the *Virginia Absentee Application* (ELECT-701).
- Verify his/her identification. If no acceptable photo identification, voter can only vote provisionally.²⁴²
- Compare the information provided by the voter on the application with the information you have from VERIS. Be certain to check for any change of address.

²⁴⁰ See the Code of Virginia §24.2-649(A).

²⁴¹ See Chapter 13 Provisional Ballots.

²⁴² See Chapter 13 Provisional Ballots for details.



- If the voter is not eligible to vote, withhold the ballot and explain why he/she cannot vote.
- Ask the voter to complete a new *Virginia Voter Registration Application* (VA-NVRA-1), if necessary, or use a copy of the *AB Application* (ELECT-701) for a change of address.
- It may be appropriate to offer the voter a provisional ballot; *e.g.*, the voter's record is marked "Verify ID" in VERIS and the voter does not have the acceptable photo ID, or the voter is not listed in VERIS and voter says he/she registered at the DMV.²⁴³
- Once you have determined that the voter is eligible to vote in a locality and the application is completed, give the voter his/her ballot.
- Complete the *Request for Assistance* form, if needed, both voter and assistant sections.
- Allow "the voter [to] mark the printed ballot in [your] presence but in a secret manner and, obscuring his [or her] vote," insert the ballot into Envelope B.²⁴⁴
- Assist the voter as needed.
- The person accompanying the ballot to the curb may be the assistant and the witness.
- Be sure that the voter signs and completes, and the witness signs, the *Statement of Voter* on Envelope B.
- Have the voter insert Envelope B into the return envelope.
- Give the voter his/her "I Voted" sticker.
- Return to the office immediately.
- Enter and approve the application in VERIS. This action adds the voter to the "Final Absentee Report" by VERIS.
- Mark the voter in VERIS as follows:
 - Ballot Status "Marked"
 - Ballot status reason is "Voted in Person – OP"
- Make a note in the "Approval Box" that the voter voted outside the poll.
- Complete the "Office Use Only" box at the top of the application.
- If you are keeping a pollbook for the Central Absentee Precinct, add the voter's name to the pollbook and mark "OP" beside his/her name.
- Deposit the ballot in a secure place.

²⁴³ See Chapter 13 Provisional Ballots (discussing provisional voting).

²⁴⁴ See the Code of Virginia §24.2-649(A).



Best Practice

Obtain the voter's information from the voter by phone or from the person accompanying the voter to the absentee precinct.

Write down the voter's full name, address and SSN as it appears in VERIS. Compare that information to the application that the voter completes in the car.

If the voter's driver comes into the absentee precinct with the application completed, use that information to look up and verify the voter's information. Wait until you return to the office to enter the voter into VERIS. If the voter has moved, he/she may not be eligible to vote.

- If the voter is registered, send a new application to the voter with the letter generated by VERIS requesting the missing information. If the voter has provided a fax number or email, save time by faxing or emailing the letter and a new application.

If the voter is not registered, use one of the Department of Elections-provided templates or create your own to notify the voter.



PART FOUR: PROCESSING ABSENTEE BALLOTS

7.14 RECEIPT OF MAILED VOTED BALLOTS

7.14.1 In General

Voted absentee ballots may only be returned by mail or in person by the voter or a commercial delivery service.²⁴⁵

- Voted absentee ballots may not be returned by “a personal courier service or another individual except as provided by §§24.2-703.2 and 24.2-705.”²⁴⁶
- No other person may deliver an absentee ballot on behalf of the voter with the exception of hospitalized/incapacitated emergency applicant or disabled, ill or pregnant voter using a designated representative.²⁴⁷
- Voted ballots must be returned to the general registrar before the closing of the polls on Election Day.²⁴⁸ Any ballot found abandoned at the polling place must be rejected.

7.14.2 Receipt of the Ballot – Marked or Unmarked

- Complete the office 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.
 - A ballot returned in Envelope A is *unused* with a ballot status of “Unmarked.”
 - A ballot returned in Envelope B is *used* with a ballot status of “Marked” even if there are no marks on the ballot.
 - A ballot returned as “UNDELIVERABLE” is *unused* with a ballot status of “Unmarked.”
- ❗ **Do not open Envelope B (Marked Ballot). Do not separate.** Keep ballot contents with outer return envelope.
- Perform an “Absentee Search” in VERIS and update the record by entering the date the ballot was received.
 - Enter the “Ballot Received by Method” and the “Ballot Status” to indicate whether the ballot was returned “Marked” or “Unmarked.”
 - Record undeliverable ballots as “Unmarked” with a comment noting “Undeliverable” in the ballot status reason box.
- Secure the ballots in an appropriate locked container or secured location.
- The “*Daily Absentee Ballots List*” will include all applicants whose records are updated with returned ballots.
 - Proof the report to assure all records are properly updated.

²⁴⁵ See the Code of Virginia §24.2-707.

²⁴⁶ *Id.*

²⁴⁷ See the Code of Virginia §§24.2-703.2 and 24.2-705.

²⁴⁸ See the Code of Virginia §24.2-709.





“A voter who has returned his unused ballot before the day of the election [is] entitled to vote a regular ballot in person on election day at his proper polling place or at a central absentee voter precinct.”²⁴⁹

7.14.3 UOCAVA Voters with Ongoing Ballots

- If a ballot is returned as “UNDELIVERABLE,” no other ballots shall be sent under that application.
- *Do not* expire the application until after the election is over because this action would cancel the ballot line and remove the voter from the “Final Absentee Report.” The report should reflect the return of the “Unmarked/Undeliverable” ballot.



Best Practice

If a UOCAVA voter returns a ballot as unused in *Envelope A* and his ongoing AB application has not expired, ELECT recommends you to contact the voter to see if he will continue to need ballots for the remainder of the ongoing application. It could be that the voter has returned the ballot unused because he chose not to vote in that particular election or maybe he has returned from overseas or military duty and no longer requires absentee ballots.

7.15 ISSUING REPLACEMENT BALLOTS

7.15.1 Ballot not Received or Lost (Statement of Voter Form (ELECT-708))

7.15.1.1 In General

- “If for any reason a person who has applied for and has been sent an absentee ballot does not receive the ballot or loses the ballot, he [is] entitled to cast another ballot.”²⁵⁰
- The voter must complete the *Statement of Voter* form (ELECT-708).²⁵¹
- The *Statement of Voter* can be completed and signed in-person, by mail, email attachment or fax. If time is short for sending the *Statement of Voter*, it may be included with the replacement ballot.
- If a replacement ballot is mailed with the *Statement of Voter* included, omission of that document may be material if the omission prevents determining eligibility;²⁵² provisional treatment may be needed if it cannot be determined whether the voter has already voted.²⁵³

7.15.1.2 The Process

- The voter must attest to the following information on the *Statement of Voter* form:²⁵⁴
 - Full legal name.

²⁴⁹ See the Code of Virginia §24.2-708.

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² See the Virginia Administrative Code [1VAC20-70-20](#).

²⁵³ See the Code of Virginia §24.2-651.1.

²⁵⁴ See [ELECT-708](#).



- A choice of ballot not received or ballot lost or defaced.
- City or county of residence.
- Current legal residence address.
- Date of birth, if not yet 18 years of age.
- Social Security number (last four (4) digits required unless voting in-person).
- The voter *must* sign the form or request assistance.
- Fill in the date signed.
- The Absentee Precinct staff must take the following steps:
 - Enter the precinct name and code.
 - Reissue the ballot in the manner requested by the voter.

**Best Practice**

Check the form for complete information and signature. Check the voter's absentee record in VERIS to be sure a ballot has not been returned before reissuing a ballot. Send the replacement ballot by the voter's chosen method; in person, by mail or by email or fax, if qualified. Follow VERIS Step-by-Step instructions for data entry. Attach the *Statement of Voter* to the *AB Application*.

7.15.2 Ballot not received or Lost by Disabled, Ill, or Pregnant Voter Designated Representative (Statement of Disabled, Ill, or Pregnant Voter Form (ELECT-703.2(I)))

7.15.2.1 In General

- An absentee voter who is disabled, ill or pregnant may request a replacement ballot and designate a representative to obtain the replacement ballot on his/her behalf using the *Statement of Disabled, Ill or Pregnant Voter* form (ELECT-703.2(1)).²⁵⁵
- If time allows for the routine replacement ballot process using the *Gold Form*, designating a representative may not be necessary.

7.15.2.2 Conditions for Using

"A voter seeking to cast an absentee ballot may obtain a replacement absentee ballot subject to the following conditions:

- The voter applied for an absentee ballot under subdivision 4 of §24.2-700 because of a disability or illness [2A or 2C];
- The application was approved and an absentee ballot mailed to the voter.
- The voter did not receive or has lost the absentee ballot on or before the Saturday before the election."²⁵⁶

7.15.2.3 Deadlines

- "The voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day."²⁵⁷
- The voter must "designate, in writing, a representative to obtain a replacement absentee ballot on his behalf [...] and to return the [...] ballot [...] no later than the close of polls on the day of election for which the absentee ballot is valid."²⁵⁸

²⁵⁵ See the Code of Virginia §24.2-703.2..

²⁵⁶ *Id.*

²⁵⁷ See the Code of Virginia §24.2-703.2..

²⁵⁸ *Id.*



7.15.2.4 *The Process*

- “The voter may request a replacement absentee ballot by the close of business for the local elections office on the Saturday before election day.”²⁵⁹
 - The voter must then designate a representative to obtain the replacement absentee ballot on his/her behalf.²⁶⁰
 - “The representative [must] be age eighteen or older and [must] not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.”²⁶¹
 - The voter and representative, if assistance is required, must complete the *Statement of Disabled, Ill or Pregnant Voter* form and sign to the following information:²⁶²
 - That the voter did not receive or has lost the requested ballot.²⁶³
 - That the voter is a citizen of the U.S. and is registered and qualified to vote in the city or county.
 - That the voter is a resident or qualified to vote under the allowable moving conditions.²⁶⁴
 - That the designated representative meets the age and other qualifications noted above.
 - The representative will receive the *Statement of Designated Representative* form (ELECT-703.2(2)) with the ballot that he/she must complete and sign stating that the instructions for the representative were followed.
 - If the voter needs assistance in marking his/her ballot, a *Request for Assistance* form (ELECT-649(AB)) will also be given to the representative with the ballot.
 - The voter and the representative must complete the *Request for Assistance* form.
 - The representative must return the properly completed ballot “no later than the close of polls on the day of election for which the absentee ballot is valid” along with the *Statement of Designated Representative* form and *Request for Assistance* form, if used.²⁶⁵
- ① Statements on the *Statement of Designated Representative* form and *Request for Assistance* form are subject to felony penalties for making false statements.²⁶⁶

²⁵⁹ *Id.*²⁶⁰ *Id.*²⁶¹ *Id.*²⁶² *Id.*²⁶³ *Id.*²⁶⁴ See the Code of Virginia §24.2-401.²⁶⁵ See the Code of Virginia §24.2-703.2.²⁶⁶ See the Code of Virginia §24.2-1016.

7.16 PROCESSING BALLOTS BEFORE ELECTION DAY – EXPEDITED PROCEDURES

7.16.1 In General

The general registrar is responsible for determining what preprocessing of absentee ballots is needed before election day. Preprocessing extends to mailed ballots that are not optically scanned such as FWABs and ballots sent by email.²⁶⁷ 2015 legislation effectively reassigns most absentee administration duties to the general registrar, subject to general supervisory oversight of the electoral board.²⁶⁸



Law Note

SB 960 (2017) codified the practice of **expedited counting** of absentee ballots returned by mail prior to election day, providing that **if** a general registrar has **opted to expedite** the counting of absentee ballots returned by mail by opening the sealed ballot envelopes, the requirement that the absentee ballot returned envelope and unopened ballot envelope be deposited into an appropriate container **does not apply**.

7.16.2 Steps Authorized

- Examine the Statement of Voter on Envelope B and note its completion.²⁶⁹
- Mark the pollbook or the absentee applicant list that the voter has voted.²⁷⁰
 - Selecting the status of “Marked” in VERIS will automatically notate the Daily Absentee Ballot List that the ballot was returned marked.
 - You may also assign Pollbook Count Numbers to the *Final Absentee Report* or other similar report that indicates the voter has voted.
- If your locality uses a CAP for the election, open the voted ballot envelopes (B) and insert optical scan ballot into the tabulator.²⁷¹
 - Two officers of election, one representing each political party, must be present to complete this step for a general election.
 - The “Ballot Status” must be updated to “On Machine” in VERIS for any ballot that is inserted into the counter prior to Election Day.
 - **No vote totals may be initiated on the tabulators.**
 - By law, no person present while ballots are unsealed and inserted may disclose any information concerning the ballots.

²⁶⁷ See the Code of Virginia §24.2-709.1.

²⁶⁸ See [H.B. 1433, Gen. Assembly, 2015 Sess. \(Va. 2015\)](#).

²⁶⁹ See the Code of Virginia §24.2-709.1.

²⁷⁰ *Id.*

²⁷¹ *Id.*



**Best Practice**

Do not begin this practice before the close of books or while large numbers of applications/transfers that made the close of books are still being entered. Once the ballot is in the tabulator it cannot be voided even if the voter is later found to have transferred. Notify the local political party chairs and the candidates who would individually be entitled to representation in the polling place on Election Day of the time and place for this step and allow their observers to attend if they wish. Maintain secrecy of each voter's ballot at all times.

- If the voter is registered, send a new application to the voter with the letter generated by VERIS requesting the missing information. If the voter has provided a fax number or email, save time by faxing or emailing the letter and a new application.

If the voter is not registered, use one of the Department of Elections-provided templates to notify the voter.

**Regulation Note**

1VAC20-70-40: Alternative Processing Procedures for Absentee Ballots Returned Before Election Day. 20-70-40 states requirements general registrars must take when expediting counting absentee ballots returned before election day. General registrars are to: ensure that the general registrar staff follow all previously prescribed instructions for processing and verifying absentee ballots (1VAC20-70-40(1)), secure all absentee ballots at the end of each day following principles of dual custody and chain of control (1VAC20-70-40(2)), ensure that the staff are following the requirements of 24.2-709.1 including the requirement that at least 2 officers of election (one from each party plus one) be present (1VAC20-70-40(3)), and give notice to the local political party chairs of the time and place for processing absentee ballots with sufficient time to allow these party representatives to be present (1VAC20-70-40(4)).

7.17 UOCAVA BALLOTS RETURNED AFTER THE POLLS CLOSE

7.17.1 Qualifications for Counting

Absentee ballots from a UOCAVA voter received after the polls close on Election Day must be counted according to the procedures set forth in §§24.2-700 - 24.2-713 if all of the following circumstances are met:²⁷²

- The ballot was “received after the close of the polls on any election day”²⁷³ and
- The ballot was “received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election”²⁷⁴ and
- The ballot was “requested on or before but not sent by the deadline for making absentee ballots available under §24.2-612”²⁷⁵ and
- The ballot was “cast by an absentee voter who is eligible for an absentee ballot under [§24.2-700(2)].”²⁷⁶

7.17.2 Actions to be Taken

If any ballots meet all of the above criteria, the electoral board must immediately notify the Commissioner of Elections that qualifying late ballots have been received. If the electoral board has ascertained the results of the election and the absentee applications and provisional ballot materials have already been sent to the circuit court, permission from the Commissioner of Elections must be obtained to retrieve these materials, using the *Request to Inspect Sealed Election Materials* form (ELECT-659-669).

The qualified late ballots must be considered by the electoral board in a canvass according to the provisions of §24.2-671. Set this canvass after the time for receiving such ballots has passed. Notify the political party chairs and independent candidate(s) of the time, place and purpose of the meeting so they may attend.²⁷⁷

7.17.3 Procedure for Counting Late UOCAVA Ballots

Determine if any UOCAVA voters are entitled to vote and to have their late ballot counted.²⁷⁸ Prepare a separate pollbook marked “Late UOCAVA Ballots.” Prepare an amended *Statement of Results*. Record the name of each voter in the pollbook whose ballot will be counted. Determine that the sealed envelope containing the ballot is properly completed and the oath is signed. Open the envelope to be sure that only one ballot or ballot set has been enclosed. Without looking at or disclosing how the ballot has been marked, place the ballot or ballot set in the ballot container. Repeat this process for all ballots to be counted. Count the ballots and certify on the *Statement of Results*.

²⁷² See the Code of Virginia §24.2-709.

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

²⁷⁷ See the Code of Virginia §24.2-671.

²⁷⁸ See the Code of Virginia §24.2-709.



Prepare an amended abstract for each office that was changed by the counted ballots.²⁷⁹ All electoral board members must certify the amended abstracts.²⁸⁰ The electoral board secretary must prepare attested copies of the amended abstract(s). Fax the amended abstracts immediately to the Commissioner of Elections. Send a copy of the attested document(s) immediately by overnight delivery or hand deliver to the Department of Elections.

Distribute the remaining copies as directed by §24.2-675. Place the pollbook and one copy of the SOR in Envelope #2 labeled “Late UOCAVA Ballots” and send it to the circuit court for retention as provided in §24.2-668. Place the counted ballots considered by the electoral board in Envelope # 3 labeled “Late UOCAVA Ballots” and send it to the circuit court for retention as provided in §24.2-669 and 24.2-710. Within 90 days send written rejection notice to voter(s) whose ballot could not be counted.²⁸¹



VERIS Step by Steps

1. [Absentee Processing](#) explains in detail how to process absentee ballots and applications.
2. [Add-Update Voter](#) explains how to update and/or add a voter.

For further assistance, contact [VERIS help](#)

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ See the Code of Virginia §24.2-711.1.





VERIS Index

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Virginia Absentee Ballot Application (ELECT-701)

- See [section 7.4.1.](#)

How to Process the FCPA (Federal Post Card Application)

- See [section 7.4.2.7](#)
 - Processing a properly Completed FCPA, see [section 7.4.2.10.](#)
 - Activating the Ongoing Application, see [section 7.4.2.13.](#)

How to process the Federal Write-In Absentee Ballot (FWAB) Application

- See [section 7.4.4.4.](#)
 - Activating Ongoing Applications, see [section 7.4.4.5.](#)

Entering Into VERIS

- See [section 7.4.5.9.](#)

Procedures for Completing the Absentee Application for Voting In-Person

- See [section 7.5.2.1.](#)

Voters Flagged in VERIS- Military, Overseas or Fed Only (UOCAVA)

- See [section 7.6.](#)

How to process Accessible Absentee Voting

- On paper, see [section 7.7.1.2.](#)
- On the DRE, see [section 7.7.2.2.](#)

Change of Address Issues for In-Person Voters

- See [section 7.10.](#)

Absentee Voting Reports

- See [section 7.16.](#)

APPENDIX A

ABSENTEE REPORTS IN VERIS

The following chart may help in deciding which VERIS absentee reports to turn to produce first, the intended purpose and content of each report, and when it is to be used.

Name of Report	Recommended Order of use	What it is	When to use & when to Run	Helpful Tips
Daily Absentee Applications List	1 st	Contains list of absentee applicants processed, received or updated on a specified date or within a specified range (used to reconcile ballots with applications)	Daily	Use as a proofing tool
Ongoing Absentee Applications List	As needed	Contains list of Ongoing absentee applications processed as well as date & method application received, type, reason	Before you generate your ongoing and before setting ballot ready date	Use as a proofing tool
Generated Ongoing Absentee Ballots list	As needed	Contains list of ballots generated in the ongoing process. The list also contains the following: ballot sent method, application type, date, reason code, status change & returned date	After you generate your ongoing and before you set your ballot ready date.	Use as a reconciliation tool, to ensure that the ongoing applications eligible to vote in the selected election are listed
Daily Absentee Ballots List	2 nd	Contains list of absentee applicants processed as well as ballot types, ballot status, and returned date of ballots received or updated on a specified date or within a specified range (used to reconcile ballots with applications)	Daily	May also be used as a proofing tool
Certificate of Mailing (COM)	3 rd	Contains a list of absentee voters who were sent ballots. Additionally used as proof of mailing	Daily	Labels must be printed prior to running COM. This report should only be run once per day or names may be repeated on second COM
Final Absentee Report	As needed	Contains details on all absentee applications and ballots for the selected election	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced. Can be used as a reconciliation document



Name of Report	Recommended Order of use	What it is	When to use & when to Run	Helpful Tips
Final Absentee Totals	As needed	Contains the final absentee totals for the selected election (such as total count of applicants, unused ballots returned and marked ballots returned by precinct)	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced. A great report to reconcile totals with on a daily basis once mail out has begun
Cumulative Control Totals	As needed	Real-time statistics on all applications received, ballots sent (broken down by Ballot Sent By Method), and ballots received (broken down by Ballot Received by Method) by precinct for the selected Election	As needed	
Public Absentee Applications List – Cumulative (with or without email add)	As needed	Public inspection list of all absentee applications for an election	As needed	
Issued Absentee Ballots List	As needed	List of voters that have been issued an absentee ballot for a given date or date range. The report also lists the current status of the ballot (e.g., marked, on machine)	As needed	Run after Ballot Ready Date has been entered. Prior to that, no data will be produced
Absentee Email Labels	As needed			
Approved Absentee Applications list	As needed	The report displays absentee applications that were approved for a specified election and locality		
Absentee Application statistics	As needed	Number of Absentee applications received within a specified date range.		
Cancelled Absentee Applications due to transfer	Once a week	Absentee applications that have been cancelled because they have been transferred		This is a cumulative list
Deleted Ballots	As needed	The report displays the names and addresses of voters whose absentee ballots for the specified election have been deleted		

Town absentee reports are separate and must be selected when having a town election.



APPENDIX B

FREQUENTLY ASKED ABSENTEE QUESTIONS

1. When does a voter's FPCA expire?

An FPCA expires on December 31 of the following year from the date received (§24.2-703). All applications received during this year (2018) will expire 12/31/2019. The applicant can also choose to specify an earlier date to end the standing request. **In the event that a second federal postcard application is received from the voter, any previous applications are considered superseded and the duration of the most recently received application will apply.**

2. If a voter was born Overseas to US citizens can she vote? If so what is her classification and what address do we use?

Yes, an adult born overseas to US citizens can vote! The classification is Federal Only unless the application notes that his/her parents are overseas for employment. Then the voter could qualify for a full ballot. The parents' last legal residence in the U.S. should be used. For more, see §24.2-456, which states that a voter who was born outside the United States to parents who were/are eligible to vote in Virginia must be assigned to the voting precinct of the address of the last place of residence in Virginia of the parent or legal guardian of the voter.

3. If reason 6A is given and the person does not put "Branch of Service" but signs with signature, rank and branch of service, do I deny the AB application?

No, the application should not be denied. The information is provided with the signature.

4. Does a registration for an FPCA Federal Only application expire at the same time the absentee ballot application expires?

No! Registration is now permanent. §24.2-442 used to require that a Fed Only voter's registration would expire at the end of the FPCA's term. This law was repealed in 2012 and replaced with the Uniformed Military and Overseas Voter's Act. §24.2-451.

5. Can a full time "care taker" complete an Annual AB Application if the Doctor signs? (recently I have had this question a lot).

A full-time care taker cannot complete an Annual AB application if the Doctor signs unless the voter is disabled or ill. If the voter calls – let them know that they do not qualify for the annual. The doctor is certifying that the person on the application is unable to go to the polls because of a disability or illness and is likely to remain so for the remainder of the year.

6. If on Item 2 the date of the election is not complete do I deny the AB application?

Do not deny the AB application if the date of the election is missing. If your locality is holding a primary election when you receive the application, try to call or email the voter to determine the election they are applying for if they marked a primary and general election box. If the voter cannot be reached, process the application for the primary and send another AB application to the voter in July for the November Election. Applications received after the primaries but before the next General Election should be processed for the upcoming November Election (because applications can be received up to one year ahead of an Election.)

7. Does the 5 day wait period apply to transfers of registration?

No! Only applies to voters new to Virginia.

8. Please explain Code 8A. Many people are not sure if this includes other workers for candidates.

Code (24.2-701 C14) is specific for 8A stating the voter has been designated by a political party, independent candidate to be their representative **inside** the polling place on Election Day. Someone who may be working as a volunteer to hand out campaign materials would not qualify to use 8A, but may qualify to use 1D if they are volunteering outside of their county.

9. Code 2C can the husband claim this reason as well?

ELECT's guidance is yes, a husband can use 2C as well.



10. **If I get a DMV OAB in my hopper for an election we are not having, what do I do with the application? How do I get rid of it?**
VERIS will allow you to process the application as a “Denied-Not Eligible” for the election not being held.
11. **I have a voter that brings their ballot to my office during In Person absentee voting period. Do I allow them to vote that ballot? What are the procedures?**
Yes! Try to convince voter to vote the ballot they have in their hand. If voter insists on putting their ballot through the scanner, the ballot must be rendered void, a new application completed and entered in VERIS. The new application will supersede the mailed ballot application, allowing the voter to mark and put ballot through scanner. Place the void ballot in Envelope #4. **Note:** Voter MAY NOT place a ballot received in the mail through the IN PERSON scanner at the registrar’s office.

If voter did **not receive or lost their ballot**, they must sign the gold form. This applies only to In Person absentee voting (does not apply to precincts on Election Day). They would still complete a new application for voting in person and once entered would supersede the original mailed ballot. Note in comments “gold form signed” and best practice: attach gold form to new application.
12. **I have a voter that brings their ballot to the precinct on Election Day; are they allowed to vote that ballot?**
No, a ballot brought to the precinct is considered void (place in Envelope 4) and using EPB instructions per locality the voter may be unchecked as issued an AB ballot and allowed to vote on scanner and issued a ballot from precinct ballot supply.
13. **I have a voter who comes to the polling place on Election Day. Their record is marked as voting Absentee in the pollbook but they do not have a ballot with them. Can they vote?**
Voter must vote provisional, UNLESS it is determined the ballot was returned to the Registrar’s office unused. For more, see What If’s question 19.
14. **When is a “mail” ballot considered cast?**
An absentee voter who votes other than in person shall be deemed to have cast his ballot at the moment he personally delivers the ballot to the general registrar or electoral board or relinquishes control over the ballot to the U.S. Postal Service or other authorized carrier for returning the ballot as required by law. Virginia Administrative Code **VAC20-60-40 When Ballot Cast**
15. **How many AB applications can I give to a voter requesting multiples?**
There is not a specific limit; however, if a large number of applications are being requested, suggest giving them some training. There is a registration training available through Elect but not AB at this time. It would be acceptable for registrar to give training on proper completion of application. Requestor can also make copies of the application vs. registrar’s office having to provide.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 8

List Maintenance

June 2018

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8. List Maintenance

REFERENCE ELECT 2016 Annual List Maintenance Report Virginia Election Data Project	ADDITIONAL RESOURCES EAC Fact Sheet: List Maintenance and NVRA Make Election Data Pay Off – EAC Quick Start Guide

8.1 CHAPTER ORGANIZATION

Federal law (the National Voter Registration Act, hereafter “NVRA”) requires each state to have a program that makes a reasonable effort to remove the names of ineligible voters from the official list of registered voters.¹ Virginia meets this requirement in part through the Code of Virginia §24.2-427 which requires the general registrar to cancel registrations under certain conditions.² These processes are called list maintenance.

This chapter seeks to equip elections officials with the background, law, and practical “how-to” in order to follow list maintenance practices that comply with federal and state laws. §8.1 defines maintenance and list data sources such as the Department of Motor Vehicles and Central Criminal Records Exchange which ELECT is required to provide general registrars. §8.2 shows the federal law underpinning Virginia’s VERIS list maintenance system and introduces the topics of §8.3 and §8.4, the cancellation and confirmation programs. Last, §8.5 briefly overviews ERIC and CrossCheck, two voter list sharing programs in which Virginia participates.

8.1.1 Definition of List Maintenance

List maintenance is the process by which elections officials retain accurate and current lists of registered voters. The basic framework for list maintenance is set forth in Article 5 of Chapter 4 of Title 24.2.³ These provisions implement NVRA (the National Voter Registration Act of 1993).⁴



The Department of Elections must promptly provide, and general registrars must act upon within **30 days**, information regarding list maintenance (deceased, moved outside locality of residence, felony conviction, adjudication of incapacity, declared noncitizen who has not timely affirmed U.S. citizenship, other disqualification provided by law).⁵

¹ See the “National Voter Registration Act” [52 USC §20507\(a\)\(4\)](#).

² See the Code of Virginia §24.2-427.

³ §24.2-427 et seq.

⁴ NVRA, [52 USC §20501](#) et seq.

⁵ See the Code of Virginia §24.2-404(A)(4), “4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant



8.1.2 ELECT Information Exchange

The Department of Elections must receive, review and provide to registrars the following information:

- a comprehensive annual list of all persons ever convicted of a felony from Virginia's Central Criminal Records Exchange (CCRE);⁶
- duplicate registrations identified from comparing other states' registration and voting information with annual reporting⁷ to the General Assembly which can be found online at <https://www.elections.virginia.gov/resultsreports/maintenance-reports/index.html>.
- information exchanges with other state election officials.⁸

8.1.3 Restoration of Rights

Registrars also have increased responsibilities to detect and remove felons and determine restoration of rights. The Code of Virginia §24.2-427 (as amended in 2012) requires general registrars to conduct a pre-election review "within 21 to 14 days before any primary or general election".⁹

8.2 FEDERAL AND STATE LAWS GOVERNING LIST MAINTENANCE

8.2.1 National Voter Registration Act ("NVRA")

NVRA mandates that each state develop and maintain programs to ensure accurate and current voter registration rolls. These list maintenance programs are required to be **uniform, nondiscriminatory and in compliance with the Voting Rights Act**.¹⁰ NVRA does not permit a list maintenance system to remove the name of a voter from the list because of failure to vote, to prohibit selective or discriminatory voter removal practices.

NVRA divides the required list maintenance programs into two major areas: cancellations and confirmations.

to §24.2-410.1 or from the Department of Elections based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Department. The Department shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars."

⁶ See the Code of Virginia §24.2-409.

⁷ See LIS Reports to the General Assembly, required as per the Code of Virginia §24.2-404 (F), report pending.

⁸ See the Code of Virginia §24.2-409.

⁹ See the Code of Virginia §24.2-427(B2), which states: "The general registrar shall (i) process the Department's most recent list of persons convicted of felonies within 21 to 14 days before any primary or general election, (ii) cancel the registration of any registered voter shown to have been convicted of a felony who has not provided evidence that his right to vote has been restored, and (iii) send prompt notice to the person of the cancellation of his registration. If it appears that any registered voter has made a false statement on his registration application with respect to his having been convicted of a felony, the general registrar shall report the fact to the attorney for the Commonwealth for prosecution under §24.2-1016 for a false statement made on his registration application.

¹⁰ See the Voting Rights Act of 1965.



8.2.2 VERIS List Maintenance: Confirmation and Cancellation

As per the Code of Virginia §24.2-404(1), list maintenance programs requirements of NVRA are managed through the Virginia Election and Registration Information System (“VERIS”). Through VERIS, it is possible to add or cancel registrants, maintain records of “Active” and “Inactive” voters, generate reports of transactions and activity, track the origin of registration applications, maintain records of confirmation mailings, and interface with other State agencies.¹¹

Frequently Asked Questions about the NVRA



What if a locality receives a request from elections officials in other states for information on voter records? Registrars receiving voter registration related information from other states should refer the officials to the Department of Elections for response and coordination. You can email FOIA@elections.virginia.gov.

Can the public request copies of voter registration applications? Yes. While elections records in VERIS are exempt from the Freedom of Information Act as per §24.2-404 (B), the National Voter Registration Act (NVRA) requires each general registrar’s office to provide copies of voter registration applications submitted after July 20, 2011 and other documents relating to voter registration maintenance activities, including copies of correspondence to voters including denial letters if available. **Social security numbers must be completely redacted before providing these applications for inspection.**

Can any member of the public request records? A request for voter registration applications invokes the NVRA, federal law which requires the provision of voter registration applications to any requestor, regardless of whether the requestor is a state resident. With regard to other records, you are only obligated to provide records under the Virginia Freedom of Information Act to residents of the Commonwealth.

Under the NVRA, what are the circumstances under which Virginia can remove a person’s name from the voter registration rolls? Section 8 permits States to remove the name of a person from the voter registration rolls upon the request of the registrant and, as Virginia law provides, for mental incapacity or criminal conviction. The Act also requires States to conduct a general list maintenance program that makes a reasonable effort to remove ineligible persons from the voter rolls by reason of the person’s death, or a change in the residence of the registrant outside of the jurisdiction.

What is “removal at the request of the registrant”? A removal at the request of the registrant under the NVRA involves first-hand information from a registrant that can originate in at least 3 ways: 1) a registrant requesting to remove his or her name from the voting registration list, 2) a registrant completing and returning a notice card indicating an address change outside the jurisdiction, or 3) a registrant submitting a new application registering to vote a second time in a new jurisdiction, and providing information regarding the registrant’s prior voter registration address on the new application, which the State can use as a request to cancel or transfer his or her prior registration. **A registrant advising of a new address within the same jurisdiction, or registering to vote a second time at a new address within the same jurisdiction, should trigger an updating of the original registration, rather than its cancellation.**



8.2.2.1 Voter Confirmation Program

NVRA requires each state to conduct “regular periodic reviews”, which are maintenance programs to identify voters who may have moved from their address of registration.¹² The Code of Virginia §24.2-428 implements NVRA by requiring an annual systematic review of the voter registration records to identify voters who may have moved without notifying the general registrar. This review will not immediately cancel a voter from the registration rolls, but does initiate the process for confirming residence addresses.

8.2.2.2 Voter Cancellation Program



Under the Code of Virginia §24.2-428, if a response to the “Confirmation Notice” is not received “in thirty days after it is sent to the voter, the registered voter’s name shall be placed on inactive status”.¹³ This applies to registrants that were either identified by the general registrar, processed from data received from DMV, or identified through the National Change of Address (NCOA) match as having moved outside their locality of registration. As discussed above, voters identified as having moved *within* their locality of registration are to be sent new voter registration confirmation correspondence showing their new address and marked for confirmation if this mailing is returned.

Voters on “Inactive” status in VERIS can be returned to “Active” status by a voter initiated action. Actions such as change of address, re-registration, or voting in an election can reactivate the voter.

Voters who fail to respond to an address confirmation request and fail to take any voter initiated action for **two federal elections** will have their voter registration cancelled in the NVRA cancellation program. This cancellation function is **automated in VERIS** and occurs **after each November federal election**.

8.2.2.3 NVRA-Mandated Records Access

Lists of voters whose registration have been cancelled under this program are available for public inspection and copying. The general registrar must post the list at the courthouse, or have it published in a newspaper of general circulation, in the general registrar’s community. The general registrar must provide a certified copy of the list to the chairman of each political party in the locality. An electoral board may approve accepting a registrar’s electronic read email receipt as equivalent to a certificate of mailing to the party chair required by Virginia law.¹⁴

¹¹ See Chapter 9 (Records Access and Retention) (providing details on what records are available for public inspection and copying).

¹² [52 USC §20507\(a\)\(4\)\(B\)](#).

¹³ See the Code of Virginia §24.2-428.

¹⁴ See the Code of Virginia §24.2-428.



8.3 CANCELLATION PROGRAM

8.3.1 Deceased Voters

The name of a person who is deceased must be removed from the voter registration rolls.¹⁵ The Code of Virginia §24.2-404.3 requires ELECT to compare the voter lists with records belonging to the Bureau of Vital Statistics and the Social Security Administration. Department of Elections complies with the requirement to match the SSA death list annually by October 1.¹⁶ The VERIS “Hopper” and “Agency Updates” screens will reflect the new information. The following steps should be taken:



VERIS

Once the identity of a deceased individual has been matched with the information of the registered voter, cancel the voter registration using the VERIS “Hopper” or the “Change Status” screens. On the “Change Status” screen, select “Deceased” for the NVRA reason and place important supporting information in the “Comment” section.

- Mark the back of the application in the box provided for deceased. Include the date of death, date of deletion, and the source of the information.
- If a box is not provided, record the information on the lower right corner of the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application form in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.

VERIS will generate a cancellation letter expressing condolences to “The Family of” the deceased former voter. Consideration should be given to timing the mailing of the notification to allow time for grieving (about 10 days following a published death notice is appropriate).

8.3.2 Felony Conviction

The name of a person who has been convicted of a felony must be removed from the official list of registered voters.¹⁷ General registrars have three basic responsibilities regarding felony convictions:

1. Remove names when felony information in VERIS is updated once a month and annually.
2. Review the official list of registered voters based on current information “21 to 14 days” before primary and general elections.¹⁸
3. Deny registration to new applicants with felony convictions for which rights have not been restored.

¹⁵ [52 USC §20507](#) (a)(4)(A); §24.2-427(B).

¹⁶ See the Code of Virginia §24.2-404.3.

¹⁷ [52 USC §20507](#)(a)(3)(B); §24.2-427(B).

¹⁸ See the Code of Virginia §24.2-427.



VERIS



Each month VERIS receives updated electronic files reporting felony convictions from the Virginia State Police CCRE (Central Criminal Records Exchange).¹⁹ In addition, reports of felony convictions by United States District Courts are entered into VERIS.²⁰ GRs may review citizens who have had their rights restored by the Governor by visiting: <https://commonwealth.virginia.gov/judicial-system/restoration-of-rights/>. The VERIS “Hopper” and “Felon Search” screens will reflect the new information. Take the following steps:

- Process all Felony Conviction potential matches through the “Hopper.”
- Determine if a registered voter matches the Felony Conviction information. If so, approve the match to cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Felon” for the NVRA reason and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Convicted of Felony” on the back of the application. Include the date of conviction, and the State Police SID number.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice generated by VERIS stating the reason for removal and any comments entered when processing the cancellation. Include an Application and Instructions for Restoration of Civil Rights Form.

¹⁹ See the Code of Virginia §19.2-389; §24.2-409.

²⁰ See the Code of Virginia §24.2-409.1.



**Best Practice**

We suggest considering the following when processing felony conviction data:

- The information concerning a felony conviction is not always accurate. Most errors can be accounted for by administrative error, wrongful felony convictions, identity theft, or felony charges that should have been reduced to misdemeanors.
- Individuals have the right to challenge the record; the Virginia State Police (804-674-2000) provides information on the procedures to challenge the record.
- You can request a criminal history search by filing a Criminal Record Name Search (Form SP-167) with the Virginia State Police. The fee for filing this request is \$15.00.
- The Department of Elections will research to confirm accuracy of the conviction information upon request from the general registrar.
- Once an error has been corrected through State Police procedures, the individual will receive notification of the correction from the State Police or appropriate authority. Any person who wishes to be reinstated must provide this documentation to the general registrar.

Please note that persons convicted in other states or under federal law may have their rights restored by “other appropriate authority” determined by the law of the convicting jurisdiction. Other state laws may provide for restoration through much simpler or even automatic processes. Thus, a citizen moving to Virginia whose rights have been restored in the convicting state may register to vote in Virginia indicating restored felon status on the Virginia voter registration application.

8.3.3 Adjudicated Incapacitated

The name of a person who has been adjudicated incapacitated by a court must be removed from the lists of eligible registered voters unless the court order specifically provides voting rights.²¹

Adjudications for Incapacity can only be ordered by a Circuit Court which may recognize an order from another state. **Simple commitment to an institution for treatment does not constitute an adjudication of mental incompetence or incapacity.** The Circuit Court Clerks are required to send to Department of Elections monthly reports of all persons adjudicated incapacitated.²² This required reporting may involve persons in other states and countries under the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.²³

**Best Practice**

The Department of Elections is responsible for entering relevant data into VERIS. In rare cases, the circuit clerk may forward these reports directly to your office. Please be sure to forward the reports to the Department of Elections and notify the clerk’s office that the reports should be delivered to the Department of Elections. The Code of Virginia permits the Commissioner and Deputy Commissioner to determine the manner of reporting which may be electronic.

²¹ [52 USC §20507\(a\)\(3\)\(B\)](#); Va. Code §24.2-427(B); 64.2-2000.

²² See the Code of Virginia §24.2-410.

²³ See the Code of Virginia [§64.2-2001](#) et seq.





VERIS

The VERIS “Hopper” and “Mentally Incapacitated” screens will reflect the information entered by ELECT. The following steps should be taken:

- Process all potential matches through the “Hopper” that appear for the locality. The general registrar must determine if a registered voter matches the adjudication information. If so, approve the match to cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status” screen. On the “Change Status” screen, select “Mentally Incapacitated” as the NVRA reason and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Adjudicated Incapacitated” on the back of the application. Include the date of the adjudication and the Circuit Court case number.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

A legal representative of a person under an adjudication of incapacity may petition the circuit court to make provision for voting rights. If the order is silent regarding voting rights, the person is disqualified from voting.

8.3.4 Personal Request

Anyone who wishes to cancel their voter registration for personal reasons may submit a signed written request either by mail, fax or in person.²⁴ Within 10 days of receiving a notice of cancellation, the general registrar must send correspondence confirming the voter’s removal. The following steps should be taken:

²⁴ See 52 USC §20507(d)(1)(A); see also the Code of Virginia §24.2-427(A), which states that “Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least 22 days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within 10 days of receipt of such authorization.”



- Process a “Personal Request” cancellation using the VERIS “Change Status” screen. Select “Per Choice” as the reason to cancel the voter. Place important supporting information in the “Comment” section. Cancelling a voter’s record through VERIS will automatically generate the required correspondence, which must be sent within ten (10) days of receipt of the request for cancellation.



Law Note

To cancel registration during the twenty-two (22) days before an election, the voter must make the request in person at the registrar’s office, or submit a written notarized request.²⁵ Voters who mail a personal request cancellation notice during the twenty-two (22) days before an election may not be cancelled for that election unless the mailed request is notarized.²⁶

The Code of Virginia §24.2-427(A) states that “Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar.” Cancel “at least 22 days prior to an election in order to be valid in that election.” The general registrar shall acknowledge receipt of the authorization and advise the voter ... that his registration has been canceled within 10 days of receipt of such authorization.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for “Personal Request” on the back of the application.
- If a box is not provided, record the information in the lower right corner on the back of the application.
- Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
- File the application in the Deleted file.
- Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

8.3.5 Error

A general registrar on occasion may need to cancel voter registrations in VERIS to correct administrative error. Administrative corrections that do not actually cancel a voter do not require notice. When making corrections, please note the following types of cancellations:

- If, after approving registration, the general registrar discovers evidence of ineligibility such as omission of citizenship or a felony conviction without restoration and, if confirmation of registration has not been sent, the registrar may cancel a voter and re-enter the information correctly using the following steps:
 - Delete the voter using the VERIS “Change Status” screen. Select cancel for the reason of “Registrar Error,” or “Ineligible.” Important supporting information can be entered in the “Comment” section.

²⁵ See the Code of Virginia §24.2-427.

²⁶ *Id.*



- Re-enter the voter's information into VERIS and deny for the appropriate reason. This action will automatically generate the required correspondence to be sent to the voter listing the reason(s) for the denial.

Non-VERIS Steps for Hard-Copy Applications

- Mark the box provided for "Denied" on the back of the application.
- If a box is not provided, record the information on the lower right corner on the back of the application.
- Attach the documentation for the removal to the back of the application form or keep this information in a separate file.
- File the application in the "Denied" file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice of denial generated by VERIS, stating the reason(s) for removal and any comments entered when processing the cancellation/denial.
- If, after approving the registration and mailing correspondence confirming registration, the general registrar discovers evidence of ineligibility such as a felony without restoration, then the regular cancellation process under §24.2-427 must be followed. This requires the general registrar to mail notice of cancellation and the right of appeal to the voter. Follow these steps:
 - Remove the voter using the VERIS "Change Status" screen. Select "Registrar Error," or "Ineligible" as the reason to cancel the voter. Important supporting information can be entered in the "Comment" section.
 - Notate the back of the application "Error Deleted."
 - File the application in the "Deleted" file.
 - Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
 - Retain and destroy application and attached documentation in compliance with the GS-1 Records Retention and Disposition Schedule.
 - Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation
- If, after approving the registration and mailing the confirmation correspondence, the general registrar discovers information warranting inquiry as to residence, then the general registrar may request an address confirmation mailing or initiate the hearing procedure.²⁷ Cancellation by the general registrar after a hearing is appealable to the circuit court.²⁸ The general registrar's refusal to cancel can also be appealed by any qualified voter of the locality.

²⁷ See the Code of Virginia §24.2-429.

²⁸ See the Code of Virginia §24.2-430.



**Law Note**

“Any person whose registration was cancelled in accordance with the decision of the general registrar pursuant to §24.2-429, shall have the right of appeal, as provided in §24.2-422, to the circuit court of the county or city in which he offers to register. Any qualified voter of the county or city shall have the same right of appeal from the decision of the general registrar refusing to cancel the registration of any person alleged to be improperly registered.” The Code of Virginia §24.2-430.

8.3.6 Voter Now Registered in Another State

Voter registration in Virginia must be cancelled when the general registrar receives a notice signed by the voter or from a voter registration official of another state that the voter has registered in that other state.²⁹ These notices require the following actions:

- Process all Out-of-State cancellations on the “Change Status” screen. Select the “Out of State” box and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Notate the back of the application out-of-state.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- File the application in the “Deleted” file.
- Retain and destroy application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.

8.3.7 Non-Citizen

Each month the Department of Motor Vehicles (DMV) is required to furnish to Department of Elections a complete list of all persons who have indicated that they are not a United States citizen to DMV.³⁰ The Department of Elections will transmit that information to the appropriate general registrar. When notification is received, the following steps should be taken.³¹

- The general registrar is required to mail a notice of pending cancellation to each registered voter identified by DMV as a non-citizen. The voter is given 14 days from the date the notice was mailed to return a signed statement affirming citizenship.
- VERIS will automatically cancel the registration of any voter who does not respond to the notice within 21 days.
- Non-citizen cancellations are processed through the “Hopper.” Determine if a registered voter matches the non-citizen information provided by the Department of Elections. If so, use “Cancel Voter” to approve the match and cancel the voter’s registration. Individual voters may also be cancelled through the “Change Status”

²⁹ See [52 USC §20507\(a\)\(4\)](#); See the Code of Virginia §24.2-427 (B).

³⁰ See the Code of Virginia §24.2-410.1 (B).

³¹ See the Code of Virginia §24.2-427 (B)(1).



screen. On the “Change Status” screen, select “Declared Non-Citizen” for the reason and place important supporting information in the “Comment” section.

Non-VERIS Steps for Hard-Copy Applications

- Notate the reason for the cancellation on the back of the application.
- Attach appropriate documentation to the back of the application or keep the documentation in a separate file.
- Retain and destroy the application and attached documentation in compliance with the GS-01 Records Retention and Disposition Schedule.
- Mail the notice of cancellation generated by VERIS, stating the reason for removal and any comments entered when processing the cancellation.



8.4 CONFIRMATION PROGRAM

8.4.1 Why Request Confirmation

Several factors can trigger the requirement to request a voter confirm his or her registration. These are discussed below, and include the U.S. Postal Service's "National Change of Address" program analysis, a notification of out of state activity reported by the Department of Motor Vehicles, or a discrepancy noted in a voter address.

Please note that cancellation may incidentally result from this process if the voter fails to respond to a confirmation request or take other specified action for two general federal elections.³²

Cancellations under any list maintenance program must be made no later than 90 days before the date of the next federal primary or general election.³³

8.4.1.1 U.S. Postal Service's "National Change of Address"

Many states, including Virginia, use the U.S. Postal Service's National Change of Address ("NCOA") program to systematically analyze their voter registration records.³⁴ At least once a year, the Department of Elections uses the information in the NCOA database registry to match the voter registration addresses of all "Active" registrants in VERIS with USPS addresses. Any voter whose residence address listed in VERIS does not match the address listed with USPS is scheduled to be sent by "forwardable" mail a "Confirmation Notice" to confirm his/her residence address information.

8.4.1.2 DMV Notification of Out-of-State

Several other activities provide reasons to request a confirmation notice be sent to a voter in addition to the NCOA postal match confirmation process. One such reason is notification that the voter has relocated.

Each month VERIS receives an updated electronic file from DMV of persons who have surrendered their Virginia driver's license indicating relocation to another state. VERIS will automatically search for any potential matches of registered voters in the electronic file from DMV. The potential matches will appear in the VERIS "Hopper" for the locality. After reviewing the record, the general registrar may select the record that is a match. This will initiate a request for a "Confirmation Notice" to be sent to the voter.

8.4.1.3 Address Discrepancy

Another reason to request confirmation of a voter's address is the indication of an address discrepancy. General registrars can request a confirmation notice be sent to a registrant based upon reliable information indicating that the registrant has moved. This includes official mail returned as undeliverable or an address on a candidate petition that differs from the address of voter registration. The general registrar may also request a confirmation, but should do so only if information warranting inquiry as to residence is discovered.

³² See the Code of Virginia §24.2-428.2.

³³ [52 USC §20507\(C\)\(2\)\(A\)](#).

³⁴ See the Code of Virginia §24.2-428 (defining Virginia's procedures).



Frequently Asked Questions



*What if the USPS NCOA information shows that the voter **moved within the same locality**?* Registrars should transfer the voter to the new precinct when necessary and mail a new voter registration confirmation correspondence. If the mailing is returned as undeliverable, mark the voter record for confirmation.

*What if the USPS NCOA data shows that the voter **moved within the Commonwealth but different locality**?* The general registrar should forward that information to the general registrar of that locality.

8.4.2 ELECT's Confirmation Mailing

The Department of Elections initiates an annual "Confirmation Mailing" using the information in VERIS from the NCOA postal match and general registrar confirmation requests.³⁵ The steps of the "Confirmation Mailing" process are as follows:

- The program provides a data file for each identified registrant whose address does not match the United States Postal Service address.
- The data file is imported into VERIS and "Confirmation Mailing" is recorded in the registrant's record. The data file is sent to the mail vendor. (The data file will also include registrants who were marked for confirmation mailing by the general registrar). The mail vendor prepares and mails the Confirmation Notice to registrants.
- The Confirmation Notice contains a return, postage paid card and instructions for completing the card. The notices are sent by forwardable mail and must provide the voter an opportunity to confirm or change their information.
- Responses to Confirmation Notices are entered into VERIS. The general registrar can use the response information to update the voter's address information, send the voter's information to another Virginia locality, cancel the registration of a voter who has moved outside Virginia, or any other action necessary to update the registration list.
- Confirmation programs are available for public inspection and copying.³⁶ Registrars can request reports by accessing the VERIS Reports Library.³⁷
- VERIS generates two Confirmation Notice Reports: 1) a list of all voters to whom a Confirmation Notice was sent; and 2) a list of voters to whom a Confirmation Notice was not sent.

³⁵ [52 USC §20507\(c\)\(B\)](#).

³⁶ See the Code of Virginia §24.2-444(B).

³⁷ See Chapter 9 Records Access and Retention for details on records available for public inspection.





8.4.3 VERIS: How to Obtain List of Voters Whose Record was Cancelled

To obtain the listing of all voters whose record was cancelled, select the Cancelled–Other report from the VERIS Reports Library. You should use a date range to identify voters cancelled during a certain time frame such as 1/15/15 – 1/19/15. VERIS will generate a report containing public information authorized in §24.2-444. You should print four (4) copies of this report for distribution as follows:

- One (1) copy must be posted at the courthouse or published in a newspaper of general circulation in your locality;
- Two (2) copies must be certified by you and delivered or mailed, obtaining a certificate of mailing, to the chair of each political party in your locality; and
- One (1) copy is for your records and available for public inspection and copying under Va. Code §24.2-444(B).



Law Notes

“The Department shall provide to each general registrar, for each precinct in his county or city, lists of registered voters for inspection. The lists shall contain the name, address, year of birth, gender and all election districts applicable to each registered voter. The lists shall be opened to public inspection at the office of the general registrar when the office is open for business. ... The Department shall provide to each general registrar lists of persons denied registration for public inspection. Such lists may be provided electronically through the Virginia voter registration system and produced in whole or in part upon a request for public inspection.” The Code of Virginia §24.2-444.

8.4.4 Return of Registered Voter to Active Status

Pursuant to the Code of Virginia §24.2-428.2, general registrars return to active status registered voters who were placed on inactive status if the voter “notifies the general registrar of a change of address”, “responds to a confirmation notice with information that the voter continues to reside at the registration address”, “votes or attempts to vote” in a primary, special or general election or “transfers his registration to another county or city within the Commonwealth”.

8.4.5 Cancellation/Removal Due to Inactivity

ELECT runs list maintenance process to identify voters whose registration should be cancelled under the Code of Virginia §24.2-428.2: “If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person’s voter registration.” ELECT’s process cancels the voter registration record of those voters whose registration record has been in an “Inactive” status for two (2) successive general elections for federal office.



8.5 NATIONWIDE INFORMATION EXCHANGES

When a voter moves out of state and registers to vote in their new state, the voter should indicate to the new state that they were previously registered in Virginia. The new state should then notify Virginia that the voter wants to cancel their Virginia voter registration. This process is extremely slow, relies on self-reporting by voters and other states, and it is prone to errors.

The Code of Virginia §24.2-404.4 requires ELECT to attempt to establish a data sharing relationship with the neighboring states to maintain the accuracy of the voter registration list. ELECT meets and surpasses this requirement by participating in national data sharing agreements promoted by the Presidential Commission on Election Administration that results in acquiring registered voter data for a total of 34 states for use in list maintenance activities.

8.5.1 Electronic Registration Information Center (ERIC)

ELECT participates in the Electronic Registration Information Center (ERIC) and started sharing data with this program on a regular basis in January 2014. States participating in ERIC during the reporting period include Alaska, Delaware, Missouri, Pennsylvania, Washington D.C., Alabama, Illinois, Nevada, Rhode Island, West Virginia, Arizona, Louisiana, New Mexico, Utah, Wisconsin, Colorado, Maryland, Ohio, Virginia, Connecticut, Minnesota, Oregon, and Washington.

In 2016, 37,803 voters were identified as potentially having registered in one of the other states after their last date of activity in Virginia. Voters identified in these two programs were entered into the confirmation process provided for in the National Voter Registration Act (NVRA) and in the Code of Virginia §24.2-428 and received a confirmation mailer at their Virginia address. In addition, ELECT sent a cancellation request mailer to their out-of-state address. This project is reflective of Virginia's role as a national leader in effective list maintenance programs. The out-of-state mailer project is expected to reach voters sooner after they move allowing the voter to cancel their registration immediately without having to wait for the routine confirmation process.

Membership in ERIC also requires ELECT to reach out to voters identified as having incorrect information and to individuals who are not yet registered to vote, but appear to be eligible.

8.5.2 The Interstate Voter Registration Crosscheck Program (Crosscheck)

ELECT participates in the Interstate Voter Registration Crosscheck Program (Crosscheck) run by the State of Kansas. Each January, the participating states share their voter registration lists and receive back a list of potential duplicate registrations. In January 2016, 25 states shared approximately 98,725,000 records. The timing for receiving the initial data from Crosscheck varies in any given year, from as early as February to as late as April. Participating states in 2016 included Alabama, Arizona, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New York, North Carolina, Ohio, Oklahoma, South Dakota, and Tennessee. As a result of this match, ELECT identified 73,798 registered voters who were potentially registered in one of the other states after their last date of activity in Virginia.





VERIS Index

Use this index to locate the VERIS related information in this chapter
Cancellation Program

- See [section 8.3](#)

VERIS: How to Obtain List of Voters Whose Record was Cancelled

- See [section 8.4.3](#).

VERIS Step-by-Steps

- ❖ [Prohibited List Maintenance](#) explains how to enter and expire prohibited records.
- ❖ [Hopper Processing and Information](#) explains how to process the prohibited records in the hopper.
- ❖ [Voter Registration Status Change](#) explains how to process a personal request to change the status of voter registration information.
- ❖ [Voter Correspondence](#) shows how to send letters to voters identified as non-citizens.
- ❖ [NCOA \(National Change of Address\)](#) explains USPS's NCOA program.
- ❖ [NVRA List Maintenance](#) explains maintaining voter lists in accordance with the National Voter Registration Act of 1993 (NVRA).

For further assistance, contact [VERIS help](mailto:verishelp@elections.virginia.gov) at verishelp@elections.virginia.gov



APPENDIX A

GUIDANCE *PROJECT VOTE*

To: General Registrars

From: Don Palmer, Secretary, State Board of Elections

Re: Compliance with *Project Vote* Decision and Court-Approved Agreement

Date: April 3, 2013

The recent *Project Vote* decision involving public disclosure requirements of the National Voter Registration Act (NVRA) provides public access (inspection and/or copying) to individual voter registration applications, excluding the applicant's social security number and residence street addresses of protected voters. The decision also requires production of other documents relating to voter registration, including correspondence to registered voters (excluding, of course, the protected information noted above). The federal court recently entered a consent decree that concluded the litigation.

As required by the court order and because NVRA does not specify a deadline or procedures for responding, SBE has outlined the following recommended guidance and procedures for compliance. Some basic parameters:

What documents are required for inspection and disclosure? Are there exemptions?

- The *Project Vote* decision requires you to make available for inspection and, where available, photocopying at a reasonable cost, completed voter registration applications and other documents relating to voter registration maintenance activities. This may include copies of correspondence to voters such as denial letters, if available.
- Yes, there are exempted applications:
 - As per the court order, the disclosure requirement only applies to voter registration applications that were submitted since July 20, 2011.
 - According to the NVRA, you are not permitted to produce voter registration applications that reveal the identity of the voter registration agency through which any particular voter is registered. Accordingly, applications that were submitted at the Department of Motor Vehicles should be withheld. If applications submitted through other NVRA-designated agencies (see list in Va. Code § 24.2-411.2) reveal the particular agency where the individual registered, then those should also be withheld.
- Similar to FOIA requests, NVRA requests do not require you to create a record that does not already exist.



Am I required or permitted to redact information from the documents produced for inspection and/or photocopying?

- Yes, registrars must redact the following “confidential information”:
 - Social security numbers from all copies of registration applications inspected or produced pursuant to a request under NVRA.
 - All residence street addresses of any individual that provides a post office box address in lieu of his/her street address pursuant to § 24.2-418(B) of the Va. Code. These are commonly known as “protected voters.”
- Please note that these redaction requirements apply to registration applications made available for inspection **and** those photocopied for disclosure to the requesting party:
 - For the inspection process, you may photocopy the application card and redact the protected information prior to the inspection or, alternatively, establish an inspection process in your office to temporarily redact the social security number with a temporary label or removable sticker prior to the individual inspection by the requester. Each office will need to establish an inspection process that includes the time, place, and manner in which your office has the time and personnel to provide redacted applications (temporarily or otherwise) to a requester to personally inspect.

May I charge for production?

- Yes, you may charge reasonable costs for photocopying only. You may not charge for simply making the documents available for inspection. You may require payment before providing the copies. The issue of specific costs is admittedly a gray area of the law so you must be able to articulate why your costs for photocopying are reasonable and how you came to determine that cost analysis. One example of calculating costs for photocopying may be the FOIA schedule/calculations that your office uses. Costs may differ from locality to locality depending on the personnel and resources available in your office and the timing of the request.
- **You may not charge for costs simply related to making the applications available for inspection unless agreed to by the requester as a timelier and more efficient means to disclose the information.**

How long do I have to respond to a request under NVRA?

- While NVRA does not mandate a specific response time, SBE’s recommendation is that requests should be acknowledged within ten (10) working days with an estimate of the cost and timeframe for producing the documents or an estimate on the process and timeframe for making the applications available for individual inspection or photocopying. SBE recommends you comply with the request within twenty (20) working days after receiving the request, if possible.
- NVRA only requires photocopying where available. If you are unable to produce photocopies of the applications due to the high volume of work in your office, lack of personnel or the photocopier being unavailable, you are not required to produce photocopies until you are able.



- If there is a request to inspect a large or voluminous number of applications, you should estimate the number of days necessary for your office to provide the redacted photocopies or to allow temporarily redacted original applications to be reviewed in an inspection process at your office. You may offer alternatives to the inspection process to a requester that include the cost of photocopying and redacting as a more efficient way to respond to their request; however, the requester may request the physical in-person inspection process.
- Requesters should include their name and sufficient information for you to contact the requester and must reasonably describe the records the individual is requesting.

Additional Information:

Alternative Sources of Registration Data: When receiving a request you may wish to communicate to the requester that he/she may be eligible to view/inspect the list of registered voters and persons denied registration in your office or obtain a copy of the list of registered voters from SBE. For individuals interested in obtaining a copy of the list of registered voters, you can direct them to SBE.

Voluminous Requests and Disputes: If a request involves an extraordinary volume or lengthy search or requests the documents be produced more quickly than is possible, you should make reasonable efforts to reach an agreement with the requester concerning the production of the applications requested. Neither the court order nor the NVRA outlines specifics of how to respond to these types of requests. While you may suggest a mechanism to more timely and efficiently provide a large number of photocopies and redacted applications to the requester, if the requester requests the inspection of applications at your office, you will need to establish:

1. An inspection process that temporarily redacts confidential information from the application for personal inspection in your office; or
2. A mechanism to copy and redact the applications for inspection at your own cost. While SBE is available for consultation, you should consult your attorney if you are unable to reach an agreement to explore what options are available to you.

Optional Notice Guidelines: Please also see the sample notice below that may be helpful in explaining to individuals the specifics of the NVRA disclosure requirements as dictated in the *Project Vote* decision.

These are not FOIA Requests: Please note that document requests under the NVRA are not the same as FOIA requests. Accordingly, the Virginia FOIA provisions that limit its eligibility to in-state requesters only do not apply. Accordingly, these disclosure provisions are available to both Virginians and non-Virginian requesters.



Citations:

USC §1973gg-6(i).

(i) Public disclosure of voter registration activities

(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) of this section are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

Consent Decree: A copy of the consent decree was attached to email transmitting this guidance.

Link to Project Vote Decision: <https://www.ca4.uscourts.gov/opinions/Published/111809.p.pdf>

Sample Public Notice:**National Voter Registration Act Requests**

Under the National Voter Registration Act (NVRA), a federal law, you may request access to voter registration applications held by this office submitted since July 20, 2011. Social security numbers and residence street addresses of any individual that provides a post office box address in lieu of his street address pursuant to § 24.2-418(B) of the Va. Code must be redacted. If you seek this information, your request must include your name and sufficient information for us to contact you, and must reasonably describe the records you are requesting and whether you are seeking disclosure of photocopies of the application(s) or are seeking visual inspection of the application(s) at the general registrar office. We will acknowledge response to your request within ten (10) days and attempt to produce the requested disclosure documents within twenty (20) working days of your request.

Before submitting a request, check with the General Registrar to see if the information you seek may be available through an inspection of the list of registered voters or denials or for a request for a list of registered voters with the State Board of Elections.

Our office will charge _____ per page for copying applications. Our office may require payment before providing the copies. If charges are estimated to exceed \$_____, or if you have other unpaid charges, we may require payment in advance before proceeding with the document request. Payment is required before copies will be provided. If charges are estimated to exceed \$_____, or you have other unpaid charges, we may require payment in advance before proceeding. Please submit requests by mail, fax or e-mail to: _____





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 9

Records Access and Retention

June 2018

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9. Records Access and Retention

REQUIRED FORMS Library of Virginia: Blank ARC-1 Form Library of Virginia: Blank RM-3 Form	ADDITIONAL RESOURCES Records Retention and Disposition Schedule (GS-01) Library of Virginia: Virginia Public Records Management Manual Chapter 7 and 8 Library of Virginia: Electronic Records Guidelines Records Retention and Disposition Schedule for Localities Library of Virginia: Records Management Library of Virginia: Instructions for Completing the Certificate of Records Destruction (RM-3 Form) Library of Virginia: Instructions for Completing Archival Transfer List and Receipt (Form ARC-1)
REFERENCE Virginia FOIA Council: Taking the Shock Out of Charges: A Guide to Allowable Charges for Record Production under the Freedom of Information Act Virginia FOIA Council: Access to Public Records Virginia FOIA Council: Email: Use, Access & Retention Virginia FOIA Council: Responding to Requests From Out-of-State Virginia FOIA Council: Forms and Sample Letters	REGULATIONS 1VAC20-20-20 Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required 1VAC20-40-90 Voter Photo Identification Cards

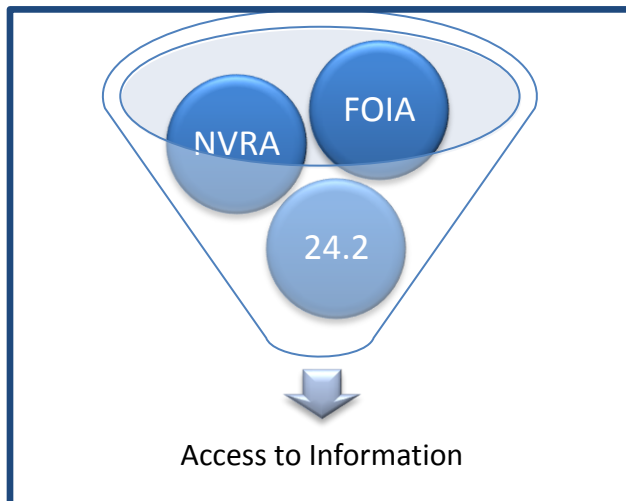
9.1 CHAPTER ORGANIZATION

A general registrar serves as the custodian of a wide range of both public and confidential documents. Public access to records is essential to ensure government transparency, but must be limited to protect individual security. Before releasing information, the general registrar must understand *what* is being requested, *who* is requesting the information, and the rules underlying the disclosure of that information. This chapter provides a general overview of concepts and rules that govern records access and retention.

The sources of law that touch access to records that general registrars are most often challenged with are Virginia Freedom of Information Act (FOIA), code within Title 24.2, and the National Voter Registration Act (NVRA).

§9.1 provides a brief overview of FOIA, relevant code of 24.2, and NVRA. When determining the release of information, FOIA, NVRA, and certain sections of 24.2 can act as a filter for information either through mandate or providing discretion to the general registrar. For instance, many government records are available under FOIA; however, information can be excluded or exempted from FOIA requests due to the nature of the information. §9.1.4 and §9.1.5 discuss personal information that must be redacted prior to any information release.





§9.2 dives into handling a FOIA request and discusses the elements of a request and creating a proper response. This section also provides examples of proper responses depending on the record being requested. §9.2.3 describes certain exemptions, such as, protecting security information related to voting systems and working papers of a public body. §9.2.4 and §9.2.5 briefly focus on enforcement and penalties for not fulfilling a request.

§9.3 describes what information is required to be provided under NVRA and best practice guidance on how release of information should be conducted for this act. This section is especially important as general registrars often receive requests that fall under NVRA. §9.4 closes this chapter with a brief introduction into records retention and a reference chart for localities' retention schedule.

9.1.1 FOIA: Definition of a “Public Record”

Virginia’s Freedom of Information Act (FOIA) defines public records broadly to include all records a public body or officer creates, owns, or possesses in the course of their appointment, employment, or public duties.¹ Drafts and preliminary versions of documents are considered public records and available for public access under FOIA.²



Best Practice

Electronic records, including e-mails, are covered by FOIA, unless some content based exemption applies (e.g., attorney client privilege). The Virginia Freedom of Information Advisory Council published a useful guide called *E-Mail: Use, Access & Retention* which explains public access to local government officials’ and employees’ email and discusses how email correspondence must be saved.

9.1.1.1 What is Not a Public Record?

Public records do not include certain personnel records unless protection is waived by the individual in writing.³ FOIA does not require creating a record that does not exist at the time of the request.⁴ Additionally, FOIA may provide other exemptions (discussed later in the chapter). For example, a government body may withhold personal contact information such as home or business address, email, or telephone number.⁵

¹ See the Code of Virginia [§2.2-3701](#).

² Virginia FOIA Advisory Council [AO-3-00](#).

³ See the Code of Virginia [§2.2-3705.1](#).

⁴ See the Code of Virginia [§2.2-3704](#).

⁵ See the Code of Virginia [§2.2-3705.1\(10\)](#).



9.1.2 Title 24.2 and Election and Registration Records



Election law restricts access to voter registration and election records.⁶ “*The Virginia Freedom of Information Act shall not apply to records about individuals maintained in this system [VERIS].*”⁷ Voter records in VERIS are not available to the public, even under a FOIA request, as per the Code of Virginia §24.2-404(B).

Often, requests for information regarding an individual’s voting history will come to a registrar; this information cannot be released and the request should be denied. Further, lists of registered voters are not available under FOIA. As will be discussed later in this chapter, §§24.2-405 and 24.2-444 govern access to lists of registered voters. Similarly, lists of those who voted are also not available under FOIA, but may be available to certain groups under §§24.2-406 and 24.2-407.

If you are not sure whether a particular record is addressed by election law or FOIA, you should contact your local commonwealth’s attorney. Once it is determined that no election law or FOIA exemption applies, the records are open to inspection and copying. Reasonable costs are allowed, including time required to redact protected information.⁸

It is important to be aware of what code section is providing or restricting access. For instance, absentee ballot applications are not NVRA but rather Va. Code §24.2-706 which permits the inspection of absentee ballot applications only by a registered Virginia voter during regular office hours.

9.1.3 National Voter Registration Act and Registration Records

Protecting voter privacy requires strict compliance with statutory restrictions. The National Voter Registration Act (NVRA) established mandates for states regarding the voter registration process and the maintenance of related records. Prior to July 20, 2011 voter registration applications were not publically available. As a result of *Project Vote v. Long*, voter registration applications submitted on or after July 20, 2011 are available for public disclosure if confidential information is properly redacted.

⁶ See the Code of Virginia [§2.2-3703\(B\)](#).

⁷ See the Code of Virginia §24.2-404(B). See also the Code of Virginia [§2.2-3700](#) et seq. (the Virginia Freedom of Information Act).

⁸ See the Code of Virginia §24.2-107 as amended in 2014 allows the registrar to determine a reasonable charge not to exceed the fee imposed by the clerk of the circuit court.



**Law Note**

The *Project Vote* Consent Decree outlines requirements general registrars must follow regarding maintenance and public inspection of voter registration applications. General registrars are required to:

- Maintain for at least two years and make available for public inspection (including photocopying) completed voter registration applications,
- Redact social security numbers of all completed voter registration applications, and
- Redact the residence address of individuals permitted to provide a post office box address in lieu of residence address due to protected voter status under Va. Code §24.2-418(B).

9.1.4 Generally Redacted Information

Sensitive information is often collected as part of the process of administering elections. Public access to information is important but it must be balanced with an individual's right to privacy; as a result, state and federal laws restrict public access to sensitive personal information.

Before sending any records that contain sensitive personal information electronically through email or fax you should review the contents of each record. You must encrypt or redact sensitive information per 1VAC20-20-20: Electronic Transmission of Records Containing Sensitive Personal Information; Encryption or Redaction Required. Sensitive personal information includes: (1) more than four digits of a social security number or other unique identifier **other than voter identification number**; (2) day and month of birth; or (3) the residence address of voters qualified for protective status under Va. Code §24.2-418.

You are required to redact the following information when providing the following information:



- All of an individual's social security number;⁹
- The birth month and date;¹⁰
- The residence address of an individual with protected status authorized by §24.2-418(B);¹¹

9.1.5 Social Security Numbers

State and local governments are prohibited from collecting social security numbers without statutory authorization.¹² Election law authorizes collection of all or part of social security numbers for certain purposes, including voter registration.¹³ The release of social security

⁹ See the Code of Virginia §24.2-405 and §24.2-444

¹⁰ See the Code of Virginia §§24.2-444.

¹¹ See the Code of Virginia §§24.2-405, 24.2-406, and 24.2-444.

¹² See the Code of Virginia [§2.2-3808](#). See also Privacy Act of 1974, [5 USC §552a](#).

¹³ See the Code of Virginia §24.2-418.



information in election records is strictly regulated.¹⁴ Unauthorized release of a voter's or registration applicant's social security number or a part thereof is a Class 5 felony.¹⁵

If the SSN (or part) appears on a record or list open for inspection or copying, the number must be covered so it cannot be read. Marking out the SSN may not be sufficient protection when copying records as the numbers may still be visible after copying.



You must **completely obscure** the social security number. Please remember to take care to

- cover the information manually before photocopying, or
- complete "Black Out" formatting if using Adobe Acrobat.

9.2 HANDLING A FOIA REQUEST FOR INFORMATION

This section discusses how a FOIA request for information should be handled and the elements of a request. An information request that looks intimidating at first glance can be narrowed to a reasonable volume by working with the requestor to determine what the requestor really wants, and letting her know what is available that meets their need. FOIA is largely a matter of *customer service*, i.e., good communication. Requestors often may not know what report or document to request but they do have an idea of what information they want to find.

9.2.1 Elements of a FOIA Request

FOIA requests for state and local records can be made only by Virginia residents or representatives of print or broadcast media reaching Virginia.¹⁶ Requests from non-Virginians or other media representatives may be granted or denied at your discretion.¹⁷

9.2.1.1 The Request

The request does not have to be in writing. If the request is made by mail, it will contain the requestor's name and address. If the request is made in person, the office may require the requestor to provide his name and legal address. Nothing in FOIA defines the way in which the requestor must provide his name and legal address, either by stating it or in writing (such as signing a log book). If the request, name, and address are not provided in writing, record them for the office's information and protection.

The request for records does not need to reference FOIA in order to invoke the requirements of the Act. If the request is from a qualified requestor (a Virginia citizen or reporter, with both categories broadly interpreted), and is a request for information, it should be considered a FOIA request.

9.2.1.2 "Reasonable Specificity"

The request should include enough information for the recipient to identify whether there are any records in the office (or the official's possession) that satisfy the request. If there is any question about what is being requested, contact the requestor to discuss the request and response. Keep notes (or emails) on these discussions and file them

¹⁴ See the Code of Virginia §§24.2-405, 24.2-406, and 24.2-444. See also

¹⁵ See the Code of Virginia §24.2-1002.1.

¹⁶ See the Code of Virginia [§2.2-3704](#).

¹⁷ See *McBurney v. Young*, U.S. Sup. Ct. [Slip. Op. No. 12-17](#) (4/29/2013). See also Virginia FOIA Council, [Responding to Requests from Out-of-State](#).



with the request in the office FOIA file in case there is ever any question about the request and response.¹⁸

9.2.2 Responding to a Request

Under FOIA, the general rule is that the public official or employee must respond to the requestor within five working days of receiving the FOIA request. You may request an extension for providing information.

9.2.2.1 Responses



As a public body, your office is subject to FOIA requests. As the custodian of the requested records, you must respond within five working days of receiving the request. If the response is made within five working days, you will have an additional seven work days in which to provide one of the following responses:

- The requested records are being entirely withheld,
- The requested records are being provided in part and are being withheld in part,
- The requested records could not be found or do not exist, or
- It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period.¹⁹

Refer to the Virginia FOIA Advisory Council for response letters.

9.2.2.2 Charges



Under the Code of Virginia §2.2-3705, “a public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. **No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body.** Any duplicating fee charged by a public body shall not exceed the actual cost of duplication.”

When you assess charges, you should choose the method that is the most cost effective for producing the records. Charges may include the time needed to access, find, copy, and mail/ship the documents, and the actual cost of the copies and the mailing/shipping. The costs of fringe benefits or other overhead expenses may not be added to the charged personnel costs.²⁰ If the FOIA request is a repeat of a previous FOIA request, charge the amount to reproduce the previous records not the amount charged for the previous request. Reasonable charges not exceeding actual cost may be assessed for searching, accessing, supplying, and duplicating public records.

If the resident requests an advance estimate, all charges for supplying the requested records must be estimated in advance.²¹

- **For requests above \$200**, you may ask the requestor to pay in advance, and you do not have to fulfill the request until receipt of this advance payment.²²

¹⁸ See the Code of Virginia [§2.2-3704](#).

¹⁹ See the Code of Virginia [§2.2-3704](#).

²⁰ For more information about allowable costs under FIOA, see Virginia Freedom of Information Advisory Council’s [Taking the Shock Out of Charges: A Guide to Allowable Charges for Record Production under the Freedom of Information Act](#).

²¹ See the Code of Virginia [§2.2-3704](#).



- **For requests under \$200**, the office may *not* require the requestor to pay the charges before turning over the requested documents. If any requestor does not pay in a reasonable time, report the bill to the office that handles normal debt collection for the local government.

Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.²³

9.2.3 FOIA Exemptions

FOIA must be “liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.”²⁴ Unless a public body, its officers, or employees expressly invoke a specific exemption provided by FOIA or another statute, all public records are available for inspection and copying upon request. Any exemption from public access to records must be narrowly construed, and no record can be withheld unless specifically made exempt by FOIA or other specific law.²⁵ The Virginia Freedom of Information Advisory Council's website includes an excellent summary and discussion about records exemptions of general applicability; this guide addresses most of the exemptions that might ever be needed by a local electoral board or a general registrar.²⁶

Below is a brief overview of certain records that are exempted from FOIA, but may be provided at the discretion of the custodian, unless disclosure is prohibited by law. Prior to making any decision to withhold information the general registrar should discuss FOIA access with their local legal counsel.

9.2.3.1 *Records Regarding Computer Software and Electronic Security*

“Computer software developed by or for a state agency, public institution of higher education in the Commonwealth, or political subdivision of the Commonwealth.”²⁷

“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.”²⁸

Election law provides an exemption for plans relating to voting equipment security.²⁹ The exemption is applicable for “protocols for maintaining the security of ballots or

²² See the Code of Virginia [§2.2-3704](#).

²³ See the Code of Virginia [§2.2-3704](#).

²⁴ See the Code of Virginia [§2.2-3700](#).

²⁵ See the Code of Virginia [§2.2-3700](#) et seq.

²⁶ See [Access to Public Records](#). See also Virginia Freedom of Information Advisory Council's [Records Exemptions of General Applicability](#)

²⁷ See the Code of Virginia [§2.2-3705.1\(7\)](#).

²⁸ See the Code of Virginia [§2.2-3705.2](#).

²⁹ See the Code of Virginia [§24.2-625.1](#).



voting and counting equipment....” And any information that reveals “the results of risk assessments of specific local electoral procedures.”³⁰

9.2.3.2 *Records compiled in lawfully closed meetings*

Records created in or compiled *exclusively* for use in closed meetings lawfully held under the Code of Virginia §24.2-3711 are excluded from mandatory disclosure.³¹ Disclosure is at the discretion of the general registrar unless prohibited by law. This rule may be applicable to certain documents produced exclusively for the local electoral board’s provisional ballot meeting as this meeting is a closed meeting.

NOTE: No record that is otherwise open to inspection under FOIA will be considered exempt because it was reviewed or discussed in a closed meeting.³²

9.2.3.3 *Working Papers of a Public Body*

"Working papers" means records prepared by or for any of the following named public official for his personal or deliberative use.³³

- Office of the Governor;
- Lieutenant Governor;
- Attorney General;
- the members of the General Assembly (and legislative aides working on a member’s behalf);
- Division of Legislative Services;
- mayor or chief executive officer of any political subdivision of the Commonwealth; or
- the president or other chief executive officer of any public institution of higher education in Virginia.³⁴

However, no record, which is otherwise open to inspection under FOIA, will be determined exempt by virtue of the fact that it was attached to or incorporated within any working paper or correspondence.

NOTE: This exception does not extend to local electoral boards or the general registrar unless they are involved in preparing working papers for a named state or local official.

9.2.3.4 *Inmates and Criminal Information*

Historically, Virginia has closed criminal records but increasingly criminal record information is available online through the courts and law enforcement offices. Any information a general registrar receives regarding criminal records must be kept confidential unless permitted by code.³⁵ The Division of Central Criminal Records Exchange provides felony information to Department of Elections only for the purposes

³⁰ See the Code of Virginia §24.2-625.1.

³¹ See the Code of Virginia §2.2-3705.1.

³² See the Code of Virginia §2.2-3705.1.

³³ See the Code of Virginia §2.2-3705.7.

³⁴ See the Code of Virginia §2.2-3705.7.

³⁵ See the Code of Virginia §24.2-409 and §19.2-389.



of allowing registrars to cancel the registration of any voter known to be a convicted felon.³⁶

Requests for information regarding criminal records should be referred to the State Police.

9.2.4 Enforcement

In any action to enforce FOIA, the public body bears the burden of proof to establish an exemption by a preponderance of the evidence.³⁷ Any failure by a public body to follow the procedures established by FOIA is presumed to be a violation.³⁸

9.2.5 Penalties

If you violate FOIA, you may be held **personally liable**. The civil penalty imposed will be no less than \$500 nor more than \$2,000.³⁹ For a second or subsequent violation, the civil penalty will be no less than \$2,000 or more than \$5,000.⁴⁰ The public body can also be required to pay the requestor's attorneys' fees.⁴¹

9.3 HANDLING AN NVRA REQUEST FOR INFORMATION

The National Voter Registration Act does not specify a deadline or procedures for responding to requests. ELECT recommends the following best practices for responding to requests for voter registration applications under the NVRA:

- NVRA requests should be acknowledged promptly with an estimate of the cost for responding. You may ask for advance payment if estimated costs exceed \$250 before proceeding with the request.
- Within 10 working days after acknowledging the request, copies of requested applications held by your office that were **submitted on or after July 20, 2011**, should be provided with confidential information redacted; such as, social security number, the identity of the voter registration agency through which a particular voter registered, and, where applicable, the residence street address of any individual that provides a post office box address in lieu of his street address under §24.2-418(B). The time involved to redact may be charged to the first request for which the redacted copies are prepared.
- If a request involves an extraordinary volume or lengthy search, you should make reasonable efforts to reach an agreement with the requester concerning the production of the applications requested. Additionally, you should consult your local government attorney or Commonwealth's Attorney if you are unable to reach an agreement to prepare for possible enforcement action under NVRA. Under 52 USC §20510(b)(3), no prior notice is required to bring suit for alleged violations within 30 days of a federal election.

³⁶ See the Code of Virginia §§24.2-409 and 24.2-427.

³⁷ See the Code of Virginia [§2.2-3713](#).

³⁸ See the Code of Virginia [§2.2-3713](#).

³⁹ See the Code of Virginia [§2.2-3714](#).

⁴⁰ See the Code of Virginia [§2.2-3714](#).

⁴¹ See the Code of Virginia [§2.2-3713](#).



9.3.1 Voter Registration Applications

Individuals or organizations may request to see voter registration applications and as general registrar, you should supply these documents in compliance with NVRA. Moreover, applications for voter photo ID cards are considered a part of registration records under 1VAC20-40-90.



Regulation Note

1VAC20-40-90: Voter Photo Identification Cards. Applications for voter photo ID cards are considered “registration records” as defined in §24.2-101. The public inspection requirements of §24.2-444 apply to them, but the social security number and day and month of the birth date must be redacted and must be retained by the registrar in compliance with §24.2-114(8) and the applicable Library of Virginia retention schedule for local election records.

Voter registration applications received before July 20, 2011 are not available to anyone other than the voter or authorized law enforcement.

9.3.2 Information to Provide for an NVRA Request

A FOIA request is distinct from an NVRA request. Where information may not be available under FOIA, it may be available under NVRA. NVRA makes available for public inspection and photocopying “*all* records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records pursuant §§24.2-427, 24.2-428, and 24.2-428.1...” (emphasis added). These records available under NVRA do not include voter registration applications submitted *before* July 20, 2011.

Virginia Code §24.2-444(C) outlines what information must be redacted when providing these records:

- All of an individual’s social security number;
- The residence address of an individual who has provided a post office box address in lieu of her residence address due to protected voter status as authorized by Va. Code §24.2-418(B);
- The declination by an individual to register to vote and related records;
- The identity of the voter registration agency an individual registered through; and
- The day and month of birth of an individual.

9.3.3 The Precinct List

A general registrar may receive a request for a list of registered voters for a locality. This list is also known as the “record precinct list” and should be made available for public inspection in each office of the general registrar.⁴² This list does not provide voter history. In providing this information, check that all sensitive personal information is redacted, including:⁴³

- All of an individual’s social security number;
- The residence address of an individual who has provided a post office box address in lieu of her residence address due to protected voter status authorized by Va. Code §24.2-418(B);

⁴² See the Code of Virginia §24.2-444.

⁴³ See the Code of Virginia §24.2-444.



- The declination by an individual to register to vote and related records;
- The identity of the voter registration agency an individual registered through; and
- The day and month of birth of an individual.

9.3.4 The Voter History List

The Department of Elections is required to furnish, “at a reasonable price,” lists of registered voters and persons voting in elections to certain authorized individuals and organizations for specific purposes.⁴⁴ Persons interested in purchasing lists of registered voters and history should be referred to ELECT for information on eligibility and cost.

9.4 RECORDS RETENTION

The Library of Virginia provides numerous schedules to assist state and local government agencies in maintaining and disposing of records in compliance with applicable legal requirements. The Library of Virginia Records Retention Schedule GS-01 for Local Election Records was updated and made effective May 26, 2010. The shared Retention Schedule for the State Board and Department of Elections is available on the Library of Virginia website. In the event that any schedule conflicts with federal or state election law requirements, the statutory requirements must be followed.

While reformatting records is at the discretion of the locality, the Department of Elections strongly encourages localities to digitalize records for accessibility, storage, and preservation purposes. **Both permanent and non-permanent records may be digitalized.** After records are digitalized, inspected, and approved according to established standards, the ***originals may be destroyed***, unless specifically prohibited by law. **The digital version will be considered the official copy of record.**

Below is a quick reference chart for records retention for localities. General registrars and staff should review the Library of Virginia’s full schedule on the website.

⁴⁴ See the Code of Virginia §§24.2-405- 24.2-407.1.



GUIDELINES: RETENTION OF RECORDS

The following chart is taken from the Library of Virginia's (LVA) Records Retention and Disposition Schedule. Refer to the LVA's [Virginia Public Records Management Manual Chapter 7 and 8](#), [Electronic Records Guidelines](#), and [Records Retention and Disposition Schedule](#) for full guidance.

TYPE OF RECORD (Non-Permanent)	RETENTION SCHEDULE
Administrative Management Records: Registrar (EX: policies, reference materials, management assessments, and reports)	5 years or until superseded, whichever is longer
Ballots: Counted and Uncounted (Federal)	2 years by Circuit Court after election
Ballots: Counted and Uncounted (Non-Federal)	1 year by Circuit Court after election
Ballots: Unused	Retain by Circuit Court until time has expired for initiating a recount, contest, or other proceeding
Candidate Campaign Finance Forms	1 year after the final report is filed or through the next general election for that office, whichever is later
Candidate Qualification Forms: Non Campaign Finance	5 years or through the next general election for that office, whichever is later
Change of Address Confirmation Records (NVRA)	2 years after deadline for response
Damaged Applications: Voter Registration Applications	4 years after date received
Election Materials (EX: copies of absentee ballot applications, poll books and pollbook count sheets, election day logs)	2 years after applicable election
Electoral Board: Administrative Records (EX: Action plans, accessibility audit reports, cert. of training programs)	Retain as long as administratively necessary
Officers of Election List: Appointments (Form SBE 115)	Retain until superseded with a new list
Receipts and Certificates for Ballots (Forms SBE 616 - 621)	2 years after applicable election
VERIS: Database and Documentation	Retain database reports as long as administratively necessary
Voter/ Election Mail: Returned	2 years after receipt
Voter Registration Applications: Approved, Cancelled, Transferred Out	4 years after cancellation
Voter Registration Application: Denied	4 years after denial



TYPE OF RECORD (Permanent)	
Abstracts	Any original records with <u>permanent retention</u> or <u>records created before 1913</u> must be offered in writing to the Library of Virginia before destruction of the originals.
Electoral Board: Minutes	
List of Those Who Voted (LTWV): Pre-1970	
Precinct Redistricting Materials	
Voting Rights Act/ USDOJ Correspondence	





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 10

Election Day Prep

June 2018

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10. Election Day Prep

REQUIRED FORMS Officer of Election Training Standards published by the State Board of Elections ELECT-15512-Management-Voter-Complaint-Form (9-17).docx ELECT-643B(2) Full Legal Name Sign (8-17).pdf ELECT-643B(3) Full Legal Name Sign 2 (8-17).pdf HAVA-2 Voting Information Poster for 2017-08-29 Special (7-5-17).docx HAVA-2 Voting Information Poster for 2017-11-07 General and Specials (7-5-17).docx HAVA-4 Voter Rights.pdf Emergency Polling Place Relocation Approval Request Form (SBE-310) County or City (2).doc.docx	ADDITIONAL RESOURCES Statement of Results (SOR) Write-ins Certification. ELECT-612.1P Notice of Withdrawal Poster Template (7-17).docx ELECT-604 Prohibited Area and Activities poster Rev 10-17.pdf ELECT-613 Explanation of Political Party Abbreviations Sign and Instructions w- code change info (8-17).doc ELECT-643B Attention All Voters Acceptable ID Poster (8-17).pdf
REFERENCE Forms Warehouse Virginia Department of Elections Website	REGULATIONS I VAC 20-20-80 Complaints. I VAC 20-60-30 Electronic Devices in Polling Places.

10.1 CHAPTER OVERVIEW

This chapter provides a series of election day checklists. §10.2 suggests steps that should be taken annually when considering upcoming deadlines for known elections, including scheduling access to polling places and annual officer of election training. §§10.3-10.12 outline pertinent deadlines and provide suggestions for preparing for each election gradually, over the course of three months. §§10.13-10.18 cover election day and a high level overview of the subsequent election related tasks the general registrar and local electoral board must ensure are complete.

We recommend that general registrars prepare an election checklist suited to each locality using the information contained in this chapter. This may require an adjustment to the timeline and additional details based on the type of election, equipment used to record ballots, and the type of pollbooks used to qualify voters at the polls. Be sure to read the chapters on Canvass (Chapter 14) and Provisional Ballots (Chapter 13), which contain essential post-election processes that should be considered when preparing for an election.

In the Commonwealth, we conduct statewide elections every November, have the possibility of a primary election each June, can have regularly scheduled elections in May, and special election scheduled nearly any time of year. As such, planning for the known elections can allow you more time to address unexpected elections.



10.2 ANNUAL ELECTION DAY PREP

10.2.1 Schedule Access to Polling Places

- Ask well in advance of the election that an election representative be added to the school district's "calendar committee" to have direct input into the school schedule.
- Notify polling place facility managers of all possible dates for all scheduled elections based on the 5-year Schedule of General Elections which is available on the Department of Elections' website.
- Notify polling place facility managers when it is known that a primary election definitely will or will not be held.
- Notify polling place facility managers of upcoming special elections as soon as the date is known.
- Schedule meeting facilities for the canvasses that year: "Written directions to the location of any room other than the clerk's or general registrar's office where the board will meet [must] be posted" before the canvass begins.¹



You cannot change a polling place or precinct within 60 days before a GENERAL election. At this point in the pre-election timeline, please make sure all polling places are accessible, usable and ready for an election. If an emergency occurs, you may ask the Department of Elections to approve the emergency and an alternative polling place. Use form SBE-310, and submit to policy@elections.virginia.gov.

10.2.2 Officer of Election Training Schedule and Facility Reservations

You must establish a training schedule compliant with the State Board of Elections training standards.² Each officer of election must complete training using training materials developed by the State Board of Elections. Alternatively, officers of election may complete the training course offered on the Department of Elections website.³ **Officers of election must complete this training before serving in their first election.**⁴ This requirement applies to **each term** for which the officer of election is appointed.⁵ Make reservations for training facilities in advance to ensure their availability.

Please remember that election laws change annually and the Code of Virginia requires that each officer of election shall receive additional training or instruction whenever a change to election procedures is made to the Code or to regulations that alters the duties or conduct of the officers of election.⁶

¹ See the Code of Virginia §24.2-671.

² See the Code of Virginia §§24.2-103, 115.

³ See the Code of Virginia §24.2-103.

⁴ See the Code of Virginia §24.2-115.2(A).

⁵ *Id.*

⁶ See the Code of Virginia §24.2-115.2(B).



10.3 90 DAYS TO ELECTION DAY

10.3.1 Notify Officers of Elections and Schedule Training Sessions

Provide sufficient notice to officers of election to allow scheduling of required training. Training for officers of election must utilize the materials developed by the SBE or be the online training course on the Department of Elections website.⁷

You can find the State Board of Elections' Training Standards online (see the "Required Forms" box at the beginning of the chapter for a link.)

10.3.2 Notify Election Support Facilities of Election Schedule

- ☐ Notify security departments, warehouse supervisors, school superintendents, principals, custodians and other building managers of increased activity at locations where election preparations are performed.
- ☐ Establish election support procedures with police/sheriff/emergency departments.
- ☐ Verify canvass meeting space availability.

10.4 60 DAYS TO ELECTION DAY

- ☐ Prepare a folder specific to the upcoming election. This folder will be used to deposit forms and other information particular to that election. If you are using a paper folder, print out a copy of your checklist and attach it to the inside of your election folder.
- ☐ Review current versions of all election day forms, signs, envelopes, and materials.
- ☐ Order sufficient quantities of the above materials in accordance with Department of Elections instructions.
- ☐ Reproduce all election day instructions and forms in sufficient quantities.
- ☐ Upon receipt, post a copy of the Department of Elections notice calling for election on the official website of the county or city, at not less than 10 public places in the county or city, or have the notice published at least once in a newspaper of general circulation in the county or city.⁸
- ☐ Design (or coordinate with the vendor to design) the ballots as soon as the offices, candidates, and issues have been determined.
- ☐ Submit (or coordinate with vendor to submit) ballot proofs to the Department of Elections for approval.⁹
- ☐ Conduct logic and accuracy testing of voting systems prior to finalizing your print order of ballots.¹⁰
- ☐ Prepare ballots for voting (or submit a request to the printer) so that they are available for voting forty-five (45) days before any election.¹¹
- ☐ Prepare sample ballots (be sure to review §24.2-622).¹²
- ☐ Distribute sample ballots.
- ☐ Set a date to conduct the final logic and accuracy test required for voting machines.
- ☐ Provide notice of voting machine testing "(i) to the chairman of the local committee of each political party, or (ii) in a primary election, to the chairman of the local committee of the [...]"

⁷ See the Code of Virginia §24.2-115.2(A).

⁸ See the Code of Virginia §24.2-517.

⁹ See the Code of Virginia §24.2-612.

¹⁰ See the Code of Virginia §§24.2-632, 633.

¹¹ See the Code of Virginia §24.2-612.

¹² See the Code of Virginia §24.2-622 for details on preparing sample ballots.



party holding the primary, or (iii) in a city or town council election in which no candidate is a party nominee [...], to the candidates.”¹³

- Prepare, test, and seal the counting equipment for the election.¹⁴
- Publish notice of absentee voting days and hours.
- Complete form ELECT-618(2) “Certificate of Number of Ballots Received from Printer” and file with the minutes of the Board.¹⁵
- Conduct a refresher meeting with staff covering procedures for the upcoming election.¹⁶
- Submit work orders for distribution and return of polling place equipment and materials.
- Establish pre-election day staffing for the following duties:
 - Final polling place material preparations and distribution plans;
 - Electronic pollbook data management and testing;
 - Sunday or Monday pollbook/supply pickup;
 - Polling place equipment distribution;
 - Saturday absentee voting support;¹⁷
 - 2 Saturdays for general elections not held in May
 - 1 Saturday for primary, special, or May general election.¹⁸
- Establish election day staffing for the following duties:
 - Polling place opening and reporting support;
 - Machine techs
 - Polling place operating support;
 - Machine techs
 - Electronic pollbook techs
 - Reliefs
 - Rovers
 - Results reporting;
 - Polling place closing support.
- Establish after-election day staffing for the following duties:
 - Material transfer between clerk of circuit court and canvass site;
 - Clerical and communication support for canvass;
 - Canvass procedures and documentation;
 - Polling place equipment/supply pickup;
- Start charging electronic pollbooks and voting machines. Note that some voting machine companies recommend that their machines have a constant trickle charge.
- Ensure that you have a sufficient supply of “I Voted” stickers. If you do not, order enough for the upcoming election.
- Determine staffing needs for both online and paper voter registration application and online and paper absentee application processing.
- Establish a procedure for managing the increased flow of electronic and paper applications.

¹³ See the Code of Virginia §24.2-633.

¹⁴ See the Code of Virginia §24.2-634.

¹⁵ See the Code of Virginia §24.2-618.

¹⁶ See the Code of Virginia §24.2-618.

¹⁷ See the Code of Virginia §24.2-701.

¹⁸ *Id.*



10.5 45 DAYS TO ELECTION DAY

- ❑ **Begin absentee voting for all elections.¹⁹ Please see Chapter 7 Absentee Voting for more information.**
- ❑ If the electoral board has approved and documented the following steps for processing of Absentee Ballots prior to election day and after close of books²⁰:
 - “Examine the ballot envelope” (Envelope B) and verify the completion of the Statement of Voter. If the statement cannot be verified under the policies for substantial compliance, it must be notated for the officers of election to reject on election day.²¹
 - For a CAP, mark that the voter has voted in the pollbook.²² This may only be done if the Statement of Voter has been verified in Step 1. If using electronic pollbooks (EPB), refer to your EPB procedures.
 - Open the ballot envelope (Envelope B) and insert the voted ballot into the optical scan counter. This may only be done if Steps 1 and 2 have been completed. **If this step is undertaken, two officers of election (one from each political party) must be present.**²³
 - NOTE: Under no circumstances may any vote totals be initiated on the tabulator for the election until after the polls close on election day. In addition, no person present while ballots are inserted into the tabulator may disclose any information concerning the voted ballots.²⁴
- ❑ Complete the survey certifying absentee voting readiness upon request by the Department of Elections.

10.6 30 DAYS TO ELECTION DAY

- ❑ Complete voter registrations for close of books.²⁵
- ❑ Paper pollbooks (if used):
 - Verify complete
 - Notify the Department of Elections
 - Set up splits
 - Hand correct for adds, deletes, changes, corrections
- ❑ Verify polling place communications.
- ❑ Set aside voided copy of ballot(s) for the Department of Elections, and mail them prior to election day.²⁶
- ❑ Print a temporary identification document for any voter requesting the Virginia Photo Identification Card.
- ❑ Update election day emergency numbers.

¹⁹ See the Code of Virginia §24.2-612.

²⁰ See the Code of Virginia §24.2-709.1.

²¹ See the Code of Virginia §24.2-709.1; see also Chapter 7 Absentee Voting.

²² See the Code of Virginia §24.2-709.1.

²³ *Id.*

²⁴ *Id.*

²⁵ See the Code of Virginia §24.2-416; see also ELECT Policy 2009-005. See Chapter 6 Voter Registration for more information.

²⁶ The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. See the Code of Virginia §24.2-612.



- ❑ Prepare polling place materials.
- ❑ Code of Virginia
- ❑ Forms
 - Paper pollbooks (if used)
 - Pollbook count forms (if paper pollbooks used)²⁷
 - Electronic pollbook summary screen sheet (if electronic pollbooks used)
 - Statement of Results #1, Statement of Results #2²⁸
 - Printed Return Sheet²⁹
 - Write-In Certification for each set of the Statement of Results³⁰
 - Officer of Election Oaths³¹
 - Officer of Election Suggestion
 - Officer of Election Interest
 - Grievance³²



Regulation Note

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

- Affirmation of Eligibility³³
- Machine tracking sheets
- Ballot Record Report³⁴
- Voter Name Mistake Report
- Voter Registration Application³⁵
- Provisional Ballot Envelope³⁶
- Provisional Ballot Envelope – ID ONLY³⁷
- Provisional Ballot Log³⁸

²⁷ See [ELECT-643 PBC](#).

²⁸ See [Statement of Results - DRE Voting Systems + Optical Scan EPB](#).

²⁹ See [ELECT-658](#).

³⁰ See [Statement of Results \(SOR\) Write-ins Certification](#).

³¹ See [ELECT-120, Oath or Affirmation for Officers of Election SBE-120.docx](#).

³² See Voter Complaint Form [ELECT-11512](#); see also the Virginia Administrative Code [1VAC20-20-80](#).

³³ See [Affirmation of Eligibility](#).

³⁴ See [Ballot Record Report, Federal or Optical Scan](#).

³⁵ See [Voter Registration Application](#).

³⁶ See [ELECT-653](#).

³⁷ See [ELECT-653ID](#).

³⁸ See [ELECT-653 LOG](#).



- Provisional Voter Notice³⁹
 - Provisional Voter Notice – Identification⁴⁰
 - Voter Registration Cancellation Request
 - Notification of Death⁴¹
 - Request for Assistance⁴²
 - Incident Report⁴³
 - Overvote Notice
 - Payroll
 - Receipt for absentee ballot delivery
 - Sample ballots
 - Results-tracking Call-in Sheets
- Envelopes and Labels:⁴⁴
 - Envelope 1A – Provisional Ballots⁴⁵
 - Envelope 1B – after hours provisional, used only if instructed
 - Label 2 – Oaths, Pollbooks, SORs, etc.⁴⁶
 - Envelope 2A – yellow printed return sheet⁴⁷
 - SBE Envelopes/Box Labels 3 & 5⁴⁸
 - Envelope 4 – spoiled and void ballots
 - Envelope 6 – unused ballots⁴⁹
 - Envelope 7 – voting equipment keys, memory cards/cartridges, machine seals
 - Envelope 8 – completed paperwork⁵⁰
 - Envelope 10 – Officer of Election Buttons/Name Badges
 - Envelope 11 – 4th set of optical scanner result tapes for HAND delivery to GR office (if used)
 - Envelope 12 – duplicate and name mistakes list, notification of death of registered voter (optional)
 - Envelope 14 – DRE supervisor cards, access cards and card encoders signature labels for sealing envelopes (optional)
 - Inside Signs:
 - Attention All Voters/Acceptable ID⁵¹
 - Upon Request - Legal Name/Current Residence Address⁵²
 - No Smoking⁵³

³⁹ See [ELECT-653N Provisional Voter Notice](#).

⁴⁰ See [ELECT-643Pr Provisional Voter Notice - Identification](#).

⁴¹ See [ELECT-427](#).

⁴² See [Request for Assistance](#).

⁴³ See [Incident Report](#).

⁴⁴ See [Checklist Certification of Materials Used in Elections, ELECT-659-668](#).

⁴⁵ See [Officer certification to reuse empty provisional votes envelope 1A](#).

⁴⁶ See [Label 2](#).

⁴⁷ See [Envelope 2A](#).

⁴⁸ See [ELECT Envelopes 3 5 Combined](#).

⁴⁹ See [Officer certification for Unused Envelopes](#).

⁵⁰ See [Label Envelope 8](#).

⁵¹ See Attention All Voters (Acceptable ID) ([ELECT 643A](#)).

⁵² See [Full Legal Name](#).

⁵³ See [No Smoking Sign](#).



- Leaving w/Ballot Misdemeanor (Department of Elections 24.2-1011-White)
- How to Vote (based on equipment used)
- Sample ballot
- Prohibited Area and Activities⁵⁴
- Explanation of Political Party Abbreviations⁵⁵
- Voter Rights and Responsibilities⁵⁶
- Notice-Election Date and Hours⁵⁷
- Voter ID Requirements (HAVA-3)



Regulation Note

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

- Outside Signs:
 - Vote Here
 - Handicapped Access
 - Handicapped Parking
 - Voter Parking
 - Polling Place
 - Polling Place with Arrow
 - No Campaigning Beyond This Point
 - Precinct Name
- Support Materials: sealed voting machine key envelopes,⁵⁸ packing tape, masking tape, painter's tape, calculators, pens, pencils, ballot marking pens, paper clips, note paper, stapler and staples, rulers, scissors, tape measure, precinct maps, voter permits/access cards, numbered envelopes, labels, lanterns, umbrellas, uninterruptable power supplies,

⁵⁴ See [Prohibited Areas and Activities](#).

⁵⁵ See Explanation of Political Party Abbreviations ([ELECT-613](#)).

⁵⁶ See [Voter Rights and Responsibilities](#) (HAVA-4).

⁵⁷ See [HAVA 2](#) Date Hours.

⁵⁸ See the Code of Virginia §24.2-639.



flashlights, sidewalk chalk, 40-foot marker lines, extension cords, surge protectors, band-aids, first aid kits, clip boards, magnifying sheets, pencil sharpeners, permanent markers, scotch tape and dispenser, rubber bands, rulers, wire cutters, hand sanitizer, “I Voted” stickers, banker’s boxes.

- ❑ Prepare Election Day Guide for non-CAP precincts, Election Day Guide for CAP, and What Ifs for use in the election.⁵⁹
- ❑ Prepare items that will be needed for the canvass:
 - Checklist of items to be retained by the registrar.
 - Provisional vote log to be used by the electoral board if provisional votes are counted.
 - Tally sheet for the electoral board to tally provisional votes that are counted.

10.7 20 DAYS TO ELECTION DAY

- ❑ Send reminder notices to officers of election about instruction meeting.
- ❑ Send notices to party chairs about programming of voting machines, if not done earlier.⁶⁰
- ❑ Send notice to warehouse custodians regarding the programming/transport of machines.⁶¹
- ❑ Power up electronic pollbooks to verify that they are functioning properly.
 - Charge the batteries.
 - Download initial pollbook data file(s) and DMV data file. Verify that the data is complete and accurate.
 - Build initial electronic pollbook election file. Verify accuracy.
- ❑ Prepare and publish public notice of final registration day at least 10 days before the close of books. This notice must include “the date, hours, and locations for registration.”⁶²

10.8 15 DAYS TO ELECTION DAY

- ❑ Prepare paper and/or results tally sheets.
- ❑ Provide copies of tally sheets to personnel assisting with reporting results.

10.9 10 DAYS TO ELECTION DAY

- ❑ Package and seal ballots for polling places.⁶³
- ❑ Prepare receipts for delivery of ballots, final absentee ballots list, and other election materials.
- ❑ Post notice of the canvass.⁶⁴

10.10 3 DAYS TO ELECTION DAY

- ❑ Final checks of paper pollbooks, supplies.
- ❑ Alphabetize or sort election oath forms in order of chief pickup schedule.
- ❑ Final in-person absentee ballot voting.

10.11 2 DAYS TO ELECTION DAY

- ❑ Download and print Final AB List.⁶⁵
- ❑ Electoral board signs Final AB List.⁶⁶

⁵⁹ Click [here](#) to find these forms.

⁶⁰ See the Code of Virginia §24.2-633.

⁶¹ See the Code of Virginia §24.2-632.

⁶² See the Code of Virginia §§24.2-414, 415, 416.

⁶³ See the Code of Virginia §24.2-620.

⁶⁴ See the Code of Virginia §24.2-671.

⁶⁵ See the Code of Virginia §24.2-710.



- ❑ Prepare AB ballots to deliver to precinct or to CAP if CAP established.⁶⁷
- ❑ Download final pollbook data for electronic pollbooks, create distribution files, and prepare EPBs for distribution.

10.12 MONDAY BEFORE ELECTION DAY

- ❑ Chief Pollbook/Supply pickup.
- ❑ Final emergency absentee ballot voting/update precinct lists.⁶⁸
- ❑ For November general election, send certification to the Department of Elections that training of election officials has occurred.⁶⁹
- ❑ If not already sent to the Department of Elections, send the completed certification of L&A testing.

10.13 TUESDAY ELECTION DAY

- ❑ Have a GREAT ELECTION!
- ❑ Receive and report election results from polling places after polls close.
- ❑ Enter results into VERIS only after polls close at 7:00 p.m.
- ❑ Enter election night provisional counts in VERIS.
- ❑ Receive election materials from chiefs after election.
- ❑ Deliver (or transfer) election materials to clerk of court in accordance with the letter “Procedures Concerning Election Records” provided by the Department of Elections to the clerk of court and in accordance with local procedures approved by the clerk of court. Alternatively, the electoral board may instruct the officers of election to deliver materials to the registrar’s Office.⁷⁰

10.14 WEDNESDAY (ELECTION DAY + 1)

- ❑ To prepare for the canvass, print out the data that was entered into VERIS on election night. Use these print outs to compare to the data determined to be correct during the canvass.
- ❑ While reviewing SORs, input election turnout into VERIS to help complete the canvass.
- ❑ Receive copies of ID documents from provisional voters who lacked ID on election day.⁷¹
- ❑ Receive election materials from clerk of court.
- ❑ Check in returned election materials.
- ❑ Conduct provisional ballot meeting.⁷²
 - If ID has not been provided by the end of meeting for any provisional ballots cast due to lack of ID, the meeting will have to be adjourned to a later date (no later than the third day after the election [Friday]. If the third day is a weekend or holiday, the deadline becomes noon of the next business day [Monday]).⁷³
- ❑ Conduct canvass.⁷⁴
- ❑ Document completion of canvass using Abstract of Votes Cast.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See the Code of Virginia §24.2-705.

⁶⁹ See the Code of Virginia §24.2-115.

⁷⁰ See the Code of Virginia §§24.2-659 and -668.

⁷¹ See the Code of Virginia §24.2-653.

⁷² See Chapter 13 Provisional Ballots.

⁷³ See the Code of Virginia §24.2-653.

⁷⁴ See Chapter 14 Canvass.



- Email a copy of abstracts to the Department of Elections.
- Mail abstracts to the Department of Elections.
- Enter VERIS provisional data for counted and rejected ballots and process letters.⁷⁵
- Enter VERIS rejected absentee ballot data and process letters.⁷⁶
- Verify that the data entered into VERIS on election night matches the data determined to be correct at the canvass.
 - Precinct returns
 - CAP returns
 - Provisional ballot results
 - Election turnout
 - Run the VERIS reports identified in §14.3.3.5, to ensure accuracy of data entered.
 - Election Error Results v2 – by Office
 - Votes Cast and Turnout Details
 - Resolve issues, if present.
- Mark local office winners in VERIS.
- Process new voter registration applications.
- Re-seal and deliver materials to clerk of court.
- Upload voter credit data from electronic pollbooks to VERIS.
 - Run the VERIS report identified in § 14.3.3.5.
 - Resolve issues, if present.

10.15 THURSDAY (ELECTION DAY +2)

- Receive copies of ID documents from provisional voters who lacked ID on election day.⁷⁷

10.16 FRIDAY [MONDAY IN CASE OF HOLIDAY] (ELECTION DAY +3)

- Receive copies of ID documents from provisional voters who lacked ID on election day until noon.⁷⁸
- Complete Provisional Ballot Meeting if persons that lacked ID were the only voters with unresolved situations.

10.17 ELECTION DAY + 30

- Deliver absentee ballots received after election to Clerk of Court.⁷⁹

10.18 POST ELECTION – RECOUNT OR CONTEST PROCEDURES FINALIZED⁸⁰

- Retrieve materials from Clerk of Court.
 - Oath completed by the officers of election.
 - Voting machine keys.
 - Voting machine memory cards.

⁷⁵ See Chapter 13 Provisional Ballots.

⁷⁶ See Chapter 14 Canvass.

⁷⁷ See the Code of Virginia §24.2-653.

⁷⁸ *Id.*

⁷⁹ See the Code of Virginia §24.2-710.

⁸⁰ See the Virginia Administrative Code [1VAC20-80-20](#) for information about recounts and contested elections.



- Paper Pollbooks (if used).
 - Pollbook count sheets (if used).
 - EPB thumb drives.
- Voter Credit. Manually enter voter credit from paper pollbooks.
 - Run VERIS report identified in §14.3.3.5 (Votes Cast and Turnout Details).
 - Resolve issues, if present.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter I I

Election Day Manual

June 2018

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11. Election Day Manual

REQUIRED FORMS ELECT-Management-Incident-Report.docx HAVA Administrative Complaint Procedure final 05-03-12.docx Emergency Polling Place Relocation Approval Request Form (SBE-310) Town.doc.docx Emergency Polling Place Relocation Approval Request Form (SBE-310) County or City (2).doc.docx	ADDITIONAL RESOURCES Voter Complaint Form SBE-15512.docx Voter Complaint Form SBE-15512.pdf Voter Complaint Form SBE-15512SPN.docx List of Institutions of Higher Education 8.22.xlsx Officer of Election Election Day Oath (SBE-611.1).docx Election Page Oath (SBE-604(H)).docx Noncitizen Student Volunteer Oath.docx Oath or Affirmation for Officers of Election SBE-120.docx
REFERENCE ELECT-604G-Management-Guidelines-for-Campaigners-and-Authorized-Representatives (7-17).docx What Ifs (07-17).doc ELECT-103CAP Election Day Guide (7-17).docx ELECT-103EDG Election Day Guide (7-17).doc	REGULATIONS 1 VAC 20-60-30 Electronic Devices in Polling Places 1 VAC 20-60-40 When Ballot Cast 1 VAC 20-60-50 Overfull Optical Scan Ballot Container 1 VAC 20-60-60 Provisional Votes 1 VAC 20-20-80 Complaints

11.1 CHAPTER ORGANIZATION

This chapter should be a resource for general registrars, local electoral board members, and officers of election. §11.2 addresses common questions and situations that can arise on election days such as general disruptions, campaigning near or in the polling place, voters or elections officials bringing weapons into polling places, electronic devices, authorized representatives, and children in the polling place. This section also addresses the exception in the Code of Virginia permitting a voter on the sex offender registry to go to a public school if that is the voter's lawful polling place.

Read §11.3 before an election day, so that you can be familiar with emergency procedures. However, you can also use §11.3 as a quick resource guide. §11.3 can be used in each polling place by the chief officers of election who are responsible for reacting to emergencies, providing notice, and following emergency protocols. §11.3.1 specifically discusses preparedness planning; §11.3.2 provides guidance for where, when and how to resume voting if the circumstances require a polling place be evacuated. Use §11.3.4 as a resource for emergencies that will arise immediately such as the inability to enter a polling place due to high water or locked doors. Refer to §11.3.5 for all other emergency responses.

§11.5 discusses election day complaints (both informal complaints and Help America Vote Act complaints). §11.6 covers common election day offenses and how to respond appropriately.



11.2 GUIDELINES FOR ELECTION DAY

11.2.1 General Disruption and Campaigning Within the Polling Place

If a voter or any other person is disrupting the polls, or any person is campaigning within the prohibited area or polling place, there are certain steps that can be taken to contain the situation.

As a first step, election officials (preferably two officials) should ask the person to cease the disruption, or ask the person who is campaigning to leave the prohibited area and polling place. If the person is entering or inside the polling place to vote, make the voter aware of the prohibition on campaigning in this area. If the person continues to campaign or becomes disruptive, officers of election should call 9-1-1. (Note: If you call 9-1-1, be sure to identify yourself as the chief election officer or an election official.) Remember to **complete an Incident Report**.

Please keep in mind the restrictions applicable to any person in the polling place, outlined in the Code of Virginia §24.2-604 and 607, which include the following:

- **No person** in the polling place may **hinder or delay** a qualified voter, give, tender or in any manner **try to influence a voter**, be in a position to **see the marked ballot of any voter**, or **otherwise impede** the orderly conduct of the election. Code §24.2-604(D).
- **Do not allow observers to provide any assistance to any voter.** Make sure observers are not wearing any indication that they are authorized to help voters. Code §24.2-604(C).
- **No person can intimidate or interfere** with any qualified voter so as to prevent the voter from casting a secret ballot. Code §24.2-607.

These prohibited activities shall not be construed to prevent a person approaching or entering the polling place for the purpose of voting from wearing a shirt, hat or other apparel (including a sticker or button) with a candidate's name or slogan on it.¹



Officers of election are authorized 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.²

11.2.2 Weapons in the Polling Place

Currently, Virginia law prohibits bringing firearms and other weapons into the following polling place locations:

- Public, private, or religious elementary, middle, or high schools (extending to the building and grounds of these institutions)
- Courthouses

¹ See the Code of Virginia §24.2-604.

² See the Code of Virginia §24.2-606.



- Any private property location used as a polling place with an owner-established policy restricting or prohibiting the presence of weapons.

If your polling place is not one of the types listed above, a person with a weapon or firearm may be removed from the polling place only if they are acting in a way to intimidate, hinder or interfere with any qualified voter as to prevent them from casting a secret ballot, or are acting in a noisy or riotous manner.³

Officers of election have authority to preserve order in the polling place. If a person in possession of a weapon or firearm is acting in violation of Virginia law, the officers of election may first order the person to stop. If the person does not stop, the officers of election, or a majority of them, may order the arrest of the individual by a law enforcement officer.



In no circumstance should an officer of election or other elections official possess any weapon while in the polling place.

11.2.3 Sex Offender Registry Exception

A voter listed on the sex offender registry normally cannot go near or inside a public school. However, the Code of Virginia [§18.2-370.5](#) provides an **explicit exemption for voters** whose polling location is located inside a school: these provisions “shall not apply to such adult if he is a lawfully registered and qualified voter, and is coming upon such property solely for purposes of casting his vote”.⁴

11.2.4 Electronic Devices in the Polling Place (1 VAC 20-60-30)

The use of electronic devices in the polling place is generally accepted. However, representatives of candidates and political parties authorized to observe the election are prohibited from taking photos or video within the polling place.⁵

Officers of election may restrict the use of electronic devices *if* such use hinders, delays, or disrupts the voting process. The decision to restrict the use of electronic devices must be agreed to by the majority of officers of election. This decision is immediately appealable to the local electoral board. While an individual may be asked to leave the polling place for being disruptive, no voter may be removed from the polling place until after the voter has cast their ballot.

No electoral board may enact a policy that completely disallows the use of electronic devices by all individuals.⁶

11.2.5 Representatives and Observers

Questions regarding authorized representatives and neutral observers are addressed in the Code of Virginia § 24.2-604(C). Please remember that no person in the polling place may hinder

³ See the Code of Virginia §24.2-607.

⁴ See the Code of Virginia [§18.2-370.5](#)

⁵ See [1 Va. Admin. Code 20-60-30](#).

⁶ For more on this subject, please see an Attorney General opinion issued in 2016 regarding the use of cameras and phones in polling places: https://www.oag.state.va.us/files/Opinions/2016/16-038_Bell_Lind_issued.pdf.



or delay a qualified voter, give, tender or in any manner try to influence a voter, be in a position to see the marked ballot of any voter, or otherwise impede the orderly conduct of the election.

Do not allow observers to provide any assistance to any voter. Make sure observers are not wearing any indication that they are authorized to help voters.

11.2.5.1 *Authorized Representatives*

Officers of election shall admit authorized representatives for the Democratic and Republican parties and independent candidates to the polling place as long as the total number of representatives complies with the Code of Virginia §24.2-604(C). Code §24.2-604(C) limits the number of representatives for each political party or candidate to either one authorized representative per pollbook, or up to three representatives for each in the room – whichever number is greater.⁷

Each authorized representative must be a qualified voter in the Commonwealth (of any jurisdiction). Each authorized representative must present a written statement authorized and signed by the party chair or independent candidate. Photocopies of the written statement are acceptable.

11.2.5.1 *Neutral Observers*

The local electoral board or general registrar may authorize in writing the presence of additional neutral observers as appropriate. If your locality (whether the general registrar or the local electoral board) grants authorization to additional neutral observers, consider the implications of granting permission to one group without also providing notice and the opportunity to other similar or opposing groups that may wish to be present.

11.2.5.1.1 *Must be Authorized in Writing*

The **local electoral board or general registrar may authorize *in writing* the presence of additional neutral observers** as may be deemed appropriate. Local electoral boards and registrars should consider adopting a consistent policy for responding to such requests and objective criteria for making a determination. This will help ensure fair treatment of requestors.

11.2.5.1.2 *Grant Equal Access*

If a local EB or GR grants authorization to neutral observers in addition to the authorized representatives, please keep in mind the optics of granting permission to one group without also providing notice and the opportunity to other similar or opposing groups that may wish to be present. Other factors that may be considered by the electoral board or general registrar are the number of voters expected, the amount of equipment allocated, and the number of officers scheduled to be in each precinct.

While a general policy denying requests from any group not required to have access to polling places is allowable, you should consider if there are other options that would assist in making the election process more transparent. These options include limiting neutral

⁷ See the Code of Virginia §24.2-604(C).



observers to the less busy times of day and/or offering to allow access during a non-presidential election.

11.2.6 Children in the Polling Place

As a rule, a voter may be accompanied into the voting booth by children aged fifteen or younger.⁸ Under laws that prohibit disruption of voting, the officers may ask a parent whose child becomes unruly to get them under control. **In no case should an officer of election or electoral board member ever touch or discipline the child.** It is the parent's responsibility to control the child he or she has brought into the polling place. If the child feeds the ballot into the tabulator or otherwise casts the ballot and the voter has not completed the ballot, a new ballot will **not be provided**. If a ballot is damaged, the voter may "void" it and a new ballot can be issued. However, children should not be allowed to mark or play with a ballot. While Code language allowing a child to accompany the voter is written in the singular, there is not a one child per voter limit.

The officer should normally assume that the child accompanying the voter is "his [or her] child." No affirmation of kinship is required. Only the most obvious abuses should be questioned. For example, a teacher trying to claim a class of twenty as "his children" obviously does not fall within the intended meaning of the law. The class would fall under the definition of "neutral observers" which can only be authorized in writing, in advance, by the electoral board.⁹

11.3 IN CASE OF EMERGENCY

The Code of Virginia states that polls **MUST** be open for voters to place their vote at 6:00 a.m.¹⁰ Officers of election **MUST** be present by 5:15 a.m.¹¹ Officers other than the chief and assistant chief may be assigned to work less than a full election day.¹²

11.3.1 Preparedness and Immediate Response

Each Chief Officer of Election should be instructed to divide the below in-case-of-emergency tasks amongst the officers of election *before voting commences at 6 am on election day*. If this has not been done, the Chief Officer of Election should assign these tasks by priority prior to announcing the emergency to the public.

Prepare by assigning one of the below mandatory tasks to each officer of election *in advance of the emergency*.

1. Take a headcount of all persons in the polling location.
2. Call the general registrar and/or electoral board.
3. Alert all present individuals of the emergency circumstances as calmly as appropriate and remind them of the predetermined assembly area. All present persons should assemble at a

⁸ See the Code of Virginia §24.2-643(A).

⁹ See the Code of Virginia §24.2-604.

¹⁰ See the Code of Virginia §24.2-603 (polls must be open by 6:00 a.m.).

¹¹ See the Code of Virginia §24.2-639 (officers of election must be present by 5:15 a.m.).

¹² See the Code of Virginia §24.2-115.1 (officers other than the chief and assistant may work less than a full day).



predetermined assembly point at least 300 feet away from the building (or as close to 300 feet as terrain/conditions will allow) and outside of parking areas, if possible.

4. Take quick note of the “Public Counter” number on the machine(s).
5. List the names of those who checked in before the evacuation but were unable to vote.
6. If the emergency permits, all officers of election should be prepared to take the below items out of the compromised polling place:
 - a. Counter
 - b. Ballot container(s)
 - c. Pollbook(s)
 - d. Unused ballots
 - e. Necessary forms and materials to allow voting to continue
 - i. Affirmation of Eligibility
 - ii. Provisional voting materials
 - iii. Precinct lists
 - f. Vital Supplies (cell phone, tape, etc.)

11.3.2 Resume Voting After Evacuation: How, When and Where

General registrars and officers of election should seek to ensure that voting can recommence (outside the polling place) as soon as it is both possible and safe.

11.3.2.1 If the polling place does not have operational voting equipment or sufficient ballots

Use emergency paper ballots as per the Code of Virginia §24.2-642.¹³ If electronic pollbooks are used and unavailable, provisional ballots should be issued to all voters.

11.3.2.2 If you cannot re-start voting outside the polling place

Contact your local electoral board to request authorization for an alternative polling location. The local electoral board may authorize moving the polling to another location, but must do so with the Department of Elections’ approval. If the relocation is authorized, an election official must leave directions to the new location posted on the doors (post on both regular and handicapped accessible entryways).

The directions should indicate the time this polling place was vacated and on whose authority, e.g., “Vacated by authority of the electoral board, 2 p.m. To vote, please report to _____.”

11.3.3 Emergency Polling Place Relocation on Election Day

After receiving notice of an emergency at a polling place, the general registrar or electoral board should

- ➔ Contact local law enforcement and local emergency management.

¹³ See the Code of Virginia § 24.2-642.



- ➔ Contact the Commissioner of the Department of Elections to propose an alternative location. An alternate location must be established within the precinct or within 1 mile outside the precinct boundary. The safest, most efficient shelter should be used to resume voting as soon as possible after the Commissioner has approved the new location.
- ➔ Prepare and email or fax the Emergency Polling Place Relocation form (ELECT-310) located in the SharePoint [Forms Warehouse](#) Category *Emergency Procedures* to the Department of Elections as quickly as possible. Links to these forms are also provided on page 2.
- ➔ Advise voters and candidates on the ballot (or their campaigns) must be notified by the most efficient means, such as fliers and the news media (television and radio, if possible), of the new polling location.

The chief officer of election should

- ➔ Make arrangements to transport the necessary equipment & supplies to the new location.
- ➔ Advise voters at the polling location who had not yet voted, of the new polling location.
- ➔ Post notices at and outside the old (original) polling place, if possible.

11.3.4 Common Election Day Emergencies

11.3.4.1 Cannot Enter the Polling Location

In the case of **high water** before or after the polls open:

- First notify the registrar, who will in turn contact the local electoral board.
- The electoral board must follow the guidelines established in your Election Emergency Procedures.
- After the alternate plans have been finalized, the electoral board and chief election official will notify election officials on how to proceed.

In the case of **locked doors**:

- If the Chief Officer of Election does not have the key for the polls, she should ensure, prior to election day, that she has phone numbers for contacting a facility custodian or the management staff.
- If the Chief Officer of Election cannot make contact with facility staff, she should contact the registrar and begin following the guidelines for an alternate polling location.

11.3.5 Emergencies Involving Election Officials and Supplies

If the **chief election official does not arrive with the supplies by 5:15 a.m.:**

- Any election official present should notify the general registrar.
- The office staff will attempt to reach the chief at her home.
- If the chief cannot immediately get to the polls with the supplies and books, the electoral board will deliver supplies, ballots, and a machine key immediately to the polling place.



- Until the pollbooks (which are in the custody of the chief) arrive, the registrar's office must be called to verify that each voter is qualified. For each qualified voter who votes on the registrar's authorization before the pollbooks arrive, record the voter's full name, street address and pollbook count (PBC) number on a note pad.
- Once the officers have the pollbooks, they record the voters and PBC numbers in the appropriate sections (double-checking names and addresses to make sure the correct voter is marked).
- If there is no phone service, or the registrar is not available, follow the normal procedures for a voter who is not listed on the pollbook, using a paper ballot and completing the Provisional Ballot envelope. Do not mark these voters on the notepad or pollbook.

If a voter must leave before you receive ballots, take 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. However, a voter who has already been checked in on the pollbook as present to vote and then leaves may not return and vote later.

If the chief election official is ill or has a family emergency before the election

- The assistant chief or other designated official will be notified to pick up the supplies and ballots.
- That individual will serve as chief in absence of the originally designated chief.

If the supplies are destroyed, immediately call the registrar so that new supplies may be furnished.

- The supplies and ballots must not be left overnight in an automobile. The chief should ensure the supplies, equipment, and ballots are safely secured both at home and at the polling location when they go to check their equipment. If the supplies are destroyed, the registrar's staff will then replace supplies.

In the event that the precinct is short of election officials

- The shortage must be reported as the chief or assistant chief becomes aware.
- The registrar's office will attempt to replace the official.
- The other election officials must proceed in opening the polls.
- If an officer of election is absent or unable to serve and the polls have been open for one hour, the remaining officers of election shall appoint a substitute officer of election for the precinct. The substitute officer shall possess the same qualifications and, after taking the requisite oath, have the same powers as officers appointed by an electoral board.¹⁴

11.4 OTHER DIFFICULTIES ON ELECTION DAY

In the event that voting equipment **malfunctions or is damaged**:

¹⁴ See the Code of Virginia §24.2-118.



- Immediately report to the voting machine technicians or the registrar/electoral board's office.
- Follow procedures in the Code under "Inoperative Equipment."
- When using optical scan ballots, voting will continue normally except for the tabulating.
 - Any voted ballots must be placed in the emergency ballot container. The ballots will remain in that container until the polls close and then the ballots will be fed through the counter.
 - If the officials neglect to place the ballots in the emergency ballot container before running the tapes, the technicians and an electoral board member must be summoned to the precinct and observe while all the ballots are run through the counter again before the results can be reported.
 - The ballots may have to be read or hand counted if the locality does not have the equipment.

In the event that the **ballot container is damaged or missing**

- Immediately report this to the registrar and a technician will be sent to repair or replace the container.
- If the emergency ballot slot cannot be used, the voters must place their ballots in the black supply container, or other container that is sealed and has a slot on top.
- The ballots must remain in that container until the polls close and then the ballots must be fed through the tabulator.

In the event that the **precinct phone is not working**

- Report the problem to the facility's custodial or the management staff.
- Another phone may be obtained to report the nonfunctional phone or down service to the registrar.
- If needed, a wireless phone may be provided until phone service is restored.¹⁵

In the event that the **registrar's phones are not working**

- Use wireless phones until service is restored.
- Notify all precincts of the new temporary number at which the registrar's staff may be reached.

In the event of **power failure at the registrar's office**

- Decide if the staff will be relocated.
- Notify election officials of the new location and contact information.

In the event of a **power failure at the polling location**

- Immediately report this to the registrar.
- If multiple outages are reported, the general registrar must report the outages to the Department of Elections.

¹⁵ See the Code of Virginia §24.2-625.2 (prohibitions for wireless phone communication in poll use, refers to in voting machines).



- Report the problem to the facility's custodial or the management staff.
- Continue voting on available ballots, using provisional ballots as needed if electronic pollbooks are unavailable.

In the event the **ballot box fills**, officers of election may open the ballot container and empty the ballots with the following safeguards:

- The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.
- Any such auxiliary ballot container used shall have a lock and key and an opening of sufficient size to admit a single folded or unfolded ballot and no more.¹⁶
- At least two officers of election, representing both political parties, must transfer the ballots.¹⁷ Two members of one single party may transfer the ballots if the election taking place is a single-party primary.

11.5 ELECTION DAY COMPLAINTS

One of the most important responsibilities of state and local election officials is ensuring the transparent and fair operation of elections. In support of this endeavor, local election officials should ensure that all election day workers are trained in election day procedures and be prepared with appropriate responses to any complaints or violations. The purpose of this section is to discuss election officials' response to complaints and violations that may occur.

11.5.1 Election Day Complaints

Voters should make complaints directly to the local general registrar or to the Department of Elections at any time. Complaints can range from a polling place having a long line to voting equipment being inaccessible. Election officials should take each complaint seriously and decide what solutions they can provide and also be aware of when complaints or conflicts should be escalated to proper authorities. Generally, complaints can be categorized into informal and formal. Election officials that witness election day violations or receive complaints should document the incident or complaint using the Incident Report Form supplied in the Forms Warehouse.

¹⁶ See the Code of Virginia §24.2-623.

¹⁷ See [1 Va. Admin. Code 20-60-50](#); SBE Policy 2008-010.



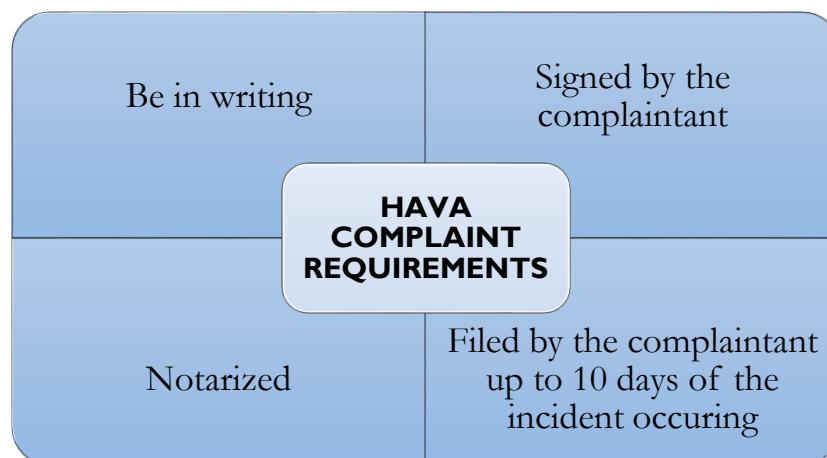
11.5.2 Informal Complaints

Local election officials can receive informal complaints from any voter; thus, procedures should be in place to handle complaints or conflicts and officials should aim to resolve these issues on the local level. Voters may also make informal complaints directly to the Department of Elections. Complaints filed online, by e-mail, or received by phone to the Department will immediately be sent to the appropriate election official. The Department will assign the appropriate staff member as expeditiously as possible to resolve informal complaints.

11.5.3 HAVA Complaints

The Help America Vote Act (HAVA) of 2002 made reforms to America's voting process by establishing minimum standards for states regarding election administration. Title III of HAVA contains standards regarding voting systems, provisional voting and voting information, computerized statewide voter registration list, and requirements for first-time voters who register by mail. HAVA standards are critical to the operation of an election.

Section 402 of HAVA requires states to establish a procedure for election day complaints. The State Board of Elections developed the HAVA Administrative Complaint Procedure for handling complaints consistent with HAVA requirements. HAVA complaints in particular will fall into two categories: informal and formal.



Regulation Note

1VAC 20-20-80: Complaints

A. Any person may make an informal complaint electronically or by telephone. Localities are primarily responsible for responding to all voter complaints they receive and may request board staff for assistance as needed.

B. A person may file a formal written complaint with the board as required by the Help America Vote Act of 2002, 42 USC § 15301 et seq., using the form and instructions available from the board. Formal complaints require review and response by the Commissioner or Deputy Commissioner who may contact local election officials for information. Any complaints not meeting the criteria for formal complaints will be responded to informally by appropriate staff. See the Code of Virginia §24.2-103.



The State Board of Elections adopted a formal grievance procedure to handle HAVA complaints. See: SBE HAVA Administrative Complaint Procedure. This procedure has been implemented through State Board regulation 1 VAC 20-20-80. The complaint form is available for printing through the Forms Warehouse and should be available at each polling location for voters. A voter may also file a HAVA complaint without a Department complaint form. The general registrar or local electoral board will be contacted for information concerning the complaint and will be allowed an opportunity to review the proposed response.

A HAVA complaint must be in writing (a complaint does not have to be on the Department's official complaint form), signed by the complainant, notarized, and filed up to 10 days before or after the incident occurs. If a complaint is improperly notarized, please report the notary to the Secretary of the Commonwealth. The Department of Elections determines the severity of the complaint and whether a complaint is formal or informal. HAVA requires complaints be resolved within 90 days or referred to alternative dispute resolution as per 52 U.S.C 21112.

11.6 ELECTION DAY OFFENSES

Local election officials may receive complaints regarding violations or witness violations that are outside the scope their authority. An official should know what situations should be referred to authorities and what situations can be handled within their office.



Best Practice

Properly training election day workers is the best way officials can prevent confusion and misunderstandings that might lead to offenses.

11.6.1 Common Election Day Offenses

Loitering within the prohibited 40-foot boundary area of a polling place is probably the most frequent election day violation as per 24.2-604. Usually, officers of election warn such violators before taking legal action. If a violator repeatedly refuses to heed such a warning, then law enforcement may be requested.

Offenses relating to assisting voters: Any voter who needs assistance in preparing his ballot because of a physical disability or inability to read or write (including those with limited English proficiency) can request such assistance as per 24.2-649. The assistant (who can be an officer of election) must cast the ballot for the voter according to the direction of that voter. The assistant cannot in any way influence the decision of the voter. Finally, the assistant cannot divulge how the person voted. Violation of any of these laws related to assistance is punishable as a Class 1 misdemeanor, and may be a felony if related to absentee voting or fraudulent as per 24.2-649(D).



11.6.2 Campaign Finance Related Offenses: Reporting and Advertising

The general registrar is required to perform certain duties relating to the filing of campaign finance reports, assessing civil penalties, and referring matters to the Commonwealth's attorney. Campaign related offenses are, for the most part, outside the scope of local election officials' authority.

Complaints about campaign telephone calls to solicit or convey information for participating candidates or political parties are also not within the scope of the authority of the local election official.

The local government is responsible for enforcing ordinances such as the placement of campaign signs.¹⁸ Refer all complaints to the city or county attorney or administrator. Political calls are not covered by the federal or state "Do Not Call" laws and lists. Voters may ask political parties and committees voluntarily to remove the voter's information from their contact lists.

11.6.3 Violations of Federal Law

Questions or complaints regarding violations of federal laws should be directed to the appropriate United States Attorney for the geographic area ([Eastern](#) or [Western](#) District of Virginia) or to the [United States Department of Justice Voting Rights Section](#).

11.6.4 Severe Offenses

Local election officials often receive complaints regarding issues outside the scope of their authority. When this occurs, the official should refer the complainant to the appropriate authorities. Officials may also witness violations and should be prepared to document and report these violations. The Department of Elections staff, local election officials, or the public may report an alleged violation of any provision of Title 24.2 to the Commonwealth's Attorney as per the Code of Virginia §24.2-1019. Questions regarding state offenses and suspected violations of state law should be directed to the Commonwealth's Attorney for the locality in which the incident allegedly occurred or may be directed initially to the Virginia Attorney General.

¹⁸ See the Code of Virginia [§15.2-109](#).



APPENDIX A: 1VAC20-20-80. Complaints.

- A. Any person may make an informal complaint electronically or by telephone. Localities are primarily responsible for responding to all voter complaints they receive and may request board staff for assistance as needed.
- B. A person may file a formal written complaint with the board as required by the Help America Vote Act of 2002, 42 USC § 15301 et seq., using the form and instructions available from the board. Formal complaints require review and response by the deputy secretary or secretary who may contact local election officials for information. Any complaints not meeting the criteria for formal complaints will be responded to informally by appropriate staff.

Statutory Authority

§ 24.2-103 of the Code of Virginia.

APPENDIX B: Emergency Reproduction of Ballots

SBE Policy 2008-004 defines inoperable or unavailable equipment for the purposes of the Code of Virginia §§ 24.2-642 and 24.2-646.1, which allow for the use of paper ballots, and the reproduction of emergency paper ballots by the officers at the polls in certain emergency situations.¹⁹ SBE Policy 2008-004 “Inoperable Equipment” and 2008-011 “Unavailable Voting Equipment,” are available online.²⁰

The Department of Elections also granted permission to all localities which used optical scan ballots for any precinct (including absentee voting), to use the optical scan ballot or a copy of the optical scan ballot in lieu of the official paper ballot.²¹

When distributing election materials to the polling locations, ensure each precinct is provided a master copy of form,²² Authorization to Reproduce Ballots. Chief and assistant chief officers should be instructed on the purpose and use of this form in their training, which should also include examples of situations in which such reproduction might be needed. Emergency supplies should include copies of the form and instructions.

Before the election, the electoral board or general registrar for each polling place should determine if a copy machine is available for officer use, and how the officers can obtain access to it, especially before and after normal business hours. If there is no access to a copy machine at the polling location, the Chief should know where the nearest quick copy store is, and its hours.

Such copying capability might also be needed if the polling hours are extended by court order and the number of provisional ballot envelopes runs low and cannot be resupplied in time to continue voting without interruption.²³ If additional provisional ballot envelopes are needed, an officer may photocopy both sides of a blank provisional ballot envelope to be attached to a plain envelope or securely wrapped and sealed around the outside of the folded paper or optical scan ballot (with the information normally on the envelope visible, but the ballot kept private) if no plain envelopes are available. Do not staple through any ballot.

¹⁹ See the Code of Virginia §§24.2-642, 24.2-646.1 (explaining when emergency equipment may be allowed).

²⁰ Both SBE Policy [2008-004](#) Definition of Inoperable Equipment, and [2008-011](#) “Definition of Unavailable Equipment” are available online.

²¹ See SBE Policy [2008-005](#), authorizing the Reproduction of Optical Scan Ballots.

²² [ELECT-646.1](#).

²³ See the Code of Virginia §24.2-653(C) (explaining the circumstances in which a court may extend the polling hours).



APPENDIX C: Court Extends Polling Hours

In any situation where the officers of election are notified that the polling hours have been extended by court order, any person who offers to vote after the normal closing time of 7 p.m. must vote a provisional ballot. This does not apply to voters who are in line at 7 p.m.²⁴

- If news of the extended hours did not come from the general registrar or electoral board or via delivery of an official copy of the order from the court, the chief or assistant chief officer should immediately attempt to verify the extension with the registrar or electoral board. If a copy of the order is delivered to the polling place, the chief or assistant chief should immediately inform the general registrar or electoral board of its receipt and contents.
- Estimate the number of extra paper or optical scan ballots and provisional ballot envelopes that will be needed during the extended polling hours (all voters during that time must vote provisional ballots), and ask the general registrar or electoral board to have them delivered to the polling place. If there is not enough time to have them delivered, proceed with the stock on hand and use the procedures for emergency paper ballots, only if approved by the electoral board.²⁵ If additional provisional ballot envelopes are needed, an officer may photocopy both sides of a blank provisional ballot envelope to be attached to a plain envelope or securely wrapped and sealed around the outside of the folded paper or optical scan ballot (with the information normally on the envelope visible, but the ballot kept private) if no plain envelopes are available. Do not staple through any ballot. Provisional voting envelopes can also be printed from SharePoint [Forms Warehouse](#) or stored on a flash drive.
- All qualified voters who are in line when polls would normally close must vote in the usual manner.
- Any voter entering the line after the normal closing time, but before the extended closing time, must vote by provisional ballot. Keep a separate running count of the number of provisional ballots issued after the normal poll closing time. What one judge orders, a higher court may overturn, so the ballots and counts must be kept completely separate. These voters may also be voting a provisional ballot for any of the usual reasons such as lack of ID and all applicable reasons should be marked. These voters will not be marked with a pollbook count number to indicate that they have voted but will be listed in the same manner as other provisional voters. These ballots will be counted and added to the results by the electoral board; they are not counted at the polls by the officers.²⁶
- 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.

²⁴ See the Code of Virginia §24.2-653(C).

²⁵ See the Code of Virginia §24.2-642.

²⁶ See Chapter 13 Provisional Ballots.



APPENDIX D: 1VAC20-60-40. When Ballot Cast.

A. A voter, voting in person on election day or voting absentee in-person, has not voted until a permanent record of the voter's intent is preserved.

B. A permanent record is preserved by a voter (i) pressing the vote or cast button on a direct recording electronic machine, (ii) inserting an optical scan ballot into an electronic counter, or (iii) placing a paper ballot in an official ballot container.

C. A vote has not been cast by the voter unless and until the voter or an officer of election or assistant at the direction of and on behalf of the voter pursuant to § 24.2-649 of the Code of Virginia completes these actions to preserve a permanent record of the vote.

D. If any voter's ballot was not so cast by or at the direction of the voter, then the ballot cannot be cast by any officer of election or other person present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an undervote or overvote, the officer of election may cast the ballot for the absent voter.

E. An absentee voter who votes other than in person shall be deemed to have cast his ballot at the moment he personally delivers the ballot to the general registrar or electoral board or relinquishes control over the ballot to the U.S. Postal Service or other authorized carrier for returning the ballot as required by law.

Statutory Authority

§ 24.2-103 of the Code of Virginia.

APPENDIX E: 1VAC20-60-50. Overfull Optical Scan Ballot Container.

If an optical scan reader in use in a registrar's office or a polling place malfunctions because the connected ballot container includes too many ballots, election officials may open the ballot container and empty the ballots with the following safeguards:

1. The optical scan ballot container shall be opened in plain sight of any authorized party representatives or other observers and, once the ballots have been deposited into an auxiliary ballot container, both ballot containers shall remain in plain sight in the polling place.

2. Any such auxiliary ballot container used shall meet the requirements of § 24.2-623 of the Code of Virginia.

3. In a general, special, or dual-party primary election, a minimum of two officers of election, not representing the same political party, shall execute such a transfer of ballots. In a single-party primary election, the transfer shall be conducted by a minimum of two officers of election who may represent the same party.

Statutory Authority

§ 24.2-103 of the Code of Virginia.



APPENDIX F: 1VAC20-60-60. Provisional Votes.

The electoral board or general registrar may attempt to contact an individual who has voted a provisional ballot when required by § 24.2-643 of the Code of Virginia and remind the individual that he is permitted to provide a copy of a form of identification as specified in subsection B of § 24.2-643 of the Code of Virginia to arrive no later than noon on the Friday after election day. However, there shall be no requirement that the electoral board or general registrar contact such individual.

Statutory Authority

§ 24.2-103 of the Code of Virginia.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 12

Central Absentee Precinct (CAP)

June 2018

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Appendix A: How to Arrange a CAP

Appendix B: In-person Absentee Voting Steps



12. Central Absentee Precinct (CAP)

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REFERENCE CAP Election Day Guide What ifs	REGULATIONS 1VAC20-70-20 Material Omissions from Absentee Ballots 1VAC20-70-40 Alternative Processing Procedures for Absentee Ballots Returned Before Election Day

12.1 CHAPTER ORGANIZATION

A central absentee precinct (CAP) is “a precinct established by a county or city [...] for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.”¹ CAPs are used to facilitate the counting of absentee ballots centrally and streamline the process of absentee ballot tabulation. The growing number of voters who choose to vote absentee and the continuing expansion of the number of voters who are eligible to cast absentee ballots make the CAP an increasingly important tool for localities. This chapter provides an overview of why and how CAPs are established, and how they are run.

The Department of Elections Election Day Guide (EDG) for the CAP is an essential resource for planning and operating the CAP. Refer to that guide for more specific information on how to run a CAP.

Section 12.2 begins the chapter by describing the reasons for establishing a CAP. Certain complications regarding CAPs are also discussed. §12.3 provides guidance on how election officials can work with the local governing bodies to establish a CAP. §12.4 discusses the factors to consider when choosing the CAP’s location.

The discussion then turns to how CAPs are run. Section 12.5 discusses staffing and operating hours, including training and the requirement that CAP officers themselves vote absentee. Section 12.6 offers practical suggestions about how to arrange a CAP.

Section 12.7 discusses in-person absentee voting as it relates to a CAP. This begins with an overview of in-person absentee rules generally, followed by best practices and specifics for voting in-person absentee. Other pre-election activities are discussed in §12.8. A planning checklist is provided to aid registrars in thinking about how to prepare their CAP in §12.8.1. Section 12.8.2 discusses pre-processing of absentee ballots. Section 12.8.3 shows how preparing a CAP is essentially the same as preparing any other precinct.

¹ See the Code of Virginia § 24.2-101.

Election day activities are discussed in §12.9. Section 12.9.1 discusses how to open a CAP for voting, including an explanation of ballot delivery and set up procedures. Section 12.9.2 outlines CAP activities during election day: how to split CAP members into processing teams, how to process ballots, and special circumstances that may arise during processing. Section 12.9.3 discusses the option to begin hand counting at 3:00 p.m. The procedures for hand counting ballots are provided. Finally, §12.9.4 discusses closing the CAP.

12.2 WHY ESTABLISH A CAP

A CAP is normally established for one or more of the following reasons:

- The number of absentee ballots is usually so great that processing them would delay the completion of required work at polling places and the reporting of results.
- The distance 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.
- The security of the ballots is improved when they are transported to a single nearby location, and handled only by officers of election working at that location.
- The secrecy of the ballot of the voter, where there are a small number of absentee voters in any one precinct, is preserved because the ballot is cast and counted with the ballots of all others in the locality who are voting the same ballot style.
- A CAP facilitates providing in-person absentee voters with the opportunity to cast their ballot in a private and independent manner on accessible voting equipment.
 - Remember: accessible equipment must be used in all elections. Localities that do not have a CAP must still provide in-person absentee voters with disabilities with the opportunity to vote privately and independently.²

Establishing a CAP may increase the cost of an election. A minimum of three officers is required any time the CAP is open.³ However, establishing a CAP could also result in a reduction of costs such as a reduction in mileage incurred for extra trips to deliver late-received ballots.



CAPs in the same location as the general registrar's office can open after 6:00 a.m. on election day as long as the general registrar's office will receive absentee ballots until the CAP opens, and the CAP officers of election obtain any absentee ballots turned in to the general registrar before the CAP opened.⁴ Opening late can help minimize the cost of operating a CAP in elections with low absentee participation.

Registrars and electoral boards can work with the local governing body and local government attorney on including language in the CAP ordinance to allow the electoral board discretion to not use the CAP in elections with low forecasted turnout. ELECT staff can provide assistance and suggested language to consider.

² See 52 U.S.C. §21081(a)(3).

³ See the Code of Virginia §24.2-712(B).

⁴ See the Code of Virginia §24.2-712(F).

12.3 HOW TO ESTABLISH A CAP

CAPs may be established for a county or city upon the enactment of an ordinance by the local governing body of a county or city.⁵ A CAP used for town elections must be established by the governing board for the surrounding county.

12.3.1 Local Electoral Board

The local electoral board should take the following steps to establish a CAP:

- Determine whether a CAP is needed and for which elections.
- Consider requesting ordinance language that allows the electoral board discretion to determine the elections for which the CAP should be used.
- Find a suitable location for the CAP and ensure that it will be available whenever needed.
- Determine the projected per election cost of operating the CAP.
- Request that the local governing body of the county or city enact an ordinance establishing the CAP.
- Provide to the local governing body the location of the recommended site and the funding required.
 - The ordinance enacted should state the elections for which the CAP is established and authorize the electoral board to determine not to use the CAP for a particular election.⁶
 - In the absence of such a designation in the ordinance, the CAP would be required in all elections.

12.3.2 Local Governing Body Must Provide Notice



Before adopting an ordinance, the local governing body must give such public notice as is required for any other ordinance that creates a change in an election district, precinct, or polling place.⁷

- Notice of the adoption of the ordinance must be published in a newspaper with general circulation in the precinct once a week for two successive weeks prior to enactment.⁸
- Forward a copy of the final adopted ordinance to the Department of Elections immediately after enactment.⁹
- Finally, submit to the Department of Elections a completed SBE-15 Polling Place Relocation form.
- If the governing body chooses to abolish the CAP, or if the CAP will not be used for a particular election, the Department of Elections should be notified immediately.¹⁰

⁵ See the Code of Virginia §24.2-712(A).

⁶ See the Code of Virginia §24.2-712(A).

⁷ See the Code of Virginia §24.2-306.

⁸ See the Code of Virginia §24.2-306(A).

⁹ See the Code of Virginia §§24.2-306(C) and 24.2-712(B).

¹⁰ See the Code of Virginia §24.2-712(A).

12.4 LOCATION OF THE CAP

The CAP only exists on election day. Prior to that time, in-person and by-mail absentee voting are conducted in the office of the general registrar and any designated satellite facility.¹¹ However, on election day, the room in which the CAP will be located should not be in the immediate office of the general registrar. It should, however, be located as close to that office as possible. It must also meet certain other requirements:

- The room must
 - be large enough to permit the proper organization of the required work and to hear the appeal of any absentee voter who may appear on election day.
 - be equipped, on election day, with sufficient furniture (i.e. tables and chairs) for assigned officers of election and for organizing the precinct lists of absentee ballot applicants and the ballots and accompanying material for each precinct.
 - not be used for any other function at the time of the CAP.
- The CAP must meet the same accessibility standards as any other polling place.¹²

12.5 STAFFING AND HOURS

Generally, officers appointed to the CAP must report on election day not later than 5:15 a.m.¹³ and must remain until the results have been finally ascertained.¹⁴ **At least three officers of election must be appointed to the CAP.** Additional officers may be appointed by the electoral board as needed.¹⁵

- The board may adopt a resolution delaying the opening of the CAP until "after 6:00 a.m. and at any time before polls close" if the CAP is located in the same building as the registrar's office. Officers of election responsible for closing a polling place must arrive at least one hour before polls close.¹⁶
 - The office of the general registrar must be available to provide any service to walk-in absentee voters that would otherwise be available to them at the CAP.
 - Ballots or other documents brought to the registrar's office before the CAP opens must be delivered by the registrar to the CAP.
- The Code provides localities with some flexibility in staffing the CAP.¹⁷
- The chief and assistant chief must be present all times the CAP is open; **other officers may work split shifts.**
- Additional officers may be required to adequately perform all the duties.
 - Officers will be required to work in teams to cast and count the ballots.
 - The chief officer should be free to organize the work of all and ensure that each team follows proper procedures.
- The total number of officers needed is determined by the number of absentee ballots to be handled and/or the number of differing ballot styles.

¹¹ See the Code of Virginia §24.2-707.

¹² See the Code of Virginia §24.2-310(C).

¹³ See the Code of Virginia §24.2-639.

¹⁴ See the Code of Virginia §24.2-712(E)(2).

¹⁵ See the Code of Virginia §24.2-712(B).

¹⁶ See the Code of Virginia §24.2-115.

¹⁷ See the Code of Virginia §24.2-712.

- The number of absentee voters in previous, similar elections can help determine the number of officers needed for a given election. These statistics are available in the “Election Results by Precinct” provided by the Department of Elections¹⁸; they should also be on file in the office of the general registrar.
- **A given team of officers may process only the ballots of one election district at a time.** Given a sufficient number of different ballot styles, additional teams of officers may be needed.
- If all of the voters in the county or city do not vote in the same Congressional, State Senate or House of Delegates district, multiple ballot styles may be used.
- The number of email ballots and other hand-counted ballots for a given election will impact the number of officers needed.

12.5.1 CAP Officers Receive CAP-Specific Training

The officers of election appointed to serve in a CAP should be trained specifically for their duties in the CAP.

12.5.2 CAP Officers of Election Must Vote Absentee

The officers of election appointed to serve in a CAP must vote by absentee ballot, as they are not permitted to leave the CAP on election day for any purpose, unless they are designated to work a split shift, an option that is not available to chief and assistant chief(s).

They may apply and vote by-mail or in-person, but must observe the same deadlines for doing so as all other absentee voters.



An officer of election who is assigned to serve in a precinct other than the officer's precinct of residence after noon on the Saturday before the election may apply for and vote absentee in-person before 2:00 p.m. on the day before the election at the office of the general registrar in the county or city in which he lives.

12.6 BEFORE ELECTION DAY

12.6.1 Planning Before Election Day Checklist

Absentee voting must begin 45 days before election day.

- Ordering Ballots
 - Absentee ballots and election day ballots
 - All absentee ballots sent by mail are optical scan ballots.
 - All ballots used at satellite sites are optical scan ballots.
 - All election day ballots are optical scan ballots.
- How many pieces of equipment do you need for absentee voting?
 - This depends on the type of the election and the use of satellite sites.
 - Program voting machines for absentee voting
 - Program voting machines for election day voting.

¹⁸ See the [Election Results](#) page of the Departments Website. Select the year, the election, “results by locality,” the locality name, and then “results by precinct.”

- When will you program the voting machines for your locality and will it be in time for absentee voting? If not, equipment for absentee voting must be ready by the deadlines mentioned above.
- How will you track in-person voters who vote on the machines?
 - Record directly into VERIS
 - Use electronic pollbooks
- Who will conduct absentee voting prior to election day?
 - In-person at office of general registrar
 - In-person at satellite sites
 - By-mail and email voting
- Where will the absentee voting be conducted?
 - Two election officers representing each political party (or the party having a primary) must be present for in-person voting if voting is not in the general registrar's office.
- The general registrar is responsible for determining and implementing alternative procedures to process absentee ballots to ensure the ballots can be counted expeditiously on election day.¹⁹

12.6.2 Pre-Processing Ballots – Alternative Procedures for Preparing AB Ballots²⁰

Pre-processing absentee ballots is an extension of the CAP that occurs prior to election day. All ballots that are pre-processed go to the CAP on election day.



Regulation Note

1VAC20-70-40: Alternative Processing Procedures for Absentee Ballots Returned Before Election Day. 20-70-40 requires general registrars to follow certain procedures when expediting counting absentee ballots returned before election day. General registrars are to: ensure that the general registrar staff follow all previously prescribed instructions for processing and verifying absentee ballots (1VAC20-70-40(1)), secure all absentee ballots at the end of each day following principles of dual custody and chain of control (1VAC20-70-40(2)), ensure that the staff are following the requirements of 24.2-709.1 including the requirement that at least 2 officers of election (one from each party plus one) be present during all hours at the expedited procedures are used (1VAC20-70-40(3)), and give notice to the local political party chairs of the time and place for processing absentee ballots with sufficient time to allow these party representatives to be present (1VAC20-70-40(4)).

Supplies and Tools Needed

Pre-processing requires the same supplies and tools needed for any CAP run on election day.

Forms

- Final Absentee List
 - Serves as the pollbook
 - Begins with the earliest date for which absentee ballots could be applied for and runs through to the current date
- Pollbook Count Sheets for each precinct

¹⁹ See the Code of Virginia §24.2-709.1.

²⁰ See the Code of Virginia §24.2-709.1 . See also Virginia Administrative Code [1VAC 20-70-40](#).

- Oath of Office for election officers
- Pre-Processing Worksheet that you create for your locality
- Pre-Processing Certification Form

Pre-processing Schedule

This processing should begin after the registration books close and after registration transactions are for the most part completed. Let the volume of absentee ballots returned determine the starting point and later processing days.

Parameters to Consider

- Will you process ballots by precinct, district, ballot style or a combination of all?
- How many precincts or districts will you process in any given sitting?

Expedited Processing Team

- Each team will be composed of three officers of election²¹, one from each major political party plus another.²²
- No hand count, void, or potential provisional ballots may be pre-processed.
- Look for notes on the outside of the return envelope that indicate a problem or issue with a ballot.
- Always date your work.

Action by Registrar's Staff Prior to Expedited Processing

- Date stamp and open absentee ballots received by mail.
- Remove and review the inside envelope.
 - Does Envelope B contain a voted ballot?
 - Is the Statement of Voter properly completed (no material errors or omissions)?
 - Does the return envelope contain unopened Envelope A?
- Enter all returned ballots into VERIS and mark the return envelopes accordingly.
- Proof the Daily Absentee Ballots List to be sure all the ballots were entered.
- Watch carefully for any issue that may require a ballot to be hand-counted or set aside for handling in the CAP on election day.

Pre-Processing Steps

1. Select an election precinct or district to process.
2. Gather the absentee ballots for the precinct/district you will be counting.
3. Obtain a daily Pre-Election Absentee Ballot Processing Worksheet (called the "Worksheet") for that precinct/district and fill in the current day's date.
4. Obtain the pollbook section (called the "Final Absentee List") for the precinct chosen. It may be a single sheet or a number of pages, depending upon how many ABs were requested for that precinct.

²¹ See the Code of Virginia §24.2-712.

²² See the Code of Virginia §24.2-709.1.

5. If the precinct already has a Pollbook Count (PBC) form, identify the next unused number and begin your processing with that number. If not, obtain a blank PBC form and fill in the precinct number and name and the date of the pre-processing.
6. Count the ballot return envelopes and date the envelopes in the front, lower left-hand corner. Note: There may be ballots already noted that you cannot process. Leave them in the original container for the election day CAP.
7. Enter the total number of envelopes on the Worksheet.
8. If not already done, alphabetize return envelopes.
9. Handle one envelope at a time.
10. Read the voter's name out loud. Find voter's name on the precinct pollbook.
11. Pull the "B" envelope from the returned envelope. Check the Statement of Voter for completeness.
12. If the voter is found on the AB List, repeat the voter's name and address; assign and cross off a Pollbook Count Form (PBC) number.
13. Write the PBC number in the "Vote Rec" column next to voter's name in the pollbook.
14. Write the PBC number and initials of one EO below the date in the lower left hand corner on the Return Envelope for that voter.
15. Carefully open Envelope "B," pull out folded ballot; place the still-folded ballot into a ballot container or face down in a stack. Do not look at the vote on ballot; just be certain there is only one ballot.
16. Reinsert the empty Envelope "B" Envelope into the Return Envelope and turn upside down in the stack.
17. Band the empty Return envelopes containing the empty Envelope "B" and place in the "Empty Envelopes" container when finished.
18. Place the PBC Form back where you found the ballots with any ballots you could not process.
19. Complete the Worksheet, clip the precinct pollbook to the worksheet, and return it to the assigned staff person.
20. **Repeat these steps until processing for the day is complete.**

After All Envelopes in a Precinct/District Have Been Evaluated for That Day:

1. Count the number of envelopes in the Empty Envelopes box and verify that the total is what is already entered on the Worksheet(s).
2. Count the number of ballots you processed. This number should match the number of empty envelopes.
3. Band together the return envelopes from **processed** ballots by precinct. These will be used to make VERIS entries and will be marked again.

**Law Note**

Passed during the 2017 legislative session, SB960 added an exception to the requirement in § 24.2-710 that absentee ballot return envelopes should be deposited into a sealed container until election day. This bill provides that these return envelopes do not need to be deposited into said container if and when a GR chooses to open and sort the sealed ballot envelopes in accordance with the expediting procedure outlined in § 24.2-709.1. This bill resolves the prior contradiction between those two sections.

Recording the Daily Processed Ballots Totals

- Record the daily ballot count number as you process ballots for each precinct.
- Total the columns on the Worksheet and transfer them to the Certification form. Be sure to fill in the rest of the data.
- Both forms must be signed by all the officers of election conducting the pre-processing for the day.

Pre-Election Processing Ballots on Equipment Counting or Scanning Device

- Follow all security and chain-of-custody procedures for your voting system.
- Record the following security numbers on the SOR:
 - Machine serial number
 - Security seal number
 - Public count number
- Print and sign the zero tapes.
- Record the following on the Pre-Processing Certification Form:
 - Machine serial number
 - Security seal number
 - Public count number

Using a Counting or Scanning Device for Pre-processed Ballots

- Once all precincts for a session are processed, remove the folded ballots from the Ballot Container. Lay them flat.
- Count the physical number of ballots. Be certain that the total number of ballots is the same as the total number of ballots processed that day, as recorded on the worksheet.
 - If you are unable to find the reason for a discrepancy in numbers, write an explanation on the Certification Sheet and all officers sign the explanation. This will also have to be recorded on the Statement of Results.
- Feed the ballots into the scanning/counting device per your voting equipment manufacturer's instructions.
- Record the following information on the Certification form:
 - Ending public count number
 - Number of rejected ballots
 - Rejected ballot plus the difference between the starting and ending public count numbers should equal the total number of ballots processed for the day.



- All officers of election sign the Worksheet and Certification Form for each precinct/district in which they participated for the processing.

Ballots Rejected by Scanner/Counter

- These ballots have been processed and received a PBC number but have not been scanned to record the votes because there was a problem on the ballot.
- They must be kept separate from the other ballots counted on election day to avoid double counting of ballots.
- Band these ballots together by precinct/election district and place in envelope marked “Pre-Processed Ballots Rejected by Scanner/Counter.”
- On election day the election officers will follow the instructions set forth by the electoral board for resolving ballots rejected by the voting machine.

Recording the Processed Ballots in VERIS

After the ballots are processed and tabulated each day, the voters whose ABs have been processed will have to have their status on VERIS changed from “Marked” to “On Machine.” To do this, the envelopes will either be scanned into the computer or the data will be hand-entered. To hand-enter the data:

- Go to “Absentee Search” in VERIS.
- Enter the voter’s name or ID number listed on the return address label.
- Make sure you have the correct voter.
- Make sure the correct election date appears.
 - If not, select the correct election from the drop-down box.
- **At the “Absentee Ballots” line** (NOT the AB Application line) click on the pencil.
- Change the ballot status from “Marked” to “On Machine” in the drop-down box.
- In the “Status Reason” box type “Pre-Processed” and the date of the pre-processing.
- Scroll down and click “Save.”

As each Return Envelope is entered into VERIS to change the status to “On Machine,” mark the Return Envelope with an “OM” (for On Machine) in the lower right corner of the envelope below the pre-processing date.

Band all Return Envelopes together by precinct and set aside for proofing the next day.

Proofread the Daily Absentee Ballots Report

The next day the Daily AB Report must be proofed to be certain that all the ballots that were processed were recorded on VERIS.

- Using the stack(s) of set-aside ballot return envelopes, find each voter on the report to be certain the ballot status has changed from “Marked” to “On Machine.”
- Put a red checkmark (✓) beside the “OM” on the Return Envelope.
- Put a red checkmark (✓) beside the Ballot Status Column on the report that now says “On Machine.”

Place the checked Returned Envelopes in the Returned Envelopes Box.

Subsequent Processing of a Precinct:

- Pull the absentee ballots not previously evaluated (that are not marked in some way to indicate they cannot be pre-processed) for the precinct/district you will process.
- Use a different colored ink pen than the one used for the previous session for marking off PBC numbers.
- Process ballots as previously outlined.
- At the end of each session, complete and sign the Worksheet and Certification Forms.

Maintaining Security of the Processed Absentee Ballots

- Keep the scanned/tabulated Absentee Ballots in the locked voting equipment counting device. If ballots are only scanned, keep them in a secure storage area.
- If the voting equipment counting device must be emptied before election day, place the ballots in a container labeled "Counted Ballots." Label the container with the pre-processing dates.
- The election officers will each sign 3 labels which are to be placed onto the box in such a manner that it will prove if any tampering occurred.

12.6.3 Prepare Materials for the CAP Just as You Would for Any Other Precinct

The election officers will need:

- Statement of Results
- Envelope 4 for void ballots
- General supplies such as pens, pencils, scissors, rubber bands, scotch tape, letter openers, scratch pads, staplers, rulers, clip boards, calculator, etc.
- White labels to seal the envelopes
- Other envelopes for the return of election materials
- All the required signs to be posted as for any precinct
- Pollbook count forms for each ballot style
- Final Absentee Ballot Report (Pollbook for CAP)
- Strapping tape
- Mail trays, boxes or containers to hold the ballots while they wait to be counted or scanned

Pollbook preparation:

- Print the Final Absentee Report
- Print the Pollbook on Saturday night or Sunday morning to go with other precinct supply pick-ups
- You may print the CAP Pollbook after emergency voting ends on Monday, after the mail has been received and after the returned ballots have been processed in VERIS.
- The registrar or electoral board secretary needs to sign each page of the pollbook
- Print the Final Absentee Totals Report to go with the CAP Pollbook on election day

12.7 ELECTION DAY

12.7.1 Opening the CAP

12.7.1.1 *Ballot Delivery on Election Day*

The general registrar must deliver all absentee ballot containers of returned ballots to the CAP officers. The chief officer of CAP must sign the receipt for the ballots he/she is accepting from the general registrar.

12.7.1.2 *Election Day Set Up*

Take the following steps to set up before the polls open on election day:

- Welcome authorized representatives
- Chief election officer must administer the Officer of Election Oath for all the other officers and they all sign the Oath form. The chief signs at the bottom and completes the information below the signature line
- Chief will establish and name (A, B, C, etc.) the teams to process ballots
- Set out election supplies
- Set out ballot boxes
- Set up voting equipment
- Post required signs and posters
- Fill in the number of absentee ballots delivered to the CAP on the Ballot Record Report
- Open the polls at 6:00 am (or later time determined by the general registrar)

12.7.2 During the Day

If any voter enters the CAP while the polls are open, the officers should take care to preserve the privacy and security of any absentee materials they are working on at that time. As a polling place, the CAP is subject to the same requirements and restrictions regarding the presence of authorized representatives as any other polling place.²³

12.7.2.1 *Processing Absentee Ballots*

Teams of officers work together during the day to process paper ballots. Each team consists of three officers and is named (Team A, Team B, Team C, etc.) by the chief. The three officers are the check-in officer, the pollbook officer, and the ballot officer. See the CAP EDG for specific procedures for each station. The station duties listed in the CAP EDG are best practices. Localities may rearrange the duties to suit their specific needs.

²³ See the Code of Virginia §24.2-604(C).



Materials Needed for Each Team

Station One Check-In Officer	Station Two Pollbook Officer	Station Three Ballot Officer
CAP Pollbook (Final AB Report)	Pollbook Count form for each ballot style	Letter opener and stapler
Ballots in return envelopes	Black or blue pen	Ballot Box – one per ballot style
Black or blue pen	Rejected Ballot Count form	Container for empty envelopes of accepted ballots-one per ballot style
Ruler	Unused Ballot Count form	Container to hold rejected ballots-may be in the possession of the chief
Provisional ballot log and Envelope 1	Ruler	Container to hold unused ballots
Rejected ballot log – this may be handled by a separate team	Rejected Ballot Count form – this may be handled by a separate team	Container to hold hand count ballots

12.7.2.2 When a Ballot is Rejected

- Follow the procedures in the CAP EDG for processing the ballot and determining whether it should be rejected.



Regulation Note

1VAC20-70-20: Material Omissions from Absentee Ballots

A timely received absentee ballot is not invalid if it contains an error or omission that is not material to proper processing. See the regulation in 1VAC20-70-20 for a list of material and non-material omissions. The regulation contains the catchall provision that, if there is an omission on an Envelope B that is not addressed in this regulation, then whether or not this omission is material must be determined by a majority of the officers of the election present.

- At least two officers of election, one representing each political party, should write and sign a statement explaining the reason the ballot was rejected. This should be done directly on the unopened envelope or on an attachment to the unopened envelope.
- Complete the Rejected Ballot Log as each rejected ballot is processed. Record the voter's name and the Virginia resident address and a detailed explanation of why the ballot was rejected. For rejected UOCAVA voters, list the current military or overseas mailing address.
- Copy the return envelope and envelope B for each rejected ballot and give to the registrar along with a copy of the Rejected Ballot Log.



- Within 90 days of the election, the registrar or electoral board must send a letter to each voter, whose ballot was rejected, explaining why the ballot was rejected.²⁴
- Notice is required for a ballot rejected as late.

12.7.2.3 HAVA ID and Other Special Circumstances

- **HAVA requires** voters who register to vote by mail on or after January 1, 2004, to provide **specific ID** when they vote by mail the first time in a federal election. If the HAVA ID is not provided by the voter, an absentee ballot returned by mail must be set aside as a provisional ballot and sent to the electoral board that will not be able to count the ballot unless qualified ID is provided by the Friday noon deadline.
 - **Note:** **Virginia** has a separate vote in person requirement that disqualifies some new mail registrants from voting absentee by mail. For example, students attending college outside their Virginia city or county of residence are exempt from the vote in-person requirement but they are **NOT** exempt from the requirement to provide HAVA ID when voting absentee by mail for the first time in a federal election.
 - **Federal law** provides limited **exemptions** to HAVA ID requirements for federal elections; state ID requirements must still be met (UOCAVA voters, a handicapped or elderly voter when the commissioner of elections determines no accessible polling place is available and voters moving outside Virginia eligible to request ballots for President and Vice-President only)
- Since 2011 Virginia has required counting the ballots of any otherwise qualified absentee voter who dies after casting his ballot that is returned before election day.²⁵ *Disqualification for other reason, such as felony conviction, requires excluding the ballot from those to be counted, if possible.*

²⁴ See the Code of Virginia §24.2-711.

²⁵ See the Code of Virginia §24.2-709(C).



12.7.3 Optional 3:00 P.M. Hand Count



Law Note

Passed during the 2017 legislative session, SBI467 added the language in § 24.2-712 that permits absentee ballots that are counted by hand to be tallied beginning any time after 3 p.m. on the day of the election.

The Code of Virginia §24.2-712 authorizes officers to begin the process of hand counting ballots any ballots that are deemed valid, but cannot be counted by voting equipment. Such ballots may include:

- Federal Write-In Absentee Ballots (FWABs)
- Ballots that were rejected by the voting equipment counter

The use of cell phones or other communication devices is prohibited during this period once hand counting begins and the prohibition remains in effect until the polls close. People remaining in the CAP during this period must sign a statement under oath that they will not transmit any counts until after the polls close. Violation of this oath is a Class 1 misdemeanor.²⁶

Once the CAP has been properly secured and oaths have been administered, hand counting may proceed.

12.7.3.1 Hand Counting Teams

Hand counted ballots are handled by teams of three officers as follows:

- Tally sheet officer one: records the votes cast for each candidate and write-in as announced by the reporting officer
- Tally sheet officer two: records the votes cast for each candidate and write-in as announced by the reporting officer
- Reporting officer three: Reads out loud, in a clear voice, one complete ballot at a time, all the candidates and write-ins receiving a vote on each ballot for each office

A fourth officer should also be viewing and verifying votes as read.

12.7.3.2 Hand Counting Process

At the direction of the chief, and using the guidelines provided in *Ballot Examples: Hand Counting Printed Ballots for Virginia Elections or Recounts*²⁷, begin the hand count ballots using the following procedure:

- Both tally sheet officers will simultaneously record a tic mark on the tally sheet for each candidate or write-in as read aloud.
- Each time a candidate receives the 5th vote, the two tally sheet officers will simultaneously speak out loud the word “Tally.”

²⁶ See the Code of Virginia §24.2-712(D).

²⁷ [*Ballot Examples: Hand Counting Printed Ballots for Virginia Elections or Recounts*](#)



- This indicates that the counts agree.
- **If the counts do not agree, stop and recount until the error is found.**
- Each time the tally agrees, set the ballots aside to indicate they have been reconciled.
- Begin the process again with the next ballots until you reach “Tally” and they have been reconciled.
- Set aside all “questionable ballots” as the ballots are read aloud.
- Continue counting until all ballots have been completed or set aside for review.

12.7.3.3 Questionable Ballots

- Examine each questionable ballot to determine which are valid and which are void.
- Tally the valid ballots.
- When a ballot is not marked according to the instruction and the voter’s intent is questionable, the team members should consult with the chief officer. Using the State Board of Elections guidelines, the chief and the officers must agree whether the voter’s intention can be determined.
- If “yes,” place a tic mark for the selected candidate.
- If “no,” process as any other void ballot (see below).

12.7.3.4 Hand Counting Write-In Votes on Paper Ballots

Election officers must record and count the write-in names **as they are written by the voter**. The officers are **not** to make any decision as to count or not count similarly spelled names as possibly being the same person. It is the responsibility of the electoral board to make that decision.

- Write in the name of each person who received a write-in vote on the Write-In Certification sheet of the Statement of Results and place a tic mark in the vote column.
- Count all write-in votes with the exact-same-spelled name as votes for that same person by adding the tic mark next to his/her name.
- Count similarly spelled names (e.g. Pat Brown vs. Patricia Brown) separately. They must be listed as a separate write-in entry on the Write-In Certification sheet of the SOR.
- DO NOT COUNT a write-in vote cast with a rubber stamp or sticker.
- DO NOT COUNT a write-in vote for any person for any office if that person’s name is preprinted on the ballot for that office.
- DO NOT COUNT any write-in vote that has more votes than the number allowed for that particular office.
- DO NOT COUNT if the voter has voted for the same person for the same office more than one time.²⁸

²⁸ See the Code of Virginia §24.2-644(D).



12.7.3.5 Hand Counted Void Ballots²⁹

There are situations when counting paper ballots that require you to void a part of a ballot or void the entire ballot.

If a ballot is found to have been voted for a greater number of names for **any one office** than the number of persons required to fill that office, void all votes on the ballot for that particular office only. Use the following procedure:

- Write “VOID” on the front of the ballot over the office section being voided.
- Write a statement on the back of the ballot stating why the office was voided (Sample Statement: “The Office of Mayor section of this ballot was voided because the voter voted for more than one candidate”).
- Place this ballot with all other ballots to be counted.
- Count only the remaining offices that are valid.

If you find a ballot which has been over voted for **all offices**, you must void the entire ballot. Use the following procedure:

- Write “VOID” on the front of the ballot over each office section.
- Write a statement on the back of the ballot stating why the ballot was voided (Sample Statement: “This entire ballot was voided because the voter over voted in each office listed on the ballot”).
- Place the voided ballot in Envelope 4.

12.7.4 Closing the Polls at CAP—Counting Must Start Immediately

12.7.4.1 Closing Procedures

Close the polls using the procedures outlined in the CAP EDG.

12.7.4.2 Hand Count Ballots

If hand counting has not already begun (see Optional 3:00 Hand Count above), begin counting any ballots that need to be hand counted.

12.7.4.3 Pollbook Count Forms

Certify the Pollbook Count form, the Unused Ballot Count form and the Rejected Ballot Count form.

- The Pollbook Count form should agree with the number of ballots counted and the last number used in the Pollbook.
- Count the number of rejected ballots and confirm with the officer at station two that the last number marked off the Rejected Ballots Count form agrees with the total number of rejected ballots.
- Count the number of unused ballots and confirm with the officer at station two that the last number marked off the Unused Ballots Count form agrees with the total number of unused ballots.

²⁹ See the Code of Virginia §24.2-663.



Note any discrepancies on the Statement of Results. The last officer to mark off numbers on the Pollbook Count form enters the last number used in the space provided and signs the form.

12.7.4.4 *Provisional Ballots*

Count provisional ballots and be sure that the same number of provisional ballots is listed on the Provisional Ballot Log. Do not open provisional ballot envelopes.

12.7.4.5 *Ascertain Equipment Results*

Enter the Public Count Number for each machine on the Statement of Results. Obtain the equipment vote totals according to the equipment manufacturer instructions.

12.7.4.6 *Statement of Results (SOR)*

At least two individuals representing different parties will complete two different copies of the SOR independently. Compare the results after the SOR is completed. See CAP EDG for detailed instructions.



VERIS Step by Steps

1. [Absentee Processing](#) explains in detail how to process absentee ballots and applications.

For further assistance, contact [VERIS help](#)



APPENDIX A

HOW TO ARRANGE A CAP

Officers of election should arrange the necessary furniture, equipment and materials in the room in which the CAP is located upon the arrival of all the officers. To save time on election day, if access is available to the CAP room the afternoon before the election, the officers may arrange their tables and chairs and post their signs. They should not set up the voting machines.

- Tables on which to organize the ballots for each precinct or voting district, both before and after processing
- Tables on which to organize lists of absentee ballot applications, pollbooks, and *Statements of Results* forms, both before and after processing
 - Separate paper pollbooks are required for each election district.
 - Adjust setup accordingly if EPBs are used
- Tables on which to organize oaths, packing envelopes and other paper work
- A table with privacy for any voter who needs to vote in-person on election day
- A table for the chief officer
- Tables and chairs for each team of officers
- Tables for personal needs during breaks (do not smoke inside the polling place)
- Tables for voting machines (unless the equipment has legs)
- Containers on each team's table for processing ballots and envelopes
- Separate ballot containers for each election district
- Extra chairs as needed
- Power cords and surge protectors sufficient to operate the equipment

Since most of these activities are sequential rather than simultaneous, the same furniture can be utilized for several of the various functions

On election day, the registrar should immediately deliver to the officers all applicant lists and voted ballots. The voted ballots should be securely transported in covered, sealed containers. Unless processed earlier according to §24.2-709.1, the voted ballots should be sealed up in their unopened marked ballot envelope **B**. That sealed envelope **B** should be inside the voter's opened return envelope. If necessary, a brief review should be conducted of the procedures to be followed and the materials to be handled. The general registrar may participate in this review provided one or more assistant registrars cover the registrar's office. Generally, however, the chief officer should know the responsibilities, duties, and requirements for the CAP, and should conduct the review.



APPENDIX B

IN-PERSON ABSENTEE VOTING STEPS

We previously stated that a CAP only exists on election day. Prior to that time, in-person and by-mail absentee voting is conducted in the office of the general registrar. Because absentee voting is so closely related to the CAP, we provide the following information to help electoral boards and registrars.

An electoral board may choose to allow for the casting of ballots for in-person absentee voters prior to election day on voting equipment when 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/her ballot prior to election day.³⁰ The following guidelines are to be followed for in-person absentee voting:

- In-person absentee voting must be available 45 days prior to primary and general elections. The exception to this legal requirement would be for a special election when the ballots must be available as soon as possible. Note: In-person absentee voting begins before the close of registration for that election.
- Photo identification is required for in person absentee voting; the same as for voting at the polls on election day. See Chapter 7 for further details on administering in person absentee voting.
- Any voting equipment used for in-person absentee voting for this purpose must be programmed and tested in the same manner as voting equipment used on election day.³¹
- When entering the absentee application into VERIS, you must select the following:
 - “**Application Received By**” method is “**In-person,**”
 - “**Ballot Sent By**” is “**In-person,**”
 - “**Ballot Received By**” method is “**In-person,**”
 - “**Ballot Status**” is “**On Machine.**”



This will capture the information that the voter has cast his/her ballot on voting equipment prior to election day. It will prevent the voter from voting again either by absentee ballot or in-person on election day and will also prevent a voter who transfers his/her registration from voting again in the new locality.

- **An accessible machine is required for in-person absentee voting.**³²
- **At least two officers of election, one representing each political party, must be present** if in-person absentee voting on voting equipment is taking place outside the registrar’s office. In a party primary, both officers represent the party conducting the primary.³³ If the in-person absentee voting on voting equipment is completed at the registrar’s office, no officers of election are required, but the registrar or an assistant registrar must be present.³⁴

For specific instructions on using VERIS for in-person absentee voters, see the VERIS Step-by-Step instructions for absentee voting located on the VERIS home page.

³⁰ See the Code of Virginia §24.2-707.

³¹ See the Code of Virginia §§24.2-632-634. See also Chapter 15, Recounts and Contested Elections.

³² See the Code of Virginia §24.2-626.1. See also [EAC Advisory Opinion 2007-001](#) (accessible equipment required).

³³ See the Code of Virginia §24.2-649(A).

³⁴ See the Code of Virginia §24.2-707.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 13

Provisional Ballots

June 2018

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13. Provisional

Ballots

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REFERENCE Help America Vote Act (HAVA) 52 USC §21082 Help America Vote Act (HAVA) 52 USC §21083 Training Standards for Officers of Elections (SBE Policy 2010-002) Procedures for Counting Provisional Ballots (SBE Policy 2009-006) VERIS Step-by-Step: Voter History VERIS Step-by-Step: Election Results	REGULATIONS IVAC20-40-10 Definitions IVAC20-60-60 Provisional Votes

13.1 CHAPTER ORGANIZATION

In simplest terms, provisional voting represents the right of an individual, to reserve their right to vote and postpone the voter eligibility determination to a time when more perfect or complete information may be provided.¹

Federal and state laws require polling locations to provide provisional ballots on election days to ensure that eligible Virginians have an opportunity to cast a vote. Officers of election should be trained to provide provisional ballots if a voter states but officials cannot verify that she is eligible or did not already vote, and in the rare circumstance a court extends polling hours past 7pm.

This chapter provides an overview of the proper provisional ballot procedures to be used before, during, and after election day. First, §13.2 discusses preparing provisional ballots for election day. Next, §13.3 outlines when a provisional ballot should be issued. §13.4 details the specific reasons a provisional ballot may be offered: such as, lack of acceptable ID or the voter's name missing from the pollbook. §13.5 outlines general procedures election officials should follow when issuing a provisional ballot. §13.6 discusses the provisional ballot meeting, and how the voter's eligibility to vote will be determined. §13.8 closes the chapter by outlining certain requirements regarding provisional ballot notification and voter credit.

13.2 PREPARATIONS FOR ELECTION DAY

Complete the following the Friday before election day:



- **Provide public notice of the date and time of the provisional ballots meeting and canvass**

Notice of the date, time, and location at which the provisional ballots meeting and the canvass will be held must be given by the electoral board at least *three working days* prior to the meeting date.²

¹ See [Sandusky County Democratic Party](#), 387 F.3d at 570 and [Florida Democratic Party v. Hood](#), 342 F.Supp 1073, 1079-1080 (N.D. Fla. 2004).

² See the Code of Virginia [§2.2-3707](#).



- **Train officers of election**

Hold the training session for chief and assistant chief officers of election no more than thirty but no less than three days before the election.³ The training must include procedures that officers of election must follow to offer an eligible voter a provisional ballot.⁴ All precinct chiefs and assistant chiefs must be trained to:

- offer provisional voting as required pursuant to state and federal law,
- secure additional ballots or envelopes when needed, and
- supply voter registration applications for each provisional voter.⁵

Resources: You can use the *What If* reference sheet, Provisional Vote Envelope, Provisional Vote Envelope – ID ONLY, Precinct Provisional Ballots Log, and 1A Envelope to train officers of election.

- **Stock**

Each polling place must have sufficient ballots, a provisional ballots log, provisional ballot envelopes (both regular and ID ONLY), voter registration applications, Provisional Voter Notice form (ELECT-653N), and Provisional Voter Notice – Identification forms (ELECT-643Pr).⁶

13.3 WHEN TO PROVIDE A PROVISIONAL BALLOT

The right to cast a provisional ballot is created in Section 302 of the Help America Vote Act (HAVA). Pursuant to HAVA, when an individual declares that he or she is a registered and eligible voter in a federal election, that individual “shall be permitted to cast a provisional ballot” if (1) their name does not appear on the official list of eligible voters or (2) “an election official asserts that the individual is not eligible to vote.”⁷

This right to receive a provisional ballot is contingent upon only one thing (per Section 302(a)(2)), the individual’s execution of a written affirmation that he or she is both a registered and eligible voter for the election at issue.⁸

“[T]he primary purpose of HAVA was to prevent on-the-spot denials of provisional ballots to voters deemed ineligible to vote by poll workers. Under HAVA, the only permissible requirement that may be imposed upon a would-be voter before permitting that voter to cast a provisional ballot is the affirmation contained in [42 U.S.C.] §15482(a): that the voter is a registered voter in the jurisdiction in which he or she desires to vote, and that the voter is eligible to vote in an election for federal office.”⁹

³ See the Code of Virginia §24.2-115.

⁴ See [State Board of Elections policy 2010-002, Training Standards for Officers of Elections](#).

⁵ See the Code of Virginia 24.2-653(A).

⁶ See the Code of Virginia §§24.2-643(B) (requiring provisional ballots and ID-ONLY provisional ballot envelopes be used at the polls) and 24.2-653(A) (requiring provisional ballots, provisional ballot envelopes, provisional ballots log, and written notice be used at the polls).

⁷ See HAVA §302(a)).

⁸ See Sandusky [County Democratic Party v. Blackwell](#), 387 F.3d 565, 574 (6th Cir. 2004).

⁹ *Supra* at 574.



Provisional voting works only if the right to vote a provisional ballot is always available whenever a voter's eligibility is in question.¹⁰

13.4 HOW TO COMPLETE A PROVISIONAL BALLOT ENVELOPE

Below is an example of a provisional ballot envelope. Circled are the listed reasons for the provisional ballot being cast. The officer of election must mark the appropriate reason for issuing the ballot in order for the ballot to be considered complete.

NOTE: You can mark more than one reason. If the person who is casting a provisional ballot for Reasons #1-6 is also missing a proper identification document, the office of election should also mark “Voter ALSO did not present required identification.”¹¹

13.4.1 Reasons #1 or #2 – Voter’s name is NOT in pollbook or Voter says (s)he IS registered to vote in that precinct

Sometimes an officer of election may not be able to find the voter’s name in the pollbook. When this occurs, the officer of election should double check the voter’s name and precinct.

- **Check the voter’s name.**
 - Ask the voter for correct spelling of name or if there has been a recent name change.¹²
 - Check for the voter’s name at the end of the alphabetical section of the pollbook or on any separate listing provided by the registrar.¹³
- **Check the voter’s precinct.**
 - Check the street file records, alpha roster, electronic pollbooks, or other such materials provided to determine if the voter is in the correct precinct.
 - If the voter is found to be in the incorrect precinct, inform the voter that the voter file indicates that they are currently registered to vote at {current address}. Advise the voter that in Virginia, a ballot will only be counted at the polling location where she is

¹⁰ The U.S. Election Assistance Commission, [EAC Advisory 2005-006: Provisional Voting and Identification Requirements, p. 4.](#)

¹¹ See [What if reference sheet.](#)

¹² See [What if reference sheet](#), §10.

¹³ See [What if reference sheet](#), §10.



registered. However, inform the voter that they may cast a provisional ballot at the current polling location.

13.4.2 Reason # 3 – Polling Hours Extended by Court Order



A court may issue an order extending the hours the polls are to be open. If this occurs, both the general registrar and chief election officers will be made aware of the court order. **In this circumstance, any voter who was not in line when the polls would have closed (but for the court order, i.e. 7pm) must vote by a provisional ballot.**¹⁴

NOTE: All provisional ballots cast after the normal polling hours for Reason #3 must be kept **separate** from other ballots and recorded in a separate provisional ballots pollbook.¹⁵ Do not record them in the regular pollbook.¹⁶ The Provisional Ballots Log will serve as the pollbook for these ballots.¹⁷ The officers should start a new log page and not mix these entries with those for provisional voters during normal hours.¹⁸ You must keep these votes separate so that if a higher court reverses the order extending hours, officials will be able to determine which ballots were cast during regular hours and which ballots were cast during the extended hours.

13.4.3 Reason # 4 – Voter on Absentee Ballot List Appears at Regular Polling Place or Central Absentee Precinct; Voter Says Absentee Ballot Lost, not Received, or Returned Spoiled, Damaged, or Unused – Before Election Day

Sometimes a voter's name may appear on the Absentee Ballot (AB) list. If a voter whose name is on the AB list appears at his assigned polling place or the Central Absentee Precinct (CAP), the officers of election should check the final absentee applicant list to determine whether the voter has *returned* an absentee ballot.¹⁹ The AB list should indicate if a ballot was returned either marked or unmarked.²⁰

- **If the AB list shows *no ballot returned*:**
 - Offer the voter a provisional ballot.²¹
 - Mark reason #4 on the provisional ballot envelope, which includes the required statutory statement of non-receipt or loss of the absentee ballot.
- **If the AB list shows a ballot *was returned*:**
 - If the ballot was **returned unmarked** to the electoral board or general registrar before election day, the voter must be allowed to vote a regular ballot if this information can

¹⁴ See the Code of Virginia §24.2-653(C). See also HAVA, [52USC §21082\(c\)](#).

¹⁵ See the Code of Virginia §24.2-653(C).

¹⁶ See the Code of Virginia §24.2-653(C).

¹⁷ See [What if reference sheet](#), §19.

¹⁸ See the Code of Virginia §24.2-653(C).

¹⁹ See [What if reference sheet](#), §18.

²⁰ See the Code of Virginia §§24.2-708 (requiring general registrar to mark on the absentee list ballots returned unmarked) and 24.2-710 (requiring general registrar to mark on the absentee list ballots that were returned marked).

²¹ See the Code of Virginia §§24.2-653.1 (voters who did not receive or lost absentee ballots), 24.2-708 (voters who did not receive or lost absentee ballots, or return of unmarked ballot cannot be confirmed), 24.2-711 (officers must apply 653.1 and 708 when voter on absentee list who has not returned an unused ballot offers to vote). See also [What if reference sheet](#), §18.



be confirmed. If the ballot's return cannot be confirmed, the voter may only be provided with a provisional ballot.²²

- **If the ballot was returned marked and unfit for voting to the electoral board or general registrar *before election day*** the voter must be allowed to vote a regular ballot.
 - If the ballot's return cannot be confirmed, the voter must vote a provisional ballot.²³
 - **If the ballot was returned marked and unfit for voting to the *officers of election at the correct polling place or CAP on election day***, the voter must be allowed to vote with a regular ballot in his or her precinct.²⁴
- The voter should provide one form of required ID. If ID is not provided, the checkbox stating "Voter ALSO did not present required identification" should be marked.
 - The officer must ensure the voter indicates under reason # 4 whether the ballot was not received or was lost, if applicable.²⁵
 - This provisional ballot should be counted if the voter is still a qualified voter, and the local electoral board verifies the voter *did not also* have a voted absentee ballot *counted*.²⁶

13.4.4 Reason # 5 – The Voter is listed in the pollbook as “Having Already Voted”

A person who attempts to vote but is listed in the pollbook as having already voted *must* be given a provisional ballot to vote if the voter insists that they have not already voted during the current election.²⁷

The provisional ballot should be counted if the local electoral board concludes that the voter is eligible to have their vote counted.²⁸ This situation most often arises when two persons bear the same name and have the same address (i.e. Zebediah Rutherford Jackson and Zebediah Rutherford Jackson Jr.), but it does also happen in other instances. The provisional ballot should count only if:

- an officer of election is able to attest to the fact that they marked the wrong voter, AND
- no evidence exists that either person attempted to actually vote twice.

13.4.5 Reason # 6 – Other: Casting a Provisional Ballot for a Reason Not Listed

This reason is used in circumstances where an unforeseen circumstance or emergency causes either a regular ballot to be unavailable or it is not clear that the voter should be allowed to cast a regular ballot. Some of the situations that can arise include electronic pollbook failure,²⁹ registration equipment malfunctions, or an insufficient amount of traditional ballots.

²² See the Code of Virginia §24.2-708(A).

²³ See the Code of Virginia §24.2-708(C).

²⁴ See the Code of Virginia §24.2-708(C).

²⁵ See [What if reference sheet](#), §18.

²⁶ See the Code of Virginia §24.2-663 (ballots from voters who have already cast a vote in that election cannot be counted).

²⁷ See the Code of Virginia §24.2-651.1.

²⁸ See the Code of Virginia §24.2-663 (ballots from voters who have already cast a vote in that election cannot be counted).

²⁹ See the Code of Virginia §24.2-611(E).



The ballot should be counted if the voter should have been permitted to cast a regular ballot when they attempted to vote on election day.³⁰

13.4.5.1 Electronic pollbook is inoperable or inaccessible

Provisional voting is required if electronic pollbooks become inaccessible or inoperable at a precinct, and no alternate list or pollbook is available.³¹ The officers of election at the location must keep a written list of those who cast provisional ballots due to this occurrence.³²

13.4.6 Identification – The Voter Fails to Provide Proper ID



All persons attempting to vote in-person must present photo identification before being issued a regular ballot.³³ Any person failing to present the required photo ID must be given a provisional ballot.³⁴ Proper ID includes:

- Valid Virginia driver's license
- Valid United States passport
- Photo ID card issued by a government agency
- Valid student ID card issued by an institute of higher education located in Virginia
- Valid employee photo ID card issued in the regular course of business.³⁵



Regulation Note

1VAC20-40-10: Definitions. A “valid” voter identification must:

- Appear to be genuinely issued by the issuing agency or entity on the ID
- Contain a photograph that reasonably appears to be that of the person presenting the ID
- Either be current, or have expired within the past 12 months

The officer of election must determine whether the identification is valid based on its face.

If a voter is designated in the pollbook with an “H” by their name, they must meet the HAVA standard for ID as well.

³⁰ See the Code of Virginia §24.2-653(B).

³¹ See the Code of Virginia §24.2-611.

³² See the Code of Virginia §24.2-611(E) (discussing form of pollbooks).

³³ See the Code of Virginia §24.2-643(B).

³⁴ See the Code of Virginia §24.2-643(B).

³⁵ See the Code of Virginia §24.2-643(B). See also [What if reference sheet](#), §2.



Voters failing to show proper ID should complete and sign the Provisional Vote Envelope –ID ONLY³⁶ unless there is another deficiency which would force the voter to vote provisionally. If there is another reason, the voter should fill out the normal Provisional Vote Envelope and check “Voter ALSO did not present required identification.”³⁷

Provisional ballots cast due to lack of ID will only be counted if the voter submits a copy of the necessary ID prior to noon on the third day following the election (if the third day is a holiday, the voter will have until the next business day).³⁸ A voter may submit the required document by USPS or commercial mail delivery, fax, e-mail, or in person.³⁹ The voter may also request to extend the provisional ballot meeting to the next day for up to seven calendar days for Reasons #1-6.

13.4.6.1 HAVA ID Required/ID Copy not sent with Absentee Ballot

All voters must provide proper identification if their vote is to be counted. If a voter has a HAVA ID requirement, requested an absentee ballot⁴⁰ and returns the absentee ballot but does not include a photocopy of one of the acceptable forms of IDs described above, the ballot must be treated as if it were a provisional ballot.⁴¹

Voters are instructed not to seal the copy of their ID inside the oath envelope containing the voted ballot. The officer should check to see if a copy of a HAVA ID is enclosed with the ballot in the B security envelope (but without fully opening the envelope or looking at the ballot).

If no HAVA ID is returned, the officers should reseal the envelopes from the voter (signing and dating the seal) and place the set in the large **1A** envelope to transmit to the electoral board.

The officers may want to attach a note to the outside of the voter's envelope stating “No HAVA ID.” In this instance, the voter is not present to sign a statement; thus, the smaller Provisional Ballot Envelope with the voter's statement should not be used.

13.4.7 Voter Who has Moved



An otherwise qualified voter who moves *within* Virginia may return to *vote normally* in his or her former precinct under either of the following scenarios ***unless his or her registration has been transferred or cancelled:***⁴²

- The voter moved from one precinct to another within the Commonwealth since the last November general election.

³⁶ See the Code of Virginia §24.2-643. See also [What if reference sheet](#), §2.

³⁷ See [What if reference sheet](#), §4.

³⁸ See the Code of Virginia §24.2-653(B).

³⁹ See the Code of Virginia §24.2-653(B).

⁴⁰ See HAVA, [52 USC §21083\(b\)](#). See also the Code of Virginia §24.2-706(4).

⁴¹ See HAVA, [52 USC §21083\(b\)\(2\)\(B\)](#).

⁴² See the Constitution of Virginia Art. II, §1 (allowing voters who moved from one precinct to another in Virginia to continue to vote in their old precinct as provided for by state law).



- The voter moved since the second previous federal general election, and the voter moved within the same locality and within the same congressional district.⁴³

NOTE: A move within the precinct does not affect the voter's ability to vote in that precinct as long as that the voter is still registered.⁴⁴

13.5 ELECTION DAY: GENERAL PROVISIONAL BALLOT PROCEDURES

13.5.1 Required to Provide Voter Registration Application

Officers of election must offer a voter registration application to each voter voting provisionally.⁴⁵

13.5.2 Required to Provide Official Provisional Ballot Information



The officer of election must provide certain information to each person who casts a provisional ballot.⁴⁶ A supply of Provisional Voter Notice forms (ELECT-653N) and Provisional Voter Notice – ID only forms (ELECT-643Pr) should be available at each precinct, and should be preprinted with all the required information:⁴⁷

- That a determination of his right to vote will be made by the local electoral board;
- The time, date, and location the electoral board will meet to consider provisional ballots;
- That the voter has the right to be present at the meeting;
- The voter's right to request a one day extension of time to provide information to the board on issues other than ID and the noon Friday deadline for ID;⁴⁸ and
- The email address, fax number, and mailing address of the office which will accept ID submissions (Provisional Voter Notice – ID only).

The officer must also check the appropriate reason(s) the ballot was voted provisionally. Any voter without the required identification should be supplied with the Provisional Voter Notice – ID ONLY form.⁴⁹ This form alerts the voter to the fact their ballot will not be counted unless a copy of the required identification is submitted to the electoral board by noon on the third day following the election, and gives detailed instructions on how to make such a submission. Refer to the Forms Warehouse *Election Management, Provisional* folder for an outline of documents.

NOTE: If the third day falls on a holiday, the voter will be given an extension until noon the next business day per Va. Code § 1-210.

⁴³ See the Code of Virginia §24.2-401.

⁴⁴ See [What if reference sheet](#), §6.

⁴⁵ See the Code of Virginia §24.2-653(A).

⁴⁶ See HAVA, [52 USC §21082\(a\)\(5\)\(A\)](#). See also the Code of Virginia §24.2-653(A).

⁴⁷ See the Code of Virginia §24.2-653(B).

⁴⁸ See the Code of Virginia §24.2-653(A).

⁴⁹ See the Code of Virginia §24.2-643(B).



13.5.3 How-to Guide for Provisional Vote Envelope and Ballot



Any provisional voter must provide a valid photo ID.⁵⁰ A voter casting a provisional ballot under Reason 1-6 who also does not provide a valid ID should have their provisional ballot marked, “Voter ALSO did not provide qualified identification.”

Provisional Vote

Voter: fill in your information on this side.

Precinct _____

Voter name

1 Last name _____ Middle _____

First name _____ Suffix _____

2 Birthdate _____

Address

3 Address _____ Apt. number _____

City/Town _____ State _____ Zip Code _____

4 Phone _____

5 Social Security number _____
(last 4 digits required)

Statement of voter

To the best of my knowledge, I am a registered voter of this locality and I am eligible to vote in this election. I hereby affirm that I have read the Privacy Act Notice.

Your address information will be used to update your voter registration record.

Voter: sign here

6 ☒

Election officer: sign here

☒

Today's date _____

Place voted ballot in this envelope.

Privacy Act Notice: This form requires personal information, including the last four (4) digits of your Social Security number, for identification purposes and to prevent fraud. Providing your full Social Security number, though not required, may prove helpful in the determination of your eligibility to vote. Federal law (the Privacy Act and Help America Vote Act) and state law (the Virginia Constitution, Article II, § 2; Title 24.2 of the Code of Virginia; and the Virginia Government Data Collection and Dissemination Practices Act) authorize collecting this information and restrict its use to official purposes only. Failure to provide the requested information may prevent determining your eligibility to vote and result in your provisional ballot not being counted.

WARNING: Intentionally making a materially false statement on this form constitutes the crime of election fraud, punishable as felony in Virginia. Violators may be sentenced up to 10 years in prison, or up to 12 months in jail and/or fined up to \$2,500.

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For both the Provisional Vote Envelope and the Provisional Vote Envelope – ID ONLY the officer of election fills in the number/name of the precinct in the top right corner, then gives this envelope to the voter and explains that the voter must enter all required information on the front of the envelope. The officer must verify that the voter has provided all information requested and have the voter fill in any missing information. The officer should request that the voter complete the envelope front before giving the ballot to the voter.⁵¹

Next, the officer of election gives the provisional vote envelope and the ballot (or ballot set) to the voter, instructs the voter to place the voted ballot(s) inside the envelope, seal the envelope and return the sealed envelope to the officer.⁵²

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 the appropriate reason(s) 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.⁵³

⁵⁰ See the Code of Virginia §24.2-653(A).

⁵¹ See [What if reference sheet](#), §12.

⁵² See the Code of Virginia §24.2-653(A). See also [What if reference sheet](#), §12.

⁵³ See [What if reference sheet](#), §10.



Provisional Vote

Election Officer: use this envelope when the voter is NOT in the pollbook or there is some other issue.

1. Have the voter fill in the other side.
2. Ask the voter to check all information, and sign the front.
3. You sign the front too, below the voter's signature.
 - a. **DO NOT** mark the pollbook for this voter.
 - b. In the Provisional Ballot Log, enter the voter's information.
4. Issue a paper ballot to the voter.
5. Tell the voter to put the voted ballot into this envelope, seal the envelope, and hand to you.
6. Provide a voter registration application.

Electoral Board:

1. If the voter returns with proper identification, check this box ☐ and sign:

Election Official: sign here ☒ _____

2. Attach a copy of the identification document.

Voter's name IS NOT on pollbook. Voter:

- 1 ☐ is resident of the precinct, or has been since the November general election last year

OR

- 2 ☐ has been a resident of the precinct for the last 2 federal elections, is now a resident of the county or city, and current residence is in the same congressional district as this precinct

Voter's name IS on the pollbook, and voter:

- 3 ☐ is voting after normal poll closing time due to court order

OR

- 4 ☐ applied for an absentee ballot but does not have the ballot

OR

- 5 ☐ is shown in the pollbook as already having voted

OR

- 6 ☐ other (any reason not captured in the other codes) _____

OR

☐ No ID: voter also did not show required ID

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Regulation Note

1VAC20-60-60: Provisional Votes. The general registrar or electoral board may, but is not required to, attempt to contact people who voted provisionally in order to remind them that they have until noon on the third day following the election to provide a copy of the required identification.

13.5.4 Precinct Provisional Ballot Log



The officer of election must complete the Precinct Provisional Ballots Log, available from ELECT, with all the requested information, marking the box under the number(s) corresponding to the reason(s) the provisional ballot was issued.⁵⁴

If the voter provides additional information, you can include specifics such as the below:

- the person said he or she submitted an application at a DMV location, or submitted a change of address to the registrar's office;
- the date the voter submitted a registration application and method by which submitted; and
- any other information the registrar requests to help research the voter's registration status.⁵⁵

If the voter claims to have submitted an application at a DMV or other NVRA designated agency, the officers should include the agency name, location, and the voter's estimate of the date of submission to enable ELECT to look up the voter's record. If the voter has a receipt for his or her registration from the DMV or the agency, that should also be noted.

The Precinct Provisional Ballots Log must be placed inside the #1A Envelope (if separate log sheets were used for a court-ordered extension of polling hours, those should be placed in the

⁵⁴ See [What if reference sheet](#), §10.

⁵⁵ See [What if reference sheet](#), §10.



#1B 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.

Provisional Ballot Log

Precinct: _____
Election Date: _____
Election Type: _____
Locality: _____

Place in Envelope 1A

What to do at the end of the day
Enter the total number of Provisional Vote envelopes for each reason code.

			Totals
Voter's name IS NOT on pollbook. Voter:	1	is a resident of the precinct, or has been since the November general election last year	
	2	has been a resident of the precinct for the last 2 federal elections, is now a resident of the county or city, and current residence is in the same congressional district as this precinct	
Voter's name IS on the pollbook, and voter:	3	is voting after normal poll closing time due to court order	
	4	applied for an absentee ballot, but does not have the ballot	
	5	is shown in the pollbook as already having voted	
	6	Other (any reason not captured in the other codes)	
No ID		voter did not show required ID	

What to do during the day
Copy information from the Provisional Vote envelopes below

Voter name
Last name _____ Middle _____
First name _____ Suffix _____
Address
City/town _____, State _____ Zip code | _ _ _ _ |
Birth year only _____ Phone number (_ _ _) - _ _ _ - _ _ _ _

SSN# last 4 _____ **Reason code**
1 2 3 4 5 6 No ID
Notes _____

Registrar use only
Was this vote counted? YES NO
Why not? _____

Voter name
Last name _____ Middle _____
First name _____ Suffix _____
Address
City/town _____, State _____ Zip code | _ _ _ _ |
Birth year only _____ Phone number (_ _ _) - _ _ _ - _ _ _ _

SSN# last 4 _____ **Reason code**
1 2 3 4 5 6 No ID
Notes _____

Registrar use only
Was this vote counted? YES NO
Why not? _____

Voter name
Last name _____ Middle _____
First name _____ Suffix _____
Address
City/town _____, State _____ Zip code | _ _ _ _ |
Birth year only _____ Phone number (_ _ _) - _ _ _ - _ _ _ _

SSN# last 4 _____ **Reason code**
1 2 3 4 5 6 No ID
Notes _____

Registrar use only
Was this vote counted? YES NO
Why not? _____

Page _____ of _____

If polling hours were extended by court order



After the polls close and the provisional ballot envelopes are removed by the officers from the emergency ballot box, two officers of election representing different parties must complete this process:

- Two officers, one from each party, should separate any provisional ballots with Reason #3 checked (other reasons may also be checked); one stack of envelopes should have reason #3 checked on *all* the envelopes, and one stack should *not* have Reason #3 checked on any.
- Count the number of sealed Provisional Votes (green envelopes) cast during normal hours (i.e. Reason #3 is NOT checked on any of the envelopes) and place in the 1A envelope.



- Officers of election may want to place a rubber band around those ballots cast in the Provisional Vote Envelope – ID ONLY to separate them. These ballots require no further investigation by the registrar.
- Put the Precinct Provisional Ballot Log for the provisional ballots cast during normal hours in the 1A envelope.
- Enter the number of green envelopes with ballots cast during normal hours on Line 1 on the back of the 1A envelope ("NONE" may be entered if applicable OR officers may be instructed to complete the Officer Certification to Reuse Empty Provisional Ballot Envelope 1A).
- Sign the certification on the back of the 1A envelope (TWO OFFICERS).
- Seal the 1A envelope with a label, signing and dating the label (TWO OFFICERS).

If polling hours were extended by court order, TWO OFFICERS representing different parties must repeat the above procedures to count the green envelopes with Reason #3 checked (other reasons may also be checked); put those envelopes and the Precinct Provisional Ballots Log for the provisional ballots cast *after* normal hours in the 1B envelope; complete, sign, and seal the 1B envelope.

13.6 ELECTORAL BOARD'S PROVISIONAL BALLOT MEETING

13.6.1 When to Meet

The electoral board is required to meet at the circuit clerk's or general registrar's office on the day after the election at or before 5:00 p.m.⁵⁶ ELECT recommends that the meeting begin by noon on the day after the election to determine the qualifications of persons who cast provisional votes before beginning the canvass. The time selected must be included in the required Provisional Voter Notice form (ELECT-653N) and Provisional Voter Notice – Identification (ELECT-643Pr) form given to each provisional voter at the polls.⁵⁷

13.6.2 Where to Meet

The electoral board must hold the meeting "at the clerk's or general registrar's office of the [locality] for which they are appointed" and they "may adjourn to another room of sufficient size in a public building."⁵⁸ You must clearly provide the address of the location selected in the required Provisional Voter Notice given to each provisional voter at the polls.⁵⁹

13.6.3 Who Must Attend



All members of the electoral board should be present for this meeting and the canvass of the election. In the event one member is unable to attend, two members constitute a quorum⁶⁰ and may proceed to determine the qualifications of persons who cast provisional votes.

⁵⁶ See [What if reference sheet](#), §10.

⁵⁷ See the Code of Virginia §24.2-653(B).

⁵⁸ See the Code of Virginia §24.2-671.

⁵⁹ See the Code of Virginia §24.2-653(B).

⁶⁰ See the Code of Virginia §24.2-107.



- Should the secretary of the electoral board be unable to attend the meeting, the two remaining Board members must decide who will serve as “acting secretary.”⁶¹ Please see Chapter 2 (Local Electoral Boards) for more information.
- All official documents related to processing provisional votes and the canvass must be signed by the Secretary or acting Secretary and all other present board members. Only those members of the board present during the entire process are required to legally sign any official document.
- The general registrar must appear at the meeting with the pollbooks used at all precincts (having picked them up from the clerk of circuit court if applicable).⁶²

13.6.4 Who is Permitted to Attend

The provisional ballot meeting is a closed session; thus, only the following individuals are permitted to attend:

- Persons who cast provisional ballots who wish to present evidence or request a one day extension.
- Legal counsel and representatives of the person who cast the provisional ballot.
- One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election who is a qualified voter of the locality must be allowed to attend the provisional meeting but cannot participate in the process. Each such representative must present a written statement signed by the county or city party chair, the independent candidate, or the primary candidate as appropriate. Such chair or candidate may serve as his or her own representative, and may not be asked to submit a written statement authorizing himself or herself.⁶³ If the representative presents the required documentation, the general registrar must permit them to observe the meeting.
- Appropriate staff and legal counsel of the electoral board.⁶⁴

13.6.5 The Meeting

The provisional ballot meeting is a “meeting” of the electoral board; thus, the Virginia Freedom of Information Act applies. As previously stated, these meetings are “closed” and closed meeting procedures and requirements⁶⁵ should be followed closely by the electoral board members and general registrar.⁶⁶

- Prior to beginning the meeting, the electoral board should have the #1A (and, if used, the #1B) provisional votes envelopes for **all** precincts.
- A provisional voter may ask that the meeting be extended to the next day (for up to three work days for ID provisional voters and seven calendar days for Reason #1-6 provisional voters) to provide evidence or information. The electoral board may grant an extension that it deems reasonable to determine the status of the provisional vote.⁶⁷

⁶¹ See the Code of Virginia §24.2-106.

⁶² See the Code of Virginia §24.2-653(B).

⁶³ See the Code of Virginia §24.2-653(B).

⁶⁴ See the Code of Virginia §24.2-653(B).

⁶⁵ See the Code of Virginia §2.2-3712.

⁶⁶ See the Code of Virginia §2.2-3700 et seq.

⁶⁷ See the Code of Virginia §24.2-653(B).



- If the provisional ballots meeting is adjourned, the canvass may still proceed on schedule. **The canvass cannot be completed until the provisional ballots meeting is totally completed and adjourned.**

13.7 DETERMINE THE QUALIFICATION OF ALL PROVISIONAL VOTERS BEFORE OPENING ANY INDIVIDUAL ENVELOPES

To protect voter privacy, the local electoral board should determine the eligibility of all provisional voters before opening any of the provisional ballot envelopes.

- The electoral board should open, one precinct at a time, the #1A envelope (and, if used, the #1B envelope) marked “provisional votes.” The local electoral board has the discretion to make a determination as to whether a voter is eligible under Virginia law. The local electoral board should proceed to determine the qualifications, one by one, without opening the green envelopes, of each person who cast a ballot in a green provisional ballot envelope.
 - The first qualification is that the person be registered to vote.
 - Second, the person must have been legally eligible to vote in the precinct in which the vote was cast.⁶⁸

The general registrar should provide any information available to determine if the voter casting a provisional ballot was legally eligible to vote in the precinct and submitted a copy of a valid ID if required.

NOTE: The electoral board or general registrar must keep a detailed list of the provisional ballots counted and not counted for two reasons:

1. The general registrar must notify, in writing, those voters whose provisional ballots were not counted, giving the reason the provisional ballot was not counted.⁶⁹
2. This information will be entered into VERIS in order to apply voting credit for the counted ballots and generate appropriate correspondence.

The registrar should mark the original Precinct Provisional Ballots Log to indicate if the ballot was counted and the reason for the determination. The registrar should also make and retain a copy of the ballot log for records. The *original* Precinct Provisional Ballots Log must be returned to the 1A (and if used the 1B) envelope, to be sealed and stored in the clerk's office.⁷⁰

13.7.1 Person Determined Not Qualified

For persons determined not qualified to have their votes counted, the following steps should be taken:

1. The green envelope must remain sealed.⁷¹
2. Mark the ballot as disqualified across the front of the unopened green envelope and explain why the ballot has been disqualified (for example: no record of registration found, registered after deadline, not qualified (felon, etc.), not legally eligible to vote in precinct, voter did not provide required ID).

⁶⁸ See the Code of Virginia §24.2-653(B).

⁶⁹ See the Code of Virginia §24.2-653(B). See also HAVA, [52 USC §21082\(a\)\(5\)\(A\)](#).

⁷⁰ See the Code of Virginia §24.2-653(B).

⁷¹ See the Code of Virginia §24.2-653(B).



3. Return the voter's sealed, green envelope to the 1A (or 1B, if used) envelope for that precinct marked "provisional votes."
4. Note on the 1A (or 1B) envelope the number of green envelopes for disqualified persons remaining at the conclusion of the determination for that precinct.

13.7.2 Person Determined Qualified

One provisional vote pollbook is used for the city or county (and one for each town if town elections were held). The pollbook should be marked with the name of the city or county (or town) and the words "provisional votes." Voters who have been determined qualified, should be marked in the provisional votes pollbook.⁷²



- For the purpose of VERIS information entry for provisional voter turnout, localities split by congressional districts in statewide or federal elections should count provisional ballots by congressional district; there should be one provisional ballots pollbook and one ballot box for each congressional district.⁷³
- **Special Procedures for Provisional Voting Reason #3:** The 1B envelopes should have been used if polling place hours were extended by court order. If the court order has not been overturned when the provisional ballots are otherwise ready to be counted, the provisional ballots counted from the 1B envelope must be entered in a **separate pollbook** marked with the county, city or town name (and congressional district if split) and "votes cast after normal voting hours." Votes cast after normal voting hours (after-hours ballots) must be kept separate and cannot be mixed with ballots cast during normal voting hours.⁷⁴ Ballots cast during normal voting hours should be completed first. The electoral board should both verify that the ballot box is empty and seal the counted ballots cast during normal voting hours for delivery to the clerk (below), before beginning to count the ballots cast after normal voting hours.

NOTE: The general registrar, working with ELECT, may search the DMV or NVRA agency record to determine if the provisional voter has any records pertaining to registration.

If proof is presented that indicates the person submitted an application or attempted to register or change their registration at the DMV or another NVRA agency *prior* to the close of books, the voter submitted a completed application at the polls on election day, and the registrar determines from that application that the voter was qualified to vote in that precinct, the **provisional ballot must be counted by the electoral board.**

13.7.2.1 Steps for Qualified Provisional Ballots

1. Open the green envelope of the voter determined to be qualified.
2. Place the ballot in the appropriate ballot box without any further inspection than to assure that only a single ballot or ballot set has been cast and that the ballot is a genuine ballot, without looking at the printed inside of the ballot.⁷⁵

⁷² See the Code of Virginia §24.2-653(B).

⁷³ VERIS Step-by-Step: Election Results, pg. 22

⁷⁴ See the Code of Virginia §24.2-653(C).

⁷⁵ See the Code of Virginia §24.2-653(B).



3. Place the *opened, empty* green envelopes for each precinct in the 1A (or 1B, if used) envelope for that precinct.
4. Note on the envelope the number of green envelopes contained therein for persons determined to be qualified.

13.8 NOTIFICATION AND VOTER CREDIT



After the determination of all provisional ballots by the electoral board, the registrar must enter all provisional ballot information into VERIS 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 registrar must enter a reason in VERIS for changing vote totals after election night.

13.8.1 Enter Results for Provisional Votes

General registrars must enter two separate numbers related to provisional ballots: the number of qualified provisional votes cast and the total number of provisional votes cast.

The number of provisional votes that were determined qualified must be entered as a separate “Provisional Votes” precinct. The registrar must enter the provisional votes by entering the total votes for each candidate in the “Provisional Votes” precinct.

The total number of provisional ballots cast is the number of provisional votes determined qualified combined with the number of provisional votes that were rejected, or determined not qualified. This number is the total Provisional Turnout and must be reported in the Provisional Turnout screen. If the locality is split by congressional districts, the provisional votes counted and cast must be entered by congressional district for statewide and federal offices.

13.8.2 Enter Individual Voter Information

A provisional voter may have an inactive status, cancelled registration, or not be in VERIS at all. The registrar must search and manually add information regarding the provisional ballots in VERIS for each provisional voter. Refer to *VERIS Step-by-Step Voter History* for more information on modifying voter history.

A voter with a provisional ballot that was counted should have his/her voting credit added. **A voter with a provisional ballot that was not counted must have the reason for this determination entered in VERIS to produce the appropriate required correspondence for mailing.**⁷⁶ For persons already registered, VERIS will automatically generate letters when their record is updated to indicate the provisional ballot was not counted. For persons not registered who have not completed a registration application, the notification letter should include a voter registration application and inform the person that if they wish to be eligible to vote in future elections, they must complete the application and return it in the pre-addressed envelope provided before the close of the books for the next election in the county or city.

⁷⁶ See the Code of Virginia §24.2-653(B).



For a provisional voter with a cancelled registration, the registrar must reinstate the individual's voting registration, enter the provisional voting information, and change any relevant information.

A voter who did not submit an application or the application submitted was incomplete should have a voter registration application included in his/her mailing. To add information regarding non-registrants, the registrar should add the non-registered individual's information under "Non-Registrant Provisional" in VERIS.

Refer to VERIS Step-by-Step Voter History for more information on modifying voter history.

VERIS Index

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Entering Provisional Voter Turnout

- See [section 13.7.2](#).

Notification and Voter Credit

- See [section 13.8](#).

Entering Individual Information

- See [section 13.8.2](#).

For further assistance, contact [VERIS help](#)





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 14

Canvass

June 2018

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14. CANVASS

REQUIRED FORMS SOR Printed Return Sheet (ELECT 658) Statement of Results Write-Ins Certification Request to Inspect Sealed Election Materials (Form ELECT- 659)	ADDITIONAL RESOURCES Write-Ins Certification/ Continuation Procedures Records for Circuit Court
REFERENCE VERIS Step-by-Step: Election Results VERIS Step-by-Step: Voter History Certificate of Election Appointment Template (SBE 109) Landscape Certificate of Election Portrait Certificate of Election Template: CAP SOR Circuit Court Template: CAP SOR Registrar's Office Template: SOR Circuit Court Template: SOR Registrar's Office	REGULATIONS 1VAC20-20-70 Duty to Request Assistance and to Notify Voters of Denial of Applications for Voter Registration or Absentee Ballots

14.1 CHAPTER ORGANIZATION

The process of reviewing, confirming, and recording the official local results of each election is called a “canvass.” Local election officials in each locality conduct a canvass to verify and consolidate election results from the individual precincts. The officers of election, local electoral board, and general registrar are all jointly responsible for conducting an accurate and timely canvass, and then transmitting the results of the canvass to the Department of Elections through VERIS. Most requirements for canvassing are codified in the Code of Virginia §§24.2-671- 24.2-680.

The purpose of this chapter is to provide an overview of the procedures for conducting a canvass in compliance with Virginia Code and is structured into three parts: Preparing for Canvass, Conducting the Canvass, and After the Canvass.

§14.2 outlines steps to prepare for canvass. The canvass occurs during a board meeting; thus, §14.2.1 discusses the basics of conducting a meeting, such as the need to follow requirements set in the Virginia Open Meetings and Freedom of Information Act. §14.2.2 discusses attendance and the important role of the secretary of the local electoral board. §14.2.3 lists materials needed to complete a canvass and explains the purpose of each document while §14.2.4 provides information regarding duties and responsibilities the clerk and general registrar have for canvass. The canvass is an intensive step-by-step process; general registrars and electoral board members must have a sound understanding of how the materials are to be used prior to beginning the canvass meeting.

§14.3 provides a guide to conducting the canvass by focusing on the duties and responsibilities of four entities: the officers of election, local electoral board members, the general registrar, and the Department of Elections. §14.3.1 discusses the importance of the officers of election. It is very important that general registrars and local electoral board members are familiar with the duties of the officers of election because this position is critical in verifying results. §14.3.2 focuses on the general registrar whose role for the canvass includes bringing necessary supplies and ensuring that



required documents are provided. §14.3.3 examines how the electoral board members fit into canvassing as their presence is important for counting and verification purposes.

§14.4 concludes the chapter by giving a brief overview of what should occur after the canvass, which is primarily the responsibility of the general registrar and electoral board members. §14.4.1 discusses required filings regarding campaign finance reports, while §14.4.2 dives into the certificates of election which the local electoral board sends out. §14.4.3 closes the canvass chapter by discussing the work of general registrars, such as, sending out rejection letters to provisional and absentee ballot voters. While conducting a canvass seems complex, the canvass can be completed smoothly if each entity is aware of how their responsibilities fit within the process.

14.2 PREPARING FOR CANVASS

14.2.1 Basics of the Meeting

The canvass is a meeting of the electoral board; thus, the Virginia Freedom of Information Act applies.¹ Refer to Chapter 2: Local Electoral Board for additional information on public meeting requirements.

The provisional ballots meeting is a closed session and not open to the public; in contrast, the canvass is open to the general public who may attend all or a portion of the meeting to the extent space is available.² Notice of the date, time, and location at which the provisional ballots meeting and the canvass will be held must be given to the public by the electoral board at **least three business days** prior to the meeting date.³ While the canvass is required to begin no later than 5:00 PM on the day after the election, results from the canvass cannot be certified and submitted to the Department of Elections until provisional ballots are completed.

14.2.1.1 When to Meet



The electoral board should proceed with canvassing immediately following the provisional ballots meeting; which is when qualifications of those persons who cast provisional votes is determined. The electoral board must begin the canvass no later than **5:00 PM on the day after the election**.⁴

14.2.1.2 Where to Meet

The electoral board must hold the meeting “at the clerk’s or general registrar’s office of the [locality] for which they are appointed” and “may adjourn to another room of sufficient size in a public building.”⁵ The board has some discretion in determining where the canvass should take place. The officers of election must deliver election materials on the night of the election to the clerk of the circuit court’s or office of the general registrar.⁶ If the officers of election do not deliver the materials before the canvass to

¹ See the Code of Virginia [§2.2-3707](#).

² See the Code of Virginia §24.2-653(B). See also the Code of Virginia [§2.2-3712](#).

³ See the Code of Virginia [§2.2-3707](#). See also the Virginia Freedom of Information Act (FOIA).

⁴ See the Code of Virginia §24.2-671.

⁵ See the Code of Virginia §24.2-671.

⁶ See the Code of Virginia §24.2-671.



the clerk or the office of the general registrar, the clerk of the circuit court must have law enforcement retrieve the materials.⁷

14.2.1.3 Attendance

No person, regardless of official function or statutory right to be present, may disrupt the meeting or interfere with the canvass in any way. Inform unruly individuals that interruptions can cause errors and explain that questions concerning each precinct will be taken *after* work concludes but *before* the electoral board reseals the pollbooks, pollbook count forms, and the statement of results for the precinct.

14.2.1.3.1 Whose Attendance is Required:



- All members of the electoral board *should* be present for the canvass; however, it is only mandatory that two members be present. In the event one member is unable to attend, two members of the electoral board constitute a quorum⁸ and may proceed with the canvass. The member of the board that is unable to attend should notify ELECT.
 - When conducting a canvass, the secretary must be present. If the official secretary is unable to attend the canvass, the board members must elect one of the remaining board members to act as a secretary.⁹ In acting as secretary, the board member must sign any official documents regarding the canvass as “acting secretary.” The member must sign the official document only as “acting secretary” and leave the line of their normal official capacity as board member blank.
 - When conducting a canvass, **only those members of the board present during the entire canvass may legally sign any document concerning it.** If you attach a signature of a member that was not present at the canvass or a member that was present does not sign, the electoral board must reconvene.
- The general registrar must bring the pollbooks used at all precincts (having picked them up from the clerk of circuit court if applicable).¹⁰

14.2.1.3.2 Whose Attendance is Optional:

- During a primary election, each candidate is entitled to have as many representatives as there are teams of officials working to ascertain the results.
- In a general and/or special election, each political party and each independent candidate can have as many representatives as there are teams working to ascertain the results. The electoral board must use a room of sufficient size to accommodate these individuals. These individuals must be allowed an unobstructed view of the proceedings.

⁷ See the Code of Virginia §24.2-670.

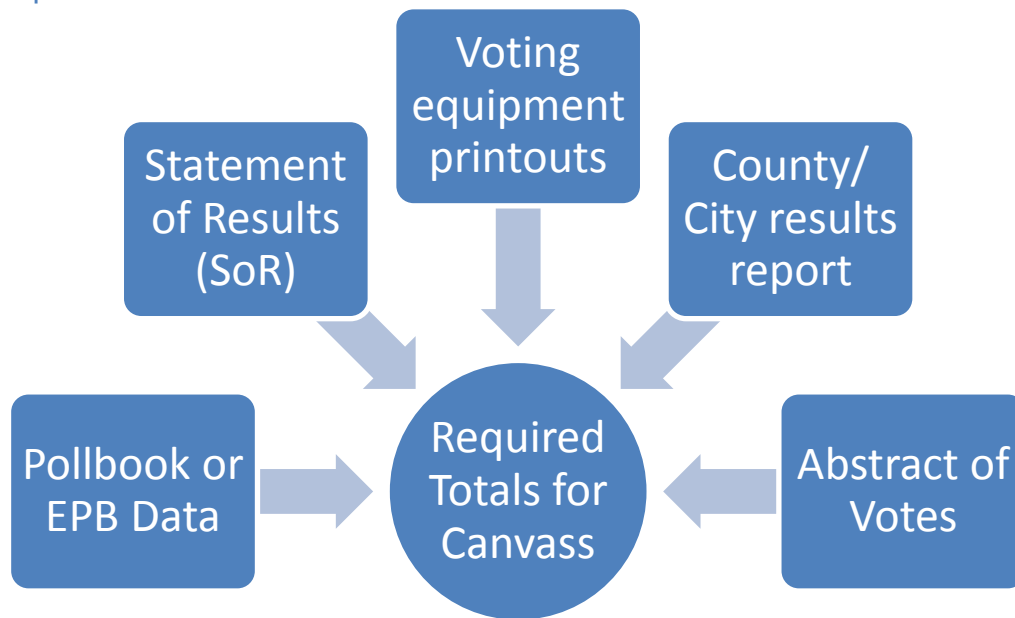
⁸ See the Code of Virginia §24.2-107.

⁹ See the Code of Virginia §24.2-106.

¹⁰ See the Code of Virginia §24.2-653(B).



14.2.2 Required Totals for Canvass

*14.2.2.1 Pollbook and Pollbook Count Form*

A pollbook is either a printed or electronic list of all of the eligible voters for a given precinct in a given election. Pollbooks list each eligible voter by last name and includes their ID number, full name, year of birth, town code (if applicable), super-district (if applicable), residence address, and mailing address. Additionally, each voter may have a pre-printed code beside their name to indicate one of the following:

- Voter requested an absentee ballot (AB).
- Individual is a temporary or federal overseas voter (T or F).
- Individual is a permanently registered overseas voter (R).
- Voter moved within the jurisdiction or is inactive (?).
- Voter has assigned number instead of social security number (A).

The pollbook count form is a tally sheet used by officers of election to track the number of voters who checked in on election day. If an electronic pollbook (EPB) is used, this count is tracked automatically.



14.2.2.2 *Statement of results*

The statement of results (“SOR”) is a worksheet officers use to submit the results for each precinct.¹¹ After polls close, officers of election begin to ascertain the votes by completing the SOR. Officers use materials, such as the results tapes to complete the SOR.¹² Officers of election must complete certain fields on the SORs such as: the office title, district name or number (if one exists), and the candidate names for each office and the question title and issue response for each question on the ballot in each precinct. The electoral board then verifies this information.¹³ Refer to Forms Warehouse for SOR Templates.

14.2.2.3 *Voting equipment printouts*

Optical scanning machines produce tapes prior to an election and once the election is completed. The tapes produced prior to the beginning of the election are known as Zero Tapes while the printouts at the end of the election are the results tapes. Zero tapes and results tapes must be certified by the officials on election night; thus, each officer of election must sign these documents and submit a Printed Return Sheet (ELECT-658) for all machines within the polling place.

14.2.2.4 *County/City Results Reports*

The county/city results reports may be used to summarize all of the statements of results within a locality for all offices or referenda. The reports identify the election, its date, the locality name, code, and precincts involved. Offices and their candidates appear in the same order as they are listed on the ballot. The County/City Results Report captures all offices applicable to a locality’s election while the County/City Referendum Results Report captures all referenda applicable to a locality’s election.

14.2.2.5 *Abstracts of Votes Cast*

The “Abstract of Votes” VERIS report is generated after vote totals for each office or issue are submitted into VERIS from the SOR. Towards the end of canvass, the local electoral board should have the general registrar or staff retrieve the “Abstract of Votes” VERIS report. The VERIS Abstract may need to be supplemented with the Write-in Certification/Continuation (available in the Forms Warehouse) if a write-in candidate wins or the total number of write-in votes cast is 5% or more of the overall votes cast for the office. Effective July 1, 2018 SB150 will raise this threshold to 10%.

14.2.3 *Supplies Provided By the Clerk or General Registrar*

The Clerk of Court or the general registrar (general registrar only if materials are returned to the general registrar on election night) should provide to the electoral board, for each precinct:

- the #2 Statement of Results envelope and
- the #2A Printed Return sheet envelope, if applicable.

¹¹ See the Code of Virginia §24.2-654.

¹² See the Code of Virginia §24.2-654.

¹³ See the Code of Virginia §24.2-654.



The Department of Elections has a form for requesting permission from the Commissioner of Elections (Form ELECT-659) Department of Elections Request to Inspect Sealed Election Materials. Permission is not granted until the Department of Elections returns the signed form.

14.3 CONDUCTING THE CANVASS

The purpose of the canvass is to compile and certify vote totals for each precinct within your locality. The canvass requires actions by the officers of elections, general registrar, and the electoral board, all of which is transmitted by the general registrar or staff to the Department of Elections for website publishing. The purpose of this section is to understand the responsibilities of each entity within the canvass process.

14.3.1 Duties of the Officers of Election

The officers of election are critical to the canvass process because the officers begin the process by ascertaining, or verifying, vote totals for each machine on election night. Information that is collected and verified by the officers of election will be provided to the general registrar and the local electoral board for certification. For more details, see the Election Day Guide. Officers of election must accurately complete:

- The pollbook count form (except when an electronic pollbook is used),
- Duplicate statements of results,¹⁴ and
- Produce the voting equipment printouts (e.g. results tapes, precinct consolidation tape or final precinct report).¹⁵



Best Practice

In certifying returns provided by officers of election, the general registrar or electoral board may discover discrepancies in the totals provided. To correct any discrepancies, the board must summon the officers of election to the canvass at which point the discrepancy can be amended and signed by the officers (§24.2-672). The officers should be required to appear either on the day of the canvass or no later than the following day.

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 the officer of election cannot appear on the day of the canvass, follow the instructions for packaging and re-open the envelope when the officers appear.

14.3.2 Duties of the General Registrar

The duties performed by the general registrar for the canvass break down into two sections: Before the Election and After the Canvass. The specifics of each section are described below.

14.3.2.1 Before the Election

The general registrar must check the County/City Results Reports worksheet to be certain of the following:

¹⁴ See the Code of Virginia §§24.2-657 and 24.2-668.

¹⁵ See the Code of Virginia §24.2-657.



- If the locality uses a Central Absentee Precinct (CAP), the ## AB - Central Absentee Precinct is listed.
- The #_Provisional (Vote) Precinct is listed.
- The required lines for each precinct in the locality are provided.
- The offices, districts, candidates, and issues shown on each page are the correct ones for the precincts listed.
- No required office, candidate, or issue is missing.

14.3.2.2 *After the Canvass*

After the canvass is complete, the general registrar should make available for public inspection one copy of the following:¹⁶

- County/City Results Report,
- statement of results for each precinct, and
- Write-Ins Certification completed by the officers of election for each precinct (if applicable).

14.3.3 Duties of the Electoral Board

The electoral board completes and certifies the abstract of votes. To create the abstract of votes, the officers of election supply the statement of results to the electoral board who reviews these documents and certifies them. This process is the ascertainment of results. The majority of this process is completed through VERIS by the general registrar or his or her staff. Refer to VERIS Step-by-Step: Election Results for more information.

14.3.3.1 *Processing the statements of result*

Officers of election should submit two copies of the statements of results for each precinct. Each copy should be checked for discrepancies by the electoral board members, a Democratic member and a Republican should each check a copy for matching information.

In large localities, it may be necessary to employ teams of two people to perform this function under the direct supervision of board members. In this case, each team should be comprised of one Democrat and one Republican. Each should check one copy of the statement of results to ensure that calculations are correct, all required information is provided, and all required signatures have been entered.

- Electoral board members should ensure that all voting systems in the polling location are properly accounted for in the statement of results and that all machine tapes from all voting systems in use are present.
- Compare the number of voters voting with the total number shown as voting on the statement of results. This is done by checking either the last page of the pollbook count sheet or the “Checked-In” count from the EPB. If they do not agree and no statement adequately explaining the disagreement has been entered, the officers must be called in to correct the statement of results or to enter the missing explanation.¹⁷

¹⁶ See the Code of Virginia §24.2-671.

¹⁷ See the Code of Virginia §24.2-672.



- Officers may have to look at counted ballots or examine voting machines to correct discrepancies in the returns, if so; the board must contact the Department of Elections immediately **before** proceeding further with that precinct. The registrar or an electoral board member must complete, and fax or email a Request to Inspect Sealed Election Materials (Form ELECT- 659) to Election Services for review and approval.¹⁸ Permission is not granted until Election Services returns the signed form.



Law Note

Never open the sealed envelope or receptacle containing voted ballots unless authorized to do so by the Commissioner of Elections of the Department of Elections, by order of a Court (*e.g.*, in a recount or contest), or as part of an audit pilot program conducted as per The Code of Virginia §24.2-659. **Opening the sealed counted ballots envelope or receptacle for any other reason could constitute illegal tampering subject to prosecution as a felony** as per the Code of Virginia §24.2-1009.

- Each political party and each independent candidate on the ballot (in a primary, each candidate) is entitled to have a representative during this process.¹⁹ 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.²⁰
- The electoral board is required to notify the Department of Elections when changes are made to the SOR, or later, to its certified abstract and include a reason, which will be posted to the Department of Elections website.²¹ The proper mode of transmitting this communication is through the VERIS System. Refer to the VERIS Step-by-Step Election Results for more information.
- Once the abstract of votes is complete, the secretary of the board must return to the clerk:
 - all pollbooks,
 - any printed inspection and return sheets, and
 - one copy of each statement of results.²²

¹⁸ See the Code of Virginia §24.2-659.

¹⁹ See the Code of Virginia §24.2-671.

²⁰ See the Code of Virginia §24.2-671.

²¹ See the Code of Virginia §24.2-671.

²² See the Code of Virginia §24.2-671.



14.3.3.2 Write-in Votes

Write-in votes cannot be cast for primary elections.²³ Localities must always report the **total** number of write-in votes for an office.

Currently, a write-in certification form is required when the write-in vote total is 5% or more of the total votes cast for the office, or a write-in winner wins the election.²⁴

Effective July 1, 2018 §§ 24-2.671 and 24.2-675 are amended by SB150 which increases the threshold for write-in certification to 10%. This bill will also raise the threshold for when each write-in name needs to be documented on the abstract to 10%.

In each instance, the electoral board must complete the Write-in Certification and, if applicable, the Write-In Continuation document. The Certification form tallies valid, invalid, and total votes received for the write-in candidate.



Best Practice

Determining what may be counted as a write-in vote for a particular candidate often requires determining voter intent: Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party should be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained. This standard is similar to that defined by SBE Policies 2007-002 and 2005-009 regarding candidate names on ballots which may include a known nickname. Write-in candidates are instructed to educate voters on using the candidate's full name.

The Write-In Certification/Continuation provides space for reporting all of the write-in votes cast. The votes should be listed in alphabetical order. These forms are not required. If the electoral board develops its own spreadsheet or program that is capable of printing a list of valid write-in votes in a similar way as the Write-In Continuation it may be used in lieu of the Write -In Continuation. Newer voting systems permit the production of a write-in report from the voting systems themselves. This report is also acceptable and may be used in lieu of the Write -In Continuation.

Accounting for write-ins may be accomplished either manually or by computer. If using a computer, entry is done office-by-office, district-by-district, of the names of persons receiving write-ins and the votes each received. Invalid votes for each office and its district should also be included. A program will then sort the names (including names entered as "Invalid") along with the number of votes received by each individual in each precinct.

14.3.3.3 Processing the County/City Results Report

One member of the board (Democratic or Republican) must complete the county/city results report worksheet or a similar results template and have the completion witnessed by a member representing the opposite party. The worksheet information

²³ See the Code of Virginia §24.2-529.

²⁴ See the Code of Virginia §24.2-671.



should be entered into VERIS Election Post-Processing screen by the general registrar or staff.

The person recording data must determine the following:

- The total number of votes cast in the precinct for each candidate or issue response listed,
- The total number of write-in votes cast for each office (if permitted for the election), and
- The number of over-votes cast in the precinct for each candidate.

The total number of votes cast for all candidates, including write-ins (for non-primaries), for any one single-seat office, or responses for any one issue, *must not* exceed the total number of persons voting in that precinct and in that district.

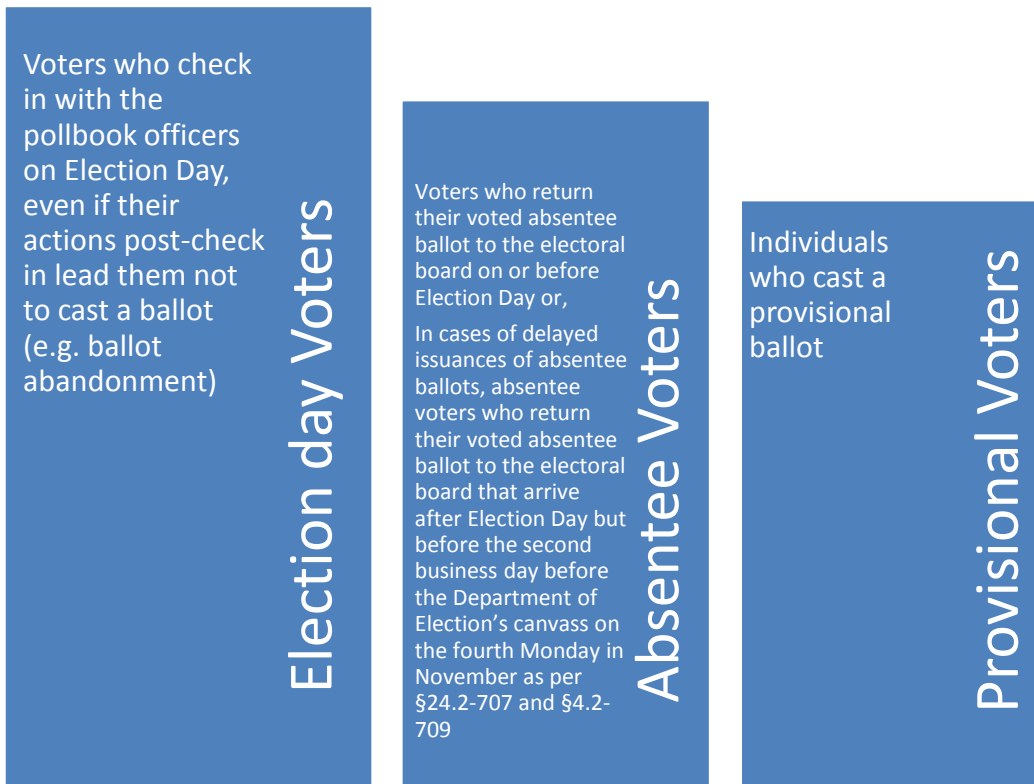
If the number of votes cast for candidates or issue responses is higher than voters voting due to human or machine error, the number on the voting machine must be used. Enter a statement to that effect on the reverse side of each copy of the County/City Results Report on which the precinct is listed.

After these totals are verified as accurate, the electoral board should run an Abstract of Votes report in VERIS.

14.3.3.4 Voter Turnout

“Voter turnout” is the total number of individuals who participate in an election. A voter turnout number must be determined for each precinct involved in an election. Participation comes in many forms. Election participants include:





Voter turnout number should be listed on the precinct's SOR. Once voter turnout has been determined for each precinct, this information should be entered into VERIS. Turnout needs to be reported by certain districts in order to properly account for the number of ballots issued and to confirm the number of votes cast in a precinct.

14.3.3.5 VERIS Reports Available to Confirm Accurate Election Results

After entering the election results and voter turnout into VERIS, three separate reports should be generated to check for accuracy. The electoral board should analyze and resolve votes cast/voter turnout discrepancies that are flagged in these reports. If the board needs assistance in interpreting their reports, they may contact the Department of Elections' election services, election administration, and staff.

Run the following reports: (1) *Election Error Results v2 – by Office*,” (2) *Turnout Versus Vote Cast Error Report*, and (3) *Voting Credit Audit by Locality*.

- The *Election Error Results v2 – by Office* report identifies precincts having a higher number of votes cast than turnout. If there are more votes than turnout, documentation must be provided by the officers of election on the statement of results. Undocumented errors must be corrected.
- The *Turnout Versus Vote Cast Error* report identifies precincts having a higher number of turnout than votes cast. While a small percentage (i.e., less than 3%) may be explained by undervotes, a larger percentage might be due to a gross



error such as completely missing a precinct or voting machine. This report is designed to help catch those situations.

- The *Voting Credit Audit by Locality* report compares voter turnout and voting credit for each precinct. The *Voting Credit Audit by Locality* report identifies differences in voter turnout and voting credit. An exact match of the numbers is best; however, a slight deviation between numbers may occur. The general registrar should resolve any significant differences.

14.3.3.6 Processing the Abstracts of Votes



For each office, complete one *Abstract* and, if write-ins equal 5% or more of the total number of votes cast for the office or a person was elected by write-in vote, the *Write-Ins Certification*. If applicable, complete one *Abstract* for each referendum issue. Registrars generate the Abstract report in VERIS. Refer to VERIS Step-by-Step: Election Results for more information. Effective July 1, 2018 SB150 will raise the threshold to 10% for write-ins to be documented on abstracts.

For offices, make **three** copies of each completed and signed *Abstract* and, if required for the office, the *Write-Ins Certification*. For issues, make **four** copies of the *Abstract*. The Secretary must sign each copy, attesting that it is a true copy, and affix the seal of the electoral board.

- All members of the electoral board who participate in the canvass must sign each original *Abstract* and *Write-Ins Certification* (if applicable) **before** the secretary affixes the seal of the electoral board and second signature.
- Preserve one attested copy of each *Abstract* and, if required for the office, the *Write-Ins Certification* as part of the minutes of the meeting at which the results were ascertained.²⁵ Place the originals (unattested) in a file to be kept with the minute book.

A tie may occur when two or more candidates for any such office receive the same (and highest) number of votes. To determine the winner, follow the procedures in *Determination of Tied Results* in this chapter.

Write-ins may also need to be certified, compile the results of computer entries within each office and district and alphabetize by name the person receiving write-in votes.

- If it is determined that a *Write-Ins Certification* page is necessary, enter the appropriate numbers in the Write-Ins Summary (Lines 1, 2, and 3). Enter, in alphabetical order, the names of persons receiving write-in votes and the number of votes received by each in the “Valid Write-Ins – Detail.” The “Write-Ins Certification – Continuation” will permit a complete reporting of write-in names.
- If a write-in candidate appears to have received the highest number of votes for an office, the general registrar should add the candidate to VERIS with a party of “Write-in” enter the number of votes this candidate received, subtract that from the other write-in votes and update the totals in VERIS. Then the write-in candidate

²⁵ See the Code of Virginia §24.2-675.



should be marked as the winner in VERIS and a new abstract should be produced. The other criteria for candidacy still need to be met by a write-in winner, including campaign finance reports.

14.3.3.7 Where to Send Abstracts/ Write-In Certifications

Place one attested *Abstract* and, if completed at the time of the canvass, each *Write-Ins Certification*, in an envelope labeled *Abstract Envelope For (county or city name)*. **DO NOT** fold the *Official Abstract* or *Write-Ins Certification*. Immediately send it as directed by the Department of Elections.²⁶

As soon as the canvass is concluded and the *Abstracts* are signed and attested, but no later than the time required in the specific instructions for the election, the Department of Elections must receive the following:

- By online submission of one copy of the abstract for each office and issue canvassed, and
- By First Class Mail or as instructed by the Department of Elections, one attested copy of each *Abstract* and each *Write-ins Certification* (if applicable).

Forward a copy of each certified abstract for recording in the record book of the local governing body to the following:²⁷

- To the Clerk of the City Council or Board of Supervisors,
- For town elections, send the documents to the Clerk of the Town Council,
- For local referenda, to the Circuit Court Clerk of the locality.

Abstracts for primary elections for United States President and Senate, Governor, Lieutenant Governor, and Attorney General are sent only to the Department of Elections and not to any political party chair.

14.3.3.7.1 Special Considerations for Primary Elections



The Department of Elections must receive the certified abstract of votes from each county or city within **six days** after any state primary election.²⁸

Place one attested copy of each *Abstract* in an envelope labeled *Abstract Envelope For (county or city name)*. **DO NOT** fold the official *Abstract*. Immediately send it as directed by the Department of Elections.²⁹

For primary elections for all county, city, or local district offices, forward one attested copy of each *Abstract* and certificates to the Department of Elections and to the chair of the county or city of the party holding the primary.³⁰

- For a U.S. House of Representatives primary, send the documents to the congressional district party committee.

²⁶ See the Code of Virginia §§24.2-532 and 24.2-675.

²⁷ See the Code of Virginia §24.2-675.

²⁸ See the Code of Virginia §24.2-532.

²⁹ See the Code of Virginia §§24.2-532 and 24.2-675.

³⁰ See the Code of Virginia §24.2-532.



- For primaries for the General Assembly, send the documents to the party chair of the Senate or House of Delegates district.
- For constitutional offices shared by more than one county or city, send the documents to the party chair of each county or city.

14.3.3.8 *Responsibility for Certification of Results*

The State Board of Elections is responsible for the final certification of the results of statewide elections and/or regional referenda and any constitutional offices shared by more than one locality.³¹

14.3.3.9 *Determination of Tied Results*

If the results of the election for any of the offices certified by the electoral board (those set forth above) indicate that two or more candidates received the same (and highest) number of votes, the electoral board must first check and double check again the total votes cast for each candidate. If no error is found, determine the successful candidate by lot conducted by the electoral board at a meeting open to the public.³²

Notify the candidates involved so that they or their representatives may be present for the drawing. The board should continue with the drawing even if a candidate's representative fails to show.³³ In any event, ensure that witnesses are present.

To conduct the drawing, take the following steps:

1. Enter the name of each of the candidates receiving a tie vote on a separate slip of opaque paper.
2. Exhibit the slips, one at a time, to any interested person who is present.
3. Fold each slip and seal it, individually, in an opaque envelope or other small opaque container.
4. Place all envelopes or containers in another opaque container large enough to mix them thoroughly.
5. Shake the container thoroughly and have one of the members of the electoral board draw out one envelope or container to select the winner.

After completing these steps, the general registrar should make sure to mark the winner in VERIS for **all** offices certified by the local electoral board.

14.3.4 *Duties of the Department of Elections*

In order to verify the accuracy of the *Abstract*, the Department of Elections will compare the data keyed into the VERIS Election Post-Processing screens to the totals entered on the *Abstracts of Votes*. The Department of Elections will require the general registrar or the electoral board, as appropriate, to correct any error found.

³¹ See the Code of Virginia §24.2-679.

³² See the Code of Virginia §24.2-674.

³³ See the Code of Virginia §24.2-674.



The Department of Elections may require any electoral board member to respond immediately and swiftly to correct any error found.³⁴

The Department of Elections will post to its website comprehensive reports indicating, for each precinct, the actual election results and other vital information such as voter turnout percentages and percentages of votes cast for each candidate.

14.4 AFTER THE CANVASS

14.4.1 Certificates of Election



The certificate of election is made out by the secretary of the electoral board once the board has determined the election results.³⁵ The secretary must make out a certificate for each person who received the highest number of votes. Two sample certificate forms are posted to the Forms Warehouse.

NOTE: The dates entered for the beginning and end of the term of office must be correct for the specific office being certified. Your local government attorney can be consulted if needed.

The secretary of the electoral board is responsible for issuing the certificates of election for each county, city, town, or district office other than an office shared by more than one county or city.³⁶ The secretary or acting-secretary must sign each certificate of election.

The State Board of Elections is responsible for issuing certificates of election to:³⁷

- Members elected to the United States Congress,
- Members elected to the General Assembly,
- Governor,
- Lieutenant Governor,
- Attorney General,
- Constitutional offices shared by more than one county or city, and
- Persons elected to soil and water conservation districts.

For November elections, the State Board of Elections must certify results on the third Monday of November and, in the interim, will verify the accuracy of the precinct and county or city results local electoral boards have certified.³⁸ The electoral board should stand ready to respond immediately to any request from the Department of Elections for correction of any error found in the certification.

The electoral board may deliver certificates in person, by another member of the board or a registrar, or transmitted by certified mail.³⁹ Upon delivery, inform the person that the certificate should be exhibited to the officer who administers the oath of office as evidence of his/her

³⁴ See the Code of Virginia §24.2-675.

³⁵ See the Code of Virginia §24.2-676.

³⁶ See the Code of Virginia §24.2-676.

³⁷ See the Code of Virginia §24.2-680.

³⁸ See the Code of Virginia §24.2-679.

³⁹ See the Code of Virginia §24.2-676.



election victory. An oath must be administered by a Clerk of Court of record, by any judge, by a Commissioner or Clerk of the State Corporation Commission or by the Secretary of the Commonwealth.

A certificate of election cannot be provided to the candidate with the highest number of votes until the individual complies with campaign finance reporting requirements.⁴⁰ The following conditions must be met:

- The candidate has filed all campaign finance reports required in §24.2-947.6(A) (3) - (9), §24.2-947.7(A) (3) – (6), and §24.2-947.8(B) (1) & (2), as applicable.
- A final report has been filed, if required by §24.2-948.1(C).
- The candidate has responded to and complied with any notice that additional information is required to complete any required report.⁴¹
- The candidate has paid any civil penalty and returned any contribution required to be returned.⁴²

Notify candidates for any of the offices who fail to file the required reports of campaign contributions and expenditures that, if such reports are not filed, the electoral board will be required to report to the Commonwealth's Attorney that the candidate has failed to comply with reporting requirements and may be subject to prosecution.⁴³ Report to the Commonwealth's Attorney, in writing, any candidate who fails to file any required report by the deadline set in the notification letter.

14.4.2 Letters to Voters whose Provisional Ballots are Rejected

After the canvass, the general registrar must notify, in writing, all persons whose provisional or absentee ballot were not counted because they were determined to be unqualified to have their vote counted in the election.⁴⁴ The reason for this determination must be entered into VERIS; doing so will produce the required correspondence for mailing.⁴⁵ The registrar must search and manually add information regarding the provisional ballots in VERIS for each provisional voter. Refer to *VERIS Step-by-Step Voter History* for more information on modifying voter history.

A provisional voter may be registered, have an inactive status, cancelled registration, or not be in VERIS at all. For persons already registered, VERIS will automatically generate letters when their record is updated to indicate the provisional ballot was not counted. For persons not registered who have not completed a registration application, the notification letter should include a voter registration application and inform the person that if they wish to be eligible to vote in future elections, they must complete the application and return it in the pre-addressed envelope provided before the close of the books for the next election in the county or city.

⁴⁰ See the Code of Virginia §24.2-948.2.

⁴¹ See the Code of Virginia §24.2-953.3.

⁴² See the Code of Virginia §24.2-953.5.

⁴³ See the Code of Virginia §24.2-946.3.

⁴⁴ See the Code of Virginia §24.2-653(B). See also [IVAC20-20-70](#).

⁴⁵ See the Code of Virginia §24.2-653(B).





VERIS INFORMATION INDEX

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Write-in Votes

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Processing the County/City Results Report

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Letters to Voters Whose Provisional/Absentee Ballots are Rejected

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Can't find what you're looking for? See the VERIS [Step-by-Step](#) guide for a walkthrough of all of VERIS's processes.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 15

Recounts and Contests

June 2018

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15. Recounts and Contests

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15.1 CHAPTER ORGANIZATION

Recounts do not occur often enough to be considered a routine part of an election year. Please take the opportunity, however, to refresh your knowledge of the laws and regulations that govern the circumstances and manner in which a recount can occur.

§15.2 outlines that a candidate cannot petition the court for a recount unless the election resulted in a margin of victory not more than 1 percent. (If either the winner or the apparently unsuccessful candidate ran as a write-in candidate, a recount can be requested as long as the difference is not more than 5 percent.)

§15.2.3 discusses the timeline for filing a recount petition, where to file the recount petition, and what components a petition for a recount must contain. §15.2.5 summarizes rules and procedures for conducting the actual recount when authorized.

§15.2.6 applies only to recounts of elections for presidential elections, and §15.2.7 applies only to recounts of referendums. §15.2.8 adds that if the apparent winner subsequently loses as a result of the recount, that apparent winner may contest the election. §15.2.10 provides essential reminders regarding the proper, secure handling of the election records used to conduct the recount.

15.2 RECOUNTS

15.2.1 Recount Laws

The recount laws found in the Code of Virginia¹ apply to “all elections held in the Commonwealth,” as per §24.2-800(A). That includes primaries, general or special elections for offices, and referenda or questions before the electorate.²

¹ See the Code of Virginia §§24.2-800 - 802 (setting forward the procedures for recounts).

² See the Code of Virginia §24.2-800(A).



Virginia election law does not allow a losing candidate in a party-conducted (non-primary) nomination process to request a recount of non-primary results. The rules or bylaws of that party, or the "Call" and rules for the non-primary nominating event may permit such a process.

15.2.2 Recount Determined by Margin of Victory

15.2.2.1 Recount Only if Difference is No More than 1 Percent

A petition for a recount may be filed only in the event that there is a difference of not more than one percent (1%) of the total vote cast for the apparent winner and any apparently defeated candidate, as certified by the Department of Elections or the electoral board.³

15.2.2.2 Recount for Write-In Candidate Only if Difference Not More Than 5 Percent

A petition for a recount may be filed when there is a difference of not more than five percent (5%) of the total vote cast for the apparent winner and any apparently defeated candidate, if either such candidate was a write-in candidate.⁴

15.2.3 Petition for a Recount



A recount cannot be requested until the election is certified. As per §24.2-801, a “petition for a recount of an election, other than an election for presidential electors, shall be filed within 10 days from the day the [Department of Elections] or the electoral board certifies the result of the election.”

Certified at local level	Deadline is 10 days from the day results are certified
Certified by State Board of Elections (SBE)	Deadline is 10 days from the day the SBE certifies results

15.2.3.1 Where and How to File

A recount petition for **statewide office** must be filed in the Circuit Court of the City of Richmond.⁵

A recount petition for **any other election** must be filed in the Circuit Court of the county or city in which the candidate being *challenged* resides.⁶

15.2.3.2 What to File

In a petition for a recount, a candidate must:

1. State the results as certified (either by the SBE or the local electoral board).⁷
2. Request a recount of optical scan ballots or redetermine the count of any direct electronic voting device.⁸

³ See the Code of Virginia §24.2-800(B).

⁴ *Id.*

⁵ See the Code of Virginia §24.2-801.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*



3. Serve a copy of the petition on the candidate apparently elected or nominated within ten days after the SBE or electoral board has certified the results of the election.⁹

In a referendum, a copy of the petition shall be served on the governing body or chief executive officer of the jurisdiction in which the election was held.¹⁰

15.2.4 Preparing for the recount

15.2.4.1 *Selecting the Recount Court*

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. The Chief Justice of the Supreme Court of Virginia then designates two additional judges to sit with the Chief Judge. These three judges constitute the full recount court that will hear the case.¹¹

15.2.4.2 *Standards*



The State Board of Elections adopted standards for the conduct of recounts on November 1, 2011. The Chief Judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.¹² These standards include the Recount Step by Step Instructions and Ballot Examples for Hand Counting Printed Ballots. For uniformity, the Department of Elections has directed that the ballot examples are to be used whenever ballots must be hand counted.¹³

⁹ *Id.*

¹⁰ *Id.*

¹¹ See the Code of Virginia §24.2-801.

¹² See the Code of Virginia §24.2-802(A).

¹³ See the [Virginia Administrative Code 1VAC20-80-20\(G\)](#).



**Regulation Note****1VAC 20-80-20: Recounts and Contested Elections**

The standards for recounts and contests are governed by chapter 8 of Title 24.2.

- The procedures issued by the State Board of Elections are to be implemented as uniformly as possible throughout the entire recount zone.
- The State Board of Elections' guidelines for hand-counting ballots shall be used when manually counting ballots.
- When a recount request is filed, ELECT must send copies of instructions corresponding to the types of ballots and equipment used in each county or city involved to the appropriate clerk of court and local electoral board.
- To prepare for the recount, circuit court clerks are required to:
 1. Secure all printed ballots and other election materials in sealed boxes
 2. Store these boxes in a vault or room not open to the public or to anyone other than the clerk and his or her staff
 3. Keep the room or vault locked at all times except when necessary for the clerk to access the room, and
 4. Certify that these security measures have been taken.

After a recount has been requested, the local electoral board must recommend to the court a location and estimated personnel for completing the recount, a complete list of all officers of election who served in the election to be recounted, with the political party they represented at that election, the precinct they served at, their address and phone number, and an indication of which officers served as chief or assistant chief officers, and a list of the members of the electoral board and the political parties they represent. The Commissioner of ELECT may provide recommendations and information prior to the preliminary hearing, and can request information from the electoral board of the county or city involved, which that board must provide. counting printed ballots (20-80-20(G)). The State Board of Elections and the Department of Elections are to provide any other assistance requested by the court (20-80-20(H)).

15.2.4.3 Uniform Procedures Required

The recount procedures to be followed throughout the election district shall be as uniform as practicable, taking into account the types of ballots and voting devices in use in the election district.¹⁴

15.2.4.4 Preliminary Hearing

Within five days (for elections for presidential electors) or seven days (for all other elections) after the petition for a recount is filed, there shall be a preliminary hearing held by the Chief Judge to hear motions and set the recount procedures, subject to review by the full court.¹⁵ At this hearing, the Chief Judge will also "review all security measures taken for all ballots and voting and counting machines and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount," as per §24.2-802(B). It is highly suggested that the general registrar and/or electoral board attend this hearing to provide guidance to the court as necessary.

¹⁴ See the Code of Virginia §24.2-802(A).

¹⁵ *Id.*, at (B).



15.2.4.5 Court Hearing

After the full court is appointed, a hearing will be held to dispose of all motions and make a final determination of the rules of the recount procedures.¹⁶ ELECT recommends that the general registrar and/or electoral board attend this hearing to provide guidance to the court as necessary.

15.2.5 Rules and Procedures for Conducting the Recount

The following rules and procedures are presented in summary form and also apply to a recount pertaining to a referendum or question before the electorate as discussed below.



Best Practice

Please also note that you can go online to the Forms Warehouse, in the Recount folder, to access two PowerPoint presentations – “Recounts 101” and “Recounts 201” – which have proven very helpful for learning and training purposes. For a more detailed accounting, please review §24.2-802 in its entirety.

15.2.5.1 Which Votes to Count

The determination of the votes in a recount is based on votes cast in that election.¹⁷ Some categories of votes cannot be taken into account during the recount. As per the Code of Virginia §24.2-802(B), these are:

- “[A]ny absentee ballots or provisional ballots sought to be cast but ruled invalid and not cast in the election”
- “[B]allots cast only for administrative or test purposes and voided by the officers of election”
- “[B]allots spoiled by a voter and replaced with a new ballot.”

The eligibility of any voter who has cast a counted ballot cannot be raised as an issue in a recount.¹⁸ It may only be raised in a contest.¹⁹

15.2.5.2 Party Representatives

Each party to the proceeding can choose an equal number of officers of election who served during the election to serve as recount officials and alternate recount officials.²⁰ As per §24.2-802(C), this number “is to be fixed by the court and be sufficient to conduct the recount within a reasonable period.” On the request of any party to the recount, the court shall allow that party to appoint one representative observer for each team of recount officials. The representative observers must have an unobstructed view of the work of the recount officials. The expenses of its representative observers shall be borne by each party.²¹

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See the Code of Virginia §24.2-803 et seq. (setting forward the procedures for contests).

²⁰ See the Code of Virginia §24.2-802(C).



15.2.5.3 Other Officials

Teams of recount officials, substitutes, and observers are designated to undertake the count and determine the vote according to the provisions set forth in the code and the SBE standards.²² The Court is responsible for supervising the recount. It may do so by requiring delivery of “any or all pollbooks used and any or all ballots cast at the election,” (as per §24.2-802(D)) or it may assume supervision indirectly through the selection of recount coordinators and officials.²³ The court may select pairs of recount coordinators to serve for each county or city in the election district that shall be members of the county or city electoral board and represent different political parties.²⁴

15.2.5.4 Procedures for Different Ballot Types

For **paper ballots**, hand count the ballots using the Ballot Examples for Hand Counting Paper or Paper-Based Ballots for Virginia Elections and Recounts.²⁵

For **optical scan tabulators**, rerun all machine-readable ballots through an appropriately programmed tabulator.²⁶ Any ballots set aside as overvotes, undervotes, or containing write-ins; any ballots not accepted by the tabulator; or any ballots for which a tabulator could not be appropriately programmed must be hand counted using the Ballot Examples for Hand Counting Paper or Paper-Based Ballots for Virginia Elections and Recounts.²⁷

If the total number of optical scan ballots counted by the ballot reader plus the total number of ballots set aside by the scanner do not equal the total number of ballots rerun through the scanner, the recount officials must count all the ballots by hand using the Ballot Examples for Handcounting Paper or Paper-Based Ballots for Virginia Elections and Recounts.²⁸

15.2.5.5 Concluding the Recount

The recount officials must write down and submit to the Court the number of valid ballots cast in the precinct for each of the two candidates in the recount, or for or against the question. If the number of votes recorded on the direct electronic voting (DRE) 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.²⁹

²² *Id.* See also Recount Step by Step Instructions (SBE-802-SBS), pg. 12 (detailing the distribution of recount officials).

²³ See the Code of Virginia §24.2-802(D).

²⁴ *Id.*, at (C).

²⁵ See the Code of Virginia §24.2-802(D)(1) (requiring recount officials count paper ballots according to SBE standards). See also [Virginia Administrative Code IVAC20-80-20\(G\)](#) (requiring “Ballot Examples for Handcounting Paper or Paper-Based Ballots for Virginia Elections or Recounts be used for counting paper ballots).

²⁶ *Id.*, at (D)(3).

²⁷ See the Code of Virginia §24.2-802(D)(3) (requiring recount officials count such ballots according to SBE standards for hand counting ballots). See also [Virginia Administrative Code IVAC20-80-20\(G\)](#) (requiring “Ballot Examples for Handcounting Paper or Paper-Based Ballots for Virginia Elections or Recounts be used for counting any ballots that are to be counted manually).

²⁸ *Id.*

²⁹ See the Code of Virginia §24.2-802(D)(3).



15.2.5.6 Certifying the Recount

At the conclusion of the recount, after allowing the parties to visually inspect any questioned ballots and after hearing the arguments of the parties, the Court will rule on the validity of all questioned ballots and votes. By an appropriate order, the Court will certify, to the Department of Elections and other appropriate electoral boards, the vote for each party to the recount or the vote for and against the question. The Court will declare the winning candidate or question accordingly.³⁰ The Certification of Recount 802-CC form should be used.

15.2.5.7 Appealing the Recount

The recount proceeding shall be final and not subject to appeal.³¹ However, a candidate who was originally declared the winner and loses as a consequence of a recount, may file a written complaint or a notice to contest the result, as applicable, within ten days of the entry of the order of the recount Court.³² Procedures are set forth under the provisions governing Contested Elections.³³

15.2.5.8 Costs



The costs of the recount are assessed against the counties and cities comprising the election district if one of the following occurs:

- The candidate petitioning for the recount wins
- The petitioners for a referendum win
- There is a difference of not more than one half of one percent of the total vote, prior to the recount, between the two candidates

When none of the above circumstances occurs, the costs are assessed against the petitioning candidate.³⁴ The manner in which costs can be assessed against the petitioner and are calculated is discussed in detail in the code.³⁵ 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.³⁶

³⁰ *Id.*

³¹ *Id.*, at (H).

³² See the Code of Virginia §24.2-814.

³³ See the Code of Virginia §24.2-803 et seq. (setting forward the procedures for contests).

³⁴ See the Code of Virginia §24.2-802(E).

³⁵ *Id.*, at (E-F).

³⁶ *Id.*, at (G).



15.2.6 Special Procedures for Presidential Elections

Because federal law sets a deadline for seating of presidential electors³⁷, the General Assembly in 2003 enacted legislation³⁸ to ensure that any recount in an election for presidential electors in Virginia would be concluded no later than six days before the date set for the meeting of the presidential electors (so that Virginia's electoral votes could be counted).³⁹ Detailed procedures for the filing of a petition for such a recount are set forth in §24.2-801.1. Other deadlines (such as the date for the holding of the preliminary hearing)⁴⁰ are shortened. Most importantly, any contest of such election would proceed concurrently, and not wait upon the results of the recount. The procedures and deadlines for the contest are in §24.2-805.

15.2.7 Referendum recounts

15.2.7.1 Filing the petition

A petition for a recount involving a question or referendum may be filed only in the event that the difference in the vote for and against is not more than fifty votes or one percent of the total vote, whichever is greater, as certified by the State Board of Elections or the electoral board.⁴¹

Should the vote difference fall within this range, fifty or more voters qualified to vote on the question may appeal from the determination of the State Board of Elections or electoral board by signing and filing a petition for a recount.⁴² The petition for a recount must be filed within ten days from the day the appropriate electoral board certified the results of the election.⁴³ In the case of a statewide referendum, a petition for a recount must be filed in the Circuit Court of the City of Richmond.⁴⁴ In the case of any other referendum, a petition for a recount must be filed in the Circuit Court of any county or city comprising a part of the election district.⁴⁵

A petition for a recount must set forth the results as certified by the State Board of Elections or the electoral board and must also request that the Court recount the ballots or re-determine the count of any direct electronic voting (DRE) device. A copy of the petition must be served on the governing body or chief executive officer of the jurisdiction in which the election was held within ten days after the State Board of Elections or electoral board has certified the results.⁴⁶

³⁷ See [3 U.S.C. §§5](#) ("If any State shall have provided...for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures...such determination...made at least six days prior to said time of meeting of the electors, shall be conclusive...") and [Z](#) ("The electors of President...of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment...").

³⁸ See [HB 2635](#).

³⁹ See the Code of Virginia §24.2-801.1.

⁴⁰ See the Code of Virginia §24.2-802(B) (requiring recount preliminary hearing in an election for presidential electors be held within five days of the filing of the petition).

⁴¹ See the Code of Virginia §24.2-800(C).

⁴² *Id.*

⁴³ See the Code of Virginia §24.2-801.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*



15.2.7.2 Conducting the Recount

The procedures for conducting the recount with respect to a question or referendum are the same as those set forth above in summary form with respect to elections for office.⁴⁷

15.2.8 Contesting a Recount

Any candidate originally determined the apparent winner in a primary or other election, but who subsequently loses as a consequence of a recount, may contest the election pursuant to the applicable provisions of a contested election discussed below.⁴⁸

15.2.9 Disposition of Election Records After a Recount



Official election records conveyed to the court in a recount proceeding by election or recount officials or by another Clerk of Court, must be secured and retained by the Clerk who received them, until the recount is concluded, and afterwards until the time for initiating a contest for that same election has expired and no contest is pending.⁴⁹

Afterwards, if the Clerk of the court where the recount was conducted is in possession of official election records conveyed from another county or city, not normally part of his jurisdiction, the Clerk must return those records to the Clerk of Court for that county or city. The election records should otherwise be handled the same as all other records for that election under appropriate laws or regulations.⁵⁰

15.3 CONTESTS

15.3.1 Overview

§15.3 presents the second part of this chapter; §15.3.2 outlines how unsuccessful candidates can contest the results of an election, §15.2.3-5 cover the exceptions applicable to certain elections and §15.2.6 concludes by explaining the bond requirements for candidates contesting elections for statewide office in the Commonwealth.

⁴⁷ See the Code of Virginia §24.2-802.

⁴⁸ See the Code of Virginia §24.2-814.

⁴⁹ See Recount Step by Step Instructions (SBE-802-SBS), pg. 38. See *also* the Code of Virginia §§24.2-668(A), 24.2-669, and 24.2-802(A); and Virginia Administrative Code 1VAC20-80-20(C) (detailing procedures for how clerks of circuit courts in possession of official election records and materials should secure them).

⁵⁰ See Recount Step by Step Instructions (SBE-802-SBS), pg. 38.



15.3.2 Applicability and who can contest

An unsuccessful candidate in most general elections, special elections, or primaries can initiate a contest. The rules and procedures governing a contested election vary depending upon the office for which the election was held. Within the Code of Virginia, §24.2-803 relates to contests of elections for General Assembly; §24.2-804 to contests of elections for Governor, Lieutenant Governor, and Attorney General; §24.2-805 to contests of elections for presidential and vice presidential electors, as well as primaries for U.S. Senate and for statewide offices; and §24.2-806 to contests of all other primaries and elections.⁵¹ The basic procedures described below apply to General Assembly elections.⁵²

15.3.3 Exceptions

Contests of elections for the U.S. Senate or U.S. House of Representatives are conducted under the procedures of the respective Houses.⁵³ Virginia law does not cover this subject.

Additionally, Virginia law does not provide procedures to contest the results of a presidential primary.⁵⁴ More generally, Virginia election law does not contain any provisions for a losing candidate in a party-conducted nomination process other than a primary to contest the results. The Party Plan, rules or bylaws of that party, or the "Call" and rules for the nominating event may provide for such a party-conducted process.

15.3.4 Procedures governing a contested election to the General Assembly

15.3.4.1 How to Initiate Contest

To initiate a contest, the losing candidate (contestant) first must give written notice of his intent to contest the election, both to the party who has been declared the apparent winner (contestee) and the Clerk of the appropriate House. Additionally, the contestant must post a surety bond in the amount of \$100 for each precinct contained in whole or in part of the district contested. If the contestant wins the contest, the bond shall be returned. If the contestant loses the contest, the bond shall be forfeited to the extent of the contestee's actual and documented costs of defending against the contest.⁵⁵

15.3.4.2 Contestant must Provide Notice within 30 days of election or 3 days after recount

Notice must be submitted within thirty days following the date of the election or three days after the conclusion of a recount, whichever is later. The notice must state the grounds upon which the contest will be based. These grounds must include either or both of the following:

- Objections to the contestee's eligibility based on specific allegations

⁵¹ See the Code of Virginia §§24.2-803 – 24.2-806.

⁵² See the Code of Virginia §24.2-803.

⁵³ See [U.S. Const. Art. I, §5](#) ("Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members...").

⁵⁴ Presidential primaries are a fairly recent development in Virginia (first held in 1988 as a one-time event, then put into state law in 1999).

⁵⁵ See the Code of Virginia §24.2-803(B).



- Objections to the conduct or results of the election, accompanied by specific allegations that, if proven true, would have a probable impact on the outcome of the election⁵⁶

15.3.4.3 *Contestee Must Answer*

Within ten days of service of this notice, the contestee must file a written answer with the Clerk of the appropriate House. The answer must admit or deny the allegations or state that he has no knowledge of particular allegations. Additional defenses may be included. This answer must be signed by the contestee and verified by oath or affirmation.⁵⁷

15.3.4.4 *Depositions*

Either party, following service of the notice, may take depositions. The contestant must complete depositions within twenty days and the contestee within thirty days, following the date of the notice of intent to contest the election. Written affidavits by a witness may be submitted if stipulated to in writing by both parties. Either party may apply to the Clerk of the Circuit Court of the county or city in which the party resides, or the Clerk shall issue subpoenas for witnesses.⁵⁸

15.3.4.5 *Subsequent Proceedings*

A written petition must be filed with the clerk of the appropriate house within ten days of the filing of the notice of intent to contest the election if contesting a November general election. If the election was held on a different date, the written petition may be filed within ten days of the filing of the notice, or within two days of the commencement of the next General Assembly session, whichever is later.⁵⁹ The Clerk shall refer the record⁶⁰ 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.⁶¹ The house may declare either party the winner or declare the election void and order a writ of election.⁶² Should it be determined that there is a tie vote, there shall be a determination by lot;⁶³ however, no recount shall be permitted.⁶⁴ Should the house find, by a two-thirds vote, that the contest was brought in bad faith, the contestant shall be ordered to pay the contestee any amount above the posted bond in order to reimburse the contestee for his actual and documented costs in defending against the contest.⁶⁵

⁵⁶ See the Code of Virginia §24.2-803(B).

⁵⁷ *Id.*, at (C).

⁵⁸ *Id.*, at (D).

⁵⁹ *Id.*, at (E).

⁶⁰ *Id.*, at (G) (the “record” includes the notice, answer, petition, reply, depositions, and affidavits).

⁶¹ *Id.*

⁶² *Id.*, at (H).

⁶³ See the Code of Virginia §24.2-674.

⁶⁴ See the Code of Virginia §24.2-803(H).

⁶⁵ See the Code of Virginia §24.2-803(H).



15.3.5 Exceptions applicable to contests in other elections

15.3.5.1 *Contest of Election of Governor, Lieutenant Governor, or Attorney General*

Notice of intent to contest must be filed with the Clerk of the House of Delegates. The filing of a petition to contest must be within two days of either the commencement of a Special Session of the General Assembly convened expressly to hear the contest, or of the beginning of the next scheduled regular session of the General Assembly, whichever occurs first.⁶⁶ At the time of filing the notice, the contestant shall post a surety bond of \$10 per precinct in the state. A final determination will be made by both houses of the General Assembly sitting jointly, presided over by the Speaker.⁶⁷

15.3.5.2 *Contest of Election of Presidential and Vice Presidential Electors, United States Senate or, Primary for Statewide Office*

The proceedings shall be in the Circuit Court of the City of Richmond before a special court composed as specified in §24.2-805.

Notice of intent to contest an election for presidential or vice presidential electors shall be filed no later than 5:00 p.m. on the second day after the day the Department of Elections certifies the results. A copy of the complaint shall be served on each contestee within five days after the Board's certification. The contestee's answer shall be filed within five days after the complaint is served on him.

The contest shall not wait upon the results of any recount. The proceedings shall be completed at least six days before the fixed time for the meeting of electors.⁶⁸

15.3.5.3 *Contest of Primary for the U.S. House of Representatives, State Senate, House of Delegates, or any County, City, Town or District Office, or Contest of Election of any County, City, Town or District Office*

The contest is conducted in the Circuit Court of the county or city in which the challenged candidate resides, before a special court composed as specified in §24.2-806. Specific rules governing the procedures for contesting any of these elections are covered in detail under §§24.2-807 - 813.

15.3.6 Bond

Only candidates contesting elections for Governor, Lt. Governor, Attorney General, the House of Delegates, or the State Senate are required to post bond in order to contest the election.⁶⁹ There is no bond requirement for other candidates filing contests.

⁶⁶ The Code includes a two day deadline for these offices because the new terms for these offices begin at noon on the first Saturday after the second Wednesday in January, when the regular session of the General Assembly convenes.

⁶⁷ See the Code of Virginia §24.2-804.

⁶⁸ See the Code of Virginia §24.2-805.

⁶⁹ See the Code of Virginia §§24.2-803(B) and 24.2-804 (requiring posting of bonds for contests of elections for General Assembly, Governor, Lieutenant Governor, and Attorney General).





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Chapter 16

Candidate Processing

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16. Candidate Processing

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16.1 CHAPTER ORGANIZATION

During candidate processing times, elections officials throughout the Commonwealth, at both the state and local level, interact and cooperate in concert for the shared goal of free, fair and untainted democratic elections. This chapter outlines the process local election officials use to verify candidate eligibility to run for office and appear on a ballot.

§16.2 describes the documents and forms candidates use to qualify for the ballot, and provides a process by which local offices should process candidate filings. §16.2.3 focuses particularly on the SBE-501 Certificate of Candidate Qualification, which is a required form for every candidate. Candidates use this form to provide the preferred spelling and presentation of their name on the ballot. Upon receipt, local staff review these preferences to ensure the candidate's preference complies with SBE Ballot Standards. §16.3, in turn, explains the possibility of a ten-day extension for candidates to file either or both the Certificate of Candidate Qualification and Statement of Economic Interests forms.

§16.4 discusses how petitions can be collected, outlines requirements for circulators, and the requirement that each candidate have a Declaration of Candidacy (SBE-505/520) form on file before the petitions can be processed and verified. This section details how to process the petitions required by the Code of Virginia §24.2-506 and 507, including petitions submitted by General Assembly candidates, independent candidates for federal and statewide office, and candidates in a political party primary. §16.5 provides an overview of how to verify the petitions, with reference to the SBE Material Omissions regulation, the petitions checklist, and the VERIS step-by-step. §16.6 explains the appeal process for candidates whose petitions were determined to be insufficient.



Last, §16.7 and § 16.8 focus on two ballot-related aspects of candidacy: how a candidate can withdraw and what information a prospective write-in candidate needs to know. §16.9 briefly considers a few other candidate filing related responsibilities such as the general registrar's obligation to check petitions for local independent candidates, and the formal certification to the Department of Elections of the number of registered voters who signed petitions for independent candidates for certain offices.

Disclaimer regarding Candidates for Local Offices: Candidates for local, city, and town municipal office should be reminded to review their local city or town charter when considering a run for public office. City or town charters may include candidate qualification requirements in addition to and/or different from those present in Title 24.2. Questions about charter provisions should be directed to the city or town attorney for guidance.¹



Note regarding Records Retention. **All candidate filings, including petitions and copies of statements of economic interest are open to public inspection and copying for reasonable costs.**² You **must redact** all portions of candidates' social security numbers and other personally identifiable information from these records before releasing them publicly.

16.2 PROCESSING CANDIDATE FORMS

Refer individuals seeking information about running for office to candidate bulletins on ELECT's website.³

16.2.1 Candidate Forms

16.2.1.1 Certificate of Candidate Qualification (SBE-501)

Each candidate to appear on a ballot must file this form to certify under oath that (s)he is qualified to vote for and hold the office (s)he is running for.⁴ As per the Code of Virginia §24.2-501, "[e]very candidate for election to statewide office, the United States House of Representatives, or the General Assembly shall file the statement with the State Board. Every candidate for any other office shall file this form with the general registrar of the county or city where [s]he resides."

- Every candidate for **statewide office** (Governor, Lieutenant Governor, and Attorney General), the **US Senate**, the **US House**, or the **General Assembly** files this form with the **Department of Elections**.
- Every candidate for **any other office** files this form with their **general registrar**.

16.2.1.2 Declaration of Candidacy (SBE-505/520)

This form must be filed with the Petition of Qualified Voters.⁵ The Code of Virginia §24.2-505 requires that the declaration be "on a form prescribed by the board, designating the

¹ You can find local charters here: <https://law.lis.virginia.gov/charters>.

² See Chapter 2 (Local Electoral Boards) of the Handbook which discusses the Virginia Freedom of Information Act (FOIA).

³ See ELECT candidate bulletins here: <https://www.elections.virginia.gov/candidatepac-info/candidate-bulletins/index.html>.

⁴ See the Code of Virginia §24.2-501.

⁵ See the Code of Virginia §24.2-505.



office for which he is a candidate,” witnessed by two qualified voters or “acknowledged before some officer authorized to take acknowledgements,” and signed by the candidate. Party candidates nominated by a non-primary method are not required to submit a declaration unless required by their party to do so.⁶

- Independent candidates for **local and constitutional offices** file this form with their **general registrar**.
- Primary candidates for **General Assembly, local and constitutional offices** file this form with the **party chair** for the district in which they are running.
- All candidates for a **Commonwealth-wide office** file this form with the **Department of Elections**.⁷

16.2.1.3 *Petition of Qualified Voters (SBE506/521)*

This form is prepared and distributed by the Department of Elections in two sizes: legal and letter. The first submission of a completed petition page must be filed together with the SBE-505/520 Declaration of Candidacy.⁸ Candidates for special elections may not circulate petitions until after the issuance of the writ or order calling the election.

Please review the petition document to understand the requirements circulators must meet prior to circulating any petition. The petition circulator is required to:

- Be a *legal resident* of the US, and
- Not a minor nor a felon whose voting rights have not been restored.

16.2.1.4 *Statement of Economic Interests (SOEI)*

According to the Code of Virginia §24.2-502, a “written statement of economic interests (SOEI) shall be filed by” candidates. A candidate for a statewide office or the General Assembly must file the SOEI with the Department of Elections. A candidate for a constitutional office must file with the general registrar. A candidate for member of a governing body or elected school board of any county, city, or town with a *population in excess of 3,500 persons*” must file an SOEI with the general registrar of the county or city per Code of Virginia §24.2-502.

This requirement does not apply to an incumbent who is a candidate for reelection to the same office.⁹ Incumbents file annually on or before February 1 with the Ethics Advisory Council per Va. Code §2.2-3115; thus, questions for this specific form for incumbents should be directed to the Ethics Advisory Council. Questions related to how the form should be filled out for incumbents or candidates should also be directed to the Ethics Advisory Council.

16.2.1.5 *For Party Chairs Only: Party Certification (SBE-511)*

This form only applies to recognized political parties who seek to nominate a candidate by means other than a primary. This form is completed and submitted by the party

⁶ See the Code of Virginia §24.2-511

⁷ See the Code of Virginia §24.2-505 (independent candidates) and 522 (primary candidates)

⁸ See the Code of Virginia §24.2-506.

⁹ See the Code of Virginia §24.2-502.



chair. Please note: A candidate nominated by a political party is not required to submit a Declaration of Candidacy or Petition of Qualified Voters. SBE-511 Party Certification for local and constitutional offices should be filed with both the Department of Elections and the general registrar of the county in which the name of the candidate will appear on the ballot.¹⁰

16.2.2 General Processing

16.2.2.1 At a Glance

When the candidate files documents, review all filings to confirm that all required forms are included and that each is properly notarized and signed. Advise the candidate immediately of any deficiencies. Be sure that a candidate has submitted a Declaration of Candidacy before accepting petition pages, as per the Code of Virginia §24.2-506 and 521, which require that petition pages be submitted along with the Declaration of Candidacy.¹¹

16.2.2.2 Provide Receipt

Scan the filed documents and provide the filer with a receipt listing the required documents. If documents are mailed in, you may provide a receipt through the mail or email. You can find ELECT's candidate filing receipt online. Localities can determine what order to process candidate filings. ELECT recommends processing filings chronologically in the order they were submitted.

Forms: (OLD) Candidate Receipt for Local Office_General and Special.docx
(OLD) Candidate Receipt for Local Office_Primary.docx
Elect-Receipt Candidate Filing Receipt

16.2.2.3 Document Time of Filing

The Code of Virginia §24.2-613 provides that all independent candidates for an office "shall appear on the ballot in an order determined by the priority of time of filing all required paperwork for the office."¹²

Effective July 1, 2018 Code of Virginia §24.2-613 has been amended by SB153 to specify time of filing for independent candidates to be when the candidate submits all petition signatures required for the office under the Code of Virginia §24-2.506. SB153 also specifies that time of filing for offices with no required petition signatures to be when the candidate files the certificate of candidate qualification form.

16.2.2.4 Simultaneous Filing

In the event that "two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office" as per the Code of Virginia §24.2-613 (as amended effective July 1, 2017.)

¹⁰ See the Code of Virginia §24.2-511.

¹¹ See the Code of Virginia §24.2-506 which states that a candidate shall "file along with his declaration of candidacy" a petition signed after January 1 of the year that includes the required number of signatures. Similarly, the Code of Virginia §24.2-521 states that a candidate for primary for any office "shall be required to file with his declaration of candidacy a petition."

¹² See the Code of Virginia §24.2-613.



16.2.2.5 Single Candidate Qualifies for Primary

Any office for which only a single candidate has qualified will not hold a primary as per the Code of Virginia §24.2-526, which states “[w]henver ...there is only one declaration of candidacy in a political party for the nomination of any office, the person filing the declaration shall be declared the nominee of the party for the office ... and his name shall not be printed on the ballot for the primary.”

16.2.2.6 VERIS

Add the candidate in VERIS after receiving either the candidate’s certificate of candidate qualification or declaration and petitions. All candidates, including partial filers and late filers, must have a candidate record. The candidate’s VERIS record will allow for additional tracking of required documents. Should the candidate fail to qualify, set the candidate’s status to “Not Qualified” and record the reason in the Comments section of the VERIS record.

16.2.3 Steps to Process the SBE-501 Certificate of Candidate Qualification

Every candidate must file a certificate of candidate qualification; as per 24.2-501, it “shall be a requirement of candidacy ... that a person must file a written statement under oath, on a form prescribed by the State Board.”

In accordance with State Board of Elections policy,¹³ a candidate’s certificate of candidate qualification “shall not be submitted before January 1st of the election year” unless a future election’s filing deadline falls in the current calendar year.¹⁴

**Policy (and Law) Note**

The Code of Virginia §§24.2-506 and 521 generally requires that candidate petitions be circulated after January 1 of the election year; the Code of Virginia also requires candidates to file other documents to meet ballot access requirements that do not specify a date that it must be prepared or signed by. Therefore, the State Board of Elections adopted a policy to resolve this, stating that “unless the Code of Virginia specifically provides otherwise, documents filed by a candidate to satisfy ballot access requirements shall not be submitted before January 2nd of the election year.”

16.2.3.1 Verify the SBE-501 Certificate of Candidate Qualification

Immediately upon receipt of a certificate of candidate qualification, staff should look over the document to verify the following:

- ✓ The form is complete, signed, and notarized.
- ✓ The candidate is registered at the address listed on the form, and the address is located in the district in which the candidate seeks election, as per the Constitution of Virginia.¹⁵

¹³ See [SBE Policy 2010-3](#)

¹⁴ See the Code of Virginia §§24.2-503, 24.2-507(5) and 24.2-510(5).



- ✓ The candidate's name matches the candidate's voter record in VERIS.
- ✓ The manner in which the candidate has requested the name to be listed on the ballot meets the requirements detailed in the SBE Ballot Standards



VERIS

If the name matches, enter into VERIS. Comprehensive instructions on entering a candidate are available in the [VERIS Election Setup Step by Step](#). If the name the candidate wants on the ballot complies with the SBE Ballot Standards, enter it into the "Ballot Name" field. Enter the ballot name in upper/lower case with proper punctuation. Acknowledge receipt of all forms filed by the candidate in the "Candidate Qualifications" section of the candidate's VERIS record.

16.2.3.2 Ensure the Candidate Name Complies with SBE Standards



On March 23, 2018 the SBE adopted new standards for candidate names which are available on the Ballot Standards document or the SBE-501. Review the standards carefully to determine if the candidate's name is in compliance with SBE standards. If the candidate's chosen ballot name does not comply with SBE standards and the general registrar and the candidate cannot come to an agreement on the candidate's ballot name, direct the candidate to speak with election services at ELECT.

16.3 EXTENSIONS

Under the Code of Virginia §24.2-503, the "State Board may grant an extension of any deadline for filing either or both written statements [Candidate Qualification and Statement of Economic Interests forms]." This is an authority explicitly delegated to ELECT by the Board. The statute requires that "all candidates who have not filed their statements" be notified of the extension. Any extension granted by ELECT is for a "fixed period of time of **ten days** from the date of the mailing of the notice of the extension."

16.4 PROCESSING CANDIDATE PETITIONS

16.4.1 Petitions verified by general registrars

A general registrar must verify petitions filed by:

1. Independent (non-party) candidates for all offices in general or special elections.¹⁵
2. A party chair if the party is nominating a candidate for the General Assembly, a constitutional office, or a local office by a non-primary method of nomination.¹⁷

¹⁵ See Constitution of Virginia Art. 2 §5, which states that "the only qualification to hold any office of the Commonwealth ... shall be that a person must have been a resident of the Commonwealth for one year ... and be qualified to vote for that office."

¹⁶ See the Code of Virginia §24.2-506.

¹⁷ The Code of Virginia §24.2-114(17) states that "[a]t the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than



3. Groups seeking to get a referendum question on the ballot.¹⁸

Additional Note: The State Board of Elections' Ballot Standards verifies and reiterates the ballot requirements as set forth in the Code of Virginia §24.2-612 which requires the general registrar to "forward [to the Department of Elections] the name of any candidate who failed to qualify [for ballot access] with the reason for his disqualification." See the Code of Virginia §24.2-612.

16.4.2 Must be filed with SBE-505/520 Declaration of Candidacy

Petitions that are to be verified by general registrars must be accompanied by the filing of a SBE-505/520 Declaration of Candidacy. This form must be filed "along with" the petitions as per the Code of Virginia §§24.2-506 and 507. This does not mean the candidate must turn all of his petition forms in at one time, but please do not accept petitions without ensuring the candidate submits (or already has submitted) a Declaration of Candidacy form.

Upon filing, staff should verify that the candidate is a qualified, registered voter or has a voter registration application or change of address/transfer application on file, if the SBE-505/520 Declaration of Candidacy is received after the close of books.

If the Declaration of Candidacy form is witnessed rather than notarized, verify that the two witnesses are also qualified registered voters.¹⁹ If not, the candidate must file a new declaration in order to file his petitions. If the office does not require petitions and the declaration is found to be deficient in any way, the replacement declaration must be filed prior to the filing deadline.

16.4.3 Timeline and Transmission Requirements



Transmit declarations and petitions filed with the registrar's office by independent local office candidates to the local electoral board within three days of receipt for certification.²⁰ Timely processing will provide the local electoral board ample time to notify any candidate who requested to be notified in writing of deficiencies in his/her filings, and to certify qualified candidates to Department of Elections by the required deadline. Further, it will ensure that Department of Elections receives the candidate information necessary to do the following:

- Verify accuracy of electoral boards' candidate certifications and make sure that the information is accurately reflected in VERIS.
- Assemble data needed for candidate processing and ballot designs.
- Provide materials needed by electoral boards for ballot preparation.
- Communicate, as needed, with potential candidates.
- Post a candidate list to Department of Election's website for access by the general public.

a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status."

¹⁸ See the Code of Virginia §24.2-684.1.

¹⁹ See the Code of Virginia §24.2-505.

²⁰ See the Code of Virginia §24.2-505(B).



16.4.4 Petitions for Primaries

A general registrar is not required to verify primary petitions. The political party has sole authority in designating its primary candidates. The Department of Elections strongly prefers that general registrars do not participate in primary petition verification. Checking primary petitions unnecessarily involves the Commonwealth in party processes and creates the possibility of liability in cases of discrepancies.²¹

16.4.5 Petitions for General Assembly Candidates

VERIS now allows the controlling locality (the locality at which the candidate filed his or her petitions) to process all signatures within the district. The controlling locality is responsible for making sure the petitions are processed. The controlling locality may request the assistance of the other localities in the relevant district if necessary. If this distribution is necessary, fax or email General Assembly petition pages to other district localities immediately. Include with the faxed documents the name of the contact person for the campaign, the phone number for the contact person, the date the petitions were filed, and the number of petition pages filed so the other jurisdictions may add themselves to the candidate's master petition.²²

16.4.6 Petitions for Independent Candidates for Federal and Statewide Offices

The Department of Elections will set up a master petition in VERIS and then forward the petition pages with a cover letter to the appropriate general registrar(s) for verification. The cover letter will provide instructions for the general registrar to add their locality to ELECT's master petition. A locality must verify the petition signatures on the pages sent by Department of Elections irrespective of the jurisdictional origins of the petition signer. When verification is complete, the general registrar returns the processed petitions to the Department of Elections.²³

16.5 VERIFYING CANDIDATE PETITIONS

16.5.1 Resources

16.5.1.1 SBE 1VAC 20-50-20

Please read the State Board of Elections material omission regulations, 1VAC20-50-20 (candidate petitions) and 1VAC20-60-20 (referendum petitions), before the candidate filing window opens. Download or print the Review of Candidate/Referendum Petition Pages Checklist (hereafter "Petition Checklist") from the Forms Warehouse. Provide staff members with the Petition Checklist before starting petition verification to review and answer any questions about what constitutes a material omission on a petition page and what constitutes a material omission for an individual signature. If material information, such as that listed in sections B and C of 20-50-20 and 20-60-20, is omitted from a petition page or a signature line, the respective page or signature will not be considered valid. Note also that section D of 20-50-20 and 20-60-20 lists several omissions that are classified as "nonmaterial." A petition or signature may not be invalidated on the basis of one of these omissions, as long as the registrar can "independently and reasonably verify the validity of the petition or signature."²⁴

²¹ See the Code of Virginia §24.2-527.

²² See the Code of Virginia §24.2-505(B).

²³ See the Code of Virginia §24.2-506(B); see also Va. Admin. Code [1VAC20-50-20](#).

²⁴ See Va. Admin. Code [1VAC20-50-20](#) (candidate petitions) and [1VAC20-60-20](#) (referendum petitions).



**Regulation Note****1VAC 20-50-20: Material Omissions from Candidate Petitions and Petition Signature Qualifications.**

Some petition omissions that are **always** material include, **but are not limited to**: the petition failing to name the candidate on the front of the form, the petition failing to identify the office sought on the front, the petition failing to identify the applicable election district, the circulator not signing the petition affidavit, the circulator not signing the petition in the presence of a notary, and a notary not signing the affidavit for each petition. See Va. Admin. Code 1VAC20-50-20.

Some petition *signature* omissions that are **always** material include, **but are not limited to**: the signer is not qualified to cast a ballot for the office for which the petition was circulated and the signer provided a date that is later than the notary's signature. See Va. Admin. Code 1VAC20-50-20.



16.5.1.2 Petition Checklist

Use the Petition Checklist. Begin with line 1 on the first petition page. Ensure that the page and line number you are working on matches the page and line number in VERIS. Use the following notations to track your work on the paper petition page as you input each signature into VERIS. As you check each name in VERIS, mark the left margin beside the line number for the signer with one or, if necessary, two of the following alpha character notations, as appropriate:

R	Registered	The person is registered in your county or city, or if applicable, in the election district for which the petition was circulated. The address on the petition matches the registrant's address in VERIS or is an address in the same precinct where the registrant is registered. If the address is different, or if the signer is on "Inactive" status, issue the voter a confirmation notice (see "CNI" abbreviation below.) ²⁵ <i>Referendum Note:</i> 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 the petition is validated by the registrar. ²⁶ Please remember to check each voter's history to ensure the voter was registered at the time they signed the petition before accepting their signature to the referendum's master petition.
RNQ	Registered but Not Qualified	Person is registered at the address shown, but the address is in another election district; the person registered after signing or registered after the date the candidate filed the petition; person already signed or the person is registered but is also the circulator.
CI	Cannot Identify	A person who cannot be identified as a registered voter, or there is more than one registered voter with the same name and none are at the address shown on the petition.
IL	Illegible	A person who wrote on the candidate's petition page but all the text written by the person is illegible.
CNI	Confirmation Notice Issued	The registrar must initiate a confirmation mailing for a voter who provides an address that does not match that in VERIS. Most of these voters will be marked for "Research" within the VERIS petition functionality. ²⁷ Use "CNI" when you initiate the confirmation mailing.
DUP	Duplicate	A duplicate name already counted due to its appearance on a previous page of the candidate's petition.

²⁵ See the Code of Virginia §24.2-428.1.

²⁶ See the Code of Virginia §24.2-684.1(7).

²⁷ See the Code of Virginia §24.2-428.1.



16.5.2 Troubleshooting

16.5.2.1 Affidavit and Notarization

If the affidavit is complete and notarized, continue to the Verification Steps. If the affidavit is incomplete or not signed by the circulator but it has been notarized, the petition page may not be processed. Proper notarization includes registration number, commission expiration date, and seal.²⁸

Notary mistakes may be corrected if time permits. At the general registrar's discretion, the incorrectly notarized forms may be returned to the candidate. Please report notaries who fail to properly execute their duties to the Secretary of the Commonwealth.

Any corrected petitions must be re-filed before the appropriate candidate filing deadline. A receipt itemizing the number of pages being returned to the candidate/campaign should be kept in the candidate's file.

16.5.2.2 Circulator Eligibility

A circulator can be any person legally residing in the United States who is neither a minor nor a felon whose rights have not been restored.²⁹ A circulator who signs the affidavit claiming to be a legal resident of the United States, a non-minor and a non-felon will be taken at his word subject to a false statement penalty.³⁰ Petition pages with eligible circulators can be processed. Set aside those pages with ineligible circulators. Once the circulator is determined to be eligible, check the rest of the names on that page.



Law Note

The United States 4th Circuit Court overruled Virginia's requirement that petition circulators must live in the Commonwealth. Virginia statute imposes an additional requirement that circulators hold Virginia residency. This cannot be enforced under the U.S. 4th Circuit Court's ruling in *Libertarian Party v. Judd*.³¹ The court's ruling obviates the statutory requirement that a circulator be a legal resident of the Commonwealth.³²

²⁸ See Va. Admin. Code [IVAC20-50-20](#) (candidate petitions) and [IVAC20-60-20](#) (referendum petitions).

²⁹ See Code of Virginia §24.2-506 (but requirement that circulator be resident of the Commonwealth is no longer valid) and Va. Admin. Code [IVAC20-50-20](#) (candidate petitions) and [IVAC20-60-20](#) (referendum petitions).

³⁰ See the Code of Virginia §24.2-1016.

³¹ 718 F. 3d 308 (2013).

³² See the Code of Virginia §24.2-506.



16.5.3 Number of Signatures

VERIS will permit a local user to shift the status of a local master petition to “Certified” only after the minimum number of signatures has been added to the master petition. The local VERIS user must shift the status of a local candidate’s master petition to “Certified” before being allowed to shift the status of the local candidate’s record to “Qualified.” If the registrar finds that he made an error and needs to remove one or more accepted signatures, the registrar must go back into VERIS and return the local master petition to “In Process.” This action should also allow a return of the candidate’s record to “In Process.” Once the error is addressed, the local master petition must be returned to “Certified” or “Rejected” and the candidate’s record returned to “Qualified” or “Disqualified” as applicable to the outcome of the review.

16.5.3.1 *Measure the Number of Registered Voters to Determine Signature Requirements*

Use the number of registered voters as of January 1st to determine all signature requirements that are based on the number of registered voters in any county, city, town, district, or ward.³³ In a redistricting year, the signature requirement is based on the number of registered voters in any county, city, town, district or ward at the time the legislation or ordinance is adopted.

16.5.3.2 *Signature Requirements for Candidate Petitions*

New petition requirements as per the Code of Virginia became effective July 1, 2017:

- A candidate for membership on the governing body or elected school board of any county or city must collect at least 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures.
- A candidate for membership on the governing body or elected school board of any town that has more than 3,500 registered voters must collect at least 125 signatures; or if from a ward or other district not at large, 25 signatures.
- A candidate for membership on the governing body or elected school board of any town that has at least 1,500 but not more than 3,500 registered voters must collect at least 50 signatures; or if from a ward or other district not at large, 25 signatures.
- A candidate for membership on the governing body or elected school board of any town that has fewer than 1,500 registered voters, no petition shall be required.
- Candidates for Soil and Water Conservation District Director are only required to obtain 25 signatures.³⁴

16.6 APPEALS

A non-party candidate has the right to appeal a determination by the electoral board that the candidate’s petitions do not contain the minimum number of signatures of qualified voters for the office sought.³⁵ Appeals are conducted by the determining body in accordance with regulations set forth by the State Board of Elections as per Va. Admin Code 1VAC20-50-30.

³³ See the Code of Virginia §§24.2-506, 24.2-521.

³⁴ See the Code of Virginia §§24.2-506, 24.2-521.

³⁵ See the Code of Virginia §24.2-506



Scope of Appeal. As per the Code of Virginia §24.2-506, consideration on appeal is “limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of [Title 24.2 of the Code of Virginia and regulations for petitions set forth by the State Board of Elections].”

Burden of Proof. According to 1VAC20-50-30, “[t]he candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.” To meet this burden, the candidate must provide a list “containing the rejected signatures to be reviewed and the specific reason for each signature’s reconsideration” at least two business days before the date the appeal is set to be heard. If the candidate fails to submit a list, or “submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate[’s petition] was deemed deficient,” no hearing will be held, and the earlier decision that the candidate did not qualify will be final. 1VAC20-50-30 also provides that candidates may choose to submit the following additional types of evidence:



Regulation Note

1VAC 20-50-30: Appeals of Petition Signature Insufficiency.

A candidate for office, other than a party nominee, can appeal the determination of insufficient signatures. At least two business days prior to the appeal hearing, the appellant must submit documents that clarify the status of persons whose signatures were rejected. These documents include:

- “[D]ocuments clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence”
- “[D]ocuments establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor”
- “[A]ffidavits from persons whose signatures were rejected due to eligibility that attest to their identity. The affidavits should state the person’s name, residence address, and, if possible, a reasonable description of the location where approached...to sign the petition”
- Cannot submit documents that demonstrate that a petition signer became registered after the established candidate filing deadline for the office sought.

Where to File. The appeal must be made in writing, and delivered by mail, email, or fax. The appeal must be notarized and received by the appropriate deadline as per VAC 20-50-30. A candidate for city, county or town office files her appeal with the local electoral board. A candidate for any other office files with the Department of Elections.³⁶

When to File. A candidate for an office other than President of the United States must file her appeal within five (5) calendar days of the issuance of the notice of disqualification. A candidate for the office of President of the United States must file within seven (7) calendar days of the issuance of the notice of disqualification.³⁷

³⁶ See the Code of Virginia §24.2-506 and Va. Admin. Code [1VAC20-50-30](#).

³⁷ See Va. Admin. Code [1VAC20-50-30](#).



Finality. The outcome of the appeal is final and not subject to further challenge.³⁸

Scheduling. Scheduling will be critical in ensuring that the appeal ends promptly. An appeal may not begin until a decision is rendered regarding a non-party candidate's petition signatures. According to 1VAC20-50-30, the body that received the appeal notice "shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate." If the candidate provided an email address, an email notification should be sent. If the candidate did not provide an email address, the notification should be sent by first-class mail.³⁹ Absentee ballot preparation should not be finalized until all appeals have concluded. Examples of proposed appeal schedules are covered in this section. The electoral board should consult its county/city attorney to develop a timeline for the appeal and to answer legal questions.

16.7 CANDIDATE WITHDRAWAL

16.7.1 Candidate Steps to Withdraw

Any candidate who decides that he/she no longer wants to be a candidate must "submit a signed written notice declaring his [her] intent to withdraw from such election" as per the Code of Virginia §24.2-612.2.⁴⁰ The Department of Elections provides *ELECT-612.2 Candidate Withdrawal Form* for candidates to complete if they wish to withdraw. This document is not a required document and the candidate may submit *any* written notice of withdrawal. The withdrawal statement must include the candidate's name, the candidate's signature, the office the candidate was seeking and the election date and must specifically state that he/she is withdrawing as a candidate.⁴¹ Newspaper articles or press conferences do *not* constitute an official notice of withdrawal.

An independent candidate sends his/her withdrawal notice to the general registrar of the county or city in which the candidate resides. For an election held in more than one county or city, the general registrar receiving the withdrawal notice is required to notify the appropriate general registrars.⁴² Upon receiving a notice of withdrawal, the general registrar must post the notice on the official website for the county or city, if election information is posted on the website.⁴³

³⁸ See the Code of Virginia §24.2-506 and Va. Admin. Code [1VAC20-50-30](#).

³⁹ See Va. Admin. Code [1VAC20-50-30](#).

⁴⁰ See the Code of Virginia §24.2-612.2. Subsequent procedures for withdrawal of a primary candidate are delineated in §§24.2-536, 24.2-537, and 24.2-538; while procedures applicable to the withdrawal of a general or special election political party nominee are in §§24.2-539 and 24.2-540.

⁴¹ See the Code of Virginia §24.2-612.2.

⁴² *Id.*

⁴³ See the Code of Virginia §24.2-612.1.



16.7.2 Administrating a Candidate Withdrawal

Frequently Asked Questions



What if a general registrar receives a notice of withdrawal from a candidate certified by the Department of Elections (e.g., General Assembly)? Immediately fax or email the notice of withdrawal to the Election Administration division at (804) 371-0194 or ea@elections.virginia.gov. Include a comment indicating who received the notice and when.

What if the withdrawal notice is received before ballot preparation begins? Change the candidate's status to "Withdrawn" on the "Candidate Maintain" page in VERIS. Whenever a candidate's name remains on the ballot because s/he withdrew after the ballots were printed, the status field must continue to display "Qualified." This will ensure that the candidate's name remains on the "Election Results > By Office/By Precinct" screen thus allowing data entry of the votes cast for the withdrawn candidate.

Will the withdrawn candidates' name remain on the ballot? The Department of Elections determines, based on the time available before the election and the status of the ballots for the election, whether or not ballots containing the name of the withdrawn candidate must be reprinted. If the Department of Elections decides that the name will remain on the ballot, it will provide to the secretary of the electoral board and the general registrar a notice explaining that the candidate's withdrawal occurred after the ballots were printed and, therefore, the name remains on the ballot.¹ As per the Code of Virginia §24.2-612.1, "if ballots are not corrected to delete the candidate's name, the general registrar shall provide a list of candidates who have withdrawn to be posted in each polling place and to be available to the public. If election information is posted on the official website for the county or city, notice of the candidate's withdrawal shall also be posted on that website."

What if a candidate's name remains on the ballot because the candidate died or withdrew after the ballots were printed? The status field must continue to display "Qualified." This will ensure that the candidate's name appears on the election results screen to allow entry of the votes cast for the withdrawn candidate.



16.8 WRITE-IN CANDIDACY

Write-ins are permitted for any office elected in a general or special election.⁴⁴

16.8.1 Running as a Write-in

The Constitution of Virginia Art. 2 §5 requires an elected official to be able to vote for the office he is seeking.⁴⁵ Therefore, the write-in candidate must be a registered voter of the jurisdiction or, if applicable, of the election district, on or before the last day to register to vote before the November/May election.

16.8.2 Voting for a Write-In

The write-in vote must be handwritten or hand-printed by the voter unless the voting system in use provides a means to enter the name electronically (include write-in instructions applicable to voting system in use).⁴⁶

16.9 ADDITIONAL CANDIDATE-RELATED RESPONSIBILITIES

16.9.1 General registrar to run report to determine the offices and order of candidates

Once the general registrar enters qualified and non-qualified candidates in VERIS, the registrar can run the Certification of Candidates Report to determine the offices and the order of candidates as they should appear on the ballot.

16.9.2 Certify to local electoral board the declaration of candidacy and petitions of all independent candidates for offices as per the Code of Virginia §24.2-505(C)

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. When insufficient signatures are found for a candidate, include the deficient number found.

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

- 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

⁴⁴ See the Code of Virginia §24.2-644(C).

⁴⁵ There is an exception in the Code of Virginia [§15.2-1525](#) that provides that a resident of a city that contains the courthouse of the county or that only shares a boundary with one county may run for local office in the county despite not being able to vote in the election for which they would be running. There is also an exception for elections for Commonwealth's attorney if no qualified attorney runs for the office or if there is not more than one qualified attorney who could run for office. Candidates running under this scenario should file all paperwork with the general registrar for the locality where the election is being held (as opposed to the locality where the candidate resides).

⁴⁶ See the Code of Virginia §§24.2-644, 24.2-648.



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

16.9.3 Certify petition signature filings to ELECT as per the Code of Virginia §24.2-505(B)

The general registrar must formally acknowledge to the Department of Elections the number of registered voters in the county or city which appear on petitions for independent candidates for these offices:

- President and Vice President
- United States Senate
- United States House of Representatives
- Governor, Lieutenant Governor and Attorney General
- Senate of Virginia
- House of Delegates
- Constitutional Offices shared by one or more counties and/or cities

The signature totals recorded by VERIS are used for all offices. No separate certification is required. If requested in writing by a candidate for the General Assembly or a shared constitutional office, the general registrar or secretary of a local electoral board should notify the candidate of any deficiencies in the declaration of candidacy and petitions that can be corrected prior to the filing deadline.⁴⁷ If so requested, the general registrar may advise the candidate as to the number of valid signatures identified on his petitions.

16.9.4 Local electoral board notifies candidate(s) of deficiencies as per the Code of Virginia §24.2-612

After the filing deadline, whenever a candidate for local office must be disqualified because of deficiencies in the candidate's declaration of candidacy or petitions, the local electoral board must notify the candidate of the disqualification in writing.

16.9.5 Local electoral board certifies candidates as per the Code of Virginia §24.2-612

Immediately after any filing deadline and the conclusion of any petition signature appeals, the general registrar and secretary of the electoral board must certify all qualified candidates to the Department of Elections using VERIS.

The names of any disqualified candidates with the reason for the disqualification must also be entered in VERIS.

16.9.6 Review petitions filed by a *non-primary* candidate seeking party nomination as per the Code of Virginia §24.2-114(17).

A political party chair may request that the general registrar verify the petitions filed by a non-primary candidate seeking the party's nomination. If requested, the general registrar should check these forms and return them to the political party chair as quickly as possible. Include the number of signatures of registered voters that appear on the petitions when the forms are returned. To accomplish the petition verification for local offices in VERIS, create a candidate, create a master petition, and associate your locality to the master petition. For a General Assembly candidate, contact Department of Elections so that staff can create the candidate record and the master petition.

⁴⁷ See the Code of Virginia §24.2-505(D).





VERIS Index

Use this index to find the VERIS related information in this chapter by clicking on the page number and section.

Write-in Votes

- See [section 1.3.3.2.](#)

Processing the County/City Results Report

- See [section 1.3.3.3.](#)

VERIS Reports Available to Confirm Accurate Election Results

- See [section 1.3.3.5.](#)

Processing the Abstracts of Votes

- See [section 1.3.3.6.](#)

Letters to Voters Whose Provisional/Absentee Ballots are Rejected

- See [section 1.4.3.](#)

VERIS Step-by-Steps

1. [Election Results](#) explain how to use VERIS to produce election results.
2. [Election Set up](#) explains how to set up an election in VERIS.
3. [Absentee Processing](#) explains in detail how to process absentee ballots and applications.
4. [Voting History](#) explains how to produce a voting history in VERIS.

For further assistance, contact [VERIS help](#)



APPENDIX A

1VAC20-50-20. MATERIAL OMISSIONS FROM CANDIDATE PETITIONS AND PETITION SIGNATURE QUALIFICATIONS.

A. Pursuant to the requirements of §§ [24.2-506](#), [24.2-521](#), and [24.2-543](#) of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is a minor or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;
11. The notary has not included his registration number and commission expiration date; or
12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

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



D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);
2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;
3. The name of the candidate and office sought are omitted from the back of the petition;
4. The circulator has not provided the last four digits of his social security number in the affidavit;
5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;
6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or
8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;
2. The signer provides his name; and
3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.





★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

Chapter 17

Campaign Finance

June 2018

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17. Campaign Finance

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REFERENCE Virginia Constitution Code of Virginia Charter Provisions	REGULATIONS IVAC 20-90-20: Filing Fee

17.1 CHAPTER ORGANIZATION

Chapter 9.3 of Title 24.2 of the Code of Virginia comprises the *Campaign Finance Disclosure Act of 2006* (CFDA). With the exceptions noted below, the CFDA applies to all elections for state and local public office in the Commonwealth and to nominations of political party candidates for those offices, whether by primary, nominating conventions, mass meetings, or other nominating methods.¹ Each general registrar administers the CFDA for candidates as described below.

First, §17.2 sets out the scope of Virginia campaign finance law. §17.3 distinguishes committees that are required to file locally with the office of the general registrar. §17.4 explains how to determine a committee's election cycle. This is key to determining the committee's filing requirements. §17.5 discusses campaign finance reporting requirements. §17.5.1 discusses the methods by which candidates may file and to whom candidates must submit their filings. §17.5.2 and 17.5.3 provide more detail on paper filing and electronic filing respectively.

§17.6 provides an overview of the forms that committees may be required to file. The statement of organization is discussed in §17.6.1; this is the campaign finance form that committees are likely to have to submit first. A detailed explanation of how to process the form is provided. Scheduled reports are discussed in §17.6.2. This section covers timing of reports and how reports are processed. The rest of the sections in §17.6 discuss types of special reports: §17.6.3 covers large pre-election contribution reports, §17.6.4 covers independent expenditure reports, and §17.6.5 covers final reports. This is followed by a discussion of exemption forms in §17.6.6, which addresses who can file for exemption and the types of filings that are covered.

¹ See the Code of Virginia §24.2-945.



§17.7 provides a brief note on the retention of reports. In §17.8 the discussion turns to penalties for CFDA violations. Section 17.9 discusses Chapter 9.5 of the Code of Virginia (commonly referred to as Stand by Your Ad [SBYA]), which sets forth disclaimer requirements for campaign advertisements and telephone calls.² Registrars have minimal responsibilities for reporting potential violations under this chapter of the Code. At the end of this chapter of the Handbook, please find appendixes containing templates registrars may use to notify candidates of potential violations.

17.2 EXEMPT FROM VIRGINIA CAMPAIGN FINANCE LAW

Candidates for the following offices are exempt from the provisions of CFDA and SBYA³:

- Member of the U.S. Congress
- President and Vice President of the United States
- Soil and Water Conservation District Director
- Any town office in a town with a population less than 25,000 (unless local ordinance provides otherwise)
- Political party committee officer

All other candidates in the Commonwealth are subject to the provisions of Chapters 9.3 and 9.5 of Title 24.2.

Frequently Asked Questions



Who are candidates for the purposes of implementing the CFDA? "Candidate" includes any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, or one of its governmental units, in a party nomination process or general, primary, or special election.¹

Is a write-in candidate considered a candidate and required to submit reports? Write-in candidates are included in the definition of candidate, and are subject to the reporting requirements under CFDA and SBYA.

The provisions of Chapters 9.3 and 9.5 of Title 24.2 also apply to other political entities defined in Code⁴: political action committees (PACS), out-of-state political committees, political party committees, referendum committees, and inaugural committees.

¹ See the Code of Virginia §24.2-101 definition of "candidate."

² See the Code of Virginia §24.2-955 et seq.

³ See the Code of Virginia §24.2-945.

⁴ See the Code of Virginia §24.2-945.1.



17.3 WHICH COMMITTEE TYPES FILE LOCALLY?

All of the entities mentioned above that fall under the provisions of Chapters 9.3 and 9.5 of Title 24.2 are required to file campaign finance reports electronically with the State Board of Elections **except candidate committees for candidates in local or district level races and local political party committees.**

These committee types may file paper reports with their local general registrar's office and are, therefore, the only committee types discussed in this chapter. The discussion below focuses mainly on candidate committees since those are the committees that general registrars are most likely to interact with. Filing requirements for local political party committees are the same as for candidates, except where noted.

Local candidates running for office in counties and cities with a population of 70,000 or more are required to file electronically with the Department of Elections as of July 1, 2018.

17.4 ELECTION AND REPORTING CYCLES

The candidate's election cycle is determined by the office for which the candidate decides to run. The election cycle begins on January 1 of the year the candidate first seeks election to that office through December 31 immediately following the election for such office.⁵ For a candidate who seeks election in successive elections for the same office, the next election cycle shall begin on January 1 immediately following each election for that office and continue through December 31 immediately following the next successive election for the same office.

The political party committee reporting cycle runs from January 1 through December 31 of each year.⁶

17.4.1 Cycle is Set with the Filing of the SOO

For administrative purposes, a committee that files a statement of organization has ongoing filing requirements until a final report is filed. A candidate committee is responsible for timely filing all required reports in the intervening period, regardless of whether the candidate is actively seeking office. Candidates and parties can close their committee registration at any time by filing a final report.

17.4.2 Special Elections Campaign Finance Cycles

A candidate may begin campaigning for a special election to fill a vacant seat prior to the special election writ being issued. If the writ for a special election has not been called, then the election date on the statement of organization should indicate the next general election date for the office sought. The statement of organization must be amended to reflect the date of the special election once the writ has been issued and the candidate has decided to run in the special election.

⁵ See the Code of Virginia §24.2-947.

⁶ See the Code of Virginia §24.2-950.



17.5 CAMPAIGN FINANCE REPORTING

17.5.1 How and to Whom Committees File

ELECT is responsible for maintaining a centralized database to receive campaign finance reports and other required filings that are filed electronically⁷; this electronic campaign finance report creation and filing application is known as COMET (COMmittee Electronic Tracking). COMET enables candidates to electronically file (e-file) required disclosure reports.



Best Practice

General registrars should encourage candidates to take advantage of COMET. Registrars can direct candidates to ELECT's [COMET Quick User Guide](#) to help them get started with online filing.⁶

COMET is free! There is no cost for using COMET and all support for this application is provided by ELECT. Additionally COMET reminds candidates of upcoming reports and prevents them from submitting incomplete reports, which helps prevent candidates from incurring penalties.

Candidates for General Assembly and local or constitutional offices in localities with a population of more than 70,000 must file their campaign finance reports with the State Board of Elections electronically.

Candidates for local or constitutional office in localities with a population of less than 70,000 may file on paper or online. The general registrar's office is wholly responsible for receiving, processing, and maintaining paper filings submitted by a candidate for local or constitutional office in a locality with a population of less than 70,000. Please see Appendix B for a list of covered localities.

Local political party committees may also file electronically or on paper with the office of the general registrar.⁸ The general registrar's office is wholly responsible for political party committees that file on paper. ELECT takes responsibility for party committees that file electronically.

17.5.2 Paper Filings

Candidates for General Assembly who file on paper should ensure both ELECT and their local general registrar receive and retain copies of the candidate's *signed* statement of organization and subsequent reports. General registrars are responsible for processing paper filings; this includes the assessment of any appropriate civil penalties.

Candidates for local or constitutional offices who file on paper should ensure their local general registrar receives, processes and retains their candidate filings.

⁷ See the Code of Virginia §24.2-946.1.

⁸ See the Code of Virginia §24.2-950.8.



**Regulation Note****1VAC 20-90-20: Filing Fee**

20-90-20 requires campaign committees that file non electronic campaign finance reports to pay a \$25 administrative fee per report to the State Board of Elections. The \$25 payment is due by the filing deadline for the report or upon filing the report, whichever is later. Indigent committees may request a waiver.

17.5.3 Electronic Filings (through COMET)

Candidates for General Assembly who e-file through COMET will have their statement of organization sent to their local general registrar. ELECT will process and retain subsequent reports, notifying the locality when such reports are filed.

Forms submitted by a candidate for local or constitutional office who e-files through COMET are processed by ELECT, which receives and maintains that candidate's filings. When a filing is submitted, ELECT sends a link to a copy of the report to the locality of the candidate's residence. Even when candidates for local or constitutional office file through COMET, localities remain responsible for additional processing of reports to determine and assess any appropriate civil penalties.

17.6 DISCLOSURE FORMS

Virginia requires public disclosure of all contributions received and expenditures made by regulated political entities. Virginia does not limit contributions.⁹ Below is a list of the types of filings, information about those filings, and procedures for processing them. While most of these filings will be made online through COMET, registrars should be familiar with each of these types of filings and the forms on which they are filed.

17.6.1 Statement of Organization (SOO)

The statement of organization¹⁰ is the first document that a committee must file. An SOO establishes the committee, to which all future filings and communications are linked.

17.6.1.1 What the SOO Does (Legally)

The statement of organization creates a candidate campaign committee, which becomes the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election for a particular office.¹¹

⁹ Federal law may impose certain prohibitions on state and local elections. E.g. all candidates for elected office in the U.S. are prohibited from accepting contributions from foreign nationals. See 8 USC § 441e. Such prohibitions are enforced by the [Office of the United States Attorney](#), to whom any questions about compliance should be directed.

¹⁰ Form [CFDA-947.1](#) Candidate Statement of Organization.

¹¹ See the Code of Virginia §24.2-945.1.



17.6.1.2 When to File an SOO



All individuals within the scope of Virginia campaign finance law must file a statement of organization **within 10 calendar days** of meeting any one of the following conditions¹²:

- Accepting contribution of any amount
- Spending any funds for the campaign (including personal funds)
- Paying a filing fee for any party nomination method
- Filing an ELECT-501 certificate of candidate qualification
- Appointing a campaign treasurer; designating a campaign committee or bank account

Local political party committees are exempt from the reporting requirements of CFDA unless they are either a “county or city political party [committee] for any county or city with a population of more than 100,000” or accept contributions or make expenditures in excess of \$15,000 in a calendar year.¹³ Political party committees in counties and cities with a population of more than 100,000 must file an SOO within 10 days of anticipating that it will receive contributions or make expenditures in excess of \$200 in a calendar year.¹⁴ All other local political party committees must file within 10 days of making aggregate contributions or expenditures in excess of \$15,000.

17.6.1.3 How to Amend an SOO



The committee has **10 days** from the date of any change to their current statement of organization to submit an amended statement of organization with new information.¹⁵ You can amend an SOO using the same form used for the initial statement of organization by selecting the “Amended” box at the top of the form, indicating the date the changes took effect, and providing the committee ID number.

17.6.1.4 How to Process an SOO

Upon receipt of the **CDFA-947.1 Statement of Organization form for candidates**, the general registrar should do a preliminary check for completeness.

After glancing at the form to ensure the fields are completed, review the form to determine whether fines should be assessed using the following checklist:

1. Type of Statement
 - Is the statement “Amended”? If so, check to make sure the date that changes took effect is less than 10 days from the date of receipt.
 - If it has been more than 10 days, a penalty for late filing should be assessed.¹⁶
2. Committee Information
 - Has the candidate provided a name for the committee?

¹² See the Code of Virginia §24.2-947.1.

¹³ See the Code of Virginia §24.2-950.1.

¹⁴ See the Code of Virginia §24.2-950.2.

¹⁵ See the Code of Virginia §24.2-947.1(D).

¹⁶ See the Code of Virginia §24.2-953.2.



- Has the candidate provided a mailing address for the committee?
- 3. Candidate Information
 - Has the candidate provided his full name, address?
 - If the candidate is serving as his/her own treasurer, check that (s)he has provided a daytime phone number.
- 4. Election Information
 - Has the candidate provided the office sought, year, and type of election?
- 5. Treasurer Information
 - Check that the full name, residence address, and daytime phone number of the treasurer is provided.
- 6. Campaign Depository
 - Check that the candidate has provided the name of a financial institution located in the Commonwealth.
 - The depository account must be with an institution located in Virginia.¹⁷ If the financial institution is located outside the Commonwealth the information provided is either incorrect or the campaign must find another financial institution. Contact the candidate and have them resubmit their statement.
- 7. Committee Activity
 - If the statement is “New,” check to make sure that none of the dates of activity are more than 10 days prior to the receipt of the statement.
 - If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.

If the candidate has filed a complete statement of organization and the information provided therein does not disqualify them, then the campaign committee has been successfully created.

The **CDFA-950.2 Statement of Organization form for political party committees** should also be given an initial check for overall completeness.

After reviewing at the form to ensure the fields are completed, determine whether fines should be assessed using the following checklist:

1. Type of Statement
 - Is the statement “Amended”? If so, check to make sure the date that changes took effect is less than 10 days from the date of receipt.
 - If it has been more than 10 days, a penalty for late filing should be assessed.¹⁸
2. Committee Information
 - Has the committee provided the name of its party?
 - Has the committee provided a mailing address?
 - Has the committee indicated a local scope (city, county, or local district)?
3. Campaign Depository
 - Check that the committee has provided the name of a financial institution located in the Commonwealth.

¹⁷ See the Code of Virginia §24.2-947.2(A).

¹⁸ See the Code of Virginia §24.2-953.2.



- The depository account must be with an institution located in Virginia. If the financial institution is located outside the Commonwealth the information provided is either incorrect or the campaign must find another financial institution. Contact the candidate and have them resubmit their statement.
- If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.
- 4. Address Where Books are Maintained
 - Has the committee provided the address where books are maintained?
- 5. Treasurer Information
 - Check that the full name, residence address, and business address of the treasurer is provided.
- 6. Custodian of Books information
 - Check that the full name, residence address, and business address of the custodian of books is provided.

17.6.1.5 Before Finalizing the SOO

Before your office files the statement of organization, check the administrative parameters indicated by the statement using the following procedure:

- Check the “Filing Method” section
 - If the committee indicates they will file paper reports, all future reports will be made on paper to the office of the general registrar.
 - The office of the general registrar will be entirely responsible for filings made by these committees.
 - If the committee indicates it will file electronically, most future reports will be made through the Department of Elections’ COMET system.
 - The office of the general registrar will receive e-mail notifications when a committee files reports, including the time of the filing and a link to the filing.
 - Registrars will also be notified by e-mail when a committee is late or has failed to file.
 - If the notification of intent to file campaign finance reports electronically is indicated on a hand written form the registrar should remind the committee of the need to resubmit their statement on line through COMET and direct the candidate to the *COMET Quick User Guide* for assistance in doing so.¹⁹
 - If the local political party committee indicates they will file electronically, ELECT will be responsible for all future reports.
- Confirm information in the “Election Information” section of the candidate campaign committee SOO.
 - The “Type of Election” sets the reporting schedule for the committee. COMET sets this schedule automatically for e-filers. Registrars responsible for paper filers must be sure to track this information themselves.

¹⁹ [COMET Quick User Guide](#).



- The “Office Sought” and “Year of Election” set the election cycle for the committee. COMET sets this cycle automatically for e-filers. Registrars responsible for paper filers must be sure to track this information themselves.

17.6.2 Scheduled Disclosure Reports

Scheduled disclosure reports are the most detailed reports that committees must file. These periodic reports disclose contributions received and expenditures made during certain time periods. Virginia laws emphasize transparency and aim to ensure an educated public.

17.6.2.1 When Are Reports Due



The reporting schedule for a campaign committee is determined by election cycle associated with the office that the candidate is running for and the date of the election. The Code provides generalized reporting schedules for candidates in November,²⁰ May,²¹ and special elections.²² The Department of Elections provides a yearly schedule of specific candidate reporting deadlines on its website.²³

Political party committees file scheduled reports quarterly.²⁴

Paper reports must be submitted by close of business on the date they are scheduled to be due. E-filers have until 11:59 p.m. to submit their electronic reports via COMET.

17.6.2.2 How to Process Reports

The general registrar receives and reviews campaign finance reports required to be filed with them according to the procedures outlined in this Chapter.²⁵ Each report should be kept with the statement of organization for the committee to which it is associated along with any other official communications.

When paper reports are received, you should record the time and date of the filing on the form (e.g. with a time/date stamp) and you should conduct a preliminary check to verify the general completeness of the report.

Reporting forms may be included with correspondence with candidates. Local election officials are not required to provide forms to candidates for the General Assembly. All required forms are available on the Virginia Department of Elections website.

E-filed reports by local or constitutional candidates will be forwarded to the appropriate locality. The email will include the date the report was submitted, whether or not it was timely, and a link to the report found on the ELECT website to assist the responsible local election official in cataloging and reviewing the report. COMET automatically acknowledges the receipt of electronically filed reports with an e-mail to the committee.

²⁰ See the Code of Virginia §24.2-947.6.

²¹ See the Code of Virginia §24.2-947.7.

²² See the Code of Virginia §24.2-947.8.

²³ [2017 Candidate Reporting Deadlines](#).

²⁴ See the Code of Virginia §24.2-950.6.

²⁵ See the Code of Virginia §24.2-946.3(C).



17.6.3 Large Pre-Election Contribution Reporting

Candidates for General Assembly must file a large pre-election contribution report²⁶ if they receive a contribution exceeding \$1,000 in the eleven days prior to any nomination or election for which the individual is a candidate.²⁷

Candidates for local or constitutional offices must file a large pre-election contribution report if they receive a contribution exceeding \$500 in the eleven days before a nomination or election for which the individual is a candidate.²⁸

Candidates running unopposed in a primary or other nominating event are not required to file large pre-election reports but all candidates in a general election must file these reports, regardless of whether they are unopposed.

Deadline to file the report is no later than 11:59 p.m. on the day following receipt or 11:59 p.m. Monday if a contribution is received on a Saturday.²⁹ The contributions shown on these reports must also be reported on the candidate's next scheduled report.

Political party committees do not file large pre-election contribution reports. **Instead, political party committees must file a large dollar contribution report anytime they receive a single contribution or loan of \$10,000 or more.** The report must be filed within 3 business days of the receipt of the contribution or loan.³⁰

17.6.4 Independent Expenditure Reports

An independent expenditure is an expenditure made without coordination or involvement of the candidate supported or opposed. "Coordinated or Coordination" is defined as action taken (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee; or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination or timing of the expenditure.³¹ The Code definition does not require that the candidate have knowledge of the expenditure. Independent expenditure reports must be filed on paper.

17.6.4.1 When Independent Expenditure Reports Due

Persons, candidate campaign committees, and political committees are required to submit independent expenditure reports³² after making an independent expenditure that has exceeded the aggregate of \$200 for the election cycle in relation to a local or General Assembly election (\$1000 for a statewide election).³³ This is an aggregate of all independent expenditures and not aggregated solely on a candidate by candidate basis.

²⁶ Form [CFDA-947.9](#) Large Pre-Election Contribution Report.

²⁷ See the Code of Virginia §24.2-947.9.

²⁸ See the Code of Virginia §24.2-947.9.

²⁹ See the Code of Virginia §§24.2-947.9 and 949.6.

³⁰ See the Code of Virginia §24.2-950.7.

³¹ See the Code of Virginia §24.2-945.1.

³² Form [CFDA-945.2](#) Independent Expenditure Report.

³³ See the Code of Virginia §24.2-945.2.





Expenditure reports are due within 24 hours after the funds are expended, or 24 hours after advertising materials are published or broadcast to the public; whichever occurs first.

17.6.4.2 *Where to file Independent Expenditure Reports*

Independent expenditures made to support or oppose a candidate for General Assembly or statewide office must be reported to ELECT. Independent expenditures made to support or oppose candidates for local and constitutional offices must be submitted to the local general registrar. Copies of any independent expenditure reports filed locally should be placed in the existing file for the candidate who is indicated on the report as being supported or opposed.

17.6.5 Final Report

A final report closes out a committee and ends all reporting obligations. A committee must continue to file scheduled campaign finance reports on the appropriate schedule until a final report is filed indicating all debts for the committee have been paid and the committee's balance has been returned to zero.³⁴

17.6.5.1 *When to File Final Report*

All candidates are required to file a final report.³⁵ A candidate committee final report is due when one of the following occurs³⁶:

- The candidate no longer seeks election to the same office in a successive election
- The candidate seeks election to a different office
- The candidate is deceased
- The candidate had filed an exemption from reporting and was subsequently elected

Prior to being sworn in to office, successful exempt candidates (see 17.6.6 below) must file a final report detailing activity since the beginning of the campaign. A final report can be filed at any time. It does not have to be filed during a scheduled reporting deadline. A candidate who is running for the same office in successive elections may keep their campaign account open.

A political party committee that “disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200” must file a final report.

17.6.5.2 *Disbursement of Surplus Funds*

A committee is authorized to disburse surplus funds by the methods listed below:³⁷

- Transfer to a future election for the candidate or to retire the deficit of the current campaign (or transfer to an affiliated organization in the case of a political party committee)

³⁴ See the Code of Virginia §24.2-948.4.

³⁵ Form [CFDA-948.4](#) Final Report Cover Sheet

³⁶ See the Code of Virginia §24.2-948.4.

³⁷ See the Code of Virginia §24.2-948.4(D)



- Return to a contributor in an amount not to exceed the contributor's original contribution
- Donation to any organization described in the Internal Revenue Code³⁸
- Contribution to one or more candidates or to any political committee
- Contribution to any political party committee
- Defraying any ordinary, non-reimbursed expense related to the committee (or related to the elective office in the case of an candidate campaign committee).

No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use in the context of a final report.³⁹ Prohibited personal use extends to immediate family members.⁴⁰



Written Explanation prepared by the Attorney General

Shortly after the passage of HB 125 during the 2010 legislative session, the Attorney General's office provided ELECT with a written explanation of the Campaign Finance Disclosure Act which prohibits "personal use."⁴¹ The explanation states that "immediately following [the] listed conditions for the disposal of excess campaign funds by a candidate [in § 24.2-948.4], the General Assembly specifically prohibits a candidate from converting "any contributed moneys, securities, or like intangible personal property to his personal use or to a member of the candidate's "immediate family" as that term is defined in § 30-101. The General Assembly has clearly prohibited the personal use of campaign contributions by candidates, but only in the context of the filing of the required final campaign finance report"(emphasis in the original).

17.6.5.3 Termination Statement

When filing a form CFDA-948.4 Final Report Cover Sheet, the committee must sign a *Termination Statement*. This statement is included on the cover sheet. It indicates that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds. The termination statement must be filed on paper even if the committee files their reports electronically.

17.6.6 Local Candidate Reporting Exemption Request

A candidate for local office may request an exemption from filing scheduled campaign finance reports.⁴² A candidate wishing to file an exemption must file by paper with his general registrar. There is currently no way for an exempt candidate to file electronically with COMET.

Eligibility for Exemption. The exemption applies if the candidate certifies the following:

- Has not and will not solicit or accept any contribution from any other person or PAC during the course of his campaign
- Has not and will not contribute to his own campaign more than \$1,000

³⁸ [26 USC § 170\(c\)](#).

³⁹ See the Code of Virginia §24.2-948.4(D)

⁴⁰ *Id.*; See also, the Code of Virginia § 30-101 definition of "immediate family."

⁴¹ See [Attorney General's Explanation of "Personal Use"](#); see also the Code of Virginia §24.2-946(E), and [2010 HB 215](#).

⁴² See the Code of Virginia §24.2-948.1; Form [CDFA-948.1](#) Request for Exemption from Reporting Requirements.



- Has not and will not expend more than \$1,000 during his campaign
- Has and will comply with the requirements of CFDA

Other Reports Required by CFDA. Even if a candidate is exempt from filing scheduled reports, (s)he is still required to file certain other reports required by CFDA. The candidate must still create a campaign committee by filing a statement of organization and opening a separate bank account. The committee must still file a special report for qualifying independent expenditures.⁴³ Also, committee must still file a special report for qualifying large pre-election contributions⁴⁴ by a candidate to his own campaign. A candidate claiming exemption is prohibited from taking office until a final report is filed by his/her committee.⁴⁵ The final report must show all financial activity of the campaign.

Request to Rescind Exemption. A candidate who has received an exemption may, at any time, request that exemption be rescinded.⁴⁶ A candidate is required to do so before violating any of the terms of the exemption mentioned above. Once an exemption is rescinded the candidate's campaign committee will follow the appropriate reporting schedule for scheduled disclosure reports. The first scheduled report must show all the receipts and expenditures from the first activity date reported on the statement of organization.

17.7 RECORDS RETENTION



Campaign finance reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a final report. Reports for terminating candidates must be retained at least one year after the final report is filed, or the next general election for the office to which they pertain. After expiration of the applicable retention period, the reports can be destroyed according to the instructions set forth by the Library of Virginia.⁴⁷ Please see Chapter 9 (Records Access and Retention) for more information.

17.8 PENALTIES

General registrars are required to assess penalties for certain violations of Chapter 9.3 of Title 24.2 by candidates required to file locally.⁴⁸ The Code of Virginia provides a range for the amount of each penalty but requires the State Board of Elections to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations.⁴⁹ You can find schedules of civil penalties for each type of committee on the ELECT website, under Campaign Finance. **No local entity has the authority to waive or reduce these penalties.**⁵⁰

⁴³ See §24.2-945.2.

⁴⁴ See §24.2-947.9.

⁴⁵ See the Code of Virginia §24.2-948.1; See also §24.2-948.4.

⁴⁶ See the Code of Virginia §24.2-948.1; Form [CFDA-948.1R](#) Rescind Request for Exemption from Reporting Requirements.

⁴⁷ *Records Retention and Disposition Schedule, General Schedule No. 1, County and Municipal Governments, Voter Registration and Election Records.*

⁴⁸ See the Code of Virginia §24.2-946.3(D).

⁴⁹ See the Code of Virginia §24.2-946.3(I).

⁵⁰ See the Code of Virginia §24.2-946.3, which states that no election official or staff may waive or reduce such penalties, except as provided in the Code of Virginia §24.2-946.3.



Committees must make their checks payable to the treasurer of their locality for deposit to their general fund. The payment does not have to be received from the committee's bank account. Payment can come from any account.

17.8.1 Late Report

If at the conclusion of a filing deadline a required report or statement is not filed the general registrar is required to assess a penalty. The State Board of Elections has set the amount of an initial late report at \$100.⁵¹ The Code provides that for each subsequent late report in the same election cycle the general registrar must assess a penalty of \$1000.⁵²

The general registrar must notify the committee of civil penalty and collection procedures via email or regular postal mail (see Appendix A). If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Commonwealth's attorney for collection.⁵³

17.8.2 Failure to File Report

If a required report or statement is not filed within 60 days of the due date, the general registrar will notify the committee via certified mail. An additional penalty of \$400 must be assessed (raising the total penalty to \$500) and the committee will be provided an additional 60 days to submit the report.⁵⁴ If, after the additional 60 days has passed, the committee has not filed the report, then the matter is sent to the appropriate Commonwealth's attorney for collection and determination as to whether the violation is willful.⁵⁵ The Code provides that for each subsequent failure to file in the same election cycle the general registrar must assess a penalty of \$1000.⁵⁶

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate attorney for the Commonwealth by the general registrar.⁵⁷

17.8.3 Incomplete Reports

If any required information is not included or the report is not completed properly, the report is incomplete.⁵⁸ However, some missing information does not necessarily mean that a report should be considered incomplete for the purpose of levying a civil penalty. The State Board has adopted a "Best Efforts" policy which holds that campaign finance reports are not considered incomplete if:

⁵¹ See [Minutes of the July 24, 2012 meeting of the State Board of Elections](#).

⁵² See the Code of Virginia §24.2-953.2.

⁵³ See State Board of Elections Policy 2010-001 [Delinquent Civil Penalties to Commonwealth's Attorney](#).

⁵⁴ See [Minutes of the July 24, 2012 meeting of the State Board of Elections](#).

⁵⁵ *Id.*

⁵⁶ See the Code of Virginia §24.2-953.1.

⁵⁷ See [Minutes of the July 24, 2012 meeting of the State Board of Elections](#).

⁵⁸ See the Summary of Laws and Policies for [Candidate Campaign Committees](#) and the Summary of Laws and Policies for [Political Party Committees](#) (approved at the [April 23, 2014 meeting](#) of the State Board of Elections).



- Less than 20% of contributors are missing required information on Schedule A or Schedule B; or less than 20% of any other itemized information does not include the required information (For example, if there are 100 itemized contributors on Schedule A, then no more than 20 of those contributors can have missing information) AND...
- Letters requesting the required information from those contributors are filed with the report.

If these conditions are not met, then the report is considered incomplete and the general registrar should proceed as follows:

- Prepare a certified letter to the committee which outlines the omissions found in the report.
 - See Template C in the Appendix below.
 - The letter should state that an amended report must be received within ten days of mailing the letter or a civil penalty of \$100 will be assessed.⁵⁹
 - Due to the short amount of time involved, it is recommended that the general registrar also attempt to contact the committee via email or telephone to ensure they receive the necessary information.
- Send the letter by Certified Mail – Return Receipt Requested.⁶⁰
- Preserve a copy of the letter and the stamped USPS receipt for certified mail.

The committee must amend the report by the due date or request additional time. Extensions of no more than 14 days can be granted by the general registrar.⁶¹ If the committee fails to amend their report in a timely fashion, a \$100 penalty should be assessed.⁶² The Code provides that for each subsequent incomplete report in the same election cycle the general registrar must assess a penalty of \$1000.⁶³ The general registrar should increase the amount of the penalty by \$500 every 60 days until a fully compliant filing is made.⁶⁴ However, the civil penalty imposed for incompleteness relative to any single report should not exceed \$500 “unless the total of the filer’s reportable contributions or the total of the filer’s reportable expenditures is \$10,000 or more.”⁶⁵

⁵⁹ See the Code of Virginia §24.2-953.3(B).

⁶⁰ Subsequent identical mail can be sent by regular mail (See, See the Code of Virginia §24.2-101.01).

⁶¹ See the Code of Virginia §24.2-953.3(D).

⁶² See the Summary of Laws and Policies for [Candidate Campaign Committees](#) and the Summary of Laws and Policies for [Political Party Committees](#).

⁶³ See the Code of Virginia §24.2-953.3(F).

⁶⁴ See the Code of Virginia §24.2-953.3(E).

⁶⁵ See the Code of Virginia §24.2-953.3(A).



17.9 POLITICAL ADVERTISEMENTS

The law commonly known as “Stand By Your Ad” (SBYA) is found in Chapter 9.5 of Title 24.2 of the Code and contains the requirements for disclaimers on political advertisements.⁶⁶ In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. If anyone has questions as to the content and requirements of the law please refer them to Chapter 9.5 and the various *Summary of Campaign Finance Law* documents that can be found on the ELECT website.⁶⁷



Policy (and Law) Note

All complaints related to failure to properly disclaim political advertisements should be referred to the State Board of Elections which has sole authority to assess civil penalties under SBYA. The State Board may also refer possible willful violations to the appropriate Commonwealth’s attorney for investigation. See the Code of Virginia §24.2-955.3(D).

⁶⁶ See the Code of Virginia §24.2-955 et seq.

⁶⁷ List of [Summary of Campaign Finance Law](#) documents.



APPENDIX A: LETTER TEMPLATES

The following are recommendations for letters to be sent to delinquent committees.

Template A: Unfiled Statement of Organization

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Filer:

A statement of organization is required to be submitted within 10 days of undertaking any of the actions referenced in § 24.2-947.1 of the Code of Virginia. Our records indicate that your Statement of Organization is past due.

The § 24.2-947.1 also requires that a civil penalty be imposed for failure to file a Statement of Organization within 10 days.

As a result, the [name of locality] general registrar must assess a penalty in the amount of [penalty amount]. Please make your check payable to the treasurer of [name of locality] and forward this payment to the [name of locality] office of the general registrar within 10 business days. If payment is not received within 30 days, [name of locality] general registrar will be required to forward this matter to the appropriate Commonwealth's attorney who must initiate proceedings for its collection. The Statement of Organization must be filed within ten (10) business days from the date of this letter.

If you feel that you have received this letter in error or if you have any further questions, please feel free to contact our office at [phone number].

Sincerely,

Staff Name

Staff Title



Template B: Late Filing

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that [committee name] filed its report on [submission date] which was after the report's required deadline of [report due date].

According to the civil penalty schedule adopted by the State Board of Elections, the committee must be assessed a penalty of \$100 for not submitting the required campaign finance report by the deadline. Any additional late reports during this election cycle will result in a \$1000 fine.

Finally, the failure to pay the civil penalty within 60 days of the deadline for this filing period will result in the [name of locality] general registrar requesting the Commonwealth's attorney to enforce collection.

Filing Period Ending	Report Deadline	Assessed Penalty
Invoice Number : TOTAL AMOUNT DUE		

Please make your check in the amount of [amount fined] payable to the treasurer of [name of locality]. Please reference invoice number [fine ID] and forward this payment to the [name of locality] office of the general registrar.

If you feel that you require additional information or have received this letter in error, please contact our office as soon as possible at [phone number].

Sincerely,

Staff Name

Staff Title



Template C: Incomplete Report

Candidate/Committee

Address

City, State Zip Code

Dear Filer:

This letter acknowledges receipt of your campaign's [type of report] dated [date report was submitted]. Though filed timely, this report has been reviewed and found to be incomplete. The report is missing the following information required by Virginia Code § 24.2-947.4:

Incomplete Required Information	Date Amended Report Due
[description of the missing information]	[Month, Day, Year] (10 days from the mailing of the letter)

Your committee has until the date listed above to re-file the aforementioned completed report, or you will be subject to a civil penalty as established in Virginia Code § 24.2-953.3.

Please be advised that the penalties required to be assessed for late or incomplete filings are detailed in the *Candidate Campaign Committee Summary of Laws and Policies* which can be found at the Department of Elections' website: elections.virginia.gov. If you have any questions you may contact this office at [phone number].

Sincerely,

Staff Name

Staff Title



Template D: Letter to Commonwealth's Attorney

Commonwealth's Attorney

Address Line 1

Address Line 2

City, VA Zip Code

Dear Commonwealth's Attorney:

As required by § 24.2-946.3 of the Code of Virginia, I am hereby notifying you that [name of campaign committee] has failed to file required reports and has not made payment on a subsequently assessed civil penalty after being duly notified and given an extended opportunity to do so. This office assessed the committee a penalty totaling [penalty amount].

This matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by § 24.2-953 et seq. of the Code. Civil penalties collected are to be made payable to the treasurer of the [name of locality] and must be forwarded to this office for deposit.

We appreciate your attention to this matter. If you require further information, you may contact the general registrar's office at [GR office phone number].

Sincerely,

Staff Name

Staff Title



Appendix B: List of Localities Subject to SB 264 (2018)

Localities Subject to SB 264 (2018)

Locality	2010 US Census	Liaison Region
Independent Cities		
	Population	
Alexandria City	139,993	5
Chesapeake City	222,209	1
Hampton City	137,467	1
Lynchburg City	75,568	7
Newport News City	180,966	1
Norfolk City	242,803	1
Portsmouth City	95,535	1
Richmond City	204,214	3
Roanoke City	97,032	7
Suffolk City	84,585	1
Virginia Beach City	437,994	1
Counties		
	Population	
Albemarle County	99,010	6
Arlington County	207,627	5
Augusta County	73,750	6
Chesterfield County	316,236	2
Fairfax County	1,081,699	5
Frederick County	78,305	5
Hanover County	99,863	3
Henrico County	306,935	3
Loudoun County	312,311	5
Montgomery County	94,392	7
Prince William County	402,002	5
Roanoke County	92,376	7
Rockingham County	76,314	6
Spotsylvania County	122,397	3
Stafford County	128,961	3

