★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

the Handbook

# Chapter 12
# Central Absentee Precinct (CAP)

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# 12. Central Absentee Precinct (CAP)

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## 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]

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[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.

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[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 Elections[18]; 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 Ballots[20]

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 3 officers of election (one from each party plus one) be present during all hours at the expedited procedures are used (1VAC20-70-40(3)), and give notice to the local political party chairs of the time and place for processing absentee ballots with sufficient time to allow these party representatives to be present (1VAC20-70-40(4)).

**Supplies and Tools Needed**

Pre-processing requires the same supplies and tools needed for any CAP run on election day.

**Forms**

- Final Absentee List
  - Serves as the pollbook
  - Begins with the earliest date for which absentee ballots could be applied for and runs through to the current date
- Pollbook Count Sheets for each precinct

[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 election[21], 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.**

**<u>After All Envelopes in a Precinct/District Have Been Evaluated for That Day</u>**:

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<br>Check-In Officer | Station Two<br>Pollbook Officer | Station Three<br>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 ballot~~s~~ 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, SB1467 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 Ballots*[29]

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 starting why the ballot was voided (Sample Statement: "This entire ballot was voided because the voter over voted in each office listed on the ballot").
- 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.