

EARLY VOTING BALLOT PROCESSING

The information appearing below was extracted from a Memorandum from the State Elections Division to Local Election Officials regarding Presidential Primary Early Voting Information, dated January 16, 2020.

Early/Absentee Voter

A voter who has submitted an early ballot may not vote any other way, including by absentee or in person on Election Day.

If you have received and accepted an early ballot from a voter and later receive an absentee ballot application from the same voter, you must reject the absentee ballot request and notify the voter that he or she has already cast an early voting ballot and may not vote in any other way.

On the contrary, by law, a voter who votes absentee is still allowed to vote on Election Day if their ballot has not been processed at the polls.

Therefore, if a voter requests, or even returns an absentee ballot, the voter may still be allowed to vote early. Since the computer (VRIS) will not allow you to accept two ballots for one voter, you must reject a ballot in order to accept another one.

Because of the reason mentioned above, early ballots always take precedence over absentee ballots. If you already have an absentee ballot from a voter and the voter votes early, you must reject the absentee ballot and accept the early ballot.

In summary, once a voter has voted early he or she may not vote absentee or in person on Election Day. On the other hand, if a voter has already returned an absentee ballot, they may still choose to vote early, at which point, you will reject their absentee ballot and accept their early ballot.



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

MEMORANDUM

TO: Local Election Officials
FROM: Elections Division
DATE: January 16, 2020
RE: Presidential Primary Early Voting Information

As you are aware, the early voting for the Presidential Primary is required pursuant to Section 89 of Chapter 142 of the Acts of 2019. Below, please find an overview of the process of conducting early voting, both in person and by mail. This memorandum will cover early voting preparation, processing early voters, and processing ballots on Election Day. This information applies to the Presidential Primary as well as any Special State Election, Annual Town Election, or other election held on March 3rd, 2020.

Designating Early Voting Locations

The law provides that early voting take place in the office of the local election official unless you determine that the office is unavailable or unsuitable for early voting. Accordingly, if you are using any room within the same building as your office, no further designation is necessary. If there is no space in the same building as your office, the registrars must identify and provide for an alternative centrally-located, suitable and convenient public building within your municipality. If designating an alternate location, you must notify this office, which must include a statement that detailing why city or town hall cannot be used.

You may also provide for additional early voting sites at the discretion of the registrars. Please remember that each early voting site shall be accessible to persons with disabilities.

Once the early voting location(s) have been set, you must notify this Office within two (2) working days. The designation of an early voting site for the 2020 presidential primary must be made no later than February 10, 2020. If you designate the location(s) earlier than February 10th, you must notify this Office earlier as well. You must post the location of the early voting sites as well as the applicable dates and hours no later than February 12, 2020. Posting of the notice must be done in your office or on the principal official bulletin board of each city or town, on any other public building considered necessary, on your municipal website, if any, and on the Secretary of the Commonwealth's website. You no longer are required to publish the dates in any newspaper.

Designating a Central Tabulation Facility

If you intend to use a Central Tabulation Facility (CTF) to count early voting ballots, you must designate the CTF no later than February 11, 2020. Once designated, you must send notice to this Office within 2 business days. The notice must contain the name and address of the approved early central tabulation facility and the time that the facility will open. If you use electronic voting equipment, the notice must also contain a certification stating that you understand if the tabulator or tabulators used at the CTF fail or become unusable, all early voting ballots must be counted by hand. Any tabulators used at a CTF must be tested as part of your pre-election testing.

You can set the hours for the CTF. A CTF may open as early as the polling places, but once open must remain open until the closing of the polls. After the polls close at 8:00 p.m., a CTF must remain open for public viewing of the final tabulation of the early voting ballots.

Only early voting ballots received prior to Election Day can be processed at a central tabulation facility. Any early voting ballots received on the day of the election shall be processed at the polls.

Early Voting Period

The early voting period for the Presidential Primary is only 5 days. It begins on February 24th and ends on February 28th. Early voting in person must be conducted during the regular business hours of the local election official and in the local election office.

Cities and towns may offer additional hours and locations for early voting if they choose to do so, but all additional hours must take place during the early voting period. There are no weekend hours available for early voting for the Presidential Primary.

The Early Voting List(s)

Each early voting site must have an early voting list with ALL registered voters in the city or town. This list can be a printed list, the list already maintained in VRIS or an electronic list, such as that in an electronic poll book. If you are using an electronic list at the early voting location, you must also have a printed list as a back-up. The early voting list can be arranged alphabetically by voter name, unlike a voter list used on Election Day which is arranged by precinct and listed alphabetical by street.

The list is used to record voters who are given an early voting ballot, either in person or by mail. For those voting in person at an early voting location, the list must be marked whenever a voter is given an early ballot, and the date must be recorded either on the list or the envelope containing the marked ballot, or both. Additionally, you will need to record on the list the party ballot chosen by voters registered as unenrolled or in a political designation.

For those with multiple elections on March 3rd, you will need to either have two separate early voting lists or create a second column on the list so that you can record which election the voter has voted early for. If a voter is registered as unenrolled or in a political designation, they may choose different party ballots for each election. Accordingly, it is important to accurately record which party ballot they choose for each election on the early voting lists.

If you are using VRIS to directly create EV voters as they appear at the early voting site, the date the ballot was applied for and received by your office will be recorded into VRIS as you enter that information.

If you are not using VRIS as your early voting list, you must still enter the voters into VRIS so that you can have an updated list of early voters available upon request to those who request it.

Setup of Early Voting Sites

Under state law, each municipality must offer in-person early voting during regular business hours during the early voting period. Accordingly, prior to the opening of any early voting location, you must ensure that each early voting site is set up properly and is accessible.

Each municipality must provide a sufficient number of marking shelves or compartments where voters may privately mark their early voting ballot. Also, at least one marking unit

per precinct must be handicapped accessible. Furthermore, you must have at least one AutoMARK Voter Assist Terminal in each early voting site.

The AutoMARK must be available for use during all early voting hours. You must ensure that it is turned on and that the headphones are with the unit. Before the early voting site opens, the poll workers should test a ballot in the AutoMARK to ensure it is working properly. After marking the ballot, it should be spoiled by writing the word “spoiled” across it and putting it into the spoiled ballot envelope. This should also be noted in the record book.

Observers

Observers must be allowed in the early voting site, outside the “guardrail,” unless they are disorderly or obstruct the access of voters. Unlike observers at the polling place, observers at an early voting site may NOT challenge early voters at the early voting site. If they wish to challenge an early voter for any legal reason, they must do it at the polling place on Election Day when the name of the voter is announced at the check-in table or at the Central Tabulation Facility, if one has been designated.

“150 Foot Rule”

Since early voting sites are not technically polling places, the 150-foot rule that applies to polling places on Election Day does not specifically apply to the early voting sites during the early voting period. However, even though the local election official may not prevent someone from electioneering within the 150 feet, the local election official may still ensure that the entrance to the early voting site is not being blocked, and that there is no electioneering (including the wearing of electioneering materials) within the area where the vote is actually taking place. Local election officials should develop reasonable time, place and manner restrictions for each location to have a consistent policy.

Early Voting by Mail

A registered voter in your municipality may opt to vote early by mail. In order to receive an early ballot by mail, the voter must submit a written request, which includes the voter’s signature. Voters can use the Early Voting Application created by this Office or any other written communication requesting the ballot. Please be aware that applications for early voting ballots can be received electronically, by email or fax, as long as you can view the signature. You do not have to wait to receive the original application (or receive the original application at all) to process the application and send the ballot. If you receive an early ballot application that is missing the signature of the

voter, you cannot send the early voting ballot but instead must notify the applicant that you cannot process their application.

Early ballot applications are available for download at www.MassEarlyVote.com and may also be found on the L Drive of your state computer.

Upon receiving an early ballot application or written request, you may create the EV voter in VRIS, but you cannot mail the ballot until the beginning of the early voting period (February 24th, 2020). You must verify that the voter is eligible before sending a ballot and make sure you are sending the correct ballot style, if your municipality has more than one ballot style.

When mailing an early voting ballot, you must include the following:

- Early voting ballot; and
- EV-7 (inner envelope with the affidavit on it); and
- Early voting instructions; and
- AV-8 (return envelope for the voter to mail back the ballot).

These materials must be put inside the AV-11 (the outer envelope).

Please note that the AV-8 and AV-11 are now used for both the absentee ballots and early ballots. Also, remember that the Early Ballot Application is only required for an early ballot through the mail; in-person early voting does not require an application.

The deadline to apply for an early ballot is 12:00 p.m. on Friday, February 28th. Therefore, you must receive the application or written request in your office prior to that time. Applications or written requests received after that deadline cannot be accepted.

Early Voting In Person

All registered voters in your community may vote early by appearing at any early voting site in your municipality. When a registered voter appears at an early voting site to vote early, the local election official or the election worker must look for the voter on the early voting list (printed list, VRIS or electronic list as noted above) to make sure that the voter is a registered voter in the municipality.

Upon verification of the voter's registration, the election official must mark the list to indicate that the voter has been provided an early ballot. The date that the ballot was offered should also be noted on the early voting list or on the EV-7 envelope, or both. The party of the ballot provided should also be noted on both the early voting list **and** the EV-7 envelope. The voter shall then be supplied with the early voting ballot and an EV-7 envelope (the early voting envelope with the sworn affidavit on it).

After the voter marks his or her ballot, the voter should place the ballot into the EV-7 envelope provided and complete the required information on the envelope. Before the voter leaves the early voting site, the election official must examine the envelope to make sure it is completed correctly and signed by the voter. **Please note that if the envelope is missing a signature, the ballot cannot be counted.** Once the voter has returned their ballot, it must be kept secured at the early voting site until the ballots are transferred to the local election office. We recommend using the ballot box (the bottom part without the tabulator) or some other secure box-like structure. Do NOT simply leave completed EV ballot envelopes unsecured.

Assistance to Voters

A voter voting early in person may receive assistance. An early voter who informs the election official that, due to blindness or other physical disability, or inability to read in the English language, they are unable to prepare their early ballot may receive assistance in doing so. The voter may designate a person of their choice to assist them or request that the election official assist them in completing their ballot.

The best option, however, is to inform the voter about the AutoMARK and provide them with an opportunity to mark their ballot independently.

Please note that the assisting person shall add his or her name in the appropriate space on the EV-7 affidavit envelope.

Identification

Certain voters may be required to show identification. In addition to inactive voters as described below, a voter who registered by mail and who has not registered previously in Massachusetts, whose identification number on their registration form could not be verified and who did not provide a copy of their ID when they registered will need to show identification. Valid identification must contain their name and address as registered (i.e. a driver's license, bank statement, government check, utility bill, rent receipt on landlord's letterhead, etc.). Please note that it is acceptable for a voter to show an electronic copy of identification, such as a bank statement or a utility bill. If a voter is flagged on the early voting list (printed list, VRIS, or electronic poll book) to show identification, which shows as "ID" next to their name on the printed lists, and they do not have identification with them, they must cast a provisional ballot. Alternatively, they may return at another point during the early voting period with valid identification and be allowed to cast an early ballot.

Provisional Ballots

A provisional ballot should be offered to any person claiming the right to vote whose name is not listed on the early voting list, claims a listing error, or any voter who is flagged to show identification, but does not have such identification.

Any person voting on a provisional ballot must complete certain paperwork, including a Provisional Ballot Affirmation and roster. Any provisional early voter must present identification by the close of polls on Election Day (March 3rd, 2018) for that ballot to count.

A voter casting a provisional ballot must complete the “Provisional Ballot Affirmation.” After the voter completes the Affirmation, ask the voter for identification. Even if the voter does not provide identification, the voter must be allowed to cast a provisional ballot. The voter should be given a Provisional Ballot Information Sheet, an early ballot and an EV-7 early ballot envelope. The voter should be provided with the ballot of the party in which they believe themselves to be enrolled, or the ballot of the party of their choice if they believe themselves to be unenrolled. The voter should include the party of the ballot on their affirmation. The election worker should note the party of the ballot on the roster. The election worker must also write the word “Provisional” in the header area at the top of the ballot and write the EV provisional ballot number, ward and precinct on the Information Sheet (which the voter keeps) and Ballot Envelope.

The voter should be instructed to complete their ballot and then seal it in the EV-7 envelope after they complete voting on it, and then hand the ballot back to the election official. The election worker should make sure that the sealed ballot envelope is stored in a secure area and NOT mixed with other completed early voting ballots.

The election worker should keep the completed Affirmation and complete the Provisional Voting Roster with the voter’s name, address, date of birth, and EV provisional ballot number as well as the reason code.

The information on the provisional ballot affirmation and roster will be needed to conduct the investigation into the qualifications of the voter. As is the case with all provisional ballots, the disposition must be resolved within 3 days and be recorded in VRIS within 4 days after the primary. Provisional early ballots, however, may be investigated at any point prior to Election Day once the ballot has been cast. If the disposition is resolved before Election Day, you may send the early ballot to be counted at the polls with all other ballots.

Inactive Early Voters

By mail: Inactive early voters voting by mail are handled in the same way that inactive absentee voters are handled. If an inactive voter requests an early ballot by mail using the Massachusetts Official Early Ballot Application, that application can be used to activate the voter without any further action from the voter. After you've activated the voter in VRIS, they should be mailed an early ballot.

Please note that a simple letter from an inactive voter requesting that an early ballot be mailed to them is not enough to activate the inactive voter since the letter is not signed "under penalty of perjury." In that scenario, you should include an affirmation of current and continuous residence with the early voting ballot and materials and include a letter instructing the voter to complete the affirmation and return it with the ballot, but outside of the EV-7 envelope. If the affirmation is not returned with the ballot, the early voting ballot must be challenged at the polls (or central tabulation facility, if designated), in the same manner as inactive absentee voters.

In-Person: If an inactive voter shows up to vote in person at the early voting site, they must be asked to complete the Affirmation of Current and Continuous Residence form or roster and to show identification before providing them with a ballot. Upon completion of the affirmation and showing of identification, the voter must be given the early ballot and affidavit envelope and be allowed to vote. If the voter does not have acceptable identification, the voter must still be allowed to vote, but the ballot must be challenged at the early voting site.

You can utilize a roster style affirmation on which all inactive voters sign rather than providing individual forms to each voter. A sample roster can be found on the "L:" drive of your VRIS computer in the "Elections Forms" folder and was emailed earlier this month. This form can be modified for early voting to add a column for ward and precinct so that all inactive voters can be recorded on one list rather than using separate lists for each precinct.

Spoiling Early Ballots

Early voters can spoil their ballots. An early voter voting by mail must indicate in writing that they are spoiling their ballot and requesting a new one at the same time they return their original ballot, which is the same process followed for spoiling absentee ballots. If a voter mails in their marked early ballot sealed in the inner envelope, they cannot later send in a request for a new ballot. The request for a new ballot must be received at the same time as the original early ballot is being returned.

If a voter votes early in person, the only opportunity they have to spoil the ballot is while they remain in the early voting site, similar to the process when a voter spoils their ballot at a polling place on Election Day. A voter voting early in person cannot mark the ballot, sign the affirmation, leave and then come back at a later time seeking to vote a new ballot.

Each spoiled ballot should be marked “spoiled” and retained in a separate envelope designated for spoiled ballots.

Please remember that a voter cannot spoil a ballot to receive a different party ballot. Once the party of the ballot chosen by the voter is recorded on the early voting list, they cannot “spoil” that ballot to get the ballot of another party. That voter would only be eligible to receive another ballot of the same party already recorded on the voting list.

Mail-in Early Ballots Never Received by the Voter

If a voter who had requested their ballot be mailed states that they never received the early ballot, you must get written confirmation from the voter, with their signature, stating that they did not receive the ballot. Upon receipt of this written confirmation, you can send a second ballot, but first you must reject the original ballot in VRIS and add the date the new ballot was sent. VRIS will require you to enter the date the first ballot was received – use the date that you received notification from the voter that the first ballot was not delivered. You should indicate that the ballot was rejected due to “Failed Delivery.” You must keep a written record of this process and enter it into VRIS.

Early or AV Mail-In Voters Wanting to Vote In Person at an Early Voting Location

A voter who is flagged on the early voting list with “AV” or “EV,” which denotes that they have applied for a ballot to be mailed to them, may be able to vote in person during the early voting period. However, you must get written confirmation from the voter, with their signature, stating that they will not vote the mail-in ballot. We have created a sample roster to use for this purpose at early voting locations. It is available in the “Elections Forms” folder on the “L:” drive of your VRIS computer.

When processing the records for the voter in VRIS, you must reject the original ballot in VRIS—either EV or AV—and add the date the EV ballot was voted in person. If an AV or mail-in early ballot is returned after the voter has voted in person during the early voting period, you must reject the mail-in ballot. The ballot should be rejected as “Ballot Already Accepted,” and the rejection date should be recorded as the date the voter voted in person.

If a voter is already flagged as having returned their EV mail ballot, they are NOT eligible to vote in person at an early voting location or at the polls on Election Day.

Returning Early Ballots Received by Mail

Early voting ballots requested by mail must be returned to the local election official by mail or in person no later than the closing of the polls on Election Day. Early voting ballots can only be returned by the voter, and cannot be returned by a family member. Early voting ballots can be returned to the local election official or any early voting location within the municipality.

Early Ballots Returned from Persons No Longer Registered

Some voters may request an early ballot, but then register to vote in another municipality. If you receive an early ballot back from a person who you have deleted as a voter, you must reject the early ballot.

This includes early voters who have died before Election Day. If you are aware that an early voter has died before the polls open, you cannot count the early ballot and must reject it. Cognizance of the voter's death is sufficient cause for rejecting a ballot, you do not need to wait for official notice.

Early Voters Voting in Person on Election Day

A voter noted as EV on the voting list may only appear and vote in person at the polls if their early ballot has not yet been received by the local election official. If the early voter appears at the polls and the box next to their name has an "X" indicating that their early ballot has been accepted, the voter shall not be allowed to vote in person. If the early voter appears at the polls and the box next to their name does **not** have an "X" indicating that their early ballot has been accepted, the voter shall be allowed to vote in person—no certificate is required. Your poll workers should be instructed to indicate on the voters list that the voter voted in person, in case the ballot arrives after the voter has voted in person.

If the early ballot is received after the person has voted in person, the warden must mark across the face of the envelope, "Rejected as Voted in Person," and the envelope must be preserved and destroyed in the manner provided by law for the retention, preservation and destruction of official ballots.

Early/Absentee Voter

A voter who has submitted an early ballot may not vote any other way, including by absentee or in person on Election Day. If you have received and accepted an early ballot from a voter and later receive an absentee ballot application from the same voter, you must reject the absentee ballot request and notify the voter that he or she has already cast an early voting ballot and may not vote in any other way.

On the contrary, by law, a voter who votes absentee is still allowed to vote on Election Day if their ballot has not been processed at the polls. Therefore, if a voter requests, or even returns an absentee ballot, the voter may still be allowed to vote early. Since the computer (VRIS) will not allow you to accept two ballots for one voter, you must reject a ballot in order to accept another one. Because of the reason mentioned above, early ballots always take precedence over absentee ballots. If you already have an absentee ballot from a voter and the voter votes early, you must reject the absentee ballot and accept the early ballot.

In summary, once a voter has voted early he or she may not vote absentee or in person on Election Day. On the other hand, if a voter has already returned an absentee ballot, they may still choose to vote early, at which point, you will reject their absentee ballot and accept their early ballot.

Election Day Voting List

The voting list used at the polls on Election Day must include notations with those voters who have already returned their early voting ballot.

If you are using VRIS to print your voter list, any voter who has an EV Date Application Received and/or a Date Ballot Mailed with the status of 'Not Returned' in VRIS will be flagged as "EV" on the voter list. If a voter's early voting ballot has been received and accepted in VRIS, the voting list will print with "X" in the checkbox corresponding to their name. Poll workers should be instructed that they CANNOT provide a ballot to any voter flagged as "EV" who already has an "X" in the checkbox.

If a voter's early voting ballot has been rejected in VRIS, they will not have an "X" in the checkbox, but they will still be flagged as "EV" on the voting list. Voters marked "EV" who do not have an "X" in the checkbox should be provided a ballot if they request one. When printing your Election Day voter list, if you have not yet updated all of your early voters in VRIS, you will need to make sure that you have manually made the necessary notations on the voting list prior to and throughout the Early Voting period.

The party selected during the EV period and entered into VRIS will not appear on the voters list. The party must be marked on the voters list when the ballot is checked in on Election Day.

Counting Early Ballots on Election Day at the Polls

Unless you have chosen to use a Central Tabulation Facility, early ballots will be counted at the polls on Election Day in the same way that absentee ballots are counted. Early ballots counted at the polls must go through the check-in table and the check-out table before being deposited into the tabulator. The party of the voter's ballot must be noted on both the check-in and check-out lists when being processed. If the poll workers do not have time to process the early ballots during polling hours, they may process them after the polls close. If poll workers are processing early voting ballots after the polls close, they should announce to any observers exactly what is occurring before proceeding. Also, if the early ballots are being processed after the polls close, the name, address, and party indicated the EV-7 envelopes must only be read at the check-in table and are not required to be checked off the out list. When tallying the number of voters on the check-out list at the polling place, the poll workers will need to add the number of early voters checked on the check-in list to the total tabulated to the check-out list.

Early ballots received through the mail or in person on Election Day must be counted at the polls—they may not be counted at the local election office or a Central Tabulation Facility. Early ballots received on Election Day must be delivered to the precinct no later than one hour after the closing of the polls.

Counting Early Ballots on Election Day at a Central Tabulation Facility

If the municipality has designated a Central Tabulation Facility, most early voting ballots will be counted at that location.

At the Central Tabulation Facility, an election worker will call the "...name and address of the voter from the affidavit envelope..." and then that voter shall be marked on the Central Tabulation Facility List before being deposited into the tabulator.

This list is available as a report in VRIS as the Central Tabulation Facility Report and it only includes the names of voters whose early voting ballots have been cast. This means that voters who have requested an Early Ballot and have NOT returned it to their local election official by Election Day will not be on this list.

Ballots must be processed separately by precinct. Once a precinct has been submitted through the tabulator, those ballots must be removed from the ballot box and remain segregated from all other EV ballots.

If the tabulator or memory card being used at the Central Tabulation Facility fails, it is likely that the ballots will be required to be hand counted. Only machines and/or memory cards that were tested during the pre-election testing can be used at the Central Tabulation Facility.

Ballots received ON Election Day **MUST** be processed at the precinct—they may not be processed at the Central Tabulation Facility.

47.10: Early Voting by Mail

(1) Delivery. Upon receipt of an application for an early voting ballot by mail by a registered voter, the local election official shall mail the ballot and accompanying papers to the address provided by the voter.

(a) The local election official shall provide the early voter with an early voting ballot, instructions for marking the ballot and returning it, an affidavit envelope, and an outer envelope for returning the ballot to the local election official.

(b) If the voter was listed as inactive, the local election official shall include an affirmation of current and continuous residence with the early voting materials, unless the voter has affirmed that the address at which he or she is listed as inactive is his or her address for voting purposes.

(2) Method of Voting. A voter who has received an official early voting ballot by mail shall mark it in the presence of no other person, except as provided in 950 CMR 47.10(3). The voter shall then enclose and seal the ballot in the affidavit envelope provided, and execute the affidavit on such envelope. The voter shall return the ballot, sealed in such envelope, as hereinafter provided.

(3) Assistance to Early Voters. If an early voter is unable to mark his or her ballot or execute the affidavit on the envelope due to blindness, physical disability or inability to read or to read English, he or she may be assisted by a person he or she designates. Such designated person shall add his or her name in the appropriate space on the affidavit envelope.

(4) Spoiled or Replacement Ballots.

(a) If an early voter who received his or her ballot by mail makes a mistake in marking his or her ballot, the voter shall return the ballot to the local election official and request a new ballot. Voters shall be allowed up to a total of three ballots.

1. Upon receipt of a spoiled ballot, the local election official shall mark it "spoiled" on both the ballot and affidavit envelope and shall enclose it in the spoiled ballot envelope.

2. No request for a substitute ballot from a voter who has received his or her ballot by mail shall be valid unless it is accompanied by the spoiled ballot and a request for a new ballot.

(b) If an early voter having requested an early voting ballot by mail fails to receive an early voting ballot the voter may notify the local election official in writing and request a replacement ballot.

Upon receipt of written notice from an early voter that he or she did not receive the request early voting ballot, the local election official shall send a replacement ballot an accompanying paperwork to the voter.

(5) Return of Early Voting Ballot. A voter who receives the ballot by mail, as provided in this section, may return it by mail to the local election official in the envelope provided, or such voter may deliver it in person to the office of the local election official or to an early voting location during the prescribed early voting hours.

(a) The local election official, or a person designated by the local election official, shall open each outer envelope purporting to contain an official early voting ballot as soon as possible after receiving it, in the view of any persons who may be present. The local election official shall remove therefrom the outer mailing envelope provided in 950 CMR 47.06(1)(b), without opening such affidavit envelope, and examine the affidavit on each such envelope. If the local election official finds that such affidavit has been improperly executed, or is incomplete, the local election official shall mark across the face thereof "Rejected as defective", and shall place on the early voting disposition list required by 950 CMR 47.08, as the case may be, opposite the name of the voter the capital letter R.

(b) The local election official shall notify, as soon as possible, each voter whose early voting ballot was rejected that such ballot has been rejected. Said notice shall be on a form prescribed by the Secretary and provided by the local election official. Unless the local election official determines that there is clearly insufficient time for the voter to return another ballot, the local election official shall then proceed as if the voter had requested a substitute ballot. If the local election official received the original ballot by mail, the local election official shall enclose the substitute ballot and other papers described in 950 CMR 47.06 with the mailed notice of rejection. If the local election official timely receives an affidavit envelope purporting to contain such a substitute ballot, and does not mark it "Rejected as Defective" under 950 CMR 47.10(5)(b), the local election official shall strike the letter R from any list on which it has been placed under 950 CMR 47.10(5)(a).

47.10: continued

(c) If the affidavit on the affidavit envelope appears to be complete, the local election official shall mark the early voting list that the early voting ballot has been received and accepted.

(6) Deadline for Return. Early voting ballots returned by mail must be received by the local election official before the hour fixed for closing the polls.

(7) Return of Early Voting Ballot; Ineligibility to Vote Again by Mail or in Person. Upon acceptance of an envelope containing an early voting ballot, the ballot shall be considered cast and such voter shall not be eligible to vote by mail, in person at an early voting location, or at the polls on Election Day.

47.11: Duties of Election Officials

The local election official, on the day of the election, but no later than one hour after the close of polls, shall transmit all envelopes purporting to contain official early voting ballots received on or before the applicable deadline before the election and which have not been marked "Rejected as Defective," as provided in 950 CMR 47.09(5)(d) and 47.10(5)(a), or "spoiled," as provided in 950 CMR 47.09(4) and 47.10(4), to the election officers in the several precincts where the voters whose names appear on such envelopes assert the right to vote or the central tabulation facility, if one is designated in accordance with 950 CMR 47.13.

47.12: Processing Early Voting Ballots

Early voting ballots may be processed at the polls or at centralized tabulation facilities as set forth in 950 CMR 47.13.

47.13: Designation of Central Tabulation Facility

- (1) A city or town may determine to tally early voting ballots at a central tabulation facility.
 - (a) Determination to Use a Central Tabulation Facility. The local election official shall designate any central tabulation facility at least 21 days before Election Day and notice of such determination must be sent within two business days to the Secretary. The central tabulation facility must be in compliance with accessibility regulations found at 950 CMR 51.00: *Polling Place Accessibility for Elderly and Handicapped Voters*.
 1. The notice shall contain the name and address of the approved early central tabulation facility and the time that the facility will open.
 2. If the city or town uses electronic voting equipment, the notice shall also contain a certification from the local election official that he or she understands that if the tabulator or tabulators used at the central tabulation facility fail or become unusable, all early voting ballots must be counted by hand.
 - (b) There shall be at least one tabulator or counting unit at each such tabulation center, which must be tested in accordance with the provisions of 950 CMR 54.02: *Testing*.
 - (c) The local election official shall designate sufficient staffing of election officers at the central tabulation facility for the orderly processing of early voting ballots.
 - (d) The hours of operation of the central tabulation facility shall be set by the local election official. Central tabulation facilities may open as early as the polling places, but once open must remain open until the closing of the polls.
 - (e) After the hour fixed for the closing of the polls, the central tabulation facility shall remain open for public viewing of the final tabulation of the early voting ballots.
 - (f) Only early voting ballots received prior to Election Day can be processed at a central tabulation facility.
 - (g) Any early voting ballots received on the day of the election shall be processed at the polls.
- (2) Each central tabulation facility must be open to the public for viewing the proceedings from behind a guard rail.

47.14: Processing Early Voting Ballots at Polls

- (1) Deliver Early Voting Ballots. The early voting ballots shall be delivered to the polls during the day, not later than one hour after the polls close.
- (2) Warden Shall Process Early Voting Ballots. The warden, or an election officer designated by the warden, may process early voting ballots whenever there is free time, from the time the polls open in the morning and throughout the day.
- (3) Early Voting Ballots to be Processed. Only the local election official shall determine whether to reject an early voting ballot as defective. The election officers at the polls may only reject early voting ballots as defective if, when opening the ballot envelope, more than one ballot is contained therein as set forth in 950 CMR 47.15(6). If the ballot is transmitted to the polls, election officers shall process it unless the person's name has been marked on the voting list as having voted in person, or the name is not on the voting list. Election officers shall verify that the name of the person who signed the affidavit on the early voting ballot envelope is on the voting list. Election officers must inform the local election official if the name does not appear on the voting list.
- (4) Mark the Voting List. The letters EV shall have already been written in front of the early voter's name and in the area used for marking a check on the voting list. A mark shall be made beside or through the name of the voter to indicate that the early voting ballot vote has been cast. An election officer shall announce the name and address of each early voter. This same process shall occur at the check-out table.

If early voting ballots are processed at the polls but after the close of polls, it is not required to announce the name and address of each early voter at the check-out table.
- (5) Open Ballot Envelope. Election officers shall open the ballot envelope carefully so as not to deface, mark or tear the ballot or the ballot envelope. Election officers shall place the ballot envelopes in the proper container.
- (6) One Ballot Per Envelope. The ballot envelope must not contain more than one ballot. If more than one ballot is in the envelope, neither ballot shall be counted and those ballots shall be placed in the ballot envelope which shall be marked "Rejected as Defective" and placed in the proper container.
- (7) Challenging of Early Voting Ballots. In the polling place, if an early voting ballot is challenged when opened at the polls, the name and address of the early voter shall be written on the ballot by the warden in accordance with the provisions set forth in 950 CMR 47.16. The challenger's name and address shall be recorded and the event shall be noted in the local election official's Election Record, and the letters CV shall be placed on the voting list next to the name of the challenged voter. After this, the ballot shall be deposited in the ballot box.
- (8) Remove Ballot and Place in Ballot Box. The early voting ballot shall be removed from its envelope without examining it and in a manner that will ensure the privacy of the ballot and shall be fed through the vote tabulator, where voting systems are used, or wound into the ballot box where ballots are hand-counted. The envelope shall be kept separate.
- (9) Retention. Early voting ballot envelopes shall be retained and returned to the local election official.

47.15: Processing Early Voting Ballots at Central Tabulation Facility

- (1) Deliver Early Voting Ballots and Voting List. Before the opening of the central tabulation facility, a list containing the names of all voters whose early voting ballots have been cast shall be delivered to the central tabulation facility. The early voting ballots shall be delivered during the day, not later than the close of polls. The election officers assigned to the central tabulation facility, shall, as soon as early voting ballots are delivered, record the total number of ballots received, by precinct.

47.15: continued

(2) Election Officers Shall Process Early Voting Ballots. The election officers at the central tabulation facility shall process early voting ballots from the time the central tabulation facility opens and throughout the day.

(a) Early voting ballots shall be processed one precinct at a time. All early voting ballots from one precinct shall be processed before another precinct can be processed.

(b) Once the tabulation of a precinct is complete, the tabulated ballots for the precinct may be removed from the ballot box and stored securely, but must remain in public view.

(3) Early Voting Ballots to be Processed. Only the local election official shall determine whether to reject an early voting ballot as defective. The election officers at the central tabulation facility may only reject early voting ballots as defective if, when opening the ballot envelope, more than one ballot is contained therein as set forth in 950 CMR 47.15(6). If the early voting ballot is transmitted to the central tabulation facility, the election officers at the central tabulation facility shall process it unless the voter's name is not on the voting list. Election officers shall verify that the name of the person who signed the affidavit on the early voting ballot envelope is on the voting list. Election officers must inform the local election official if the name does not appear on the voting list.

(4) Mark the Voting List. Reading the name and address of the voter from the affidavit envelope, the election officers shall find the voter's name on the voting list delivered to the central tabulation facility, which will have the letters EV already printed next to it. The election officer shall mark beside the name of the voter to indicate that the early voting ballot vote has been deposited into the tabulator.

(5) Open Ballot Envelope. Election officers shall open the ballot envelope carefully so as not to deface, mark or tear the ballot or the ballot envelope. Election officers shall place the ballot envelopes in the proper container.

(6) One Ballot Per Envelope. The ballot envelope must not contain more than one ballot. If more than one ballot is in the envelope, neither ballot shall be counted and those ballots shall be placed in the ballot envelope which shall be marked "Rejected as Defective" and placed in the proper container.

(7) Challenging of Early Voting Ballots. If an early voting ballot is challenged when opened at the central tabulation facility, the name and address of the early voter shall be written on the ballot by the warden. The challenger's name and address shall be recorded and the event shall be noted in the local election official's Election Record, and the letters CV shall be placed on the voting list next to the name of the challenged voter. After this, the ballot shall be deposited in the ballot box.

(8) Remove Ballot and Place in Ballot Box. The early voting ballot shall be removed from its envelope without examining it and in a manner that will ensure privacy of the ballot and shall be fed through the vote tabulator, where voting systems are used, or wound into the ballot box where ballots are hand-counted. The envelope shall be kept separate.

(9) Print Results. After the hour fixed for closing of the polls, the election officer shall cause the voter tabulator to print the results of the election and shall remove the results paper tape from the vote tabulator.

(10) Inspection of Ballots. After all ballots have been tabulated, the early voting ballots shall be removed from the box and shall be inspected by teams of two election officers. Such inspection shall include an examination for write-in or sticker votes. If any such write-in or sticker votes are found, the ballot shall at once be examined, and shall be hand-counted and the precinct totals adjusted accordingly.

(11) Seal the Counted Ballots. The counted ballots shall be sealed in an envelope or container and shall be transmitted, in accordance with the provisions of M.G.L. c. 54, § 107, to the office of the local election official forthwith. The early voting lists shall also be sealed in separate envelopes and transmitted to the office of the local election official.

47.15: continued

(12) Retention. Early voting ballot envelopes shall be retained and returned to the local election official.

47.16: Challenges

All ballots transmitted under any provision of 950 CMR 47.00 shall be subject to challenge. Any challenge must be made when the affidavit envelope containing the early voting ballot is opened and the ballot is deposited into the ballot box for non-compliance with any provision of 950 CMR 47.08, 47.09(5), 47.10(5) or for any other reason allowed by law. If an early voting ballot is challenged, it shall be processed in accordance with 950 CMR 52.03(23): *Challenges* and 54.04(23): *Challenges*, except that so much of said section as involves the administering of an oath shall not apply thereto, and the writing of the name and address of the voter on the ballot shall be performed by the officer charged with depositing the ballot in the ballot box.

47.17: Immaterial Irregularities Not to Cause Rejection

No ballot transmitted under any provision of 950 CMR 47.09 and 47.10, to the extent applicable, shall be rejected for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required by said sections as determined by the election official.

47.18: Disposition of Ballots Received Late

All envelopes received by the local election officials after the close of polls shall be marked "Rejected: Received Too Late" and shall be retained by them unopened until the time set by law for the destruction of ballots cast, at which time the envelopes shall likewise be destroyed, unopened and unexamined.

47.19: Voting in Person on Election Day After Submitting Early Voter Ballot Prohibited; Death of Early Voter; Rejection of Certain Ballots

(1) Except as provided in 950 CMR 47.19, no voter to whom an early voting ballot has been mailed or delivered and whose early voting envelope has been received and accepted by the local election official shall be permitted to vote in person.

(2) No ballot mailed or delivered under the provisions of 950 CMR 47.00, shall be counted if the officers charged with the duty of counting the same are cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election.

(3) Notwithstanding the foregoing, the local election official shall, on the day of the election, at his or her request, give to any person whose name has not been checked as provided in 950 CMR 47.08(1), a certificate of his or her name and residence, as stated on the voter list, signed by such local election official, and such local election official shall then forthwith place on the list of early voters, opposite the name of the person to whom such certificate is furnished, the capital letter C.

(a) On presentation of such certificate to the presiding election officer of the ward, voting precinct or town in which such voter is registered he shall, after his or her name has been checked on the voting list or on his or her certificate of supplementary registration, as the case may be, be allowed to vote.

(b) Such presiding officer shall preserve each certificate issued under 950 CMR 47.19 and return it to the local election official in the manner in which the voting lists are required by M.G.L. c. 54, § 107 to be enclosed.

(c) The local election official shall by telephone authorize the presiding officer to issue such certificate if said local election official determines that a voter at the polling place is entitled to it, and said presiding officer shall then similarly sign and issue such certificate.

47.19: continued

(d) If, after a certificate is furnished under 950 CMR 47.19, an envelope purporting to contain an early voting ballot is received from a voter to whom such a certificate has been issued, and opposite whose name on the list of early voters the capital letter C has been placed as herein required, said local election official shall mark across the face of such envelope "Rejected as Voted in Person", and such envelope shall be preserved and destroyed in the manner provided by law for the retention, preservation and destruction of official ballots.

47.20: Information and Instructions

The Secretary shall prepare for the use of election officers, local election officials and registrars of voters such printed information and instructions as he may deem proper to facilitate the operation of 950 CMR 47.00. Such printed matter shall be transmitted to said officials prior to each state election. The Secretary may prepare and distribute such general information relative to said sections as he may deem expedient.

47.21: Retention of Early Voting Materials

Each envelope, so marked, all applications for early voter ballots and all lists referred to in 950 CMR 47.21 shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.

REGULATORY AUTHORITY

950 CMR 47.00: M.G.L. c. 54, § 25B.