



OFFICE OF THE SECRETARY OF THE COMMONWEALTH

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REGULATION FILING AND PUBLICATION FORM

1. REGULATION CHAPTER NUMBER AND HEADING: 950 CMR 51.00: VOTING AND COUNTING PROCEDURES FOR PAPER BALLOTS

2. NAME OF REGULATING AGENCY: Department of the State Secretary

3. READABLE LANGUAGE SUMMARY: (Categories of persons, organizations, businesses affected, general purposes and requirements of regulation)

This regulation affects local election officials, candidates at elections and their workers, and in general anyone who votes in an election in communities which use paper ballots. The regulation governs use of paper ballots and ballot boxes, and prescribes uniform voting and counting procedures for election day.

10 29 AM '79

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5. PUBLICATION REFERENCE: Register Issue 159 Date: 5/24/79

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A TRUE COPY ATTEST  
*Michael Joseph Connolly*  
MICHAEL JOSEPH CONNOLLY  
SECRETARY OF STATE  
DATE 5/18/79 CLERK J.M.

950 CMR is amended by adding after 950 CMR 50.00 the following chapter:

950 CMR 51.00: VOTING AND COUNTING PROCEDURES FOR PAPER BALLOTS

Section

- 51.01 General Duties of Election Officers
- 51.02 Before the Polls Open
- 51.03 During the Voting Hours
- 51.04 After the Polls Close

51.01: General Duties of Election Officers

(1) Election Officers Assigned to Each Polling Place. Each precinct must have assigned to it a warden, clerk, and at least two inspectors (four in cities), unless in a town where five or fewer precincts vote in the same building the selectmen decide otherwise under G. L. ch. 54, s. 24. In addition, precincts may have a deputy clerk, deputy warden, additional inspectors as are needed to run the election, and as many tellers as are necessary to count the votes after the election.

(2) Election Officers Must Represent Political Parties. Within each precinct, the election officers must equally represent the two leading political parties. Two of the officers in each precinct may be unenrolled.

The warden and deputy warden must be from the same party and different from that of the clerk and deputy clerk. No more than half the inspectors may be from the same party.

(3) Warden: General Duties and Authority. The warden shall be the chief election officer at the polling place. The warden shall supervise the other precinct election officers before the polls open, during the election, and during the vote count. The warden is responsible for maintaining order and handling violations of election law by election officers or others. The warden may use police assistance when necessary.

If the warden leaves, his deputy shall be in charge, but if there is no deputy, he may designate a qualified election officer to be in charge.

(4) Clerk: General Duties. The election clerk shall keep a record of all facts relating to the proceedings of the election required by law to be recorded. The clerk shall note any unusual happenings during the conduct of the election. The clerk is responsible for maintaining the Election Record, filling out forms and adding vote totals for each candidate on the total tally sheet. The clerk shall read and record the ballot box register before and after the election.

51.01: continued

(5) Inspectors: General Duties. Inspectors shall be assigned to duties by the warden. Two election officers of different political parties shall be assigned to the check-in area at the entrance to the voting area. Two other election officers of different political parties shall be stationed at the voting area exit.

(6) Tellers: General Duties. Tellers shall work after the polls close. They shall be assigned to count votes and shall be instructed in that duty.

51.02: Before the Polls Open

(1) Election Officers Report To Polling Place. All election officers must report to work at the polling place at a time to be determined by the city or town clerk, so as to be able to complete all preliminary work and to allow the polls to open on time. They must be sworn in before beginning to work. They shall open the polling place on time.

(2) Replacement Of Election Officers. If an election officer assigned to a polling place fails to appear or leaves, the city or town clerk shall be notified. Replacements shall be sent, or the corresponding deputy election officer shall be designated as the replacement.

(3) Arrange The Polling Place. The voting booths, ballot boxes and fiberboard boxes with ballots must be in full view at all times. A guard rail shall be established to prevent unauthorized people from interfering with or observing people who are voting.

(4) Signs To Be Posted. The following items shall be posted in a conspicuous place inside the polls but outside the guard rail:

(a) Specimen ballots: six for each party in primaries, and five for other elections which include copies of the ballot questions.

(b) Three "Instructions to Voters" cards.

(c) Three "Penalties Upon Voter" cards.

(5) Ballots Correct. Election officers shall check the ballots against a specimen ballot to see that the correct ballots have been delivered to the polling place. If the ballots are incorrect, the warden shall call the city or town clerk.

(6) Count And Record The Number Of Ballots. Election officers shall count all packages of paper ballots. They shall record the actual number of ballots received in the polling place.

## 51.02: continued

- (7) Set Up Check-In And Check-Out Tables. An election officer shall lay out the voting list and ballots on the check-in table at the entrance. An election officer shall set up the voting list on the check-out table near the ballot box.
- (8) Ballot Box. The ballot box shall be placed away from the door, inside the rail, next to the check-out table so it is available to the voters as they leave the polling place.
- (9) Ballot Clerks. The warden shall appoint two election officers of different political parties to be stationed at the entrance to the voting area. Two other election officers of different parties shall be stationed at the exit from the voting area.
- (10) Ballot Box Empty. The warden shall publicly open the ballot box and examine it. It shall be shown to be empty and the register set at zero to the satisfaction of all election officers and other persons present. The warden shall close and lock the ballot box.
- (11) Election Record. The clerk shall record in the election record:
- (a) the examination and condition of the ballot box,
  - (b) the register number on the ballot box before any ballots are cast, and
  - (c) the actual count of the ballots received.
- (12) Ballot Box Key. The warden shall lock the box and give the ballot box key to the police officer. The officer shall keep the key until the polls close.
- (13) Ballot Box Locked. The ballot box must remain locked or sealed throughout the day, unless the box becomes too full to operate.
- (14) Open on Time. The warden shall open the polls on time if necessary materials are available, even if some things usually done beforehand must be done after the polls open.

51.03: During the Voting Hours

- (1) Declare Polls Open. The warden shall declare that the polls are open.
- (2) Who May Vote. Anyone whose name appears on the voting list shall be eligible to vote. The election officer shall check the supplementary voting list.

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(3) Voter States Name and Address. The voter must announce his address and name to the election officer in charge of the check-in voting list.

(4) Look for the Name on the Voting List. The election officer shall find the name on the list and shall repeat it loudly and clearly. If it is a primary, the election officer shall announce the party as well.

(5) Name Dropped or Listed Incorrectly. If a name of a person claiming to be a voter does not appear on the list or is listed incorrectly, the warden must communicate with the registrars' office to check previous voting lists. If the registrars confirm that the name was omitted from the voting list or a clerical error was made, the warden shall fill out the proper form to certify that person as a voter. The form shall be attached to the voting list and the voter permitted to vote. If the registrars are unable to confirm the registration on the phone, the warden shall direct the voter to go to the registrars' office. If the registration is found to be correct, the city or town clerk shall allow the person to vote immediately on an absentee ballot or the person may return with a certificate to the polling place to vote. If the registrars do not confirm registration, the person cannot be allowed to vote.

(6) Mark the Voting List. The election officer shall check the voter's name by marking it on the voting list. In a primary, the voter shall vote the ballot of the party in which he is enrolled. The officer shall ask unenrolled voters which party's ballot they choose. The officer shall mark a D (Democratic) or an R (Republican) next to the names of unenrolled voters when they choose a party ballot. Election officers shall explain to voters who inquire that they may change their enrollment after voting by filling out a card available at the polls, which must be transmitted to the city or town clerk.

(7) An Election Officer Shall Hand the Voter a Ballot.

(8) Instruction and Assistance to Voters.

(a) Instruct Voters. An election official may answer questions and instruct the voter on the proper method of marking and folding the ballot outside the voting booth using specimen ballots.

(b) Instruction is Different from Assistance. Instruction shall consist of informing the voter of the proper methods of marking a ballot; assistance shall consist of actually voting for the voter. Except as the law permits, a voter must mark his or her ballot in secret.

51.03: continued

- (c) Assistance to Voter. If a voter asks for assistance in casting his ballot due to blindness, physical disability or inability to read or to read English, he may be assisted by a voter of his own choice or if he desires instead by two election officers of different parties.
- (d) Do Not Influence Voter. Election officers shall not in any manner request or seek to persuade or influence any voter to vote for or against any person or political party or ballot question.
- (9) Vote Designated by Cross. A vote should be designated by a cross ("X") in the appropriate space or circle, although any other mark evidencing the voter's intention is permissible.
- (10) Write-Ins. A voter may cast a write-in or sticker vote for a candidate whose name does not appear on the ballot for that office. The voter is not required to mark an "X" beside the name.
- (11) Spoiled Ballots. If the voter spoils a ballot, the voter may return it and ask for another ballot. Voters shall be allowed up to a total of three ballots.
- (12) Spoiled Ballot Envelope. The voter shall return each spoiled ballot to the ballot officer who shall mark it "spoiled" and place it in the spoiled ballot envelope. A spoiled ballot shall not be placed in the ballot box.
- (13) Voter Folds Ballot. The voter shall fold the ballot so that only the face of the ballot bearing the official endorsement signature can be seen.
- (14) Voter Goes to Check-Out Table. Election officers in charge of maintaining the check-out voting list shall ask for the voter's name and address.
- (15) Look for Name on List. The election officer shall find the name on the list and shall repeat it loudly and clearly. If it is a primary, the election officer shall announce the party as well.
- (16) Mark Name on Voting List. The election officer shall check the voter's name by marking it on the voting list. In a primary, the officer shall mark a D or an R next to the name of unenrolled voters, corresponding to the party ballot chosen by the voter.
- (17) Placing Ballots in Ballot Box. The election officers shall ensure that the voter places the ballot face up into the opening of the ballot box. The ballot box clerk shall wind the ballot into the ballot box.

51.03: continued

(18) No One May Take a Ballot from the Voting Place.

(19) One Person per Voting Booth. Only one person shall be allowed in a voting booth except in cases of assistance provided to a physically disabled or blind person or a person who cannot read or who cannot read English.

(20) Time Allowed. Voters shall be allowed five minutes to vote if others are in line and ten minutes if there are no voters waiting. If a line of voters forms, this rule should be enforced equally. If there is no line, election officers may be more lenient.

(21) Number of Voters Allowed. If all the voting booths are filled, no more than four waiting voters shall be permitted inside the guard rail.

(22) Candidates' and their Workers' Rights and Restrictions.

(a) Observers. To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place, outside the guard rail, unless they are disorderly or obstruct the access of voters. They may keep notes including marked voting lists. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. The warden may exclude from the polling place any person who is disorderly or who obstructs the access of voters.

(b) Voting booths clear of campaign literature. Election officers shall check the voting booths regularly to see that no one has left any literature. The polling place must be kept clear of any campaign material.

(c) Campaign material. No campaign literature, buttons, signs or other material regarding the ongoing election may be displayed within 150 feet of the entrance to a polling place. Wearing, distributing and posting of material about candidates or questions on the ballot, and collecting signatures upon petitions or nomination papers shall not be permitted in the polling place or within 150 feet of it. The police officer shall enforce this rule as directed by the warden. Access to the polling place must be open and unobstructed and the voters may not be hindered.

(23) Challenges.

(a) Challenges of the Right to Vote. Any election officer or other person may challenge a person's right to vote. The challenger may challenge an absentee ballot as well. The challenger must state the reason for challenging the right of a person to vote, for example:

51.03: continued

this person is not old enough to vote; this person is not a citizen; this person should have been removed from the voting list; this person has already voted; this person is not the person he claims to be.

(b) Illegal Challenges. Challengers should be aware that any person challenging a voter for the purpose of intimidation or of ascertaining how he voted may be fined up to \$100.

(c) Challenge Procedure. Election officers shall not permit the challenger and the voter to engage in any arguments. If a voter is challenged, the warden shall administer the following oath to the challenged person:

"You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct, and that you have not voted in this primary (or election)."

The warden shall require the challenged person to write his name and present residence on the outside of the ballot. (If it is an absentee ballot, the warden shall insert this information.) The warden shall add the name and address of the challenger and the stated reason for the challenge, and the voter may cast the ballot in the ballot box. No statement shall be made or information given by any person as to how the person voted. The clerk of the precinct shall record in the clerk's election record the name and residence of every person who is challenged and has voted. The election officers in charge of the voting list shall mark the letters "CV" next to the challenged voter's name on the voting list.

(24) Only the Following Personnel Are Permitted Within Guard Rail:

- (a) Election officials
- (b) Voters in the process of voting
- (c) Police officers with the permission of the warden
- (d) Representatives of the Clerk's Office

(25) Information by Election Officers Prohibited. Before the public declaration of the vote, no election officer shall make any statement regarding the number of ballots cast, the number of votes given to any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls. But, if requested, the officer shall make a statement of the

51.03: continued

figures on the ballot box register. That statement shall not be considered an official declaration as to the state of the polls or of the number of ballots cast.

(26) Opening of the Ballot Box. The ballot box shall not be opened nor any ballot removed until the polls are closed; but in order to make room for more ballots, the warden may, in the presence of all the election officers, open the box and press down on the ballots in it. If the ballot box is too full to operate, the warden may, in the presence of a police officer, remove the ballots from the ballot box in convenient packages and place them in the fiberboard or other container which shall then be securely locked and kept in public view. No ballots may be counted until the polls close. If the ballot box becomes impossible to use, the warden shall establish a substitute box, which shall be kept in public view under the same security as the original ballot box; the clerk shall record a statement of the event and of the reason in the election record, and shall also include this statement in the envelope with the ballots cast.

(27) Processing Absentee Ballots.

(a) Deliver Absentee Ballots. The absentee ballots shall be delivered during the day, not later than one hour after the polls close.

(b) Warden Shall Process Absentees. The warden may process absentee ballots whenever there is free time, from the time the polls open in the morning and throughout the day.

(c) Absentee Ballots to be Processed. The city or town clerk and not the election officers shall determine the validity of the vote cast by absentee ballot. If the ballot is transmitted to the polls, election officers shall process it through 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 absentee ballot envelope is on the voting list. Election officers must inform the city or town clerk if the name does not appear on the voting list.

(d) Mark the Voting List. The letters AV or SAV shall have already been written in front of the absent voter's name. A mark shall be made beside the name of the voter to indicate that the vote has been cast. An election officer shall announce the name and address, and party in a primary, of each absentee voter.

(e) Open Ballot Envelope. Election officers shall open the ballot envelope carefully so as not to deface, mark or tear the ballot or

51.03: continued

the ballot envelope. Election officers shall place the ballot envelopes in the proper container.

(f) 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 put in the spoiled ballot envelope along with other rejected ballots.

(g) Challenging of Absentee Ballots. In the precinct, if an absentee ballot is challenged when cast, the name and address of the absent 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 clerk'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.

(h) Remove Ballot and Place in Ballot Box. The warden shall remove each ballot from its envelope without unfolding or examining it. The warden shall present the ballot to the ballot box officer who shall wind it into the ballot box face-up with the name of the community, ward and precinct showing. The envelope shall be kept separate.

(i) Absentee Ballot Envelopes Shall Be Returned to the Election Authority.

(28) Absentee Voters Who Seek to Vote in Person. If any person who has been sent an absentee ballot tries to vote in person at the election, election officers should see the letters AV or SAV opposite his name on the voting list. This person must present a certificate obtained from the city or town clerk authorizing him to vote in person. The warden shall securely attach the certificate to the voting list and shall duly note that the voter in fact voted in person. If no certificate is presented, election officers must refuse to let him vote and shall refer him to the city or town clerk.

(29) "Federal Service Personnel" Who Register Late. A serviceman, or person in the service of the federal government, or spouse or dependents, or U.S. citizens who have been living out of the country, who have returned since registration closed for an election, can be registered by the registrars of voters until 4:00 p.m. on the day before the election. Since it is too late to add their names to the voting lists, the registrars are to give them a certificate entitled "Supplementary Registration - Federal Service Personnel". This certificate of registration shall be given to the warden at the polling place, and it shall be attached to the voting list. If the federal service personnel are applying for absentee ballots, the certificate shall be

## 51.03: continued

attached to the voting list before it goes to the precinct, and the procedure on election day shall be the same as for a regular absentee voter.

(30) Announce the Polls Closed. An election officer shall announce that the polls are closed at the designated time. Each person in line when the polls close must be allowed to vote. If possible, all waiting voters shall be inside the polling place. The police officer shall be directed either to stand at the end of the line and move along toward the inspector until the last person eligible has voted, or to hand out certificates stating that the person was in line when the polls closed.

51.04: After the Polls Close

(1) Votes Counted Continuously. The counting of votes takes place in the polling place. The counting shall continue without interruption until all the votes are counted and the results are announced.

(2) Public May Observe Counting. The general public must be allowed inside the polling place after the polls close. The public must observe from outside the guard rail. Only election officers may handle ballots. All ballots cast must be kept in full view of the public while the counting is going on and until they are sealed in the box provided.

(3) The Clerk Shall Record the Final Ballot Box Register Number in the Election Record.

(4) Take Count of Voters on Both Voting Lists. The election officers in charge of each of the two voting lists shall count audibly and distinctly the number of names checked and shall announce the total number. The clerk shall record the numbers in the election record.

(5) Seal Checked Voting Lists in Envelope. After tallying the voting lists, an election officer shall place the tallied voting lists in the envelope provided for that purpose. The election officer shall seal the envelope. The warden and clerk shall sign the certificate. This envelope shall be kept separate.

(6) Open Ballot Box and Remove Ballots. The warden shall unlock the ballot box with a key received from the police officer. The warden shall remove all cast ballots in the presence of other election officers.

(7) Election Officers Shall Separate the Ballots into Convenient Blocks. In a primary, election officers shall first divide the ballots by party, and then shall separate each party's ballots into convenient blocks, as designated by the city or town clerk. They shall not open the ballots while separating them.

51.04: continued

(8) Count by Teams. Two tellers of different parties shall make a team; both shall view each ballot. One person shall read the vote, and the other shall record the tally. Only the teller actually marking the tally sheet shall have any marking device which must be a red pencil or red pen.

(9) Blocks of Ballots. Each team shall receive a block of ballots, the corresponding block tally sheet, and a long manila envelope. The envelope shall have a block number and D or R on the front if it is a primary.

(10) One Teller Reads Ballots Aloud. Tellers shall count each ballot in its entirety before proceeding to the next ballot. They shall begin with the office at the top of the ballot, reading aloud the names of the candidates selected by the voter. They shall continue reading each office aloud in turn. They shall count all offices on one ballot, and then proceed to the next. They shall keep the ballots in the order counted.

(11) Acceptable Method of Recording Votes. Tellers shall use red pencil or red pen. A teller shall read ballot #1 and a marker shall record all votes for selected candidates or blanks in column #1. A teller shall read ballot #2 and a marker record the vote in first vacant consecutive space on the tally sheet for that candidate. Counting shall continue one ballot at a time working to the right using consecutive boxes as selected candidates are called until the entire stack of ballots is completely tallied.

(12) Alternate Method of Recording Votes. Tellers shall use red pencil or red pen. A teller shall record votes in the space corresponding to the order in which the ballot appears in the block. A teller shall read ballot #1 and a marker shall record all votes for selected candidates or blanks in column #1. Teller shall read ballot #2 and a marker shall record all votes for selected candidates or blanks in column #2. Counting shall continue one ballot at a time working to the right using the box corresponding to the order of the ballot within the block.

(13) Tally Blank Votes. If a voter does not cast a vote for a candidate, that vote for that office is tallied as a blank. If there is more than one position to be filled, there must be a vote tallied for a candidate or for a blank so that the total tally for that office shall equal the number of positions to be filled. If a vote for an office is spoiled or defective, it also shall be tallied as a blank. Each vote shall be recorded either in a candidate space or in a space for blanks on the tally sheet.

(14) Total the Tally Marks for Each Office. The tellers shall record the total number of tally marks in each line for each candidate for

51.04: continued

each office. They shall total all candidates' votes and blank votes in each office. For example, if one person is to be elected, the sum of the votes for the candidates plus the blanks should equal fifty when counting a block of fifty ballots. If two persons are to be elected to an office then all the votes plus the blanks should equal 100 in blocks of fifty ballots. The last block counted may be incomplete and so may contain fewer votes.

(15) Tellers Sign Blocks. After completing and agreeing to the totals, both tellers shall sign their block tally sheet and block envelope. They shall place the ballots and the tally sheet in the manila ballot envelope and shall return it to the clerk.

(16) Count All Valid Ballots. All ballots shall be counted accurately as marked. A ballot may not be rejected for any technical error if it is possible to determine the voter's choice. All votes should be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves.

(17) Invalidating Marks. Election officers shall not count a ballot containing any mark clearly designed to let election officers know that a certain person voted in a certain way. If a voter writes his name or marks his ballot with the letters of his name, these are distinguishing marks which identify a voter. In that case, the tellers shall count a blank vote for every office and question on such a ballot.

(18) Over-Voted Offices. No votes shall be counted for an office if a voter marks more candidates than are to be elected. An over-vote shall be tallied as a blank vote, but the remaining valid votes for other offices on the ballot shall be counted.

(19) Write Ins. A write-in or sticker vote shall be counted whenever the intent of the voter can reasonably be determined, whether or not the voter has omitted the address or has made a mistake in the name or address of the candidate.

(20) Completing the Tallies. The clerk and warden shall have the results of each block of ballots entered on the total tally sheet.

(21) Add Total Tally Sheet. The clerk and warden shall have the columns on the total tally sheet added to ascertain each candidate's total vote.

(22) Warden and Clerk Sign Total Tally Sheet. After the total tally sheet is correct, the warden and clerk shall write the date, ward and precinct and city or town on the tally sheet.

(23) Clerk Shall Complete Election Record.

51.04: continued

(24) Announce Final Returns. Officials shall wait until tally sheets balance before announcing any vote totals. The warden or the clerk shall announce the final returns.

(25) Count Spoiled Ballots. The number of ballots spoiled by voters and returned during the day, and those marked during the counting process as spoiled, shall be noted in the clerk's Election Record.

(26) Count Unused Ballots. Election officers shall count all unused ballots. The clerk shall note in the Election Record the number and party of unused ballots.

(27) Spoiled and Unused Ballots. Election officers shall place the spoiled and unused ballots in the container provided under seal.

(28) Gather All Counted Ballots. Election officers shall put all cast ballots in their block envelopes. They shall place all block envelopes in the containers provided for the cast ballots.

(29) Seal Container. The warden shall seal the container with the seal provided and shall attach the proper tag for cast ballots only. In addition, an election officer may affix a private seal.

(30) Sign Cast Ballot Container. The warden and clerk shall sign the container and shall enter the election and the date. They also shall fill out and sign a certificate stating that all ballots cast are contained therein.

(31) Total Tally Sheets. The warden and clerk shall place the total tally sheet in an envelope, seal it and sign the outside of the envelope. This envelope shall be kept separate.

(32) Return All Election Materials. The election officers shall have all election materials returned to the city or town clerk, as follows:

(a) the counted ballots and the spoiled and unused ballots sealed in the proper containers;

(b) the marked voting lists and the total tally sheet in separate envelopes;

(c) all other election supplies.

The election officers shall not throw anything away.

(33) The Warden Shall Keep Ballot Box Keys Separate.

REGULATORY AUTHORITY

950 CMR 51.00: M.G.L. c. 54, s. 37.



OFFICE OF THE SECRETARY OF THE COMMONWEALTH

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REGULATION FILING AND PUBLICATION FORM

- 1. REGULATION CHAPTER NUMBER AND HEADING: 950 CMR 50.00: VOTING EQUIPMENT

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- 2. NAME OF REGULATING AGENCY: Department of the State Secretary

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- 3. READABLE LANGUAGE SUMMARY: (Categories of persons, organizations, businesses affected, general purposes and requirements of regula

This regulation affects voting equipment manufacturers and vendors, candidates at elections and their workers, and in general anyone who votes in an election in Massachusetts. The regulation governs approval of types of voting equipment, such as lever voting machines, punch card devices, or ballot boxes, by the Secretary of State. It establishes standards, schedules, and procedures for approval of this equipment. It also contains general provisions applicable to all the regulations on voting equipment and procedures.

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- 4. AGENCY CONTACT FOR ADDITIONAL INFORMATION: David E. Sullivan Legal Counsel  
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*Michael Joseph Connolly*  
 MICHAEL JOSEPH CONNOLLY  
 SECRETARY OF STATE  
 DATE 5/18/79 CLERK TM

950 CMR is amended by adding the following chapter:

950 CMR 50.00: VOTING EQUIPMENT

Section

- 50.01 General Provisions
- 50.02 Standards
- 50.03 Submission and Approval Schedule
- 50.04 Submission and Approval Procedure
- 50.05 Monitoring Performance

50.01: General Provisions

This section applies to 950 CMR 50.00 through 55.00.

(1) Definitions. Terms shall have the meanings provided in G. L. ch. 50, s. 1. In addition:

(a) "Electronic voting system" means any system for casting or counting ballots which uses electrical or electronic tabulating equipment, or which uses special marking inks or punch card devices in the marking of ballots.

(b) "Secretary" means the state secretary.

(c) "Voting machine" means any mechanical or automatic device for casting and counting votes which is not part of an electronic voting system.

(2) Application. These chapters apply to all primaries, preliminary elections, and elections, referred to collectively as "elections", except to the extent provided otherwise. 950 CMR 51.00 applies where paper ballots are used; 950 CMR 52.00 where AVM voting machines are used; 950 CMR 53.00 where Shoup voting machines are used; and 950 CMR 54.00 and 55.00 where electronic voting systems which use punch cards are used.

(3) Effective Date. These chapters are effective as soon as publication occurs in the Massachusetts Register, under G. L. ch. 30A, s. 6, but they shall not apply to town elections held before June 1, 1979.

(4) Amendment. These chapters may be amended at any time in the manner provided by law. Any interested person may petition the Secretary requesting the adoption, amendment, or repeal of any regulation, under G. L. ch. 30A, s. 4. This petition shall be considered by the Secretary within thirty days after filing.

(5) Authority. These chapters are promulgated under authority of G. L. ch. 54, s. 37.

## 50.02: Standards

The Secretary shall determine the approved types of voting equipment based on compliance with the minimum requirements for this equipment imposed by law and the ability of this equipment to further the efficient administration of elections. Specifically:

(1) Equipment actually used to vote shall be simple and convenient to use:

(a) A reasonable and average person should be able to operate the equipment after a brief demonstration or explanation.

(b) Voting an average ballot on the equipment shall not take an undue length of time.

(c) Safeguards such as indicator devices or markings must be employed so as to allow the voter to examine the choices he has made and ensure that the correct choices have been indicated. The voter shall have the ability to change a vote either by resetting the device or by obtaining as many as two new ballots until the time when the final vote has been registered either by pulling a lever or other device or by turning the ballot in to election officials.

(d) If ordinary lighting is inadequate, special lighting must be supplied.

(e) Voting machines shall be equipped to permit the insertion of four-inch wide ballot labels for display of ballot questions.

(2) Equipment shall be designed so as to maximize accuracy and prevent fraud:

(a) There shall be a sufficient number of locks and seals to prevent tampering with the counters or other mechanisms.

(b) Voting machines shall have the following counters:

1. public counter - the counter or other device that registers each time the machine is operated during the election and shows the number of persons who have voted on that machine in that election.

2. protective counter - the counter or other device which registers the total number of times the machine has been operated in its lifetime.

3. vote counters - the counters which numerically register the votes cast for candidates and on questions to voters.

4. vote indicators - the pointers or other devices by which are indicated the votes for candidates or on questions to voters.

50.02: continued

- (c) Ballot boxes shall contain mechanical devices for receiving, registering, and cancelling every ballot deposited in them, but no ballot box shall record any distinguishing number or mark on a ballot, other than the identity of the ward or precinct.
  - (d) Devices used in a punch-card electronic voting system must contain a mask and template containing at least 235 positions.
  - (e) Devices shall be present in voting machines that can prevent the machines from being used to register votes before and after the election, or provide a means for detection of such use.
  - (f) Special regard must be given to the prevention and detection of double voting.
  - (g) Special regard must be given to the prevention and detection of voting for candidates of more than one political party at a primary election. All voting machines used in primary elections shall be equipped so that election officers can adjust the machines to prevent voters from voting for candidates of any party in which they are not enrolled. Similar safeguards must be provided for electronic voting devices.
- (3) The minimum standard for secrecy in voting shall be that afforded by the use of paper ballots.
- (4) Equipment must be adequate to the demands of an average election.
- (a) Equipment capacity must be such as to accommodate a reasonable number of candidates and offices on a ballot. Voting machines not in use as of April 3, 1979 must contain spaces for at least fifty candidate names in a single row or column, unless: (i) machines are purchased solely for the purpose of replacing less than a majority of the machines in a city or town which already uses only the same type of machines containing fewer spaces, or (ii) the construction of the machine permits the names of candidates and questions to be arranged in the same format as on the official paper ballot.
  - (b) A recount of votes cast for each candidate and on each question shall be possible.
  - (c) Space must be provided where the voter may indicate a write-in or sticker vote if desired.
- (5) The Secretary for state elections, and the city or town clerk for city and town elections, shall determine whether absentee ballots used with punch-card systems shall be punch-card ballots or paper ballots.

## 50.02: continued

- (6) Equipment must be accompanied by availability of service by the manufacturer or other persons.
- (7) Equipment must be judged sturdy and reliable and able to withstand regular use at elections for at least a decade.
- (8) The Secretary may take into account any other factors which he considers relevant pursuant to statutory and regulatory mandates.
- (9) Nothing in these regulations shall be interpreted as removing from the city or town the obligation to test individual pieces of approved types of voting equipment to ensure compliance with these standards.

50.03: Submission and Approval Schedule

The Secretary shall decide whether to approve all types of voting equipment according to the following schedule:

- (1) Equipment used as of April 3, 1978:
  - (a) Equipment must be submitted to the Secretary for approval by April 3, 1979.
  - (b) The Secretary shall approve or disapprove this equipment by April 3, 1980.
- (2) Equipment not in use as of April 3, 1978:
  - (a) Equipment must be approved by the Secretary before it may be used.
  - (b) The Secretary shall make and file his report in his office, together with a written or printed description and drawings and photographs clearly identifying the equipment, within thirty days after the time of submission.

50.04: Submission and Approval Procedure

Submission of voting equipment to the Secretary consists of:

- (1) Submission of detailed specifications.
- (2) Office demonstration of the equipment.
- (3) Field test in at least two elections in one or more communities according to the discretion of the Secretary.

50.04: continued

These requirements may be modified at the Secretary's discretion. In all of this procedure the Secretary shall determine whether the equipment meets the standards for voting equipment as specified in 950 CMR 50.02. The Secretary subject to appropriation may employ not more than three individuals who are experts in one or more of the fields of data processing, mechanical engineering and public administration to help him make this determination.

50.05: Monitoring Performance

The Secretary shall monitor the performance of all approved voting equipment, and may for this purpose have representatives observe its use at elections in various cities and towns. If at any time the Secretary decides after a public hearing that any equipment does not conform with the requirements of law and of this chapter, he may revoke his approval of that equipment. He shall file a written report to that effect, and shall notify all interested city and town clerks. Revocation shall not prevent the continued use of previously approved equipment in cities and towns where it is then in use, but a city or town not then using or under contract to buy the equipment may not purchase it in the future.

REGULATORY AUTHORITY

950 CMR 50.00: M.G.L. c. 54, s. 37.



# The Commonwealth of Massachusetts

Secretary of State

MICHAEL JOSEPH CONNOLLY  
SECRETARY OF STATE  
STATE HOUSE - BOSTON 02133  
727-2800

May 22, 1979

Mr. Paul Healy  
City Clerk  
City Hall  
Cambridge, MA 02139

Dear Mr. <sup>Paul</sup> Healy:

Over the past several months, my office has been active in working with you and the legislature on the rules and regulations affecting voting equipment and procedures. It has been a useful give and take, and I believe we have reached consensus on their value and validity. Therefore, on May 18, I signed the attached copy of the rules and regulations on voting equipment and procedures. These regulations go into effect on May 24, but as you know, do not apply to any town elections held before June 1, 1979. I am enclosing an initial chapter on voting equipment approval as well as the chapter on voting procedures for the type of equipment used in your community. The chapters for other types of equipment are available on request.

I believe these regulations provide you with the discretion you need to deal with local situations while at the same time providing necessary uniform standards. They parallel the present election law but arrange provisions into chronological order for your convenience and include important clarifications of the law. I think you will find them helpful in outlining clear, simple procedures for your election officers and in resolving disputes about legal interpretations before they reach the courts. If you have any questions about these regulations, please contact David Sullivan in the Elections Division at (617) 727-2828.

I realize we may not agree on every matter, but I would like to thank you for working long and hard with my office over the past several months in coming up with these regulations. I know you gave a great deal of time and thought in reviewing the regulations, and for our part, we incorporated your comments wherever possible.

I believe together we have taken a strong and positive step towards improving the elections process. I believe we have an exciting opportunity ahead, and I look forward to working closely with you over the coming years.

Sincerely,

Michael Joseph Connolly  
Secretary of State

MJC/wpc  
Enclosure

*P.S. I enjoyed talking with you  
and appreciated your interest.*

S-325

15.

Comm. from Paul E. Healy, City Clerk, transmitting one from Michael J. Connolly, Secretary of State, re: rules and regulations affecting voting equipment and procedures.

In City Council,  
June 4, 1979

REFERRED TO ELECTION COMMISSION 6/4/79

*copy sent 6-6-79*