



The Commonwealth of Massachusetts

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Elections Division

Election Advisory #22-01

Changes to State Election Laws

June 23, 2022

The purpose of this Advisory is to familiarize local election officials with changes to state election laws that will impact the 2022 State Primaries and State Election, as well as upcoming local elections.

This Advisory includes a first-glance summary of changes that will directly affect how you, as a local election official, will carry out your duties. Additional information and specifics will be provided in the coming weeks and months, as different aspects of the new law go into effect and as new regulations are promulgated.

The VOTES Act

On June 22, 2022, an election reform law titled “The VOTES Act” was signed into law. Among other things, the VOTES Act makes several of the temporary changes from the pandemic permanent, so many of these policies and procedures will be familiar to those of you administering elections in 2020. The new law also makes the absentee voting process and early voting by mail processes consistent.

Voter Registration Deadlines

Beginning July 22, 2022, the voter registration deadline for all elections and town meetings will be 10 calendar days before the date of the meeting or election.

Local election officials will still be required to hold in-person registration sessions on the last day to register to vote, which for any Tuesday election will now be a Saturday, but the registration session will end at 5 p.m. instead of 8 p.m.

For cities and towns with more than 1,500 voters, the registration session must be held from 9 a.m. until 5 p.m. For towns with fewer than 1,500 voters, the registration session must be held from 9 a.m. until 11 a.m. and from 3 p.m. until 5 p.m.

Poll Worker Appointments

Effectively immediately, there is additional flexibility for the appointment of poll workers.

If, six weeks before an election, it is determined that there are not enough election officers appointed, the appointing authority (board of selectmen, city council, board of election commissioners) may appoint poll workers without regard to political party affiliation, voter registration status, residence, or inclusion on a list from a local party committee.

If, three weeks before an election, there are still not enough poll workers appointed, the clerk will be able to fill vacancies by appointing any competent person, without regard to party, residence, or a list from a local party committee.

Further, you now have the option to eliminate the use of a check-out table if you choose to do so. If you do not use a check-out table, however, you must still have a poll worker stationed at the ballot box.

If poll workers are appointed without regard to party affiliation, the inspectors at the check-in table (and check-out, if used) cannot be of the same political party. If poll workers are appointed from lists from the parties, the inspectors must be of different political parties.

Police Officer Assignments

Effective immediately, the law regarding assignment of police officers at polling places is amended to require the board of selectmen, town council, or city council to assign police officers and constables to polling places. Previously, this was the responsibility of the chief of police.

Since this change is taking effect before the primaries, you will need to communicate with your selectmen or council to make sure they detail officers at a summer meeting before September.

Vote by Mail

Effective immediately, early voting by mail must be available for all state elections, state primaries, and presidential primaries.

Early voting by mail is also required for all local elections and preliminaries, unless the city or town opts out. In order to opt out of Vote by Mail for a local election, the selectmen, city council, or town council must hold a public hearing and public roll call vote to NOT allow Vote by Mail no later than 45 days before the date of the election. Cities and towns cannot opt out of Vote by Mail for a local election if the election is happening on the same day as a state election, state primary, or presidential primary.

Applications

As in 2020, the Elections Division will be mailing Vote by Mail applications at least 45 days before every regular state primary, state election, and presidential primary. The applications will be sent to everyone registered to vote by the 60th day before the election who has not

already applied for a ballot. The applications will be pre-addressed to the local election office and postage pre-paid.

Unlike previous years, family members are now allowed to request an early Vote by Mail ballot on a voter's behalf, as they currently can with absentee ballots. Similarly, family members are now permitted to return an early Vote by Mail ballot for the voter as well.

Applications to Vote by Mail must be posted every city and town website, as well as on the Secretary of the Commonwealth's website.

Any form of written communication requesting a ballot is sufficient. Applications may be signed electronically, as long as the signature is written in substantially the same manner as a hand-written signature.

Effective immediately, you are required to include Vote by Mail applications with all acknowledgement notices sent to any new voter or anyone who has changed their address. Note that unlike 2020, these applications must be sent all year round, and not only to voters who register or move after the statewide application mailing has been sent.

Online Portals

The Elections Division will also be required to establish an online ballot request portal for voters to use to request their ballots online. The law states that a wet signature cannot be required for this portal. Additional information on the portal will be provided after the Secretary's Information Technology Division is able to examine the requirements in the law.

A portal for UOCAVA voters to request their ballots and submit ballots electronically will also be required, though that part of the law does not go into effect this year. More information on that will be provided after the 2022 elections.

Application Deadlines

The deadline to receive a request for any ballot (early or absentee) to be mailed is now 5 business days before the election. A business day is any weekday that is not a legal holiday, so this will typically fall one week before Election Day.

For the September 6th State Primary, because Labor Day is not a business day, the deadline for you to receive vote by mail applications is 5 p.m. Monday, August 29th.

For the November 8th State Election, the deadline for you to receive vote by mail applications is 5 p.m. Tuesday, November 1st.

No ballots can be mailed to any voter whose application has not been received by 5 p.m. on the 5th business day before the election. Remember, however, that in-person early voting is still available until the Friday before the election for applicable elections and in-person absentee voting is still available until noon on the day before the election (if that day isn't a holiday).

Additionally, voters admitted to a health care facility after 12pm on the 7th day before the election can request a hand-delivered absentee ballot up until the close of polls.

Accessible Vote by Mail

Effective immediately, voters who have a disability which prevents them from being able to independently mark a paper ballot are allowed to request a reasonable accommodation. Additional information on accessible voting by mail will be forthcoming.

Ballot Envelopes

Return ballot envelopes (AV-8s) for state primaries, state elections, and presidential primaries are now pre-addressed and postage pre-paid.

This means that any AV-8 return ballot envelopes provided by this office need to be printed specifically for your community. It will be very important for you to be aware of your inventory and provide as much notice as possible to the Elections Division if you are running low.

Ballot Return

For most elections, all ballots will still have to be returned by close of polls on Election Day. Beginning with the 2022 State Election, ballots will be able to arrive up to 3 days after Election Day for biennial state elections only. This means that ballots mailed from inside the country can be counted if they are postmarked by Election Day and received by 5 p.m. on the Friday after Election Day. Again, this is only for biennial state elections, which are the November federal elections held in even-numbered years.

This year, because the Friday after the election is a holiday, the deadline for ballots to be received is 5 p.m. on Saturday, November 12th. We realize this deadline creates logistical issues and we are in the process of exploring our options. More information will be provided as soon as we have it.

Ballots returned by hand, to a drop box, or electronically still need to be received by your office by close of polls on Election Day for all elections.

Ballot Processing

Similar to 2020, you now have the option of advance removing ballots from their envelopes and advance depositing ballots into the tabulator or ballot box ahead of Election Day. All ballot removal and depositing before Election Day will still need to happen in public sessions. The Elections Division will be issuing regulations, likely similar to those used in 2020, on advance processing and more information will be provided when that happens.

Deceased Voters

Since ballots will begin to be processed before Election Day, the law prohibiting counting the ballot of anyone who dies before Election Day has been repealed. A voter's ballot can be counted as long as the voter was alive when it was cast, which means as of the postmark date or when it was hand-delivered or deposited into a drop box.

In-Person Early Voting

In-person early voting must now be offered for all regular state primaries, state elections, and presidential primaries. It must also be offered for special elections and primaries to fill vacancies for U.S. Senate or Congress. In-person early voting must also be held for any municipal elections being held on the same day as one of the above listed elections.

In-Person Early Voting Dates

In-person early voting for biennial state elections must be held from the 17th day through the 4th day before the election. In 2022, the early voting period for the November 8th State Election will begin on Saturday, October 22nd and end on Friday, November 4th.

Early voting for state and presidential primaries will begin on the 10th day before the primary and end on the 4th day before the primary. Early voting for the September 6th State Primary will begin on Saturday, August 27th (the same day as the voter registration deadline) and end on Friday, September 2nd.

In-Person Early Voting Hours

The requirements for early voting hours have changed to require weekend hours and set standards for weekday hours. Please note that these are minimum hours and you can always increase the in-person early voting hours.

On weekends, the number of hours you must be open depends on the number of registered voters in your community. The required minimum hours for weekends are:

Number of Voters	Required Weekend Early Voting Hours
0 - 4,999	At least 1 day per weekend At least 2 hours each day you are open At least 4 hours total each weekend
5,000 – 24,999	At least 1 day per weekend At least 3 hours per day you are open At least 6 hours total each weekend
25,000 – 39,999	At least 4 hours each weekend day
40,000 – 74,999	At least 6 hours each weekend day
75,000+	At least 8 hours each weekend day

For weekdays, the required minimum early voting hours will vary depending on the size of your community and at what point it is during the in-person early voting period. By default, the early voting hours are during your regular business hours; however, your city council, board of selectmen, or town council may have the option to limit early voting hours on certain days, if your community is small enough.

The required weekday early voting hours are:

Number of Voters	Required Weekday Early Voting Hours
0 - 4,999	At least 25% of regular business hours
5,000 – 39,999	Primary: Regular business hours State Election: Week 1: at least 50% of regular business hours Week 2: Regular business hours
40,000+	During your regular business hours

In order to limit your early voting hours, your board of selectmen, city council, or town council will need to vote to do so at a public meeting held no later than 20 days before early voting begins. For the November 8, 2022 State Election, the deadline to take that vote is Sunday, October 2, 2022.

Early Voting Locations

Minor changes have been made to the law regarding the designation of early voting sites. As has been the case previously, your local election office is the default early voting site in your community. If your office is determined to be unsuitable or inaccessible, the registrars must vote to hold early voting in a different location. You can also designate additional early voting locations, which must also be accessible.

When assigning early voting sites, your city or town must now consider, to the extent feasible, diverse geographic locations and whether the sites would have an impact on access to the polls on the basis of race, national origin, disability, income, or age. Unlike the assignment of polling places in 2020, no written report on the impact of the early voting locations is required.

Your early voting sites must be designated no later than 2 weeks before early voting begins.

Notice Requirements

You will also need to publish notice of the locations and schedule for early voting at least 5 business days before early voting begins and at least once during the early voting period.

Notice must be posted: in your office or on the city/town bulletin board; in any other public building considered necessary; on the city/town’s website; and on the Secretary’s website. Remember, you need to enter your hours and locations into VRIS (or notify the Elections Division by email, if that VRIS screen is locked) for them to be posted on our website.

The deadlines for early voting posting for 2022 are:

State Primary

Designate Early Voting sites & schedule: Saturday, August 13, 2022

Post 1st Notice: Monday, August 22, 2022

Post 2nd Notice: August 27 – September 2

State Election

Designate Early Voting sites & schedule: Saturday, October 8, 2022

Post 1st Notice: Monday, October 17, 2022

Post 2nd Notice: October 22 – November 4

Local Elections

For local elections, cities and towns may choose to have in-person early voting. To opt-in to early voting for local elections, at least two registrars need to recommend it, and the board of selectmen, town council, or city council must then vote to authorize in-person early voting.

The vote to opt-in to early voting must take place no later than 5 days before early voting would begin, and must include the early voting schedule. Early voting can begin no earlier than the 17th day before the election or preliminary and can end no later than 2 business days before the election. Early voting for local elections default to your usual business hours, unless the vote specifies otherwise.

Sites for early voting for local elections will be designated by the clerk. The location(s) and early voting schedule must be posted no less than 48 weekday hours before early voting begins.

150 Foot Rule

Beginning with early voting for the September 6th State Primary, the 150 foot rule prohibiting campaigning around polling places will be extended to early voting sites as well. This means that there shall be no campaigning for or against a candidate or question on the ballot for that election within 150 feet of the entrance to the early voting site during voting hours. Signature gathering of any kind will also be prohibited during the voting hours.

Jail-Based Voting

While voters who are incarcerated for a reason other than a felony conviction can already vote by absentee ballot, the new law contains provisions to make voting easier for those who are incarcerated, including adding requirements to correctional facilities to distribute information. Changes to jail-based voting take effect at the beginning of 2023 and more information will be provided after the 2022 elections.

Automatic Voter Registration

Beginning on January 1, 2023, applicants at the RMV will no longer have the option to opt out of automatic voter registration. Instead, the RMV will be required to transmit the names and

addresses of all ***eligible citizen*** applicants to local election officials for voter registration purposes.

Applicants who are automatically registered to vote will now be allowed to decline registration only after receiving the acknowledgment notice you send to them.