



The Commonwealth of Massachusetts

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Elections Division

Election Advisory #22-05

Regarding Advance Processing of Early Voting and Absentee Ballots

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Under the VOTES Act, both early voting and absentee ballots can be advance processed. The purpose of this Advisory is to provide instruction and best practices with respect to advance processing of early voting and absentee ballots. This Advisory details the steps that must be taken when ballots are returned by mail and provides further guidance on the requirements for advance processing, which will allow election officials to either open and separate ballots from their envelopes, to deposit the ballots into a tabulator or both.

Please remember that all early voting and absentee ballots must be sealed into an inner affidavit envelope by the voter. Neither the law or regulations allow for a voter to directly deposit their early voting or absentee ballot into a tabulator. Both mail-in and in-person early ballots may be advance processed.

PROCESSING AN ABSENTEE OR EARLY VOTING BALLOT RECEIVED BY MAIL

Regardless of whether you will be advance processing early voting and absentee ballots, upon receipt of an absentee or early voting ballot envelope by mail, you must follow the steps below:

1. Open the outer envelope (AV8);
2. Time stamp the inner envelope (AV7 or EV7);
3. Update VRIS with date received;
4. If the AV7 or EV7 is missing a signature or otherwise deficient, you must reject the ballot, notify the voter and send the voter a new ballot, if time allows.
 - a. In VRIS, you must reject the ballot, select the reason and then enter the date the new ballot was sent.

- b. On the ballot envelope, you must write “Rejected as Defective.” You must then retain and securely store the ballot preserved in the inner envelope, but it should be stored separately from accepted ballots.
5. If the ballot is accepted, you must update VRIS with the date the ballot was received and that it was accepted.
 - a. You must then retain and securely store the AV-8 and AV-7 or EV-7, which may be stored separately.

ADVANCE REMOVAL AND ADVANCE DEPOSITING OVERVIEW

Advance removal is the opening of the inner envelope and separating the ballot from that envelope prior to election day.

Advance depositing is the placing of the ballot which has already been advance removed into a tabulator prior to election day. Advance depositing functionally operates almost the exact same way as central tabulation facilities.

NOTE: You can advance remove without advance depositing. If you intend to advance deposit, you must first follow the process for advance removal.

Regardless of whether you decide to advance remove only (separate ballots from the envelopes) or to deposit those ballots into your tabulator, there are certain requirements that must be met for notice, record keeping and storage. The requirements for both are set forth below.

Notice Requirements: Notice of advance removal and/or advance depositing of ballots must be posted on the municipal website and notice provided to the state secretary at least two business (2) days before each day of advance removal.

- Notice must include the date, start time and location of advance removal.
- Both the advance removal process and advance depositing process must be open for public observation.

Record Keeping Requirements: A full record of advance removal and advance depositing shall be kept for each session. The record shall be kept by precinct and shall include:

- The number of ballot envelopes being processed for each precinct, and in a primary the number per party;
- The number of ballot envelopes accepted;
- The number of ballot envelopes not accepted; and
- The number of ballot envelopes rejected.

For primaries, each of the above must be recorded by party.

Storage Requirements: Before, during and after advance removal and advance depositing, ballots and envelopes must be securely stored.

- Ballots and envelopes must be stored, secured and labeled by precinct.
 - For the primary, ballots must be stored by party as well.
- Ballots for each advance processing session must be stored and labeled separately with the applicable date.
- The AV-8 envelopes can be stored separately and do not need to be brought to an advance processing location.

ADVANCE REMOVAL

When: Advance removal of ballots may begin as early as nine (9) days prior to election day and can continue until the day before the election.

Ballots are only eligible to be advance removed on the day following receipt at the earliest and only after being recorded in VRIS as received. No ballot can be advance removed on the same day it is received.

Where: Advance removal of ballots can only be done in an accessible location that has public access. Observers must be allowed to watch the process from behind a guard rail and can challenge ballots as they are opened. More information regarding the challenge process is set forth below.

If you are using a building other than where your offices are located or where you typically store and process returned ballots, you must transport the ballots and envelopes in sealed containers.

Before the opening of the advance removal facility, you must provide a list containing the names of all voters whose early voting or absentee ballots will be advance removed.

How: Prior to advance removal, you must record the number of ballots received that will be advance removed. The number of ballots received for advance removal must be recorded by precinct and, for a primary, include a party breakdown within each precinct.

Similar to the clerk's record created for election day, you should document the time the advance removal begins, who is present and when advance removal ends for that session. You should further include any anomalies during the advance removal process such as ballots rejected as defective and any challenges made during the advance processing. The record

should also include the seal numbers used for securing the ballots and envelopes after the advance processing has concluded for the session.

There shall be no lead pencils or blue or black pens at any table ballots are being removed from the inner envelopes. The only writing devices that are permitted at the table are those with a distinctive marking color that is not commonly used by voters on ballots such as red or green.

Ballots may only be advance removed by precinct. All early voting and absentee ballots from one precinct shall be processed before another precinct can be processed during a scheduled session.

Step-by-step removal process:

1. Read the voter's name, address and, in a primary, party ballot selection aloud from the envelope and mark the voter on the list.
 - a. In a primary, if the voter is no longer eligible to cast the party ballot indicated on the envelope, do not open the envelope. Mark the envelope as rejected and notify the voter.
2. Open the ballot envelope carefully so as not to deface, mark or tear the ballot or the ballot envelope or ballot.
3. Remove the ballot from the inner envelope without examining it and in a manner that will ensure the privacy of the voter.
 - a. Keep all ballot envelopes! You should provide a specific container in which the ballot envelopes will be stored.
4. Check that the ballot envelope contains only one ballot.
 - a. If more than one ballot is in the envelope, neither ballot can be counted and both ballots must be placed in the ballot envelope labeled "Rejected as Defective."
 - b. If there is no ballot in the envelope, the ballot envelope must be labeled "Rejected as Defective" and placed with other rejected ballots.
5. Unless the ballots will be deposited in accordance with the advance depositing process, the ballots and inner envelopes must be sealed by precinct, and, for a primary, by party with the date of the opening recorded with the seal numbers, which must be securely stored until election day.
 - a. Ballots that are advance removed but not advance deposited MUST be brought to a Central Tabulation Facility or to the precinct on election day to be counted.

Challenge Process: If you are advance processing, it must be open for observers as this is their only opportunity to challenge those ballots. Any challenge can only be made when the name and address of the voter is being read from the envelope and recorded on the voting list.

Ballots being advanced processed can be challenged for any legal cause. The challenger must state based upon information particular to that voter the reason for challenging the right of a person to vote, for example: this person is not old enough to vote; this person is not a U.S. 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. G. L. c. 54, §§ 85, 85A; 950 CMR 54.04(23). When asked by an election officer, the challenger shall be required to briefly set forth factual information specific and personal to the challenged voter as to the reasons that voter is not qualified to vote in the election at that precinct.

If the election officer determines that the challenger has not provided factual information specific and personal to that voter that the voter is not qualified to vote at that precinct, then the election officer shall reject the challenge on the grounds that the challenge was not based upon a legal cause.

If an early voting or absentee ballot is challenged when opened at the advanced processing facility, the name and address of the challenged voter shall be written on the ballot by the local election official. The challenger's name and address shall be recorded and the event shall be noted in the record and the letters CV shall be placed on the voting list next to the name of the challenged voter. After this, the ballot and envelope shall be placed in the proper containers.

If an inactive voter votes early in person and does not have acceptable identification, their ballot should be challenged before they mark the ballot. The election worker then marks the ballot envelope and voter list with "CV." When opening ballots at an advanced processing facility, if the envelope has the letters "CV" written on it, you must mark "CV" next to the voter's name on your voting list, then place the ballot and envelope in the appropriate containers.

ADVANCE DEPOSITING OF BALLOTS INTO TABULATOR

When: Advance depositing of ballots into a tabulator may begin as early as nine (9) days prior to election day and can continue until the day before the election. No results of votes from any precinct shall be made public until after 8 pm on election day.

Ballots can only be advance deposited on the day following receipt at the earliest and only after being recorded as received. No ballot can be advance deposited on the same day it is received.

NOTE: If advance depositing into a tabulator, the vote tabulator must be tested in accordance with 950 CMR 54.02 at least four (4) days before the first date of advance depositing. Separate media cards must be used for advance depositing and for election day tabulation at a polling place. You may use the same memory cards for advance depositing and a central tabulation facility, however.

Where: Advance depositing of ballots can only be done in an accessible location that has public access. Observers must be allowed to watch the process from behind a guard rail, but there is no ability to challenge any ballots during the advance depositing process.

If you are using a building other than where your offices are located or where you typically store and process returned ballots, you must transport the ballots and envelopes in sealed containers.

Before the opening of the advance depositing facility, you must prepare a list containing the names of all voters whose early voting and absentee ballots that have already been advance removed and will be advance deposited. If you are advance depositing ballots immediately after advance removal, one list of voters provided before advance removal begins will suffice.

How: In order to advance deposit ballots into a tabulator, you must first complete the advance removal process in accordance with the information outlined above. Prior to advance depositing, you must record the number of ballots received for advance depositing by precinct, and, for a primary, by party. This information was recorded as part of the advance removal process, however, before beginning advance depositing, you should verify the number of ballots received for advance depositing by precinct and, in a primary, by party are the same as those recorded during the advance removal process. Any discrepancies should be recorded in a clerk's record book. If you have an explanation for the discrepancies (such as ballots being rejected for not having a ballot in the envelope during advance removal), you should note that in the clerk's record book as well.

You must document the time the advance depositing begins, who is present and when advance depositing ends for that session. You should further include any anomalies during the advance depositing process such as the number of ballots rejected by the vote tabulator. The record should also include the seal numbers used for securing the ballots and envelopes after the advance depositing has concluded for the session.

There shall be no lead pencils or blue or black pens at any table ballots are being removed from the inner envelopes. The only writing devices that are permitted at the table are those with a distinctive marking color that is not commonly used by voters on ballots such as red or green.

Ballots may only be advance deposited by precinct. All early voting and absentee ballots from one precinct shall be processed in one tabulator before another precinct can be deposited during a scheduled session. You must use separate memory cards for advance depositing. You cannot use your election day memory cards during advance depositing. Further, you must use a separate memory card for each precinct. Before each advance depositing session, you should publicly open the ballot box and examine it to ensure no ballots are contained therein.

Additionally, you must record the number on the public counter before and after each precinct is deposited.

When advance depositing into a tabulator, please remember:

- Early voting and absentee ballots must be processed through the tabulator one precinct at a time. All early voting and absentee ballots from one precinct must be processed through the tabulator before another precinct can be processed.
- Once the tabulation of a precinct is complete, the tabulated ballots for the precinct must be removed from the ballot box and stored securely, but must remain in public view.
- You must remove ballots from the tabulator after all ballots for that precinct have been deposited.
 - Ballots must be stored by precinct and separately for each day of advance processing.
 - For the primary, those ballots must be sorted by party within each precinct.
- You cannot print the results until after 8 pm on election night.
- PLEASE NOTE: You cannot advance remove or advance deposit ballots on the same day they are received.

You may use multiple tabulators if you have multiple teams processing ballots. However, each tabulator can only process one precinct at a time. Therefore, if using two machines (machine 1 and machine 2), with 3 precincts, Precinct 1 can be processed through Machine 1 at the same time as Precinct 2 is processed through Machine 2, but Precinct 3 can only be processed through either Machine 1 or Machine 2 after Precinct 1 or Precinct 2 are complete.

Processing Ballots Not Read by the Tabulator or Containing Write-In Votes: During the advance depositing process, any ballot that cannot be read or is rejected by the vote tabulator must be set aside and hand-counted in accordance with 950 CMR 54.06(9) after all ballots for that precinct have been deposited and before the close of advance depositing for that session.

Any ballots containing a write-in vote shall be hand-counted in accordance with 950 CMR 54.06(9) after all ballots for that precinct have been deposited and before the close of advance depositing for that session. Election officers must look through all ballots for write-in votes – including the ballots that were not segregated by the tabulator. All write-ins must be included on the tally sheet.

Tally sheets for hand-counted ballots shall be signed by the election officials and sealed with the session date and precinct, but separately from the ballots themselves. For a primary, they must be stored and sealed by party.

Completion of an Advance Deposit Session: After the advance depositing is complete for each day, which includes hand-counting ballots and/or recording write-ins in accordance with the instructions above, the ballots must be sealed and stored by precinct and by party in a primary.

Ballots must be stored in secure sealed containers in a locked secure ballot storage room. The voting lists shall also be sealed in separate envelopes for transport and transmitted to the office of the local election official.

NOTE: You cannot determine or announce results until after the time the polls close on the date of the primary or the general election. The results from advance depositing must be added to the election day results and posted in a public place.

Processing Results on Election Night: You cannot process any final tabulation results until after 8:00 pm on election night. When processing results on election night, you must use the original memory cards used during the advance depositing process by inserting them back into a designated tabulator to print the results.

Once you have printed results from the advance deposited tapes, you will add those to the tally sheets from the advance deposited sessions and the precinct level results from election day.

RELEASING ELECTION RESULTS

You should not release partial results. Results from the precincts must be announced in accordance with law, but no further declarations of results should be made until such time as the full results for that precinct are totaled. This includes the release of unofficial and official results.

You must make sure that you add the results from advance depositing to the election day precinct results and, if applicable, the Central Tabulation Facility results prior to announcing official results.

QUESTIONS?

Contact the Elections Division at 617-727-2828 or elections@sec.state.ma.us.