

950 CMR 47.00: EARLY VOTING PROCEDURES

47.01: General Provisions

- (1) Definitions. Terms shall have the meanings provided in M.G.L. c. 50, § 1. In addition:
- (2) Centralized Tabulation Facility- a location designated by the local election official at least 14 days before Election Day for the tabulation of early voting ballots received before Election Day.
- (3) Local Election Official-a city or town clerk, members of the boards of registrars or election commissioners.
- (4) Secretary-the state secretary.
- (5) Application. 950 CMR 47.01 through 47.21 apply to all state elections, except to the extent provided otherwise.
- (6) Effective Date. 950 CMR 47.01 through 47.21 are effective as soon as publication occurs in the Massachusetts Register, under M.G.L. c. 30A, § 6.
- (7) 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 M.G.L. c. 30A, § 4. This petition shall be considered by the Secretary within 30 days after filing.
- (8) Authority. These chapters are promulgated under authority of M.G.L. c. 54, § 25B.

47.02 Methods of Early Voting

Qualified voters may vote early in person at a designated early voting location or by mail. A voter may only vote early by mail or at an early voting location for the city or town in which he or she is registered to vote.

47.03 Timing of Early Voting

- (1) The voting period for early voting shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday.
- (2) Early voting shall be conducted during the usual business hours of each local election official. A city or town may, in its discretion, provide for additional early voting hours beyond the hours required by this subsection, including weekend hours.

47.04: Designation of Early Voting Locations

- (1) Each city and town shall establish an early voting site that shall include the election office for the city or town or other suitable location within the building in which the election office is

located; provided however, that if the city or town determines that the office is unavailable within the building or unsuitable for early voting, the local election officials of each city or town shall identify and provide for an alternative, centrally-located, suitable and convenient public building within each city or town as an early voting site.

- (2) The designation of an early voting site shall be made not less than 14 days prior to the beginning of the early voting period.
 - (a) Not less than 7 days prior to the beginning of the early voting period and at least once during the early voting period, the local election officials shall publish the location of the early voting sites as well as the applicable dates and hours.
 - (b) Notice shall be published in every newspaper listed for the city or town in the New England Newspaper & Press Association and shall be conspicuously posted in the office of the local election official or on the principal bulletin board of each city or town, on any other public building considered necessary, on the city or town's website, if any, and on the website of the Secretary.
 - (c) Local election officials must provide the Secretary with the designated early voting locations, including addresses and hours, within 2 business days of designation.
- (3) If city or town hall is not designated as an early voting site, the notice provided to the Secretary must contain a statement certifying that the city or town hall is unsuitable or unavailable. A city or town may also provide for additional early voting sites at the discretion of the local election officials for that city or town.
 - (a) Any proposed additional early voting site must be determined at least 14 days before the start of the early voting period and notice of such determination must be sent within 2 business days to the Secretary.
 - (b) The notice shall contain the name of the approved additional early voting site, the address, a statement certifying that the location complies with the accessibility regulations set forth in 950 CMR 51.00 and the dates and hours at which early voting will be conducted at this location.
- (4) Each early voting site shall be accessible to persons with disabilities in accordance with the provisions of 950 CMR 51.00 and must be equipped with an accessible marking unit.
- (5) Each early voting location must be suitably equipped to provide an early voter with sufficient privacy to mark their ballot.

47.05 Staffing of Early Voting Locations

Local election officials shall designate sufficient staffing for the orderly administration of early voting for each early voting site.

47.06: Preparation of Early Voting Materials

- (1) At least 21 days prior to each biennial state election, the Secretary shall deliver to each city or town, in quantities as the Secretary determines necessary, the following papers:
 - (a) official early voting ballots, similar to the official ballot to be used at the election; and
 - (b) envelopes of sufficient size to contain the early voting ballots bearing on their reverse the voter's affidavit in compliance with the requirements of M.G.L. c. 54, § 25B(j), hereinafter referred to as the "affidavit envelope."
- (2) The Secretary shall provide electronic files of early voting applications to local election officials for use in the early voting process. Local election officials may develop their own applications and/or accept any written request submitted from a registered voter for early voting purposes.

47.07: Applications for Early Voting Ballots; Deadlines for Submission

- (1) Any qualified voter wanting to vote early may file with his or her local election official an application for an early voting ballot.
 - (a) If the voter would like the early voting ballot sent by mail, he or she must indicate such in his or her application.
- (2) Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting at an election shall be given the same effect as an application made in the form prescribed by the Secretary.
- (3) No application shall be deemed to be seasonably filed unless it is received in the office of the local election official before noon on the last day of the early voting period as prescribed in M.G.L. c. 54, § 25B(c).

47.08: Filing and Certification of Applications; Notation on Voting List

- (1) If an application for an official early voting ballot is received by the local election official from a qualified voter containing an original signature of said voter, the local election official shall cause to be placed on the voting lists prepared as required by M.G.L. c. 51, § 60, opposite the name of each voter on whose application such certificate has been so executed, the letters EV.
- (2) If the local election official finds the person signing the application not to be a duly registered voter, the local election official shall send him or her written notice to that effect and shall preserve the application during the time fixed by law for the preservation of ballots cast in the coming election, after which time said application shall be destroyed.
- (3) If the name and address of a voter applying to vote early appears on the voting list as an inactive voter, the local election official shall allow such inactive voter to vote upon written affirmation by the inactive voter of his or her current and continuous residence in the municipality or residence in the municipality within the previous six months, signed under the penalties of perjury. Such written affirmation shall be preserved with the voting records, and

such inactive voter shall be restored to the active voting list at his or her current residence, without requiring further action by the person.

- (4) If the inactive voter has moved within the city or town, the voter will write the address at which he or she last registered to vote, as well as his or her current address. The inactive voter will vote from the address which corresponds to his or her address as it appears on the inactive voting list. After the election, if the voter has moved within the city or town, the voter shall be restored to the active voting list at his or her current address, without requiring further action by the person.
- (5) All inactive voters shall be asked to provide suitable identification showing his or her name and current address. Suitable identification shall be defined in 950 CMR 52.03(5)(b) and 950 CMR 54.04(6B). Inactive voters who fail to show suitable identification must be allowed to vote. However, an election officer shall, and any other person may, challenge their right to vote under M.G.L. c. 54, § 85; 950 CMR 52.03(23) and 950 CMR 54.04(23).
- (6) The local election officials shall prepare lists arranged by voting precincts, of the names and addresses of all voters who have submitted applications for early voting ballot, as provided in 950 CMR 47.09(2) and 950 CMR 47.10(2), and shall have such lists available for public inspection upon request.
- (7) An applicant for an early voting ballot who has been furnished a certificate of supplementary registration, as authorized by M.G.L. c. 51, § 51, shall submit such certificate with his or her application, and the local election official shall cause to be placed on such certificate opposite the name of the applicant the letters EV. Every such certificate shall be kept with and considered part of the voting lists used for early voting.

47.09: Early Voting in Person

- (1) Delivery. Upon filing of the early voting application described in 950 CMR 47.07 at an early voting location, the local election official shall provide the voter with the appropriate early voting ballot and accompanying papers.
- (2) Method of Voting. Each early voting location shall have space available for early voters to mark their ballots privately. After marking his or her ballot, each early voter shall enclose it in the envelope provided, execute the affidavit contained thereon and seal the envelope.
- (3) Instruction and Assistance to Early Voters:
 - (a) Instruct Voters. A local election official may answer questions and instruct the voter on the proper method of marking the ballot.
 - (b) Instruction is Different from Assistance. Instruction shall consist of informing the voter on the proper method of marking a ballot; assistance shall consist of marking the ballot at the request of the voter. Except as the law permits, a voter must mark his or her ballot in secret.

- (c) Assistance to Voter. If a voter asks for assistance in marking his or her ballot or executing 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 of his or her own choice or by a local election official. Such designated person shall add his or her name in the appropriate space on the affidavit envelope. Local election officials shall notify early voters requesting assistance that an accessible marking unit is available.
 - (d) Do Not Influence Voter. Local election officials 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.
- (4) Spoiled Ballots. If an early voter makes a mistake in marking his or her ballot at an early voting location, 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.
- (a) Upon receipt of a spoiled ballot, the local election official shall mark it “spoiled” and shall enclose it in a spoiled ballot envelope.
- (5) Return of Early Voting Ballot. Each early voter shall return the sealed affidavit envelope containing his or her early voting ballot to the local election official.
- (a) Upon receipt of a sealed envelope containing a completed early voting ballot, the local election official shall examine the affidavit for completeness before accepting the ballot.
 - (b) If the local election official finds that such affidavit has been improperly executed, or is incomplete, the local election official shall notify the early voter that the ballot cannot be processed voter without completion of the affidavit and provide the early voter with the opportunity to complete the affidavit.
 - (c) If the affidavit is not executed, the local election official shall notify the early voter that the ballot cannot be processed.
 - (d) If the early voter declines to remedy any deficiencies in the affidavit when notified by the local election official, 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.
 - (e) If the affidavit appears to be complete, the local election official shall mark the early voting list that the early voting ballot has been returned.
- (6) Voters shall not remove an early voting ballot from the early voting location.
- (7) Upon acceptance of an affidavit 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.

47.10: 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.
- (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 below. 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 Ballots. 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.
- (a) 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.
- (b) 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.
- (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(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 this section, the local election official shall strike the letter R from any list on which it has been placed under the preceding paragraph.

- (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 returned.

(6) Deadline for Return. Early voting ballots returned by mail or in person 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 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 47.10(5)(a) and 950 CMR 47.09(5)(d), 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 14 days before Election Day and notice of such determination must be sent within 2 business days to the Secretary. The central tabulation facility must be in compliance with accessibility regulations found at 950 CMR 51.00.
 - 1. The notice shall contain the name and address of the approved early central tabulation facility and the time that the facility will open.
 - (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.
 - (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 the close of polls.
- (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. The local election official, and not the election officers at the polling place, shall determine whether to reject an early voting ballot as defective. 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.
- (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.
- (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.
- (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.
 - (a) 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 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.
- (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 sections 950 CMR 47.08; 950 CMR 47.09(5); 950 CMR 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) and 950 CMR 54.04(23), 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 sections 950 CMR 47.09 and 950 CMR 47.10, inclusive, 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

Except as hereinafter provided, 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. No ballot mailed or delivered under the provisions of 950 CMR 47.00, inclusive, 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. 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. 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. Such presiding officer shall preserve each certificate issued under this section and return it to the local election official in the manner in which the voting lists are required by G.L. c. 54, § 107 to be enclosed. 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. If, after a certificate is furnished under this section, 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 this section shall be preserved and destroyed in the manner provided by law for the retention, preservation or destruction of official ballots.