

STATE OF NEW HAMPSHIRE

TO: New Hampshire Election Officials

FROM: William M. Gardner, Secretary of State
Gordon J. MacDonald, Attorney General

RE: November 2020 General Election

DATE: October 29, 2020

In anticipation of the upcoming November 2020 General election, this memorandum provides guidance on several specific issues. If you have questions or concerns please direct them to:

- Deputy Secretary of State, David Scanlan (603) 271-3242 (election officials and the public) or toll free 1-800-562-4300 (election officials only), elections@sos.nh.gov or David.Scanlan@sos.nh.gov;
- Assistant Attorney General Nicholas Chong Yen (603) 271-3650 or the election line toll free (866) 868-3703 (election officials and the public), electionlaw@doj.nh.gov;
- Questions regarding *ElectionNet* and election forms may also be directed to the Secretary of State's Election Division Help Desk, 1-800-540-5954 or (603) 271-8241 (election officials only), nhvotes@sos.nh.gov.

Attached:

- Frequently Asked Questions About Establishing a Domicile/Residence in New Hampshire
- Registering to Vote in New Hampshire (September 2020)
- COVID-19 Instructions to Public (August 2020)
- 2020 General Election Polling Place Checklist
- Samples of Parties' Challenger Appointment Letters

| | |
|--|-----|
| Absentee Voter Registration | 3 - |
| Envelope Delivered by U.S. Postal Service to Domicile Address with Postage Marked, is Evidence of Domicile | 3 - |
| Voter Registration – No Evidence of Identity, Age, or Citizenship | 3 - |
| Voter Registration – No Evidence of Domicile/Residence | 3 - |
| Domicile/Residence and Motor Vehicle Licensing Requirements | 4 - |

| | |
|--|--------|
| Face Coverings/Masks during Voter Check-In..... | - 4 - |
| Absentee Ballot Pre-Processing and Processing..... | - 5 - |
| Face Covering/Mask Requirements..... | - 5 - |
| Dropboxes and Accessible Voting on Election Day..... | - 6 - |
| Signage..... | - 7 - |
| Lines Inside the Polling Place..... | - 8 - |
| Electioneering Inside the Polling Place | - 8 - |
| Electioneering Outside the Polling Place..... | - 9 - |
| Political Signage Outside the Polling Place..... | - 10 - |
| Law Enforcement at the Polling Place..... | - 10 - |
| Challenges..... | - 11 - |
| Observers vs. Challengers..... | - 12 - |
| Vehicle Access to Polling Place and Parking Areas..... | - 12 - |
| Firearms Inside the Polling Place | - 13 - |
| Voter Suppression/Intimidation..... | - 14 - |
| Reduction in the Number of Booths/Screens Required. | - 15 - |
| Reporting the Results..... | - 16 - |
| Securing the Ballots | - 16 - |

All Election Officials

The Attorney General’s Office and Secretary of State’s Office are the official resources available to all New Hampshire voters and election officials for guidance and assistance regarding election related issues or concerns ahead of the General Election on November 3, 2020.

All questions, concerns, or issues that may arise during voter registration, requests for absentee ballots or regarding procedures at the polls on Election Day should be directed to these agencies for assistance.

The Secretary of State and Attorney General have recognized that “physical disability” for the purposes of absentee voting and absentee voter registration, includes concern for novel coronavirus (COVID-19).

Even if a voter does not consider himself/herself a person with disability in other circumstances, this term applies for registering to vote and voting in 2020.

Laws of 2020, Chapter 14, commonly referred to as “HB1266,” made temporary modifications to the absentee voter registration, absentee ballot application, and absentee voting processes in response to the novel coronavirus (COVID-19) disease.

These modifications recognize that “physical disability” includes concern for COVID-19.

Supervisors of the Checklist & Clerks

Absentee Voter Registration

We also believe that all voter registration applicants have a reasonable basis to conclude that a “physical disability” exists within the meaning of RSA 654:16 and 654:17. Registrants who are unable to register to vote in person because of illness from COVID-19 or because they have a concern that registering in person may expose themselves or others to COVID-19 may use absentee registration. Therefore, all applicants may request an absentee voter registration package by mail, e-mail, fax, phone, or in person on that basis.

A voter is required to provide proof of identity and proof of domicile during the absentee voter registration process. HB1266 authorizes a voter to send proof of identity and domicile during the absentee voter registration process by email.

Envelope Delivered by U.S. Postal Service to Domicile Address with Postage Marked, is Evidence of Domicile

An envelope which is addressed to the applicant for voter registration at the address claimed as his or her voting domicile and shows a Postal Service cancellation or marking on the postage, stamp, or metered mail which makes it more likely than not that the envelope was delivered to the voter by the U.S. Postal Service. It is therefore sufficient evidence of domicile. The envelope need not be from a utility or government.

Voter Registration – No Evidence of Identity, Age, or Citizenship

If an applicant for in-person voter registration does not bring a document that proves his or her identity, age, or citizenship, the applicant must still be allowed to register to vote if they complete a stand-alone Qualified Voter Affidavit. **Do not send applicants away to retrieve documents.**

Voter Registration – No Evidence of Domicile/Residence

If an applicant for in-person voter registration does not bring proof of domicile, the applicant must still be allowed to register to vote if they complete a Domicile Affidavit. **Do not send applicants away to retrieve documents.**

Domicile/Residence and Voting Requirements

The Secretary of State, Attorney General, and Commissioner of the Department of Safety have published the attached Frequently Asked Questions (FAQs) on their respective websites. Clerks, Supervisors, and Moderators are encouraged to print this document. If asked any of these questions, use the answer provided.

To vote, a voter must be:

- 18 years of age or older on Election Day;
- A United States Citizen;
- Domiciled in the town or city ward where he/she plans on voting.

RSA 654:1.

No one, who meets the above qualifications, can be denied the right to register to vote or vote unless they are an incarcerated felon.

Ballot Clerks

Face Coverings/Masks during Voter Check-In

It is possible to administer the normal check-in process – or the Challenged Voter Affidavit process as applicable – while following public health guidelines.

In many cases, a voter will be identifiable even when he or she is wearing a face covering/mask. For example, the election official can still determine the voter's eye color, hair color, and head shape. An official at the polling place may also know the voter checking-in. See RSA 659:13, II(b).

Consistent with public health advisories, if an election official requests that a voter show his or her face for verification, hand sanitizer must be used by the voter prior to and after showing the voter's face. No voter's face should be revealed for an extended period of time.

We encourage the use of the sneeze guards, which the Secretary of State's Office has purchased and distributed, for the voter check-in and voter registration tables. During the process, the voter should remain on one side of the sneeze guard with the election official on the other.

Additionally, during the Challenged Voter Affidavit process, a photograph can be taken through the sneeze guard with the voter's face showing. Hand sanitizer must be used by the voter prior to and after showing the voter's face. No voter's face should be revealed for an extended period of time. As such, we similarly encourage the use of the sneeze guards during the Challenged Voter Affidavit process.

Moderators

Absentee Ballot Pre-Processing and Processing

During the partial pre-processing before Election Day (authorized by HB1266) and processing on Election Day of absentee ballots, officials should ensure to publicly announce the names aloud so that challengers can hear the names. This is important, for both a challenger who wishes to exercise a challenge for a particular voter's absentee ballot, or so that a challenger may hear the name of a voter if his/her absentee ballot is rejected.

Face Covering/Mask Requirements

On August 20, 2020, the Attorney General published guidance that the Moderator is responsible for determining whether or not face coverings/masks will be required to enter the polling place. We strongly encourage officials to review this guidance, which can be found here: <https://www.doj.nh.gov/news/2020/documents/20200820-ag-supplemental-guidance-on-2020-election-operations.pdf>

Joint guidance issued by the Attorney General and Secretary of State is available here: <https://sos.nh.gov/elections/local-election-officials/election-operations-during-the-public-health-crisis/>

These guidance documents were in effect for the September Primary and they will continue to be in effect for the November General Election.

Note: The mask requirement can be imposed on challengers and observers as well.

If the Moderator imposes a face covering/mask requirement to enter the polling place, the Moderator must provide registration and voting alternatives to voters who are either unable or unwilling to wear a face covering/mask.

Accessible voting on Election Day is a voting process authorized by RSA 659:20-a, which existed before the public health crisis. As a result, Moderators must provide accessible voting at the polling place pursuant to this statute, regardless of whether the Moderator has chosen to use a face covering/mask requirement. Laws of 2020, Chapter 14, HB1266, has

recognized that accessible voting on Election Day under RSA 659:20-a can be offered to any voter who, “due to extenuating circumstances under COVID-19 is attempting but unable to access the polling place on the day of an election.”

Accessible voting on Election Day may provide an alternative means to vote for some voters at a polling place with a face covering/mask requirement, but it is only available to those asserting they cannot enter the polling place due to a disability. Accessible voting alone is not a sufficient alternative for those unable or unwilling to wear a face covering as most will not assert having a disability.

If a face covering/mask requirement is established, Moderators must offer an additional alternative to the existing accessible voting process on Election Day.

The Attorney General has identified one alternative – a separate voting area – that is a sufficient alternative for voters who are unable are unwilling to wear a face covering/mask.

If a voter declines to avail himself or herself of an appropriate, alternative means to vote, we strongly encourage Moderators to do all they can to engage constructively with these voters to encourage them to either wear a face covering/mask while in the polling place or vote by the alternative means. If all reasonable means to persuade the voter are exhausted, we believe that current law would likely support a Moderator’s decision to inform the voter that he or she cannot enter the polling place.

Officials may contact the Attorney General’s Office through the election line listed above for input before refusing to let a voter enter the polling place for being unable or unwilling to wear a face covering/mask.

Dropboxes and Accessible Voting on Election Day

Pursuant to joint guidance issued by our offices, election officials can utilize a “dropbox” at the polling place on Election Day, staffed by an election official, to receive completed absentee ballots. We strongly encourage official to review that joint guidance, which can be found here: <https://www.doj.nh.gov/documents/20200819-faq-guidance-election-operations.pdf>

Voters may drop off their own completed absentee ballot (or delivery agents as outlined below) at their respective polling locations for the 2020 November General Election. Absentee ballots obtained before Election Day must be submitted by the voter (or delivery agent) before 5:00PM on Election Day.

If utilized by election officials, the dropbox will be where a voter or delivery agent deposits an absentee ballot that was received and completed prior to arriving at the polling place. The dropbox is subject to the 5:00PM cutoff outlined under RSA 657:22.

If a voter arrives at the polling place after the 5:00PM cutoff, he/she shall be told that their absentee ballots cannot be accepted, but they can still vote either by entering the polling place and voting in-person using an Election Day ballot, or by utilizing the outside accessible voting on Election Day process, which uses an absentee ballot.

A voter who is dropping off his/her own completed absentee ballot can be asked if he/she will voluntarily show photo identification, or if he/she will voluntarily complete a challenged voter affidavit. If the voter refuses to do either of these things, the official must still accept the voter's absentee ballot. This applies both if a voter submits his/her absentee ballot at the clerk's office prior to Election Day, or utilizes the staffed dropbox at the polling location on Election Day.

By contrast, if a "delivery agent" within the meaning of RSA 657:17 drops off absentee ballots on behalf of a voter, they must sign a Return of Absentee Ballot form and present a government-issued photo identification (or the delivery agent's identity is verified by the town or city clerk). This applies on Election Day. It is a best practice at the clerk's office prior to Election Day.

If a voter, who arrives after the 5:00PM cutoff and is prohibited from using the dropbox, chooses to use the accessible voting on Election Day, an absentee ballot and absentee paperwork must be given to the voter to complete.

The absentee ballots used in the accessible voting process pursuant to RSA 659:20-a are not subject to the 5:00PM cutoff time. They must be accepted until the polling place closes to in-person voting.

Signage

During the State Primary, officials who utilized signage reported those signs successfully informed voters of temporary COVID-19 modifications at that particular polling place.

As such, we encourage Moderators to consider utilizing additional signs at the polling place to point out pertinent information for voters. This includes, but is not limited to:

- Signs telling voters they do not have to enter the polling place if they are concerned about COVID-19;
- If a separate voting area is utilized for voters unable or unwilling to wear a mask, a sign explaining what the area is used for;
- Signs to direct voters to the appropriate location where dropped-off absentee ballots will be received by the clerk or a designee of the clerk;
- Where accessible outside voting (curbside voting) is available.

Lines Inside the Polling Place

When voters enter the polling place, they should immediately be directed to the correct table/election official for checking-in or registering. To that end, election officials should utilize clearly marked signage and/or a “Greeter” that can assist voters entering the polling place find where they need to go.

With respect to the check-in lines, if election officials observe a particular name letter group has a persistent line due to increased volume, ballot clerks should check to ensure that voters not in that letter group reach their correct check-in location. Additionally, if there is a persistent line at one check-in station, consider moving letter sections of the checklist from that station to the adjacent station. Make the necessary changes to the signs identifying where voters with that first letter of their last name should check-in.

With respect to voter registration, if election officials observe a growing line, issuing those waiting to register simple clipboards with pens and a blank voter registration form can be an effective tool to increase efficiency. Voters waiting to approach the registration table can begin filling out the necessary forms in preparation for their turn, mitigating a potential backlog of voters only beginning to complete forms at the front of the line.

Electioneering Inside the Polling Place

RSA 659:43, I prohibits a person from distributing or wearing any campaign material, which is intended to influence the action of any voter within the building where the election is being held.

No person may be prevented from registering or voting for violating this statute. If a voter refuses to comply with this law, election officials should make a note of the interaction and refer the matter to the Attorney General’s Office for review of what enforcement action, if any, is appropriate.

Election officials are strongly encouraged to review the New Hampshire Election Procedure Manual: 2020-2021, Pgs. 248-250.

These pages review what constitutes “campaign material” within the meaning of this statutory prohibition. Some examples of prohibited campaign material includes:

- “Vote for candidate name (or party)”
- “Vote against candidate name (or party)”
- “Vote yes on 1”
- “Vote no on 2”
- A picture of a candidate;
- A candidate’s name; or

- An uncommon logo associated with a candidate.

It is important for election officials to understand that the prohibition established by RSA 659:43, I applies only to those candidates, issues, or parties that appear on the ballot for that election.

Electioneering Outside the Polling Place

RSA 659:43, II, Distributing Campaign Materials at Polling Place. “The moderator shall establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to the parking lots that serve the polling place. The moderator shall establish the corridor in a manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor, and that permits a voter to step to the edge of the corridor and speak with those electioneering if he or she chooses. Laws of 2020, Chapter 45.” Moderators should also be alert to safety concerns with respect to electioneering taking place in the parking lot and request law enforcement assistance to promote safety in the parking lot.

The law authorizes an electioneering free corridor, not a single restricted area where electioneering is permitted. Moderators may recommend an area for those electioneering to congregate. Those electioneering should be allowed a space, outside the corridor, within easy sight and sound of voters entering the polling place. The space must be close enough so that the typical voter would be able to hear conversational volume recommendations or requests from those electioneering. It should be the voter’s choice whether to stop to speak with those electioneering, by stepping to the edge of or outside the electioneering free corridor, or by proceeding to vote without stopping.

In light of COVID-19, during the State Primary, we received questions about mask requirements in the designated electioneering areas outside the polling place. Electioneering is a form of First Amendment expression that is protected by the Constitution. As such, outside the polling place those outside the electioneering free zone cannot be required to wear a mask.

Moderators may consider placing the designated electioneering area 6 feet away from the corridor voters use to enter or exit the polling place. This would ensure those electioneering are still within sight and sound of the no-electioneering corridor, while maintaining social distancing between voters and those electioneering who are unable or unwilling to wear a face covering/mask.

While electioneering is protected by the Constitution, electioneering individuals cannot obstruct voters from entering or exiting the polling place, or otherwise suppress or intimidate voters contrary to RSA 659:40 (see section below).

- No electioneering shall occur inside areas of the building used as the polling place. RSA 659:43, RSA 652:16-h;
- No election official shall engage in any electioneering inside the polling place. RSA 659:44.

Political Signage Outside the Polling Place

No political advertising shall be placed on or affixed to any public property. RSA 664:17, RSA 659:43, V. Signs at a polling location cannot be left unattended. It will be the responsibility of the Moderator or Moderator's designee at each polling place to monitor compliance. This means the signs must be held or be within arms' reach of a campaign worker. Signs on posts must be of a nature that the campaign worker can hold the sign free from the ground (it is ok to rest the base of a post holding one or more signs on the ground while the post is also held by the person). Multiple signs on multiple posts linked together or as part of a structure that one person could not easily hold off the ground constitutes political advertising affixed to public property. If unattended campaign signs are observed, Moderators should request that state, city, or town law enforcement or maintenance personnel remove them. The signs should be placed in an area designated by the Moderator outside the view of the public where they can be retrieved by the campaigns. Alternatively, the signs may be laid flat on the ground near their original location.

If an automobile is parked, on public or polling place property, at a polling place with campaign signs affixed to it in such a way that renders the vehicle unsafe or unfit for driving on the road, the signs are considered unattended signs affixed to public property and must be removed. New Hampshire's election laws do not otherwise prohibit the owner of a vehicle bearing electioneering signs from parking at the polling location. Furthermore, unless the owner is disrupting elections operations, he or she may remain in the public areas of the polling place. However, if the owner's vehicle is occupying a spot that a waiting voter would otherwise be able to park in, election officials can request the owner move the vehicle to accommodate the waiting voter.

Law Enforcement at the Polling Place

As with every election cycle, we again advise that it is the best practice for the municipality is to have at least one law enforcement officer on duty at the polling place throughout the election. The officer can promote traffic and pedestrian safety outside the polling place, ensure the safety of the public and election officials, and be a resource helping election officials ensure the lawful conduct of voting inside the polling place. If your town or city is unable to provide a dedicated law enforcement officer, request your Police Chief arrange for law enforcement on patrol in your town or ward to stop at the polling place as often and for as long as is practical throughout Election Day.

At higher volume polling places, best practice is to have 2 police officers on duty at the polls. One officer should manage the traffic into and out of the polling place, including the parking area. The second officer should assist with the flow of pedestrian traffic into and out of the polling place and provide law enforcement support to election officials inside the polling place.

Challenges

Any voter registered in the same town or ward may, with due cause, challenge any other voter appearing to vote at such election. No challenge may be made unless an “Asserting a Challenge” form is completed by the challenger and signed under oath stating the specific source of the information or personal knowledge upon which the challenge is based. A challenge that is made on an insufficient basis, such as mere speculation, must be rejected. Challenging another person’s right to vote based on information that the challenger knows to be false or misleading is a felony. RSA 659:40, III(a).

Political parties may also appoint challengers. To have that status, a challenger must have a letter of appointment from the chair of one of the state political parties. Sample appointment letters from the Democratic and Republican parties are attached. Both parties have informed us that their respective challengers will be properly credentialed with appointment letters.

A challenger appointed by a party has a statutory right to be positioned where he or she can hear voters check-in.

For absentee ballots partially processed in accordance with Laws of 2020, Chapter 14, if those absentee ballots are partially processed before Election Day, a challenge may not be made after the notation has been made on the checklist.

For absentee ballots processed on Election Day, a challenge cannot be brought after the ballot is removed from the envelope. RSA 659:51.

Effect of a Well-Founded Challenge with Sufficient Basis: If the Moderator or supervisor of the checklist (for age, citizenship, identity, or domicile challenges) upholds the challenge to an in-person Election Day voter, the Moderator must offer the voter a Challenged Voter Affidavit. The voter shall not be permitted to vote until he/she signs the affidavit and gives it to the Moderator. RSA 659:27. The ballot of a voter challenged in person may not be marked in any manner to indicate a challenged ballot. RSA 659:36.

- **Basis for Domicile Challenges:** The challenger must assert either the specific source of the information or personal knowledge that a person is not domiciled within that particular town or ward. A challenge based upon the duration of the person’s domicile is not a valid challenge. The courts have consistently ruled that there is no minimum period of time that a person has to have been domiciled within the town or ward in order to vote. Similarly, the fact that a person intends to move in the future does not in itself, present a valid basis to challenge a voter. Once a voter lawfully establishes domicile in New Hampshire, the voter does not lose his or her domicile due to temporary absence. For more information on challenges, please review New Hampshire Election Procedure Manual: 2020-2021, Pgs. 88-89.
- A challenge of a specific voter must be based on evidence/knowledge in the possession of the challenger, detailed on the asserting a challenge form, about that specific person.

Observers vs. Challengers

A “Challenger” is not an “Observer.” A challenger, to hold that status, must have a letter of appointment, naming the individual as a “challenger,” from one of the political parties, typically signed by the State Chair.

Note: Both challengers and observers can be required to wear a mask.

Observers, on the other hand, are generally members of the public, who have a right to watch the conduct of the election from outside the guardrail. They do not have other specific statutory rights.

In light of the challenges caused by COVID-19 and concerns raised by election officials about an influx of observers at the polling place, we offer the following guidance.

The Moderator has the authority to create an area inside the polling place, but outside the guardrail, where observers can generally view the entire voting process. The public should be able to view, from a distance, voter registration, voter check-in, and the casting of the ballot. Unless the area satisfies the requirements of being within sight and sound of the check-in stations, challengers cannot be required to remain in this designated area.

The Moderator can limit the number of individuals who are in this area based on appropriate social distancing and other health guidelines. If the polling place has a face covering/mask requirement, observers wishing to be present in this designated area must wear a face covering/mask.

Moderators should ensure that there is an equal distribution of available space in the designated area for Democratic observers, Republican observers, and other public observers.

If the designated area reaches capacity, and other observers wish to enter the polling place, the Moderator should work with those observers already inside to switch with those observers waiting to enter.

Vehicle Access to Polling Place and Parking Areas

Each polling place should have adequate parking to allow voters to park conveniently while they vote. A common problem at the polls is that a significant amount of the most convenient parking spaces are taken by vehicles belonging to poll workers and people who are electioneering.

Some of these vehicles have electioneering signs on them and when parked are in effect stationary campaign advertising.

If this has been an issue in your community, we recommend that you work with your selectmen or city council and your Police Chief to adopt a temporary ordinance that sets a time limit for parking. Regulate and mark a sufficient number of spaces near the polling place to ensure that voters have adequate parking. RSA 31:39, I(g); RSA 47:17, I-XVI (cities). Laws of 2020, Chapter 36, added to RSA 262:32, the reasons for removal and impoundment of a vehicle: “An authorized official may cause the removal and storage of a vehicle if he has reasonable grounds to believe that: “...VIII. A vehicle is parked or has been left unattended on election day for longer than 3 hours in an area designated for voters who are temporarily present for the purpose of voting.”

In the absence of any electioneering ordinance, the Moderators should regulate their parking lots in order to ensure the accessibility of the polls to voters. Poll workers and people electioneering should be provided with parking that is away from the entrance to the polling place. Preserve close parking spaces for voters.

Moderators should have assistants or the police officer assigned to the polling place periodically inspect vehicle access to the polling place. While the line of people waiting to vote in a particular polling place may not be long, the line of vehicles attempting to access the parking lot of the polling place could be a problem. If vehicle access could be a problem at a particular polling place, Moderators and selectmen should work with local police to plan for any traffic congestion that could occur. Immediately address any traffic congestion that does occur on Election Day. To the extent that vehicles are lined up to gain access to a polling place and polls are to close within one hour, Moderators should have assistants/police monitor the vehicle line. At the hour when the polls close to voting, the assistant/police must locate the last car in line and identify it to permit the voter(s) in the vehicle their right to vote.

Firearms Inside the Polling Place

This issue arises every election cycle and our past guidance remains the same. The New Hampshire Constitution provides “All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state.” Part 1, Article 2-a. There are no state election laws governing carrying of a firearm in a polling place. Voters should not be prevented from voting based on possession of a firearm. There are also no New Hampshire election laws that prohibit a voter from carrying a firearm into a polling place that is located at a school.

Under the federal Gun Free School Zones Act as reenacted on September 30, 1996, guns are not allowed within 1,000 feet of public, parochial or private schools unless certain circumstances apply. If the individual possessing the firearm is licensed by the State to possess the firearm and law enforcement authorities have verified that the person is qualified to receive the license, then under federal law that individual can carry a firearm onto school property. Federal authorities enforce the federal Gun Free School Zones Act. Moderators should not prevent individuals carrying firearms from voting solely because they possess a firearm.

Individuals who are concerned that a voter has violated federal law by bringing a firearm into a polling place located at a school should contact the appropriate federal authority such as the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives or the Office of the United States Attorney for the District of New Hampshire. The Federal Bureau of Alcohol, Tobacco, Firearms and Explosives may be reached at (800) 800-3855 and the Office of the United States Attorney for the District of New Hampshire may be reached at (603) 225-1552.

People at a polling place are prohibited from intimidating voters. Threats of force, violence, or any tactic of coercion or intimidation intended to induce or compel any other person to refrain from registering to vote, voting, refrain from voting, or to vote or refrain from voting for any particular candidate or measure must be dealt with by the Moderator. The applicable statute that outlines voter "intimidation" is RSA 659:40, II, which is outlined further in the next section. The Moderator should request assistance from local law enforcement to de-escalate situations and work with the Moderator to achieve a resolution.

Voter Suppression/Intimidation

Under New Hampshire law, RSA 659:40, it is a felony for a person to:

- Directly or indirectly bribe any person to refrain from registering to vote or voting; to vote for or against any question submitted to voters; or to vote for or against any ticket or candidate for office at any election;
- Use or threaten force, violence, or any tactic of coercion or intimidation to knowingly induce or compel any other person to vote or refrain from voting, vote or refrain from voting for any particular candidate or ballot measure, or refrain from registering to vote;
- Engage in voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information. Prohibited acts of voter suppression include:
 - a) Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading;
 - b) Attempting to induce another person to refrain from registering to vote or from voting by providing that person with information that he or she knows to be false or misleading; or
 - c) Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

Voter suppression or intimidation is not tolerated in New Hampshire. Voters should be assured that they will be able to exercise their fundamental right to vote free of coercion or

intimidation. We have and will continue to work with state and local officials, including all levels of law enforcement, to ensure that voters will be able to so.

In advance of Election Day, we ask that anyone with knowledge of a credible threat of voter suppression or intimidation to report it immediately to the Attorney General's Election Hotline.

If an incident involving voter suppression or intimidation arises on Election Day, Moderators should take the following steps:

- Attempt to address the situation with the parties involved
- If appropriate, seek assistance from local law enforcement
- Immediately report the incident to the Attorney General's Election Hotline
- Document carefully what transpired and identify any potential witnesses

Reduction in the Number of Booths/Screens Required.

RSA 658:9, V (b)(1) requires one booth/screen for every 100 voters on the checklist at a general election where votes will be cast for President. Laws of 2020, Chapter 14, section 6, authorizes the Secretary of State in consultation with the Attorney General and Commissioner of the Department of Health and Human Services to establish alternative requirements in light of the current state of emergency due to COVID-19.

While overall turnout is difficult to accurately predict, the available information suggests there may also be a significant increase in voter turnout overall. The results may be that, notwithstanding the increase in the number of absentee ballots, the number of voters appearing in-person to vote may be similar to past general elections where the office of President is on the ballot. Therefore, we do not anticipate establishing alternative requirements for the minimum number of voting booths/screens.

Comparing similar elections:

190,749 ballots were cast in the 2016 State Primary

304,663 ballots were cast in the 2020 State Primary

This is an increase of 113,914 votes cast, a 60% increase.

Comparing recent elections:

228,262 ballots were cast in the 2018 State Primary

304,663 ballots were cast in the 2020 State Primary

This is an increase of 76,401 votes cast, a 33% increase.

The increased turnout at these State Primaries is not a direct predictor of the likely increase in turnout at the 2020 general election. It is nonetheless prudent for local election officials to anticipate that there may be an increase in overall turnout, which in terms of in-person voters, may offset the increase in absentee voting. Given the uncertainty regarding in-person turnout we believe it is prudent for polling places to have a minimum of 1 voting booth/screen for every 100 voters on the town or ward's checklist.

Reporting the Results

All ballots cast at the election must be counted in one continuous counting session that starts after the polls close to in-person voting and all absentee ballots have been processed. Counting of ballots cannot be adjourned nor postponed. New Hampshire Constitution, Part 2, Article 32; RSA 659:63. **Any Moderator who develops a concern during Election Day that their polling place will have difficulty fulfilling this constitutional and statutory requirement must immediately notify the Attorney General's Office.** We will try to help you ensure you finish counting all ballots and publicly announce the results.

After all state election ballots have been counted, the town or ward clerk must submit (a) the election results entered on the Secretary of State's Return of Votes forms, and (b) the one4all accessible voting system tablet, bundled together, by 8 AM on the morning after the state election. The ward clerk should send copies to the city clerk. Within 48 hours after the polls close, the Moderator shall provide the clerk with a Moderators Worksheet. The city or town clerk must keep a copy of the Return of Votes, Moderators Worksheet, Names on Checklist, and should keep other tally sheets and reconciliation worksheets in case there are questions. Do NOT seal these documents up with the ballots used at the election.

Securing the Ballots

After counting the ballots, declaring and recording the results, the Moderator, in the presence of the selectmen, shall put the cast, canceled, and unused ballots into the ballot storage boxes received from the Secretary of State, and shall indicate the number of such ballots on the seal. See Example in Election Procedure Manual: 2020-2021, Pg. 320. RSA 659:95.

Information on the proper labelling and sealing procedure can be found on Pg. 102 of the Election Procedure Manual: 2020-2021.

The Moderator and selectmen or their designees should deliver the ballots in their sealed container to the town or city clerk. The clerk shall subscribe upon the label the hour when he or she received the ballots and sign his or her name in the place provided. RSA 659:98. The sealed boxes of ballots shall be stored in a secured area in the town or city hall.

In the event that there is a satisfactory application for a recount under RSA 660:1, the Secretary of State may direct the State Police to collect all ballots, RSA 660:5.