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October 26, 2020

## Addendum 1 to the Secretary of State's First Statewide Elections Directive

- 1. Voter Challenges – To ensure polling places can meet Department of Health and Centers for Disease Control and Prevention (CDC) guidelines for the safe conduct of indoor gatherings, elections officials must be able to plan ahead for safe and physically distant poll observation.**

Any person intending to engage in the challenging of voters pursuant to [17 VSA §2564](#) must notify the clerk, in writing, of their intention to do so no later than four (4) days before the election, Friday, October 30, 2020.

The person must provide:

- Their name;
- the name of the political party, independent candidate, or public question committee that the person is representing; and
- the time frame they intend to conduct voter challenges on the day of the election.

A person who has not filed their written intention to engage in voter challenges pursuant to [17 VSA §2564](#) with the clerk no later than four (4) days before the election may not engage in the challenging of voters on the day of the election.

Under the law each political party, each candidate not representing an organized party, and any committee supporting or opposing a public question on the ballot, may have no more than two representatives present for making voter challenges. These persons must remain outside the guardrail, but must be able to hear or see the names of voters being checked in.

Under the law, the grounds of challenge of a person whose name appears on the checklist shall be only:

- (A) that he or she is not, in fact, the person whose name appears on the checklist; or
- (B) that he or she has previously voted in the same election.

If, after the deadline for filing, a town or city is concerned that the number of people requesting to challenge voters will impact the ability to accommodate voters due to building capacity limits or safe social distancing practices related to COVID – 19, the town or city should contact the Secretary of State. Voters and poll workers must take precedence over those making voter challenges in the event there is not safe capacity.

This section only applies to persons intending to challenge voters at the entrance checklist pursuant to [17 VSA §2564](#). It does not apply to, and is not intended to prevent, anyone from observing the polling place from those areas designated by the BCA and presiding officer for public viewing, inside or outside the polling place, subject to the existing laws protecting voter ingress and egress and prohibiting voter intimidation.

2. **Voting In-Person by voters who have been issued an early/absentee ballot** – If a voter comes to the polls on Election Day to vote and the voter checklist indicates that person has been issued a ballot previously but has not returned it, nor has the ballot been returned to the clerk by the postal service as “undeliverable”, before voting that person must:

- a. present the ballot that was issued to them to the entrance checklist official; or, if they do not have the ballot,
- b. sign an *Affidavit of No Ballot Cast* stating that they have not previously cast a ballot in the 2020 General Election.

If the voter refuses to sign the Affidavit, they should be allowed to vote and the entrance checklist official shall note on the checklist that the voter refused to sign the Affidavit.

If a person does bring their unvoted ballot with them to the polls, it is in the discretion of the presiding officer whether to allow the person to use that ballot in order to cast their vote at the polls, or to provide them with a new blank ballot in exchange for the one that was issued to them. In either case, the ballot is not required to be sealed in the certificate envelope and may be cast directly into the vote tabulator or ballot box.

If a registered voter brings their voted ballot with them to the polls, they shall be allowed to check in and place that ballot into the ballot box or tabulator or they may hand it to an election official for processing.

3. **Voting in Person by Voters who the checklist indicates have previously returned a ballot** – If a voter arrives at the polls to vote in person, and the checklist indicates that the voter has previously returned a ballot, the entrance checklist officials shall inform the voter that they have previously cast a ballot and cannot vote again on the day of the election.

If any such voter disputes the fact that they have returned a ballot previously and demands to be allowed to cast a ballot, the voter shall:

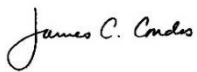
- a. Be required to sign the *Affidavit of No Ballot Cast*; and
- b. Be provided a provisional ballot to record their votes.
  - The provisional ballot shall be sealed in a certificate envelope that is signed by the voter and clearly marked “provisional” by the presiding officer.
  - The voter shall include their contact information, a phone number and/or email address, on the certificate envelope.

- The ballot shall be set aside in a Provisional Ballot envelope and shall not be included in the count on the night of the election.
- A notation shall be made on the checklist that the voter was provided a Provisional Ballot.
- The clerk shall contact the Elections Division of the Secretary of State's office on the day following the election and a determination shall be made of whether to count the ballot(s).
- The voter shall be informed of this decision and shall have the right to appeal that decision to the Secretary of State.

4. **Mailing of Early Ballots** – Effective with the signing of this Directive, a clerk is no longer required to *automatically* mail a ballot to any person who registers between now and Election Day.

If the clerk receives a request or inquiry from a newly registered voter regarding an early ballot, the clerk should explain the other options a voter has to receive and cast their ballot – picking up a ballot from the office, voting in the office when available, electronic delivery of a ballot in cases in which it applies, or voting at the polls on Election Day.

If the voter insists on having a ballot mailed to them, the clerk shall do so.



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