

## The Absentee Voting Process

Below, find our recommendations for changes to the absentee process. This is broken up into five sections, each of which addresses a distinct stage process. Note that this process is for voters who are already registered.

- I. **Voter request:** Voter completes absentee request form
- II. **Clerk response:** Clerk processes between receipt of request and ballot delivery
- III. **Absentee ballot:** Voter receives and completes absentee ballot
- IV. **Return of ballot:** Voter returns absentee ballot
- V. **Absentee ballot processing** Absentee ballot processing

### **I. VOTER REQUEST: The absentee request process from the voter's perspective.**

The voter completes an absentee ballot by completing an updated Absentee Voter Request Form<sup>1</sup>. The form is intended to be a one-stop shop for requesting your absentee ballot and absentee registration process. The voter may request the primary and general ballots on one form. Any unregistered voter who submits the form will immediately be sent an absentee registration packet. The absentee request form will be available in two formats, a paper application, and an integrated online form which will serve to minimize clerk data entry.

#### **Paper Application**

1. The voter can find the form:
  - At clerk's office
  - Available at various town locations including at the post office and/or any drop box station.<sup>2</sup>
  - Clerks will mail the forms to any voter who calls and requests it, including prepaid (business reply) postage.
2. The voter then completes the form, signs it, and returns it to the clerk's office by:
  - Mail
  - Hand-deliver to clerk
  - Fax, email attachment
  - Place in drop box (at post office or municipal office).

#### **An online form: SOS site as one-stop-shop.**

1. An online absentee request form will be available at the SOS website within the voter information lookup portal. The link to the portal can be shared and advertised widely on social media and informational ~~be directed to from~~ sites like vote.org.
2. The voter enters the portal to check their registration and has the option to complete an online form to apply for their ballot there. Fields will be required, and the signature can be drawn on a phone or with a mouse. The pdf of the form would be emailed to the clerk.
  - a. **TECH:** Can we connect the form so that it populates the voter ID # and name?
  - b. **TECH:** Can we have the form submit directly into electioNet plus email?
3. The voter then returns to the same site to track

<sup>1</sup> "Alternatively, a voter may receive a ballot from the town or city clerk simply by providing a written statement containing all of the necessary information. RSA 657:6," Saucedo v. Gardner 335 F.Supp.3d 202 (D.N.H. 2018) (ballot mismatch case)

<sup>2</sup> There are no limitations on who can distribute the absentee ballot application to the voter. Any non-municipal or state official who does so must clearly identify themselves and use (or include) the official form. 657:4.

their request and ballot.

## **II. CLERK PROCESSES ABSENTEE REQUEST/BALLOT APPLICATION.**

The clerk will receive the absentee ~~request form~~ ballot application by mail, email, fax, hand-delivery, or through designated secure drop-boxes. Because of the high volume of absentee ~~requests~~ ballot applications expected in 2020 and the short timelines between ballot finalization and the election, clerk's offices will be under immense pressure. That pressure--and the consequences for falling behind--will only increase as the election approaches. Therefore, we should support our municipalities in beginning to process absentee ballot applications ~~requests~~ as soon as they are received by the clerk ~~come in~~, immediately respond to get voters registered, and to decrease the amount of data entry and additional steps required.

When an absentee ballot request arrives at the clerk's office, the clerk processes the request as follows:

### **Paper request.**

1. Upon receipt of the request, the clerk's office logs the request into ElectionNet. The clerk or staff types the name that the voter provided into the system.
2. If the handwriting is bad or they can't find the name, they do a search through ElectionNet and the DMV records that are connected to ElectionNet.
3. Once the voter is found, the clerk checks to make sure they are registered in the correct town/ward and that the address is correct.  
IF NOT REGISTERED, Clerk contacts voter by mail and email and mails the voter a registration packet within 7 days of receipt (if more than 45 days before the election); or within 1 business day of receipt (if within 45 days of the election)
4. The clerk then checks the address with the address(es) on the form. The clerk types into ElectionNet the address(es) provided and the additional information.
5. Clerk checks to make sure the form has all the required information. ~~any information is missing.~~
6. If any information is missing, the clerk immediately contacts the voter by mail and email and, if necessary, mail within 7 days (if more than 45 days before the election); or within 1 business day (if within 45 days of the election).

### **An online form**

1. The form should connect to electionNet so the information typed in by the voter will be added to the system with no data entry required by the clerk.
2. The clerk receives an emailed or faxed copy of the fully populated paper form. The clerk checks to ensure the information successfully populated in eElectionNet.
3. No follow up is required by the clerk because the fields on the voter form were mandatory, it was linked to an existing registration, and the address format was standardized.

6. The clerk prints the confirmation from ElectioNet and cross-checks the information with the request. Then physically files the information with the request until ~~envelopes~~ absentee ballot envelopes are ready.

#### **The NHSOS ensures timely printing & notice**

1. The SOS will prioritize envelope printing so that each municipality receives envelopes 60 days before each election. Envelopes will be sized to minimize the need to fold ballots. All return mailing envelopes shall be printed by the SOS with business reply postage.
2. For the State Primary election, the SOS shall deliver absentee ballots to cover at least 50% of the expected turnout by July 24 (UOCAVA deadline). The remainder of the requested absentee ballots shall arrive by August 8, 2020.
3. For the General election, the SOS shall prioritize the expedient printing and delivery of absentee ballots such that each municipality receives absentee ballots to cover at least 50% of their expected turnout within 7 days of the primary results, and the remainder of the requested absentee ballots shall arrive by October 3, 2020.
4. The SOS shall notify each municipality and the USPS regarding the expected date of ballot delivery as far in advance as practicable to ensure sufficient staffing.

**Once envelopes arrive to clerks:** clerks will prepare mailings so that they can be sent out as soon as ballots arrive to allow voters as much time as possible to complete and return their ballots.

1. Clerk runs a batch of all voters who have requested absentee ballots & prints labels.
  - a. [For primary, run a separate batch for each party].
2. Labels are affixed to each envelope.
  - a. This includes the barcode for USPS tracking ~~and the provision of business reply mail postage for every ballot.~~ [SO STATE PAYS FOR RETURN ENVELOPE? GOOD]
3. Prepare envelopes with instructions, so that only the ballot remains.
4. File away (separated by party for primary), with the batch list.

**Once ballots arrive to clerks:** Mail out ballots to voters within [2] business days of receipt for all requests on file.

1. Clerks shall notify the local post office regarding receipt to ensure appropriate postal staffing.
2. Clerks stuff ballots into envelopes, double checking that all materials are included. Once envelopes are prepared, scan to check off the master list.
3. Deliver to the post office with the election mail tag.
4. New absentee requests are processed and ballots mailed within 2 business days if there are more than 30 days before the election, or within 1 business day within 30 or fewer days before the election.

#### **Ballot & envelope design**

1. Ballots will be mailed in full-sized envelopes to minimize paper jams in the machines caused by the folded paper.

2. Absentee ballots will be printed on 8.5x11 or paper where possible, so they will fit into a standard flat document envelope. Where not possible, the ballot will be folded just once.
3. The envelope that is sent to voters will contain the following:
  - a. **Absentee Ballot**
  - b. **Instructions** (edited to be understandable at a 4th grade reading level)
  - c. **Affidavit Envelope** (flat document size), folded once.
    - i. Expanded to a full-sized document, the affidavit envelope will be designed to draw the voter's attention to the signature line.
    - ii. For the primary, the affidavit envelope will also include a line indicating:
      1. "If you switched from undeclared to declared for the purpose of voting in a party primary, you will be automatically returned to undeclared. If you would prefer to keep your party affiliation, check this box: [ ]"
  - d. **Return envelope** (to enclose affidavit envelope), folded once.
    - i. Each external envelope will be pre-addressed to the clerk's office and printed or affixed with postage-paid business mail.

### III. ABSENTEE BALLOT EXPERIENCE FOR VOTERS

After the voter submits their absentee request form, the voter can check the status of their request and ballot at the SOS portal. The State and municipalities should widely publicize when ballots become available, so that voters can track their ballots and check their mail.

When the voter receives their absentee ballot package, the process should be as simple and straightforward as possible. All information possible should be pre-filled and postage will be paid. Simplifying the process is not enough, however.

There was unanimity among those who have addressed the committee that the absentee process can be confusing, error-prone, and sometimes overwhelming. In order to assist voters in completing their absentee ballots in an accurate and timely manner, we recommend a hotline and voter education.

#### VOTER HOTLINE

The State of NH, through the SOS and/or the AG's office, should administer a voter information hotline that is staffed full-time during business hours for at least 45 days before ~~each~~ the election. The number should be advertised widely, so that voters needing help can go to a reliable resource. Hotline staff should be well-trained with pre-written answers to all anticipated questions.

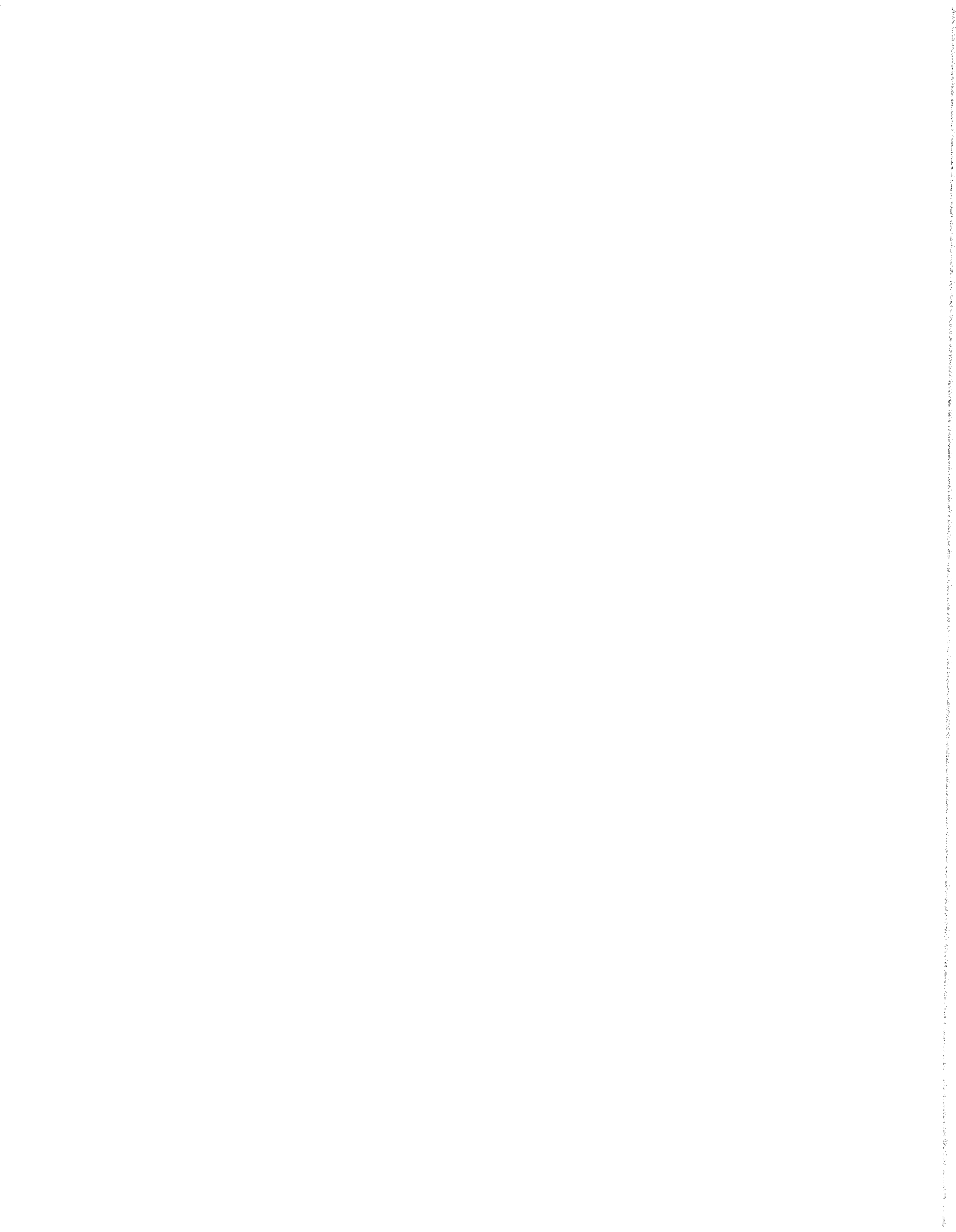
In addition to the hotline, the State of NH, through the SOS, should contract with experts or focus staff resources on the following:

- a. **Clear, simple absentee voting instructions approved by experts.** The instructions should be tested for readability at a 4th grade level. Note that the average ~~a~~American reads at a 7th or 8th grade level<sup>3</sup>, which means that 50% of Americans read below that.
- b. **Consistent voting information.** The hotline training materials, written materials, and FAQs will also be provided to all city and town clerks and other municipal officials. This way, clear, consistent, and reliable information is provided to the voters, no matter whether they reach out to their local officials or the State. In addition, the hotline will provide a resource for local election officials who might need questions answered.
- c. **Website, print, radio, and marketing materials** to reach voters as part of a professional, sustained campaign from the state.

#### ABSENTEE VOTING FOR VISUALLY IMPAIRED

Any voter who is visually impaired may be provided with the emailed ballot that is provided to UOCAVA voters. Visually-impaired voters should contact their clerk's office and request the reasonable accommodation of the UOCAVA ballot. The SOS should advertise this option on the radio and other media, as recommended by advocates in the visually-impaired community.

<sup>3</sup> <http://www.clearlanguagegroup.com/readability/>



## IV. RETURNING ABSENTEE BALLOTS

Once the voter has completed their ballot, the return process should be as simple as possible. The typical process for returning the ballots involves using the USPS. This year, we expect an up to ten-fold increase in the amount of absentee ballots in New Hampshire. We also expect that the USPS may suffer from the many of the same delays and shortages related to COVID-19 as other industries. Other states that have had large increases in absentee ballots for their state primaries such as Wisconsin, Ohio, and Michigan have reported delays of up to two weeks for ballots to arrive. In New Hampshire, we've seen at least one instance of an absentee ballot taking 30 days or more to arrive from postmark--and that was in the pre-covid era.

The other historically best option, delivery in person to the city or town clerk's office, is hazardous due to COVID.

As a result, we ~~should~~ must provide additional options for return of absentee ballots.

1. **Secure drop-off location** at town or city hall or other municipal location. Ideally this would be in the form of a secured one-way mail slot into the clerk's office or in a secured box akin to a USPS mail drop. The clerk would check this daily.
2. **Direct drop** at post office. If the local post office and the clerk agree, the post office can dedicate a secure location within the post office for in-town election mail. This mail would not need to be processed but would remain in the custody of the USPS until it is picked up by the town or city clerk. The clerk or their representative can pick up the mail daily from the post office. This would save postage and avoid processing delays for ballots traveling within the municipality ~~municipal~~ and/or a dedicated external mailbox for in-town absentee ballots. The USPS could also dedicate an external mailbox to in-town election mail. Ideally, this would be an existing secure box that voters could drive up to.
3. ~~**Absentee drop outside of the polls** on election day (or absentee processing days). Voters may drop off their ballots with a designated agent or in a staffed dropbox without necessitating entering the polls. Consider changing the definition of "delivery agent" to include "trusted neighbor or friend" in addition to just family members, as many people reside alone without family members who can help deliver their ballot.~~
3. **Third-party delivery**. For many voters--particularly those of advanced age or with medical vulnerabilities--dropping off or mailing their ballots is not so simple. The committee heard that it would ease the process, especially for older adults and those with disabilities, if third-parties were allowed to drop off ballots. The committee heard from at least one person a concern that allowing third parties to collect ballots could lead to fraud, and that the prohibition served to prevent fraud or pressure from third-party groups. However, election fraud and undue influence is a crime. It i's a felony to bribe, intimidate, or compel a voter to vote in a particular way. RSA 659:40. It i's also a felony to impersonate another voter or vote twice. If a malicious actor wanted to break the law

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and submit multiple illegal ballots, a third-party delivery prohibition would hardly stop such a person. The theoretical bad actor would simply drop the ballots at a mailbox instead of the clerk's office. We recommend waving this prohibition for 2020 to make it easier for voters to submit their absentee ballots.

5. **Mail:** The SOS should use its economies of scale to contract with the USPS to use business reply mail on all election mail--both outgoing and incoming. NH should avail itself of USPS's election mail tracking program, which allows for tracking of ballots within the mail stream and allows prioritization of election mail.
  - a. **TECH:** If linked with eElectionNet, voters and clerks can precisely track ballots through the existing portal. If mail is slow, this allows voters to anticipate when they might be risking disenfranchisement and make arrangements to safely access the polls where necessary.



## V: PROCESSING ABSENTEE BALLOTS

Based on unanimous testimony from election officials, clerks should be able to process absentee ballots before election day. Up to one week before the election, municipal officials may host public sessions for the processing of absentee ballots. We recommend that municipalities host one or more absentee processing sessions on the week prior to the election after the last meeting of the Supervisors of the Checklist. We recommend the following:

Upon receipt of the returned absentee ballot, municipalities should attach the corresponding absentee request form to the ballot. And store it in a secure location. If there are any defects detected, the voter should be notified immediately (within 1 business day). Note that the moderator shall not reject an absentee ballot for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required pursuant to RSA 659:54.

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Prior to the first absentee session, ballots should be alphabetized and organized.

**Early absentee ballot processing sessions:** The sessions will be noticed under 91-A and will allow for public observance both in person and via Zoom or other electronic medium. In person, social distancing guidelines and PPE as recommended by DPH and outlined in the **in-Person Voting** section shall be followed. Credentialed challengers will be permitted at these sessions, but they must comply with the DPH and statutory poll observer guidelines. In the event an absentee ballot is not accepted or challenged, the name of the voter will be called out and posted on the chat or another public forum. The voter will be notified before the end of the session by telephone and/or email (if provided) and allowed to cure their ballot during the next public session or cast a new ballot.

**Pathway A:** Open the outer envelopes and leave the inner envelope sealed; allow challenges early.

At the absentee processing session:

- The customary process for absentee processing at the polls is followed, except that the inner affidavit envelope **remains sealed**.
- The corresponding name on the checklist is marked AV in red ink. Note the checklist has been printed in the manner it will be distributed at the polls (divided by alphabet).
- If a ballot is challenged or rejected, the voter is notified and has the opportunity to cure.
- The documents and the sealed affidavit envelopes are returned to the secure box at the end of the session.

At the polls:

- The checklist that is pre-marked AV will be used at the check-in table. If a voter appears to vote in the first two hours of the day and wants to replace their absentee ballot with a new vote, the voter may do so. They would go through the normal line. If their name is marked with ABV, they will be directed to a dedicated absentee ballot location. There, the election official may pull the voter's absentee ballot and return it to the voter. The voter may then cast a new ballot.
- Any ballots received since the last absentee processing meeting will be processed at the polls in the normal course, beginning two hours after the opening of the polls.

- Starting at two hours after the polls open, poll workers may begin opening the internal affidavit envelopes and feeding the ballots into the machines.

**Pathway B:** Same process as above, but the voter challenges are performed at the polls.

- This likely eliminates the opportunity for a voter to be notified of a challenged ballot.

**Pathway C:** Open both envelopes and secure only the ballots.

- The entire absentee ballot processing procedure is done prior to the election in public session. Both envelopes are opened, and ballots are stored in a secure location. The only remaining task to be performed on election day for these ballots is to feed them into the machines, allowing election officials to focus on the recently arrived ballots.
- Note that this option does not allow a voter to beat their ballot to the polls. It does, however, minimize the election day strain on municipalities and allows for notice and curing of ballots ahead of the election.

**How do we address mail delays?** In 2016, approximately 1% of all New Hampshire absentee ballots were rejected because they arrived after 5 p.m. on election day. With mail delays and the increased absentee ballot percentage, we have to expect that tens of thousands of NH voters may have their ballots rejected. The committee recommends one or more of the following actions to minimize disenfranchisement:

- Ballots that are postmarked ~~before~~ after 5pm on election day ~~by election day~~ should be accepted, so long as they are postmarked before ~~[midnight on?] election day~~. In such a case, the election meeting session would not conclude on election day, but ~~day~~ but would be adjourned. The election meeting would reconvene in order to count the delayed absentee ballots.
- To avoid voters being disenfranchised by delays in the mail, voters ~~would~~ be encouraged to complete and return their absentee ballots as soon as possible. To aid in this process, non-profit groups as well as political parties will be permitted to purchase voter history, including the absentee ballot status (requested, mailed, returned) under RSA 654:31. The SOS will provide this updated information daily, when requested, so that nonpartisan groups and candidates may direct their get-out-the-vote efforts to notify and support voters in returning their ballots on time.
- As mentioned above, USPS tracking services would allow greater voter and clerk insight and notification for delayed ballots.