

STATE OF NEW HAMPSHIRE

**SUPERVISORS OF THE CHECKLIST - FREQUENTLY ASKED QUESTIONS
JUNE 2, 2020 MANDATORY SESSION**

TO: New Hampshire Supervisors of the Checklist/Registrars
FROM: Bill Gardner, Secretary of State
RE: Supervisor / Registrar Duties before 2020 Elections
DATE: May 18, 2020

Please review the following guidance to Supervisors of the Checklist in response to questions received regarding your duties for the mandatory June 2, 2020 session in light of the COVID-19 pandemic. We base this guidance on current law including the current Emergency Orders issued by the Governor declaring a state of emergency due to Novel Coronavirus, COVID-19.

This guidance is subject to change based on the evolution of the pandemic and subsequent Emergency Orders.

This guidance is limited to the duties assigned by law to the Supervisors of the Checklist (in some cities - the Registrars of Voters) related to the June 2, 2020 session.

We plan to issue further guidance to all election officials for the September 8, 2020 State Primary and November 3, 2020 General Election.

1. Are Supervisors of the Checklist required to hold a session on June 2, 2020?

Yes. RSA 654:32 requires the supervisors hold a session “between 7:00 p.m. and 7:30 p.m. and at the discretion of the supervisors for extended hours.”

2. Are the Supervisors of the Checklist required to meet in-person and allow the public to attend the meeting in-person?

No. The Governor’s Emergency Order #12 waives the requirement that the Board of Supervisors of the Checklist meet in-person. It authorizes you to conduct meetings through electronic means, subject to certain requirements. See the answer to Question 3, below for details.

3. How do Supervisors of the Checklist conduct a session during the COVID-19 emergency?

If your town offices will be open to the public on June 2, 2020, conduct your meeting in the largest appropriate meeting space to allow for social distancing between supervisors and anyone else attending. If two supervisors attend, you have a quorum. Conduct the meeting as usual. If you cannot get two supervisors to attend in-person, you need to follow the guidance below.

If the public can attend in-person, at least one supervisor or a representative of the town/city should be present in-person. The other supervisors may participate on-line and by phone. Each remote supervisor must be able to see any documents being considered through the on-line system and must be able to speak and be heard by all in the room.

If the public cannot attend in-person, the notice must explain the alternative means of applying for change of party affiliation or for those seeking to register in order to file for office, voter registration. It must also provide the on-line link and dial in by phone information to allow the public to observe the meeting.

Certain emergency orders impose restrictions that may impact the ability of the supervisors to hold public in-person meetings. While those applicable orders currently remain in effect until May 31, 2020, supervisors should continue to monitor for extensions of the orders or new emergency orders that are applicable. <https://www.governor.nh.gov/news-and-media/emergency-orders-2020> (last visited 5/15/2020).

Emergency orders allow each supervisor to participate remotely. The orders also allow the board to meet without allowing physical attendance by the public, provided the board of supervisors:

- a) Provides public access to the meeting by telephone, with additional access possibilities by video or other electronic means;
- b) Provides public notice of the necessary information for accessing the meeting;
- c) Provides a mechanism for the public to alert the public body during the meeting if there are problems with access; and
- d) Adjourns the meeting if the public is unable to access the meeting.

Emergency Order #12 Pursuant to Executive Order 2020-04, <https://www.governor.nh.gov/news-and-media/emergency-orders-2020> (last visited 5/15/2020).

Video or Electronic Means

Our understanding is that most towns and cities in New Hampshire have adopted some system of providing the public on-line access to meetings of public bodies. Many use established community access television. Others use commercial on-line meeting technology. We recommend supervisors consult with whomever in town assists with technology. If none of the supervisors is familiar with on-line meeting technology, request assistance with conducting your June 2, 2020 session on-line. Whomever manages IT for your schools is another possible resource.

There are free, inexpensive, and easy to use resources available to conduct an on-line meeting. We do not recommend any specific product. Among available resources are:

<https://zoom.us/>
<https://www.webex.com/>
<https://www.gotomeeting.com/>

The free versions allow a limited number of attendees. You will need to assess whether that number is sufficient based on your experience with attendance at your sessions. Ideally, use an option that allows enough attendees. This will reduce the likelihood of having to adjourn the meeting because members of the public notify you they want to attend, but are unable to join in. If you do need to adjust the system to permit more attendees, plan to do so on-the-fly, adjourning the meeting only for the few minutes required to upgrade the software.

The meeting must be completed on June 2, 2020.

Using on-line video technology requires at least one person with a computer connected to the Internet. The “host” of the meeting can manage the on-line meeting technology. The “host” does not need to be a Supervisor.

All of the technology listed above provides both computer (audio and video) access and telephone access. When the meeting is scheduled using the software/web site, the software generates both an Internet link to join the meeting and dial in by phone information. You will need to have selected and set up your chosen online system before May 26, 2020. This will allow you to include the Internet link and telephone dial in information in the meeting notice you publish by May 26, 2020.

The “host” should set the software to mute all attendees as they join. The “host” should selectively un-mute just the supervisors of the checklist. If a member of the public wishes to speak, the software allows that person to electronically “raise their hand.” The chair, if necessary working with the host, can then selectively un-mute that one member of the public. Control of who can speak is important to avoid malicious disruption of your meeting. The “host” should be familiar with how to mute both the audio and video of any attendee.

If you would like the Secretary of State to provide a webinar on conducting a meeting using on-line meeting technology, please e-mail a request to: NHVotes@sos.nh.gov. Include information on what on-line software you plan to use (ideally, one of the three listed above). If there is interest, we would likely conduct just one webinar on this topic.

We recommend:

Normally we recommend that a notice include:

The Supervisors of the Checklist for the Town of _____ will hold a session for the correction of the checklist and accepting applications for voter registration or change of political party affiliation on:

Date: Tuesday June 2, 2020

Time: 7:00 p.m. – 7:30 p.m.

Location: Town Hall, Meeting room 1st floor, 1 Main Street, Anytown, New Hampshire

This will be the last session at which a registered voter may change political party affiliation until after the September 8, 2020 State Primary Election. Check your party affiliation on-line:

<http://sos.nh.gov/VoteInforLook.aspx>

Voters registered as a member of a political party may only vote on that party's ballot at the state primary. Voters registered as undeclared may join a party by requesting that party's ballot when voting in person or by absentee. A voter registered as undeclared who joins a party to vote in the primary, may change back to undeclared by completing the "Election Day Party Affiliation Change Form."

Applicants for registration who possess proof of identity, age, citizenship, and domicile should bring that proof when they come to register. Qualified applicants who do not possess proof or who do not bring proof with them may still register if they sign an affidavit attesting to their qualifications for identity, age, and citizenship, and / or domicile.

COVID-19 Sessions Held During the State of Emergency

Supervisors who will hold a session using on-line / telephone technology should include this substitute information in the notice:

Location: We will conduct this session on-line in accordance with Emergency Order #12, issued by the Governor on March 23, 2020. The public cannot attend in person. See accommodation below.

- To listen to the meeting call (*Insert dial in number for the on-line session*) use password (*insert the password generated by the on-line meeting software*).
- To view and hear the meeting on-line, click on this link (*insert the meeting link generated by the on-line meeting software*). Use this meeting ID (*insert meeting ID number*) and password (*insert password if required by the on-line system*).
- If you seek to observe the meeting and the number/link listed above does not allow you to connect and observe the meeting, contact (*insert name and phone number for someone the public can call at the meeting to notify you that the phone/on-line link are not allowing them to observe the meeting*).
- Voters seeking to change political party affiliation are requested to complete the "Application to Change Party Affiliation" form available on the Secretary of State's web site: <http://sos.nh.gov/> (*If your town has also posted this form on your web site, list that link as well*). You may also obtain the form from the town/city clerk's office. **The completed form must be received by the town/city clerk before 5:00 p.m. on Tuesday June 2, 2020.** (*Insert the clerk's contact information and mailing address.*)
- We request individuals seeking to register to vote obtain an Absentee Voter Registration form and instructions from the clerk. Complete the registration form and affidavit, then submit with the required proof documents to the clerk before 5:00 p.m. on Tuesday June 2, 2020 to have the application considered before the filing period starts on June 3, 2020.
- To file to seek office a person must be a registered voter in the town/ward. Absentee voter registration applications for those seeking to vote in September may be submitted after June 2, 2020.
- Accommodation for in-person application. A person who is unable or unwilling to submit the application for party change or voter registration as described above is required to contact the supervisors in advance to request an accommodation to allow in-person application at the time of the session. Accommodations may include meeting a supervisor or designee in the parking lot of the town office (*substitute appropriate location for your town/ward*) at a specified time. You are requested to wear a suitable facemask for mitigating risk of COVID-19 transmission. If you drive to the meeting, you may be asked to remain in

your vehicle. The exchange of documents and viewing of identity and other proof documents may occur through your vehicle window.

- Other protective measures may be used or requested of the applicant at the direction of the election official/designee in consultation with the town/city Emergency Management Director or health authorities.
- To arrange accommodation contact (*Insert name, phone number and/ or e-mail to contact person who will handle accommodation.*)

4. How do supervisors post checklists and meeting notices if the town office is closed?

“The supervisors shall make and post copies of the current checklist at the office of the town or city clerk or at the town hall not later than the fourth Tuesday before the day of any state election.” RSA 654:26. Post notice of a session where the checklist is posted. If the usual posting place is inside a building that is currently closed to the public, post the checklist and notice on a nearby outside notice board or on/adjacent to the town office entrance. Place the notice inside a plastic cover, re-sealable see through food storage bag, or some similar cover to protect the notice from the elements. Ideally, also post notices of the town web site. If there is no appropriate place to post the checklist, post a notice. The notice must list either an alternative location, that is open to the public, where the checklist is posted or contact information for an election official who will accommodate a request to view a copy of the checklist. Do not post checklists on the internet.

5. May a qualified applicant concerned with health risk from COVID-19 register to vote by mail?

This preliminary guidance is offered to answer immediate questions before the June 2, 2020 session. The Secretary of State and the Attorney General will publish additional guidance regarding absentee voter registration and the registration process for the primary and general elections.

Yes. On April 10, 2020, a memorandum was issued concluding that “in light of the current public health state of emergency, Emergency Orders #16 and #26, and current public health guidance on social distancing and avoiding being in public in groups of 10 or more, all voters have a reasonable ground to conclude that a “physical disability” exists within the meaning of RSA 657:1.” The analysis in that memorandum applies equally to absentee voter registration authorized by RSA 654:16 through 654:19. Any person qualified to register to vote who is being advised by medical authorities to avoid going out in public, or to self-quarantine, qualifies to register by mail based on the meaning of “disability” in the election law including this circumstance. Even if a person does not consider them self a person with disability in other circumstances, the term applies for registering and voting in 2020. RSA 654:16.

Therefore, all New Hampshire citizens may apply for voter registration by mail.

As has been done with voting by absentee ballot, absentee voter registration is available through the November 3, 2020 General Election to any applicant who signs the Absentee Registration Affidavit for disability established in RSA 654:17. Anyone concerned with health risks arising from COVID-19 is entitled to sign the affidavit asserting that the applicant is “unable by reason of physical disability personally to appear before the supervisors of the checklist.”

The term “disability” in the election law extends to circumstances where a person is ill due to COVID-19, is caring for such a person, or is concerned that registering or voting in person will expose that person or others to COVID-19.

Even if you do not consider yourself a person with disability in other circumstances, this term applies for registering to vote and voting in 2020. The opportunity to register and vote absentee due to disability from COVID-19 will apply in 2020, regardless of the future development of the pandemic. You must sign the “disability” affidavit for absentee registration and absentee voting.

6. How does a person obtain a Voter Registration Form and the Absentee Registration Affidavit?

Obtain an Absentee Voter Registration Form, affidavit, and instruction package by calling, e-mailing, mailing, or, if open to the public, visiting the town or city clerk’s office. Contact information for clerks is available here: <http://sos.nh.gov/VoteInforLook.aspx>

Supervisors and clerks may use mail, e-mail, or pick-up to make an absentee voter registration application package available to someone seeking to register to vote. (Voter registration form and the package of affidavit and instructions available in ElectionNet > Help > Instructions: “Absentee - Not Registered to Vote Package 2019-02.”)

7. To whom is the completed Absentee Voter Registration form and affidavit mailed?

This preliminary guidance is offered to answer immediate questions before the June 2, 2020 session. The Secretary of State and the Attorney General will publish additional guidance regarding absentee voter registration and the registration process for the primary and general elections.

The applicant must return the completed voter registration form, affidavit, and copies of the documents proving identity and domicile to the town or city clerk, preferably by mail.

8. Can an applicant provide proof digitally?

This preliminary guidance is offered to answer immediate questions before the June 2, 2020 session. The Secretary of State and the Attorney General will publish additional guidance regarding absentee voter registration and the registration process for the primary and general elections.

Yes. If the applicant has a phone capable of taking photos that can be e-mailed or texted, have the applicant submit the images of the proof documents to the clerk/supervisors by e-mail or text. To the extent the documents contain date-of-birth, place-of-birth information the voter would be assuming the cybersecurity risk were the e-mail intercepted or hacked. The clerk or supervisors would match the images to the completed forms submitted by mail or secure drop off. The clerk or supervisor would print the images and file them with the voter’s application form.

9. Can the supervisors hold additional sessions to address pending applications for voter registration?

Yes. The Supervisors may meet at any time. Notice must be given. The Right-to-Know law requires that “notice of the time and place of each such meeting. . . shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.” RSA 91-A:2, II.

10. Can completed voter registration documents be dropped into a secure drop box at the clerk’s office?

Applications to Change Political Party Affiliations – Yes.

Applications for Voter Registration – No, however, clerks may want to arrange times when a drop box monitored by the clerk or designee is available at an advertised location to allow applicants to do a drive by drop off.

11. How does an applicant who does not have a witness available to sign the absentee registration affidavit, does not have proof of identity or domicile, or who does not have the ability to make a copy of proof documents submit the required documents?

This preliminary guidance is offered to answer immediate questions before the June 2, 2020 session. The Secretary of State and the Attorney General will publish additional guidance regarding absentee voter registration and the registration process for the primary and general elections.

The absentee voter registration process requires the voter to provide photocopies of the documents the applicant relies on for proof of identity and domicile. RSA 654:17.

The applicant should contact the clerk or supervisors to request an accommodation. Clerks and Supervisors should work with the applicant and exhaust reasonable efforts that may include:

- If the applicant can safely drive, meet the applicant at their car in the parking lot of the town office or other safe public space. The election official should wear a mask and appropriate gloves. This in-person meeting will convert the application to an in-person application; the absentee registration affidavit and copies of proof of identity and domicile is not required.
 - Ask the applicant to bring their own pen.
 - View the applicant’s proof documents through the car window.
 - If a domicile affidavit or qualified voter affidavit is needed, pass the form through a gap in the car window and witness completion through the window;
 - Receive the completed application and any required affidavits by having the applicant pass them through a gap in the window into a bag or box held by the election official;
 - Leave the documents in the bag or box for the time recommended by health authorities to mitigate risk of spread of COVID-19 or wear a mask and gloves to handle them;
 - Upon return to your office sign the documents as required to witness affidavits, in the usual manner at a time when doing so is safe;

- Submit the completed forms to the Supervisors of the Checklist for to be reviewed for approval at their next public session.
- If the applicant cannot safely drive to the clerk/supervisor, if possible arrange for the clerk, a supervisor, or a volunteer designee of the clerk trained to receive voter registration applications to meet with the applicant at a mutually acceptable location, which may be the applicant's home or place of quarantine. The election official/designee should wear a mask and gloves. Follow the procedures above, using the door window or some other glass barrier to view proof documents, in place of the car window.
- If the town/city clerk's office or the supervisors are not comfortable accommodating the applicant, contact the Secretary of State's office at 271-3242 for assistance with identifying and training a designee to accommodate the applicant.

12. How does an applicant return the completed Absentee Registration Forms?

Applicants should be encouraged to return the completed forms by mail or at a secure drop-off at a town facility when a clerk or designee is staffing the drop off box. Do not e-mail forms that contain date-of-birth and place-of-birth information, as this is a cybersecurity / identity theft risk

13. When registering a voter in-person, how do we protect the applicant and the election official?

This preliminary guidance is offered to answer immediate questions before the June 2, 2020 session. The Secretary of State and the Attorney General will publish additional guidance regarding absentee voter registration and the registration process for the primary and general elections.

We recommend all election officials contact their town's Emergency Management Director and review published recommendations from the Center for Disease Control ("CDC") and public health officials for guidance on appropriate health protection measures.

We recommend using a setup that has the election official on one side of a see-through barrier and the applicant on the other. The barrier will need a hole or mechanism to allow passing forms back and forth. It should be tall and wide enough to provide an effective barrier against a sneeze, by either party. View proof documents and partially completed forms, to the extent necessary, by asking the applicant to hold the document up to the glass/sneeze guard. The barrier should be located close enough to the election official to allow the official to comfortably lean forward enough to make reading the document comfortable, while leaving a work surface inside the barrier. The completed forms would be transferred one time from the applicant to the election official through the hole, ideally at the bottom of the barrier.

If forms must be received from an applicant right at the deadline, consider having clear plastic bags (large re-sealable food storage bags or plastic covers used in 3 ring binders). Hold the bag open, have the applicant drop the document in the bag without touching the bag. Handle the bag without touching the document. View the document as needed to approve the application, by looking through the bag. If election official signatures are needed, add them after the recommended waiting period to mitigate the COVID-19 risk.

Election officials should wear face covers. While gloves may also be useful, keep in mind that transmission of COVID-19 from a touched surface is reported to be primarily through then touching one's eyes, nose, or mouth. A gloved hand is likely equally or more effective than a bare hand at transferring a contaminant. We are told the key is regular handwashing/sanitizing. Even for those that choose to wear gloves, hands should be washed/sanitized each time the gloves are removed. Surfaces should be sanitized between applicants.

Make some accommodation for an applicant who does not have the ability to use the mail or who does not have access to a photocopier to make copies of proof documents. You may not deny the right to apply to register to vote because the applicant does not have access to these resources.

Equip the person receiving the application with appropriate personal protective equipment. Adopt careful hand washing protocols following contact with the submitted documents and applicants. Whether in the office, in a town facility entryway/vestibule, at the applicant's car in the parking lot, or just outside a town/city building:

- Minimize contact;
- View proof documents through a window (car window, front entrance / door window – applicant outside, election official inside, or a service counter window);
- Available information from the Center for Disease Control and other health authorities suggests that the risk of infection through touching paper also handled by an infected person is likely low. Even if the paper has virus on it, over time the virus dies. The official receiving completed forms may choose to have the applicant drop the form into a container (grocery bag/large envelope) held by the official. Provided there is time before the supervisor's session, leave the forms in the bag. Process them after the passage of time diminishes any risk.