



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

Elections Matter!

What Local Officials Need to Know



Stephen C. Buckley, Legal Services Counsel

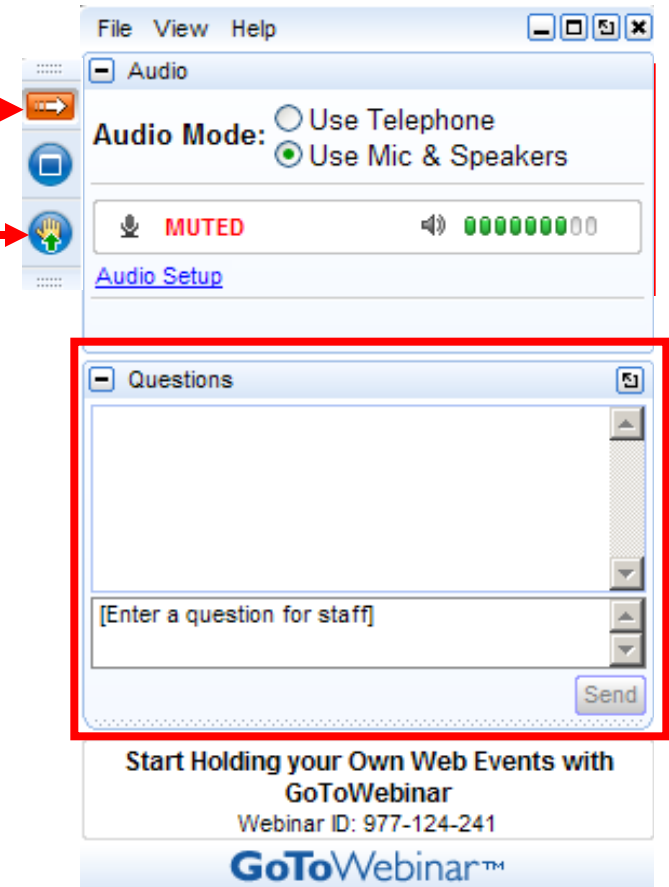
Margaret M. L. Byrnes, Staff Attorney

October 15, 2014



How to Participate Today

- Open and close your Panel 
- Submit text questions 
- Q&A addressed at the end of today's session
- Two quiz questions today!



This webinar will cover frequently asked questions on how to manage elections by local election officials

- Election purity issues
- Voting & Registration Issues
- Voting Equipment Issues
- Electioneering Issues
- Accommodations Handicapped & Infirm
- Absentee balloting issues



Election Official Disqualification

- If the moderator is on the ballot for an elective position, she is permitted to perform all of her election duties, except she shall not handle marked ballots and the counting of votes. However, if the moderator is on the ballot for the position of an election officer, she may carry out all of her election duties.
- If a selectman is on the ballot she would be prohibited from handling marked ballots and she would also be prohibited from being within the guardrail during the counting of votes for an office for which he is a candidate.



Who Is Allowed Inside the Area Designated for Voting?

- A voter may designate a person to assist him voting and that person may accompany voter inside the guardrail.
- Elections officials may also permit other persons within the guardrail for the purposed of keeping order. RSA 659:21



Can Children Under Age of 18 Accompany a Parent Inside the Guardrail?

- Election Officials have the authority under RSA 659:21 to admit other persons within the guardrail for the purpose of keeping order and enforcing the law.
- Moderator could conclude that disorder would occur if children were left outside the guardrail while a parent voted, and allow children to accompany a parent during the act of voting.



Photography and Videography in Polling Station

- Voters are now prohibited from taking a digital image or photograph of their marked ballot. RSA 659:35 (I), HB 366, Chapter 82, eff., 9/1/14.
- Some courts have ruled that photography or videography may be prohibited in the polling station because the presence of reporters during the sign-in period, when individuals are necessarily exchanging personal information in preparation for casting a private vote, could concern, intimidate or even turn away potential voters. PG Publishing v. Aichele, 705 F. 3rd 91 (3rd Cir., 2013).



Must Full Board of Selectmen be Present During Voting and Vote Tabulation?

- Pt. 2, Art. 32 of the NH Constitution requires the attendance of Selectman during voting and vote tabulation at a State General Election.
- For primary elections the NH Attorney General's office takes the position that a quorum of the Board of Selectmen must be present at all times. NHMA does not share that view as NHMA believes that the duty to attend imposed on the Board of Selectmen stated in Pt. 2, Art. 32 of the NH Constitution only applies to the State General Election.



Elections Matter! Webinar



Quiz Time!!!



Quiz Time!!!



- Which NHMA staff person is a member of their local garden club?
 - a. Cordell Johnston
 - b. Judy Silva
 - c. Stephen Buckley
 - d. Barbara Reid



Where Can Poll Watchers and Election Observers Sit?

- Persons who wish to observe voter registration on Election Day must be at least five feet away from the registration table where the exchange of nonpublic information may be heard or seen. RSA 654:7-c.
- Persons who wish to observe the check in of voters must be positioned at least six feet away from the ballot clerk, unless otherwise permitted by the moderator. RSA 659:13-a.



Change of Party Affiliation

- A voter who has previously registered to vote with a declared party membership may change such party declaration at a primary election, but cannot then vote for the ballot of any party at such primary. RSA 654:34 (I) (b).
- A an undeclared voter may register as a member of a party at a primary election and then may vote the ballot of the party of the voter's choice. RSA 654:34 (II) (b). Such a voter may then elect to have her registration changed to undeclared after voting.
- Generally, party affiliation may only be changed at a meeting of the supervisors of the checklist.



What Kinds of Picture Voter Identification are Acceptable?

- A driver's license from any state or federal government.
- A non-driver's photo ID from any state
- A United States armed services photo ID.
- A United States passport or passcard.
- New Hampshire photo ID issued by the DMV for voting purposes only.



What Kinds of Student Voter Identification are Acceptable?

- A college, university, or career school in New Hampshire and approved to operate or licensed to operate in New Hampshire.
- A public high school in New Hampshire.
- A nonpublic high school in New Hampshire accredited by a private school accrediting agency that is recognized by the department of education.
- Dartmouth College.
- A college or university operated by the university system of New Hampshire or the community college system of New Hampshire. Other acceptable means of identification.



What are Other Ways a Voter May be Identified?

- A photo ID deemed acceptable by a Supervisor of the Checklist, Moderator, or Town or City Clerk.
- Verification of a person's identity by a Supervisor of the Checklist, Moderator, or Town or City Clerk.
- An affidavit filled out and signed by the voter and an authorized election officer.
- Voter ID from the DMV: If you don't have a driver's license or a non-driver's ID from the New Hampshire Dept of Motor Vehicles, you may get a voucher from your Town Clerk that will allow you to get a free Voter ID for Voting Purposes.



Elections Matter! Webinar



Quiz Time!!!



Quiz Time!!!



- Which New Hampshire town was the birthplace of Luther C. Ladd, the first enlisted soldier to lose his life in the Civil War?
 - a. Alexandria
 - b. New Castle
 - c. Portsmouth
 - d. Acworth



What Happens With Spoiled and Unmarked Ballots?

- Spoiled ballots must be marked cancelled by the moderator over his signature and must be preserved and sealed in containers provided by the Secretary of State.
- Unmarked ballots must also be so preserved, they may not be kept by voters.



Can a Pre-printed Sticker be Used When Writing in a Candidate for Office?

- RSA 659:65 provides that “a ballot shall be regarded as defective in part and that part shall not be tabulated if :... (b) the ballot has attached to it an adhesive slip, sticker or paster not prepared in accordance with RSA 656:21.
- RSA 656:21, in turn, provides that the Secretary of State may authorize the use of pasters for state elections when a candidate dies or is disqualified and the name of a substitute candidate must be used.



Are there other ways that additional voting booths may be set up

- An amendment to RSA 658:9, effective 8/10/14, permits portable booths set up in pods of up to 4 voting stations. Each voting station in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep, and the edge of the table facing the voter no less than 25 inches in width. The third, open side of the voting station shall be enclosed by a curtain large enough, and designed in a way, to give the voter privacy.



Help America Voter Act of 2002

(HAVA)

- Under HAVA polling stations shall have one direct recording electronic voting system equipped for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, also equipped to provide privacy and independence for the voter.
- Congress elected to mandate the HAVA voting requirements for Federal elections only, but provided that each State could determine whether go beyond the minimum requirements and apply the Help American Vote Act to non-federal elections.



Electioneering

- The presence of a candidate at a polling station is not prohibited, provided the candidate does not electioneer in any way.
- Campaign literature may not be distributed inside the building where the election is being held, and within a corridor 10 feet wide extending a distance from the entrance door as determined by the moderator.
- Town Meeting can adopt more stringent electioneering bylaws. RSA 31:41-c.



Accommodations for Handicapped & Infirm

- If the Town has complied with all of the necessary handicap accommodations as prescribed by RSA 658:9-a, it should obviate the need to deliver a ballot to someone outside of the polling station. An absentee ballot is the only permissible method of delivering a ballot to a person outside a polling station on election day.
- So long as a voter suffering from dementia can assert his desire to obtain assistance from another person to assist with his voting, the moderator would be required to give a ballot to the designated person. RSA 659:20.



Absentee Ballot Issues

- Absentee ballots cannot be counted until after the polls have closed. RSA 659:49
- As provided in RSA 657:22, the Town Clerk may refuse to accept any completed absentee ballots delivered after 5:00pm on election day. Provided the absentee ballot is delivered to the Town Clerk by 5:00pm on election day, it may be processed and counted, otherwise any absentee ballot received after 5:00pm is marked as rejected.



Thank You for Attending Today's Webinar!

- **NHMA:** The Service and Action Arm of New Hampshire Municipalities
- ***Our Mission:*** The New Hampshire Municipal Association is a non-profit, non-partisan association working to strengthen New Hampshire cities and towns and their ability to serve the public as a member-funded, member-governed and member-driven association since 1941. We serve as a resource for information, education and legal services. NHMA is a strong, clear voice advocating for New Hampshire municipal interests.
- ***Contact Us:***

25 Triangle Park Drive
Concord, NH 03301

www.nhmunicipal.org or legalinquiries@nhmunicipal.org

603.224.7447

NH Toll Free: 800.852.3358

