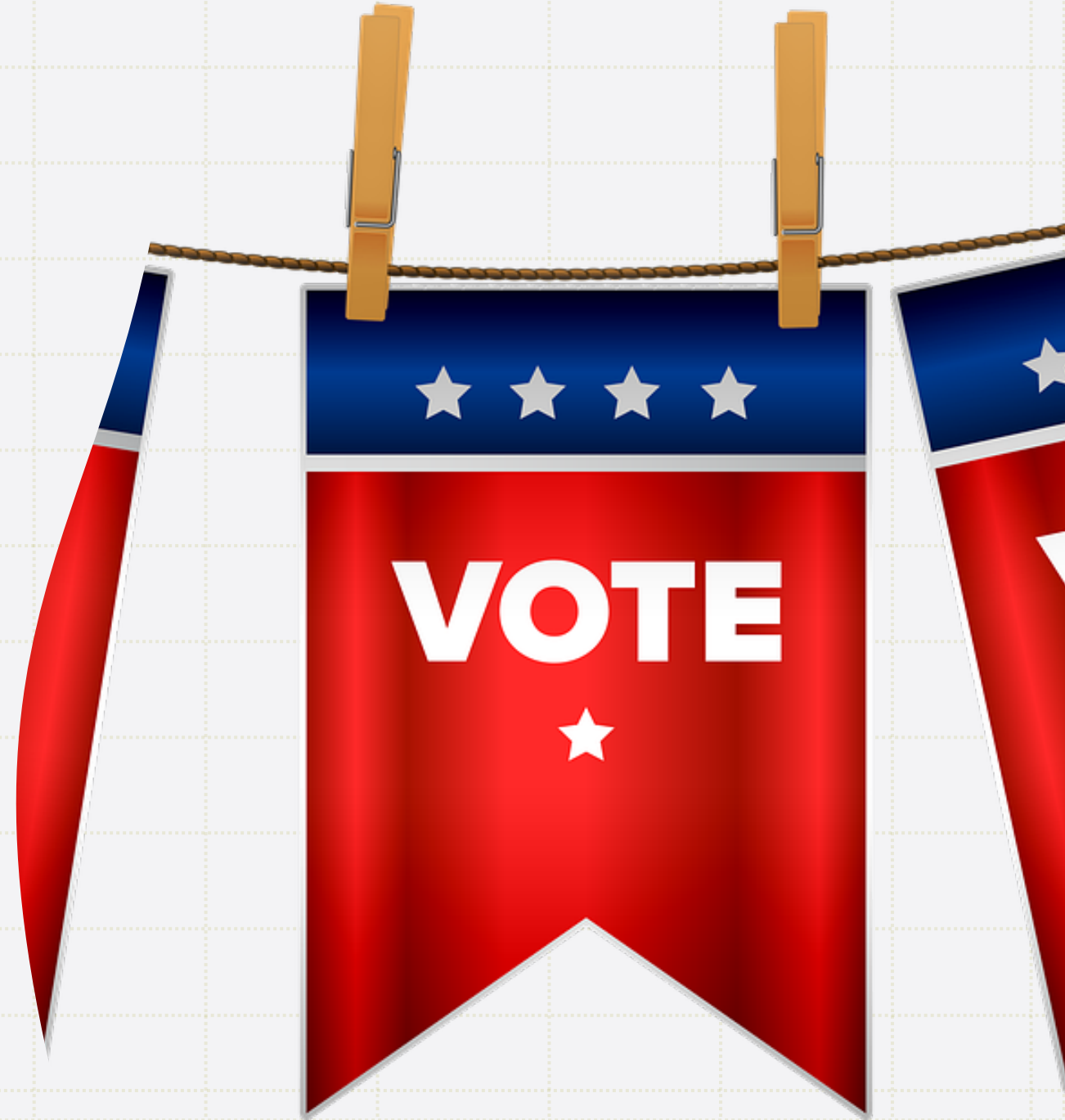


*Election Law Update &
Practical Tips for
Elections -Lessons learned
at the General Election*

Natch Greyes



Disqualification of Election Officials

RSA 658:24 & RSA 659:58

- All election officials and inspectors of election who are on the ballot seeking only an election official office may perform their election official duties.
- All election officials on the ballot seeking an office other than a position as an election official, are disqualified from handling marked ballots, counting votes, and may not be within the area designated for ballot counting within the guardrail during the counting of votes for an office for which he or she is a candidate.
- A person who is not a moderator, clerk, selectman, inspector of elections, or supervisor of the checklist, but whose name appears on the ballot for an office other than as an election official, is disqualified from performing duties as an election official in that election.
- An Inspector of Election (Ballot Clerk) whose name is on the ballot for either an election official or other office is not disqualified from serving as a ballot clerk but may not handle marked ballots or count ballots.

Electioneering: RSA 652:16-h & RSA 659:43

The law now explicitly permits a person wearing clothing with electioneering messages on it, which cannot reasonably be removed or covered, to wear the clothing inside the polling place while actively registering to vote or voting.

Distribution or posting of electioneering communications in any form is prohibited inside the polling place and within the no-electioneering corridor(s).

The "electioneering corridor" is at least one electioneering free area outside the polling place to permit voters arriving or leaving the polling place to move to and from the polling place without interruption or interference from electioneering individuals.

Overvoted Ballots Returned: RSA 656:42, XI

- Beginning for the Fall 2022 State Primary, overvoted ballots are returned to the voter.
- A ballot is overvoted if the ballot, for any race or question, has marks in more ovals than the instruction for that race or question allows.
- The statute directs that the voter be instructed to place the ballot in the left side compartment in the ballot counting device base, where ballots that will be hand counted are placed.
- The secretary of state has instructed election officials that any voter who questions the instruction to place the ballot in the side compartment should be told, "The device is not able to read your ballot; please insert the ballot in the side pocket. All of your choices will be hand counted after the polls close to voting." However, if the voter requests a new ballot, you should follow the procedure for a spoiled ballot.
- The Secretary of State distributed an "Insert hand count ballots here" sign that should have been attached to the device base.

Affidavit Ballots: TBD: RSA 659:23-a

Voters who are registering to vote for the first time in New Hampshire on election day and do not have either valid photo identification establishing their identification or do not otherwise meet the identity requirements of RSA 659:13 would be required to fill out an "affidavit" ballot per 2022's SB 418.

A lawsuit was filed in Hillsborough District Court, 226-2022-CV-00233, upon signature by the Governor to prevent the provisions of the bill from going into effect.

We are awaiting final resolution of that case to determine the final process, and that will likely generate significant press coverage.

Consequences for Bad & Negligent Acts by Election Officials Increased

Existing law made it a misdemeanor for an election official to knowingly hinder or obstruct an election. New language increases the penalty to highlight that an election official may lose his/her right to vote as a potential consequence of a conviction, as provided in the New Hampshire Constitution, Part 1, Article 11.

Additionally, two bills contained amendments that impose a civil penalty of not less than \$250 nor more than \$1000 on the municipality if an election official negligently fails to perform a duty or negligently performs the duty in such a way as to hinder the objects thereof.

This new penalty is tied to "each act," and the attorney general's office is the named enforcing agency.

Storage of Sealed Boxes of Ballots: RSA 659:98

Requires following the Secretary of State's Election Procedure Manual's instructions (pg. 16 - 18).

There is a log process for when someone gains access to the materials, and an extensive discussion in the EPM on where and how such materials may be stored.

Compliance with the storage requirements may require select boards to work with clerks to ensure that the SOS instructions are being followed.

Electronic Poll Books: RSA 652:27

Cities and towns may use electronic poll books for voter registration and check in as approved by the Secretary of State's office.

America Votes is looking to expand the availability of these electronic poll books via making additional funds available to municipalities for their purchase.

New Laws Incorporated into SOS Training/Polling Place Setup

- Ballot counting devices cannot be connected to the internet. (Already practice, just memorialized in statute.)
- Challengers are required to be positioned such that they can see the counting of ballots and aggregation of results. (Any polling place rearrangements should have been made for the 2022 election cycle.)
- Print at least 4 copies of the long results tape (see subsequent slide).

Long Results Copies Distributed as Follows:

- 1 – to be kept by the clerk as a public record;
- 1 – to be kept by the moderator, to use if questions arise regarding the results;
- 1 – to send to the Secretary of State with the Return of Votes; and
- 1- to post as part of the moderator's public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk's office.



Questions?