

Disclaimer:

This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Election Protection Coalition does not warrant any information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to pursue legal advice or decision making.

Questions Involving Access to the Ballot:

1. It is after 6:00 A.M. and the polling place is not open.

Immediately contact the Virginia State Board of Elections at 800-552-9745 to report the problem. You can find information at <http://www.sbe.virginia.gov/cms/>.

If the polling place is open at 6:00 a.m. but the voting machines have not arrived, call the general registrar and the State Board of Elections immediately. Voters should be permitted to vote by paper ballots if there are no machines available.

(Va. Code § 24.2-603.)

2. It is 7:00 P.M. and my precinct is closed or closing and they will not let me vote.

Immediately contact the Virginia State Board of Elections at 800-552-9745 to report the problem. At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes. The officers of election shall list the names of all qualified voters in line before the polling place at 7:00 p.m. and permit those voters and no others to vote after 7:00 p.m. Thus, a qualified voter in line at the polling place by 7:00 p.m. is entitled to vote. You can find information at <http://www.sbe.virginia.gov/cms/>.

(Va. Code § 24.2-603.)

3. There are equipment problems at my precinct and I cannot vote. What should I do?

Encourage the voter to ask to vote by a back-up paper ballot. The voter should ask for a REGULAR ballot and not a provisional ballot.

(See Va. Code § 24.2-642.)

Identification and Provisional Ballot:

1. I do not have any identification with me. Can I vote?

Yes. If the voter is not a first-time voter, he or she can vote using a REGULAR ballot after signing a statement under penalty of perjury (an Affirmation of Identity) that states he or she is the named registered voter.

If the voter is a first-time voter who registered by mail and did not present acceptable identification at that time, the voter may vote by PROVISIONAL ballot. If possible, a voter should be encouraged to go and get an ID -- rather than vote by provisional ballot. First-time voters who registered by mail may present a current utility bill, bank statement, government check or paycheck showing name and address, or any other of the regular forms of identification.

(Va. Code §§ 24.2-643.)

2. I am a registered voter who is not on the rolls at my precinct. Can I vote?

First, confirm that the voter is qualified to vote (i.e., meets the age, criminal status and durational residency requirements) and that the voter registered in time to vote in this election. Next, using the online poll locator tool, make sure the voter is at the correct polling place.

<https://www.voterinfo.sbe.virginia.gov/PublicSite/Public/FT2/PublicPollingPlace.aspx>

If the voter has registered on time, is eligible and is in the correct polling place, direct the voter to ask the poll worker to call the general registrar and confirm the voter's registration. If the general registrar confirms the voter's registration, the voter will have to provide identifying information (including social security number, if any, full name including maiden name, birth date, and complete address), sign a statement under penalty of perjury that he or she is a qualified voter, and the election officer must permit the voter to vote by regular ballot. The election officer must enter the voter's identifying information on the pollbook.

If the person's name does not appear on the precinct registered voter list and if the general registrar is not available or cannot confirm that a person is registered to vote, then the person may only vote provisionally. This is a last resort as provisional ballots will only be counted if the general registrar can later verify the voter's registration status before the election is certified.

(Va. Code §§ 24.2-652; 24.2-653.)

3. Poll workers are turning voters away if they don't have a photo ID.

a. For qualified voters who are not first-time voters who registered by mail, **one** of the following forms of identification is sufficient: Virginia voter registration card; Social security card; valid Virginia driver's license; a military ID; any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee ID card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the election officer insists on a photo ID, alert the command center to the problem. An attorney will be dispatched to the polling place. Also, encourage the voter to go back inside the polling place,

proffer one of the other forms of ID, and demand the right to vote by a REGULAR ballot. Ask the election officer to call the general registrar to confirm that no photo ID is required.

b. If the voter is a first-time voter who registered to vote by mail and has not previously provided a copy of his or her ID, the voter must provide a current and valid photo ID or a copy of a current utility bill, bank statement, government check, paycheck or other document that shows the name and address of the voter. If the voter does not have a photo ID, he or she may vote by provisional ballot.

(Va. Code 24.2-643.)

4. I have been offered a provisional ballot. What should I do?

First, make sure following the steps listed above, that the voter is not able to vote by regular ballot, which is the preferable alternative. If the provisional ballot is the only option:

The voter must mark, in the presence of an officer of election, but in a secret manner, the ballot as provided and seal it in a green envelope provided by the officer of election. The officer must then place the envelope containing the ballot in the ballot box. An officer of elections **MUST** inform the voter that the determination of the voter's eligibility to vote will be made by the electoral board on the day after the election. The officer **MUST** tell the voter of the time and location of the board's meeting, and of the voter's right to attend the meeting. Provisional ballots are a LAST resort.

The electoral board will meet on the day following the election and determine whether each voter having cast such a ballot was entitled to do so. If the electoral board determines that such voter was not entitled to vote, or is unable to determine the voter's right to vote, the envelope containing the voter's ballot must not be opened and the voter's vote must not be counted. If the electoral board determines that such voter was entitled to vote, the name of the voter shall be entered in a provisional vote poll book and marked as having voted, the envelope shall be opened, and the ballot placed in a ballot container.

(Va. Code § 24.2-653.)

Where to Vote:

1. Where do I vote (for voters who have not moved)?

You can look up polling locations at:

<https://www.voterinfo.sbe.virginia.gov/PublicSite/Public/FT2/PublicPollingPlace.aspx>

2. I have moved within the same PRECINCT and have not updated my address for voter registration purposes. Where should I vote?

If the voter has moved within the same precinct, the voter should go to the appropriate polling place for that precinct. If the voter registration list still lists the voter's old address, the voter will be asked

to update his or her registration. If the updated address is within the precinct, the voter must be permitted to vote by REGULAR ballot.

(Va. Code § 24.2-643; State Board of Elections)

3. I have moved to a different precinct within the same COUNTY and I have not updated my address for voter registration purposes. Where should I vote?

If the voter has moved within the same county, the voter may vote by REGULAR ballot in the precinct from which he or she has moved in the following November general election and any intervening election unless his registration has been transferred or cancelled.

In addition, the voter may continue to vote in the precinct from which he or she has moved through the ensuing second general election for federal office, provided that (i) the voter has moved his or her residence from one precinct to another in the same registrar's jurisdiction and the same congressional district; (ii) the voter has failed to respond to the notice sent as a result of changing his or her address with the U.S. Postal Service; (iii) the voter's registration has not been transferred or cancelled; and (iv) the voter has affirmed orally or in writing the voter's new address before an officer of election at the polling place.

4. I have moved from one county to another within the Commonwealth and have not updated my address for voter registration purposes. Where should I vote?

See answer to 3, *supra*.

5. I recently moved from the Commonwealth and have not updated my address for voter registration purposes. Where should I vote?

A voter who is registered to vote in Virginia, but has moved his or her residence to another state within 30 days preceding a presidential election may vote in the precinct from which the voter has moved only in that election and only for electors of President and Vice President of the United States. The voter must tell an election official before voting that he/she has moved out of the state within the 30 days prior to the election. The officers of election must deliver to the voter the paper ballot for electors of President and Vice President of the United States and no other ballot, and that ballot will be voted, handled, and counted with other like ballots.

Assistance at the polls:

1. I am physically disabled and need assistance. Will my polling place be accessible?

It should be accessible, but irrespective of that, the voter should be able to vote. In accordance with the recently implemented Help America Vote Act (HAVA), Virginia is in the process of making all of its polling places fully accessible to elderly voters and voters with disabilities. Every polling location in Virginia *must* be equipped with at least one accessible voting system that will allow all voters with a disability to vote the same private and independent manner as a voter without a disability (effective January 1, 2006). Any voter encountering problems of accessibility should fill out the online Accessibility Feedback Form at

http://www.sbe.virginia.gov/cms/Voter_Information/Voters_with_Special_Needs/Accessibility_Feedback_Form.html.

Even if the polling location is inaccessible, a voter age 65 or older or physically disabled does not need to enter the voting enclosure to place a vote. The voter may request his/her driver or another individual to inform the officers of election that there is a person wishing to vote curbside/outside. An officer of election must provide this voter with a paper or mark sense ballot (or, if available in the county or city, a portable electronic voting device) from an officer of election outside the polling place but within 150 feet of the entrance to the polling place. A ballot may therefore be brought to an elderly or disabled voter in his or her vehicle if it is parked within a 150-foot radius of the polling place entrance.

The voter must mark the ballot in the officer's presence but in a secret manner and fold and return the ballot to the officer. The officer must immediately return to the polling place and deposit the ballot in the ballot box.

(Va. Code §§ 24.2-626.1; 24.2-643; 24.2-649.)

2. I am blind, physically disabled or cannot read English and require assistance at the polls in order to vote. Can I get assistance at the polls?

Yes. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may if the voter so requests, be assisted in voting, even if the polling location is accessible and an accessible voting system is provided. If a voter is blind, the voter may designate an officer of election or any other person to assist the voter. If the voter is unable to read or write or is disabled for any cause other than blindness, the voter may designate an officer of election or some other person for assistance (as long as the person providing assistance is not the voter's employer or agent of the employer, or officer or agent of the voter's union). This person may also assist the voter in completing an Affirmation of Identity if one is required (see ID requirements).

A person rendering assistance shall assist the qualified voter in the preparation of the voter's ballot in accordance with the voter's instructions but will not enter the voting booth unless the voter so requests by signed form. A person rendering assistance may not solicit votes or in any manner attempt to influence a vote. A person rendering assistance also must not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question.

If a poll worker refuses to allow a disabled or language minority voter to bring a person of their choice into the voting booth, alert the command center.

(Va. Code § 24.2-643; 24.2-649.)

3. I have a cognitive disability. Can I vote?

Yes. A person with cognitive disabilities, due to any reason, can be eligible to vote if they are not currently ruled to be mentally incompetent by a court of law. The clerk of each circuit court furnishes monthly to the State Board of Elections a complete list of all persons adjudicated incapacitated and

“mentally incompetent,” and the Board is to transmit the information from the list to the appropriate general registrars.

(Va. Code § 24.2-410.)

Miscellaneous Issues:

1. I have been approached by candidates or others at the polls.

All poll monitors, including Election Protection volunteers, must stay at least 40 feet from the entrance to the polling place. They may approach and speak with voters if they comply with this rule. If someone is violating the 40-foot requirement, alert the command center to report the problem, let them know the extent of the problem and work with them to assess if calling an election official is necessary.

(Va. Code § 24.2-604.)

2. What if I requested an absentee ballot but I want to vote in person on Election Day?

If the voter has applied for and received an absentee ballot and decides not to vote absentee, the voter must return the ballot unopened, sealed in the envelope in which it was sent to the voter, to the electoral board on or before the day of the election. The voter will then be entitled to vote in person by REGULAR ballot. The regular ID requirements (provide ID or sign an Affirmation of Identity) then apply.

If the voter has unintentionally or accidentally defaced the absentee ballot or rendered it unfit for voting, the voter will be entitled to cast a REGULAR ballot after presenting the defaced ballot to the electoral board, registrar or officer of election. The regular ID requirements (provide ID or sign an Affirmation of Identity) will apply.

If the voter did not receive or has lost the absentee ballot and wishes to vote in person at the voter's proper polling place, the voter must sign a statement under penalty of perjury that he did not receive or has lost the ballot, and will then be entitled to cast a PROVISIONAL ballot.

(Va. Code §§ 24.2-653.1; 24.2-708.)

3. There are people at the polls trying to intimidate voters.

Alert the command center immediately. An attorney will be dispatched to the polling place. If possible, put the voter on hold while you call the command center so they can send an attorney to the location immediately. Then, gather as much information from the voter as possible. After hanging up with the caller, call back the command center and provide the attorneys there with the details. Such conduct is illegal, and a person engaging in such conduct who does not promptly desist after being ordered to do so by an officer of election may be arrested by order of an officer of election.

(Va. Code § 24.2-607.)

4. I have a felony conviction. Can I vote?

The general registrar will cancel the registration of voters who have been convicted of a felony.

The voter may petition the circuit court for the city or county in which the petitioner resides or was convicted for restoration of his or her civil right to be eligible to register to vote. The voter must have been released from supervised probation for a minimum of three (3) years for a non-violent offense or five (5) years for a violent, drug distribution, or drug manufacturing offense and have no other convictions (felonies or misdemeanors) during that time.

The court may approve the petition if the court is satisfied that the petitioner has completed service of the sentence (or modified sentence, including parole, probation or suspension), paid all fines including restitution, has demonstrated civic responsibility (*i.e.*, community service), and the petitioner has been free from criminal convictions (excluding traffic infractions) for five or more years.

The Governor must approve an application in order for the voter's rights to be restored.

(Va. Code §§ 24.2-427. Restoration of Rights information available at <http://www.commonwealth.virginia.gov/JudicialSystem/Clemency/restoration.cfm>.)

5. I am a college student. Can I vote where I go to school?

College students may register and vote where they go to school provided that they consider that location their residence. A dorm room may be the student's voting residence. Student voters are subject to the SAME eligibility requirements as any other voter in the jurisdiction.

If a student has been turned away at the polls, ascertain if he or she has fulfilled all of the registration requirements (*i.e.*, age, criminal status, durational residency requirements) and that he or she has registered on time for this election. If so, alert a commander to dispatch an attorney to the location and contact the appropriate election official.

A student voter who wishes to maintain his or her former residence (often, the parents' residence) as his or her "residence" may vote by absentee ballot, provided that the student voter meets absentee registration requirements.