§759. Counting procedure

The following counting procedure must be observed at each voting place. [PL 1995, c. 459, §75 (AMD).]

1. Warden to review notes of clerk. Unless a request to inspect applications and envelopes is made pursuant to subsection 8, the warden shall review the notes of the clerk on each return envelope according to the schedule posted under subsection 7.
[PL 1995, c. 459, §76 (AMD).]

2. Accepted if correct. If the warden finds that the affidavit and the aide and witness certification, if required, are properly completed, that the clerk has verified that the signature on the envelope matches the signature on the application or that the voter confirmed that the voter personally signed the return envelope pursuant to section 756-A, subsection 2 when applicable, that the voter is registered and enrolled when necessary, the warden shall then examine the incoming voting list to determine whether the voter voted in person at the election. The warden shall then announce the name of each absentee voter who has not voted at the election and remove each ballot from its envelope without destroying the envelope or unfolding the ballot. After having an election clerk from a political party different from that of the warden mark the letters "AV" beside the name of each absentee voter on the incoming voting lists and place a check mark or horizontal line in red ink on the list beside the voter's name, the warden shall accept the ballot.
[PL 2021, c. 273, §24 (AMD).]

3. Rejected if incorrect. The warden may not open the envelope and shall write "Rejected" on it, the reason why and the warden's initials if the warden finds that:

A.   [PL 2021, c. 273, §25 (RP).]

A-1. The clerk's notes on the envelope indicate that the ballot was rejected; [PL 2021, c. 273, §26 (NEW).]

B.   [PL 2021, c. 273, §27 (RP).]

C. The person is not registered or enrolled where necessary; [PL 1985, c. 161, §6 (NEW).]

D. The voter has voted in person; or [PL 1985, c. 161, §6 (NEW).]

E. The ballot was received by the clerk after the deadline. [PL 1985, c. 161, §6 (NEW).]
[PL 2021, c. 273, §§25-27 (AMD).]

4. Warden to check absentee ballot for correct party or district. At a primary election when the warden removes a ballot from its envelope, the warden shall check its color to be sure it is the ballot of the party in which the voter is enrolled. If it is not, the warden shall immediately replace it in its envelope, reseal the envelope and write "Rejected" on it, the reason why and the warden's initials. At a primary or general election, in a municipality that has more than one voting district, when the warden removes a ballot from its envelope, the warden shall check its color to be sure it is the ballot of the district in which the voter is registered. If it is not, the warden shall challenge the ballot according to section 673.
[PL 2007, c. 455, §43 (AMD).]

5. Rejected ballots separate. The warden shall place the return envelopes containing rejected ballots in an envelope marked "Rejected ballots." Rejected ballots may not be counted.
[PL 1995, c. 459, §78 (AMD).]

6. Counting and results prohibited before the polls close. The absentee ballots may not be counted, voter intent may not be determined and election results may not be obtained or released until after the polls have closed on election day and all election day ballots have been cast and all absentee ballots have been processed. A municipality that uses a high-speed ballot tabulator and receives results

at the completion of the ballot scanning may not view the results until after the polls close on election day.
[PL 2021, c. 246, §6 (RPR).]

7. Processing before close of polls. A notice signed by the municipal clerk must be posted at least 7 days before election day in the same manner as posting the notice of election, under section 621-A, stating each specific time that the clerk intends to begin processing absentee ballots on election day. The warden shall follow the procedures required by subsections 1 to 6 to process absentee ballots before the close of the polls. The clerk shall notify the chairs of each political party of the municipality, in writing, that this procedure is to occur. This notice must be considered sufficient as long as it is mailed to the last address of each municipal chair that is known to the clerk.
[PL 1997, c. 436, §113 (AMD).]

8. Inspection of absentee envelopes before processing. If a member of the public notifies the clerk before 5 p.m. on the day before election day that the person wishes to inspect absentee ballot applications and envelopes before they are processed, the warden or clerk shall allow the requestor to inspect the applications and envelopes of ballots before they are processed or for 30 minutes after the time specified in the notice for processing on election day. The warden may immediately proceed to process the ballots after the person has completed the review.

If the municipality processes absentee ballots only after the polls close on election day, then a member of the public who wishes to inspect absentee materials must notify the warden by 5 p.m. on election day that the person wishes to inspect absentee ballot applications and envelopes after the polls close. The warden shall allow the requestor to inspect the applications and envelopes for 30 minutes after the polls close. The warden may immediately proceed to process the ballots after the person has completed the review.

The Secretary of State may adopt rules necessary for the inspection of absentee ballot applications and envelopes before they are processed. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2023, c. 304, Pt. A, §29 (AMD).]

SECTION HISTORY

PL 1985, c. 161, §6 (NEW). PL 1985, c. 357, §§16,17,19 (AMD). PL 1991, c. 466, §§31,32 (AMD). PL 1991, c. 862, §7 (AMD). PL 1993, c. 447, §17 (AMD). PL 1993, c. 583, §§1,2 (AMD). PL 1995, c. 459, §§75-80 (AMD). PL 1997, c. 436, §§113,114 (AMD). PL 1999, c. 645, §§9,10 (AMD). PL 2007, c. 455, §§42, 43 (AMD). PL 2009, c. 538, §10, 11 (AMD). PL 2021, c. 246, §6 (AMD). PL 2021, c. 273, §§24-27 (AMD). PL 2023, c. 304, Pt. A, §29 (AMD).