

ELECTORAL BOARD OVERVIEW OF CERTIFICATION PERIOD

Electoral boards have three main tasks in the certification period: conducting the canvass, adjudicating provisional voter eligibility, and executing the Abstracts of Votes (certification). This document provides a general overview of the certification period (aspects of procedures may vary by locality). For more detailed information, electoral board members should review the following prior to the election: [Chapter 6, Article 4 of Title 24.2 of the Code of Virginia](#); Chapters 13 and 14 of the [GREB Handbook](#) (elections.virginia.gov/grebhandbook/); and relevant local policies and procedures (including documented electoral board delegations of authority).

CERTIFICATION PERIOD

OPENING OF CANVASS AND PROVISIONAL BALLOT MEETINGS

PHASE 1: CANVASS (PRE-ELECTION AND ELECTION DAY VOTES)

PHASE 2: PROVISIONAL BALLOT MEETING

PHASE 3: CANVASS CONTINUES (POST-ELECTION, PROVISIONAL AND WRITE-IN VOTES)

PHASE 4: EXECUTE ABSTRACTS OF VOTES (CERTIFICATION)

Certification Period Overview

Open Canvass and Provisional Meetings

- No later than 5pm the day after Election Day
- Adjourn provisional meeting immediately for GR staff research

Canvass

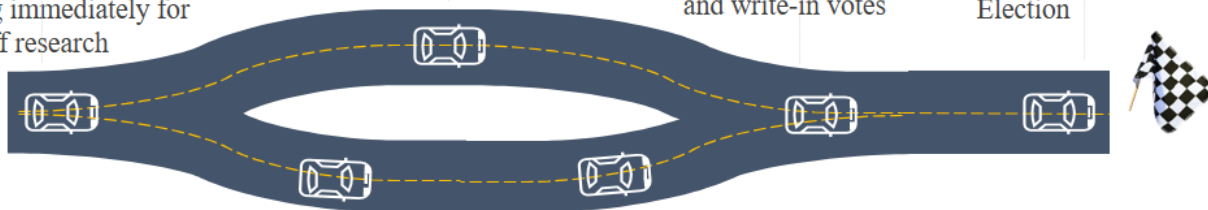
- Review and ascertain totals for Election Day and early in-person absentee votes
- Adjourn as needed until certification

Canvass Continued

- Review and ascertain totals for post-election, provisional, and write-in votes

Certification

- No later than 10 days after Election Day
- Execute Abstracts of Votes and Certificates of Election



Provisional Research

- GR staff review provisional voter information and process SDR applications

Provisional Ballot Meeting

- EB holds limited-attendance meeting to determine voter eligibility



OPENING OF CANVASS AND PROVISIONAL BALLOT MEETINGS

The canvass and provisional ballot adjudication are separate, overlapping processes that occur during the certification period.

- ❖ Both are considered “meetings” for purposes of the Virginia Freedom of Information Act (FOIA)
 - Exception: the provisional ballot meeting has limited attendance and is exempt from the “open meetings” requirement of FOIA (See Phase 2 for more details)
- ❖ Both meetings are initially opened by 5:00 pm the day after the election at the clerk’s or general registrar’s office (Va. Code §§ 24.2-653.01 and 24.2-671)

- ELECT recommends opening the meetings by noon to allow time for provisional ballot processing
- After opening, the meetings may be moved to a larger room in a public building (Va. Code § 24.2-671)
- ❖ All members of the electoral board *should* be present, but only 2 are required for a quorum¹
- ❖ The provisional ballot meeting recesses immediately for general registrar staff to conduct research and process same-day registration (SDR) applications (See Phase 2 below)
- ❖ Canvass of pre-election and Election Day votes can commence immediately (See Phase 1 below)

DO: Ensure all FOIA requirements (notice provided, open to public, and minutes taken) are met **EXCEPT** for limited attendance during adjudication at provisional ballot meeting (See Phase 2 below).

DO: Ensure electoral board provides general registrar with necessary delegations of authority to conduct necessary tasks, including provisional voter research prior to recessing meeting (or in documented delegations before the election).

PHASE 1: CANVASS (PRE-ELECTION AND ELECTION DAY VOTES)

When:

- ❖ Commences after initial opening of meetings and recessing of provisional meeting
- ❖ May be recessed as needed until the certification deadline (ten days after Primary and General Elections)
 - See Phase 3 for canvass of post-election and provisional votes

Electoral Board Role:

- ❖ Review and compare: (1) votes reported on voting systems tapes to results reported to the general registrar from the precincts and (2) Statements of Results (SORs) with the number of voters from the pollbook marked as "checked in"
- ❖ Work with precinct chiefs to correct discrepancies between tapes and SORs; SOR may be amended by chief (Va. Code § 24.2-672)
- ❖ Ministerial (non-discretionary) duty to ascertain vote totals from results reported from each precinct and confirm on Abstracts of Votes at conclusion of canvass (See Phase 4 below)²

Participants/Attendees:

- ❖ Open to the general public
- ❖ Political parties and independent candidates may have as many representatives as teams ascertaining (Va. Code § 24.2-671(D))
 - Must have unobstructed view of the proceedings
 - Cannot disrupt or interfere with the canvass
 - May ask questions and convey concerns **after** work concludes but before the electoral board reseals election materials

¹ See GREB Chapter 14 if one or more of your electoral board members will not be present for the entire canvass.

² Electoral board's role is "limited to ascertaining the persons who received the greatest number of votes on the face of the returns after correcting any irregularities or informalities... Their duty is to take the returns as made to them from the different voting precincts, add them up, and declare the result. Questions of illegal voting, and fraudulent practices, are to be passed upon by another tribunal." *Hall v. Stuart*, 198 Va. 315, 323 (1956).

DON'T: Open the sealed envelope or receptacle containing voted ballots unless authorized by the Commissioner of the Department of Elections, by order of a Court, or as part of a risk-limiting audit authorized by ELECT.³

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PHASE 2: PROVISIONAL BALLOT MEETING

When:

- ❖ Meeting reconvened upon completion by general registrar staff of provisional voter research and SDR application processing
- ❖ May be recessed as needed to determine eligibility of all provisional voters (if time permits prior to certification deadline)
 - Voter may request reasonable extension to provide information about eligibility to vote in precinct (Va. Code § 24.2-653.01)
 - Deadline to provide voter ID or ID confirmation statement (Reason Code #7 provisional voters) is by noon on the third day after the election (Va. Code § 24.2-653(B))

General Registrar Role Prior to the Meeting:

- ❖ Process SDR applications
 - The general registrar, not the electoral board, has the legal authority to register voters (including SDR voters) (Va. Code § 24.2-404)
- ❖ Conduct research on provisional voter eligibility and collect voter documentation where necessary
- ❖ Compile ancillary provisional voter research documents
- ❖ Prepare redacted copies of the provisional logs

Electoral Board Role:

- ❖ Determine whether provisional vote is valid based upon two criteria:
 - Whether the person is registered to vote; and
 - Whether the person was legally eligible to vote in the precinct in which the vote was cast
 - Consider the reason provided on envelope for voting provisionally
 - #1 Same Day Registration (not on pollbook)
 - #3 Voting after hours due to court order
 - #4 Vote by mail- no ballot to surrender
 - #5 Shown on pollbook as already voted
 - #6 Other
 - #7 Voter does not have required ID and declined to complete the ID confirmation Statement
- ❖ Determination made using information provided by general registrar and the voter in attendance
- ❖ If voter determined eligible, envelope is unsealed and ballot is placed in ballot box without inspection beyond to ensure it was a single ballot or ballot set and that the ballot is genuine
- ❖ If voter determined ineligible:
 - Mark "disqualified" across the completed side of the unopened green envelope and include an explanation (e.g. "not eligible to vote in precinct," "failed to provide required ID," etc.)

³ Consult Chapter 14 of the GREB if you believe you may need to open the sealed envelope or receptacle containing voted ballots.

- Return sealed disqualified envelopes and empty qualified envelopes to Envelope 1A/1B and note the number for each

Participants:

- ❖ Not open to the public (Va. Code § 24.2-653.01)
- ❖ Limited attendees:
 - General registrar
 - Appropriate staff
 - Provisional ballot voters (and representative or counsel)
 - Only while the voter's eligibility is being determined
 - One authorized representative of each political party or independent candidate (or of each candidate in a primary)

DO: Follow the provisional meeting procedures established by the electoral board with the general registrar.

DON'T: Include identifying information about voters in the minutes. This information must be protected (which is the reason for the meeting being closed to the general public).

DON'T: Open a provisional envelope until the electoral board has determined the voter's eligibility.

DON'T: Reject a provisional ballot only for missing, incomplete, or incorrect information required to be provided by the officer of election if the voter is otherwise determined eligible.

PHASE 3: CANVASS CONTINUES (POST-ELECTION, PROVISIONAL AND WRITE-IN VOTES)

When: Reconvene canvass after all post-election,⁵ write-in, and provisional votes have been processed.

Process:

- ❖ Same as set forth in Phase 1 for the canvass of pre-election and Election Day votes
- ❖ For write-ins, follow instructions set out in Chapter 14 of the GREB (Va. Code § 24.2-675)

PHASE 4: EXECUTE ABSTRACTS OF VOTES (CERTIFICATION)

When:

- ❖ After canvass of all votes has been completed and vote totals ascertained
- ❖ No later than ten days after Primary and General Elections
- ❖ Still in public meeting subject to FOIA (continuation of canvass)

General Registrar Role:

- ❖ In Enhanced Results, update results previously entered (if needed), mark winners, and generate and print the Abstracts of Votes
- ❖ Prepare ELECT-675 Write-Ins Certifications (if required)

Electoral Board Role:

⁵ Ballots arriving via mail after polls close but by noon on the Friday after the election (postmarked on or before election day) (Va. Code § 24.2-709(B)).

- ❖ Execute Abstracts of Votes for each office (or referendum issue) and any required ELECT-675 Write-Ins Certifications
 - Originals retained by general registrar in electoral board records
- ❖ Make copies as needed of completed original Abstracts and Write-Ins Certifications (the number of copies needed may vary depending on the election)
 - Secretary affixes seal to each and signs to certify as a true copy
- ❖ Must appear at meeting to execute revised Abstracts of Votes if error discovered during review by ELECT

AFTER CERTIFICATION

- ❖ General registrar submits Abstract of Votes Submission form to ELECT to begin review
- ❖ If error discovered during review of Abstracts by ELECT, general registrar must generate revised Abstracts
 - Electoral board must appear at meeting to execute revised Abstracts
- ❖ General registrar prepares certificates of election for secretary to execute (may occur at the same time as certification or a later date)
- ❖ General registrar sends certificate of election to winning candidates who have complied with campaign finance reporting requirements (Va. Code § 24.2-948.2)
- ❖ Election materials resealed and returned to clerk of court