

# BOARDS OF REGISTRARS AND ELECTION COMMISSIONS

## I. GENERAL\*

Chapter 51 Section 15 provides that every town shall have a board of registrars composed of the town clerk and three other persons. However, if a town accepts 51:16A or the town's home rule charter or special act provides for it, a board of election commissioners, commonly known as an election commission, may be established. In that case, the election commission takes the place of a board of registrars in that town.

In election law, the term *registrars* or *registrars of voters* shall mean the board of registrars of voters in a town and shall include the board of election commissioners with reference to all matters coming within the scope of their powers and duties. In addition, the term *registrar* shall, when applicable, mean a member of either a board of registrars or an election commission. [50:1]

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### \* How To Use This Manual

Throughout this manual many references will be made to the General Laws and to the Acts and Resolves of the Commonwealth and to the Regulations promulgated by the state secretary covering election procedures. These citations refer to specific items and indicate where further information pertaining to that topic may be found.

In order to conserve space, the following legend will be used throughout this manual:

#### The General Laws of the Commonwealth

The first number denotes the chapter of the General Laws and numbers after the colon, the section of that particular chapter. For example: [51:22,22A] means Chapter 51, sections 22 and 22A of the General Laws.

#### The Acts and Resolves

The first number denotes the year in which the act was passed and the second number the chapter. For example: [1987;438] is Chapter 438 of the Acts of 1987.

For further information on how to use this manual see page *viii*.

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## II. BOARD OF REGISTRARS

### A. APPOINTMENT [4:12; 51:15,18,21,25]

The three members of the board of registrars, other than the town clerk, must be appointed by the selectmen. The appointment must be in writing, signed by the selectmen and filed with the town clerk.

NOTE: Under a town's home rule charter or special act, an official other than the selectmen, such as the town manager, may be responsible for making appointments to the board of registrars. If so, substitute that official for the selectmen in the following.

The following procedures apply to the appointment of members of the board:

#### 1. Town Committees to Submit List of Names [51:15]

The appointment of each member of the board of registrars must be made from a list which has been submitted to the board of selectmen by the town committee of the major political parties. This list must contain the names of three enrolled members of the party who have been selected by a majority vote of the town committee members at a duly called meeting at which a quorum is present.

While not required by the General Laws, the selectmen in many towns send a letter early in each year to the appropriate town committee chairman requesting that the list be submitted. Some town clerks regularly remind the selectmen that the appointment must be made and include the name and party enrollment of the registrar whose term expires that year.

Some boards of selectmen regularly request a recommendation from the town clerk relative to appointments. If such a request is made after the list has been submitted and you choose to make a recommendation, you must recommend one of the persons whose name appears on the list. Usually, a town clerk will recommend the incumbent member of the board if his name appears on the list, unless there are substantial reasons not to make such a recommendation.

In some towns, it is difficult to find persons enrolled in a party willing to serve as registrars and the town clerk must search for someone. In that case, the town clerk should forward the name(s) to the chairman of the appropriate town committee and the committee should then vote to submit the name(s) to the selectmen for appointment unless the town committee chairman has already failed to submit a list within 45 days after notice.

#### 2. Failure to Submit Names [51:15]

If the chairman of the town committee fails to submit the list as required by 51:15, the selectmen must notify him of the need for it. The notice must be in writing and sent by certified mail. If the list is not received within 45 days after notice, the selectmen then may appoint a member of the board without reference to such list.

3. Appointment Deadline [51:15]

The appointment of a member of the board may be made in February or March of each year but not later than March 31st.

4. Term of Office [51:15,21]

Each year, one registrar must be appointed for a term of three years which begins on April 1st. [51:15] A registrar serves until his successor is appointed and qualified. [51:21] In this context, the term *qualified* means that the registrar has taken the oath of office. (see II. E. OATH on page 5)

5. Vacancies [51:15,18]

Vacancies in the board of registrars must be filled by the board of selectmen using the same procedures as are required for making original appointments to a full term. [51:15] The person appointed must be enrolled in the same party as the person whose place he is taking [51:18], unless the vacancy was caused by the removal of a member because of party imbalance. (see II. C. REMOVAL OF REGISTRAR on page 4) The appointee serves until the end of the unexpired term.

6. Party Representation [51:18]

Each appointment, whether to a full three year term or to fill a vacancy, must be made so that the members of the board shall represent the two leading political parties. In no case shall an appointment be made so as to cause a board to have more than two members, including the town clerk, of the same political party. [51:18] For example, if the town clerk is a Democrat, one Democratic and two Republican registrars must be appointed.

If a new town clerk is unenrolled at the time he is elected or appointed, he may remain unenrolled. In this case, the board would consist of two members of one party, one member of the other party and an unenrolled member. The town clerk may also choose to enroll in either party even if that causes a temporary imbalance in party representation.

If a new town clerk is enrolled in a party different from his predecessor, a temporary party imbalance will be created. (see II. C. REMOVAL OF REGISTRAR on page 4)

7. Qualifications [4:12; 51:15,25]

The following qualifications for registrars are specified in the General Laws.

- must be a registered voter of the town [51:25]
- must have been enrolled in the political party he is appointed to represent [51:15] for at least 2 years prior to appointment [4:12]
- must not hold another elective office, except as a member of a home rule charter commission or as a town meeting member [51:25]

- must not hold another office by direct appointment of the selectmen or town manager. [51:25] For example, he must not be a registrar and election officer at the same time unless the town's charter or special act provides for the appointment of election officers by someone other than the selectmen or town manager. If a registrar has served as an election officer in an election, he should disqualify himself from participating in a recount of that election to avoid a conflict of interest. If the selectmen or town manager appoint police officers, a registrar may not accept such an appointment. However, a registrar may hold an office appointed by the moderator.
- must not hold an elective or appointive office under the government of the United States or the commonwealth, except as a justice of the peace, a notary public or an officer of the state militia. [51:25]

Acceptance by a registrar of any office prohibited by 51:25, shall vacate his office as a registrar. [51:25] In addition, if he ceases to act with the party which he was appointed to represent, he must be removed. [51:19] (see II. C. REMOVAL OF REGISTRAR on page 4)

#### B. CHAIRMAN OF BOARD OF REGISTRARS

In most towns, the board of registrars meets soon after April first to choose a chairman although this is not required by the General Laws. Since the town clerk must serve as clerk to the board, he should not also serve as chairman. (see III. B. AS CLERK TO BOARD on page 8)

In many towns, the board member whose term expires on the next March 31st is customarily chosen as chairman and/or the chairmanship is alternated each year between the two political parties.

#### C. REMOVAL OF REGISTRAR [51:19]

If, upon written complaint to the selectmen and after notice and hearing, it is found that the town clerk and two registrars are of the same political party, the selectmen shall remove from office, the one of such two registrars having the shorter term remaining. The selectmen should then appoint a registrar from the other party.

Also, if, upon written complaint to the selectmen and after notice and hearing it is found that a registrar of voters, other than the town clerk, has ceased to act with the political party which he was appointed to represent, the selectmen shall remove him from office.

The General Laws do not specify who may make a complaint. It may be made by any person whether or not he is a registered voter of the town. However, the complaint would usually be made by the chairman or a member of the town committee or a voter enrolled in the political party not being properly represented on the board.

The General Laws also do not specify the form of the hearing notice or to whom it should be given. It is suggested that the notice be in writing and sent to the person who made the complaint, to the registrars and to the two town committee chairmen.

A party imbalance is most often created by the election or appointment of a new town clerk enrolled in a party different from his predecessor or when a town clerk, not enrolled in a party at the time of his election or appointment, enrolls in the same party as two members of the board. In either case, the party balance must be restored.

Usually, the appropriate board member voluntarily resigns so that an appointment may be made to restore the party balance. However, if he does not resign, a formal written complaint should be made and the member removed after a hearing.

A written complaint is more likely to be made if a registrar ceases to act with the political party which he was appointed to represent. If a registrar signs and files a party change card requesting that his party be changed or cancelled, it would constitute cause for removal. It is suggested that you inform a registrar asking to file a party change card of the consequence of his action. If he has completed the card, but has not yet submitted it to the registrars, he may withdraw it. However, if his card has already been given to the registrars, it cannot be withdrawn. This may cause a legal problem with respect to his remaining on the board, even if he files another card restoring his original party enrollment within a short period of time. (see 4:12 and II. A. 7. Qualifications on page 3)

The General Laws do not provide any other specific actions which constitute cause for removal under 51:19.

#### D. RESTRICTIONS ON REGISTRARS

There are no restrictions imposed upon registrars in the General Laws, other than those outlined in II. A. 7. Qualifications on page 3 and that they must act with the party they were appointed to represent. (see II. C. Removal of Registrar above)

However, in many towns, registrars regularly refrain from supporting or opposing candidates and issues at all primaries and elections. They believe it imperative to inspire public confidence in their impartiality in performing their official duties. In addition, Section 23 of Chapter 268A (the Conflict of Interest Law) contains standards of conduct for all state, county and municipal employees. Registrars are usually classified as special municipal employees. As such, they must comply with section 23 which states in part that:

*no employee shall knowingly, or with reason to know, act in any manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person. (see 1986:12)*

Refraining from political activity also protects the registrars. Should an election result be taken to court, honest mistakes which might have been made cannot erroneously be construed as deliberate attempts to influence those results.

#### E. OATH [51:23]

Before entering upon his official duties, each registrar must take and subscribe to an oath to faithfully perform his duties. He may be sworn before the town

- election day duties and conducting election recounts; in Volume 4.
- registering voters and hearing complaints, processing nomination papers and petitions and hearing objections; in this volume.
- conducting the annual town census and preparing the lists generated from census information; in Volume 6.

The penalty on a registrar who is guilty of any fraud or corrupt conduct in the execution of the duties of his office is a fine of not more than \$1,000 or imprisonment for not more than one year. [56:2] (for additional penalties see sections of Volumes 3 through 6 covering specific duties )

#### G. COMPENSATION [51:23]

The registrars shall receive such compensation as the selectmen may determine. Such compensation shall not be regulated by the number of names listed or registered by them. For example, the registrars pay may not be set at 50 cents per name included in the list of persons or on voting list.

##### 1. Salary

In some towns, the selectmen determine the registrars' salary each year. In other towns, registrars are included in the salary and classification plan under the town's personnel bylaw. Although not required by the General Laws, the selectmen and/or personnel board may solicit and accept the recommendations of the town clerk or the board of registrars with respect to salary.

Funds to pay the registrars must be appropriated by town meeting. The registrars' salary may appear in a separate line item in the annual town budget or be included under a general salary line item or as a line item in the registrars', town clerk's or selectmen's budget.

Registrars may be paid at an hourly rate for hours actually worked or receive an annual salary. Check with your town accountant to determine the regular practice in your town.

##### 2. Paying Registrars

Registrars may be paid according to any schedule established by custom or vote of the town; weekly, bi-weekly, monthly, or annually. In many towns, the town clerk prepares the payroll voucher for the registrars' pay. In this case, the town accountant may require that each registrar complete and sign a tax withholding form giving his social security number and the number of his dependents. The town may withhold federal and state income taxes from the registrars' pay.

If income taxes are withheld, the town will provide each registrar with a W-2 form to use with his income tax returns. If no taxes are withheld, it is suggested that you contact your town treasurer to determine whether or not you should prepare a 1099 form for each registrar. Such a form is required only if, during the calendar year, the registrar is paid more than a certain amount determined by the IRS. If needed, your town treasurer will probably

clerk or other official qualified to administer oaths, such as a notary public or a justice of the peace. The following oath may be used:

*Do you solemnly swear that you will faithfully and impartially discharge and perform the duties incumbent upon you as a member of the board of registrars of the town of [name] in accordance with the laws of the Commonwealth of Massachusetts?*

**NOTE:** Since 51:23 specifies that a registrar must not only take but also subscribe to the oath, he should sign a copy which should then be filed in the town clerk's office.

In some towns, the board of selectmen includes in the notice of appointment sent to each registrar that he must be sworn into office and suggests that he contact the town clerk for this purpose. In other towns, the town clerk notifies each registrar upon receipt of a copy of the appointment from the selectmen's office. Each registrar must take the oath of office each time he is appointed even though he has been reappointed to a second or subsequent term and has previously taken the oath.

The appointment and oath of each registrar must be recorded in the town clerk's office. This record should be kept permanently. The signed copy of the oath should be kept on file until completion of the registrar's term. [state retention schedule #2.61, #2.93] (see TOWN BUSINESS, II. OATHS in Volume 2 of this series)

Upon qualification, each registrar must be provided with a copy of 39:23B, The Open Meeting Law, and with a copy of 268A:23 related to conflict of interest. (see MEETINGS, III. OPEN MEETING LAW and FILING AND RECORDING, XII. CONFLICT OF INTEREST in Volume 2 of this series)

**NOTE:** Prior to July 23, 1986, the effective date of 1986:30, registrars, as town employees, were required to take and subscribe, under the penalties of perjury, to an oath to uphold the constitution of the United States and of the Commonwealth, commonly known as the loyalty oath. The signed oaths were required to be filed in the town clerk's office. Town employees are no longer required to take this oath since 264:14 was repealed by 1986:30. Oaths currently on file should be kept until after the registrars who signed them resign, die or are not reappointed. [state retention schedule #2.93A]

#### F. DUTIES

The registrars' duties include registering voters, hearing complaints of illegal or incorrect registration, preparing, updating and posting voting lists, making local listings of residents, certifying signatures on nomination papers and petitions, hearing objections to local nomination papers and petitions, processing absentee ballot applications, authorizing and issuing certificates to omitted voters on election day, and conducting election recounts.

The duties of registrars are outlined in detail in Volumes 3, 4, 5 and 6 of this series as follows:

- updating and posting voting lists and processing absentee ballot applications; in Volume 3.

be able to obtain a supply of the forms for you or tell you where to obtain them.

If no W-2 or 1099 form is issued, the registrars may request that you let them know how much they have been paid during the calendar year, unless an annual salary has been established. This information may be obtained from your copies of the registrars' payroll vouchers.

#### H. SELECTMEN TO PROVIDE OFFICE, ASSISTANCE & TRANSPORTATION [51:23]

The selectmen are required by 51:23 to provide the registrars with suitable rooms in which to conduct their business. In most towns, the town clerk's office is also the registrars' office.

In addition, 51:23 requires that the selectmen provide necessary assistance. An example of such assistance appears in 51:14A providing that the registrars may, with the approval of the selectmen, have the assistance of the police department in taking the annual town census. (see CENSUS, C. ANNUAL TOWN CENSUS in Volume 6 of this series)

In some towns, the selectmen support the registrars' budget requests for training and for travel to attend association meetings. They also assist by providing a police officer to attend registration sessions and to close up the building after the session is completed.

The selectmen are also required to provide the registrars with necessary transportation, such as making a town vehicle available to a registrar or permitting a mileage charge for a registrar using his own vehicle for a precinct registration session. [51:23]

### III. TOWN CLERK AS MEMBER OF AND CLERK TO BOARD OF REGISTRARS

#### A. AS MEMBER OF BOARD [51:15]

In towns having a board of registrars, the town clerk is automatically a member of the board. No separate appointment is necessary.

#### B. AS CLERK TO BOARD [51:23]

The town clerk, as a member of the board of registrars, shall act as its clerk and shall keep a full and accurate record of its proceedings. In many towns, the town clerk takes the minutes of the registrars' meeting, although these may be taken by another person specifically hired for that purpose.

In some towns, the town clerk schedules board meetings, prepares the meeting agenda and notifies the members, although the chairman of the board may prefer to do this. To comply with 39:23B, the Open Meeting Law, the town clerk should be certain that a notice of each meeting is posted on the principal bulletin board or in his office and a copy is placed on file. (see MEETINGS, III. OPEN MEETING LAW in Volume 2 of this series)



In many towns, the town clerk prepares a draft of the meeting minutes after each meeting and submits it to the board for approval at its next meeting. The approved minutes are then typed on minute book paper, either 8 1/2" X 11," or 8 1/2" X 14," and these records must be kept permanently. [state retention schedule #2.25] Minute book paper may be purchased in loose sheets. After the minutes are typed and signed by the clerk, they may be placed in a commercially available binder which can be locked after it is full. It is helpful if an index is prepared for each volume of minutes.

As clerk to the board, the town clerk certifies copies of the board's votes, meeting minutes and copies of other records, such as affidavits of registration, voting lists, party change cards, lists of persons, voter cards and any other record which is under the jurisdiction of the board of registrars. (see FILING AND RECORDING, I. FILING, RECORDING, INDEXING in Volume 2 of this series for further information on certifying and providing copies of records and providing public access to records)

The town clerk is required by 51:23 to properly post notices required by the registrars. Included would be notices of registration sessions, hearings, meetings, etc.

While not specifically required by the General Laws, many town clerks assume the responsibility for keeping the board up to date on all amendments to the General Laws, court cases, and information obtained at state or county association meetings which may affect its duties. While many boards of registrars rely heavily upon the town clerk's knowledge of the law, it should be remembered that the town clerk is only one member of the board and should not take unilateral action unless such action has been specifically delegated by majority vote of the board members.

Note, however, that a majority vote by the board is required for some actions, such as determining whether or not an escrow or challenged ballot should be counted and determining the questions raised at a recount or at a hearing on an objection to nominations or on a complaint of illegal registration. Such actions may not be delegated to the town clerk.

#### C. ADDITIONAL COMPENSATION AS MEMBER OF BOARD [41:19G, H]

As a member of the board of registrars, the town clerk shall, in addition to any compensation to which he is entitled as town clerk, receive the sum of \$50.00. If the number of registered voters exceeds 1,000, the town clerk shall receive an additional \$50.00 for each additional 1,000 registered voters or major fraction thereof. The maximum compensation is \$1,500. [41:19G] However, if the town accepts 41:19H, the maximum compensation is increased to \$2,000.

The General Laws do not specify when during a given year the number of registered voters should be calculated. The number of voters will be different depending upon the time of year and whether or not a state election is to be held.

In some towns, the number used to determine the compensation entitlement is the average of the number of voters as of the close of registration prior to each primary and election held during the previous year. In other towns, the number of registered voters as of a particular date, such as December 31st, June 1st or November 1st, is used. Or, the number of voters projected for the year in which the compensation is received is used.

The additional compensation must be appropriated by town meeting under the budget article. In some towns, it is included in the town clerk's, the registrars' or the election budget as a separate line item. In other towns, it is included in a general salary line item.

#### **IV. TEMPORARY REGISTRARS [51:20]**

Provision is made under 51:20 for appointing a person temporarily to fill a vacancy in the board of registrars caused by the death, resignation or retirement of a member. In this case, the person appointed serves only until a registrar is appointed to fill the unexpired term under the provisions of 51:15.

In addition, a temporary registrar may be appointed by the selectmen if a member of the board is temporarily unable to perform his duties due to illness or some other reason, or is absent from the town at the time of a meeting of the board. For example, if one registrar is ill and another will be out of state on the day of a recount, making it impossible for a majority of the board to be present, at least one temporary registrar would be needed. If a primary or a partisan election is being recounted, it is suggested that two temporary registrars be appointed so that both parties will be equally represented at the recount.

A temporary registrar may be appointed if a registrar is unable to act because a close relative is a candidate involved in a recount. If a compensated office is involved, Chapter 268A, the Conflicts of Interest Law, may apply and the registrar should contact the State Ethics Commission or town counsel to determine whether or not he should disqualify himself from acting at the recount.

Each person appointed must be of the same political party as the member whose position he is to fill. The temporary registrar shall perform the duties and be subject to the requirements and penalties provided by law for a registrar. He must be sworn into office before assuming his official duties. (see II. E. OATH on page 5) Compensation for temporary registrars is not mentioned in the General Laws. In some towns, they receive no salary. In other towns, they are paid at the same rate as election officers or at a rate established by the selectmen or the personnel bylaw.

Note that with respect to the appointment of temporary registrars, there is no requirement that a list of three names be submitted by the appropriate town committee chairman. In some towns, the remaining registrars recommend a person who is willing to serve and is enrolled in the appropriate party. It is suggested that before making a recommendation, the board contact the appropriate town committee chairman for approval of the person.

Although it is not required by the General Laws, the selectmen sometimes ask for a recommendation from the appropriate town committee chairman and/or from the board of registrars prior to making the appointment. In any case, the remaining members of the board must first submit to the selectmen a written request that a temporary registrar be appointed. (see sample written request on page 18)

#### **V. ASSISTANT REGISTRARS [51:22,22A,24,42E; 1986:630; 1987:438]**

There are three types of assistant registrars provided for in the General Laws, assistant registrars appointed for a term of one year, temporary assistant registrars appointed from time to time and assistant registrars who are also employees of a high school or a

vocational school. In this manual, assistants appointed for one year will be called *regular assistant registrars*.

#### A. REGULAR ASSISTANT REGISTRARS [51:22,24]

The board of registrars may appoint assistant registrars for a term of one year beginning April first. Assistant registrars must be enrolled members of the Democratic or Republican party and the appointments must be made so that the two parties are equally represented. The assistant registrars shall be subject to the same obligations and penalties as registrars. [51:22]

The registrars may remove an assistant registrar from office whenever they deem such removal necessary or advisable, whether or not a complaint has been made. They may fill the vacancy for the remainder of the term. [51:22]

In many towns, the regular employees of the town clerk's/registrar's office are appointed each year as assistant registrars. However, other persons, who are not regular office employees, may be and often are also appointed as assistant registrars. For example, if the regular employees of the office are not town residents and are not registered voters, or the party balance requirement cannot be fulfilled among the employees, any registered voters of the town enrolled in the appropriate party may be appointed.

The registrars may cause the duties devolving upon a single registrar to be performed by one or two assistant registrars. Where two are designated for such duties, they must be of different political parties. The registrars shall make suitable regulations governing the assistant registrars, whose activities shall be subject to the revision and acceptance by the board. [51:24]

In most towns, the registrars do not make formal written regulations governing assistants. However, each assistant is given written or verbal instructions and training before assuming any duties.

Regular assistant registrars are appointed primarily to help register voters, both during regular office hours and at registration sessions. If two assistant registrars are assigned to a registration session they must be of different political parties.

They may also witness absentee ballots, administer the oath to escrow and challenged voters, etc. However, they may not take the place of a registrar at a registrar's meeting or hearing or at a recount, or sign the registrars' certificate on nomination papers.

Regular assistant registrars appointed under 51:22 may also register voters the same as absent registration officers. [51:22A] (see VI. ABSENT REGISTRATION OFFICERS (Appointed by Registrars) on page 14)

#### B. TEMPORARY ASSISTANT REGISTRARS [51:22]

The registrars may appoint temporary assistant registrars from time to time to assist in the listing of persons 17 years of age or over, the annual town census list, and in the registration of voters at registration sessions provided for in Chapter 51, the sessions required before each primary and election. Temporary assistant registrars must also be appointed so that the two political parties are equally represented.

**NOTE:** 1977:367 amended 51:4 which requires the annual town census list to be prepared, and decreased the minimum age of persons to be included from 17 to 3 years of age. However, a similar change was not made in 51:22.

In some towns, civic organizations volunteer to help register voters at registration sessions. If the board of registrars wishes to take advantage of such help, the members of the organization who will do the work should be formally appointed as temporary assistant registrars and the party balance requirements should be met.

**NOTE:** Persons assisting in taking the annual town census by door to door canvass or in processing the mailed census forms are not required to be appointed as temporary assistant registrars. They may be any *qualified persons employed by the registrars* for the purpose. [51:14A] (see CENSUS, C. ANNUAL TOWN CENSUS in Volume 6 of this series)

Temporary assistant registrars are not empowered to register voters the same as absent registration officers appointed under 51:22A. (see VI. ABSENT REGISTRATION OFFICERS (Appointed by Registrars) on page 14)

C. ASSISTANT REGISTRARS AT HIGH SCHOOLS [51:42E; 1986:630; 1987:438; 1989:178]

The principal or headmaster of every public or private high school or vocational school shall submit to the board of registrars of the city or town in which the school is located the names of at least three school employees, who are registered voters in the in the commonwealth, to serve as assistant registrars.

The registrars must appoint at least one of the three employees on the list as an assistant registrar. The registrars must provide necessary training, forms and other assistance and establish procedures to be followed by the assistant registrar(s). (see sample written procedures on pages 19 and 20)

51:42E was inserted into the General Laws by 1986:630. That act required that, for each regional high school or vocational school, at least one assistant registrar be appointed for each city or town where students who usually attend the school reside. Each assistant registrar could register only persons who resided in his own city or town.

However, 1987:438 removed the special provisions related to regional schools. It required the assistant school registrar(s) who had to be registered voters of the city or town in which the school was located, to receive affidavits of registration from persons who reside in any other city or town in the commonwealth and made the provisions of the last paragraph of 51:42B related to the registration of out-of-town residents at petitioned registration sessions applicable to registration at high schools and vocational schools. (see VOTER REGISTRATION, G. 3. Place of Employment or Principal Activity on pages 71-76 and H. 1. Public and Private High Schools and Vocational School on pages 77-81)

1989:178 again amended 51:42E specifying that the list of three school employees be submitted to the registrars of the city or town in which the school is located. It also provided that the school employees, whose names appear on the list, must be registered voters in the commonwealth. They may be voters in any city or town. The requirement that school assistant registrars receive affidavits of

registration from residents of any city or town inserted by 1987:438 was not changed.

**NOTE:** 51:42E does not mention party enrollment with respect to high school assistant registrars. However, party balance should be maintained in the entire group of regular and school assistant registrars even if the school assistant registrars are voters in other cities or towns. For example, if there are 4 Democratic and 4 Republican regular assistant registrars and a Democratic school assistant registrar is appointed, an additional Republican regular assistant should also be appointed to balance the party representation. (see 51:22) Or two school assistant registrars, one Democratic and the other Republican, may be appointed.

The principal or headmaster shall publicize the opportunity to register within the school and the assistant registrar(s) must be available to permit eligible students and school employees to register.

It is suggested that the principal or headmaster of every school affected be sent a copy of 51:42E, as amended by 1987:438 and 1989:178, to inform him of the law. In addition, he should be given information concerning the duties of assistant registrars to assist him in choosing persons to be include on the required list.

#### D. QUALIFICATIONS [51:25]

The qualifications for assistant registrars are the same as for registrars, except that an assistant registrar is not required to have been enrolled in a party continuously for 2 years prior to appointment. (see II. A. 7. Qualifications on page 3)

#### E. OATH [51:23]

Both regular assistant registrars, including those appointed for high schools and vocational schools, and temporary assistant registrars must take the oath of office the same as registrars before they enter upon their official duties. (see II. E. OATH on page 5)

#### F. COMPENSATION [51:23]

Both regular and temporary assistant registrars shall receive such compensation as the selectmen may determine. (see II. G. COMPENSATION on page 7) Usually assistant registrars, who are also employees of the town clerk's/registrar's office, are paid at the same rate as they receive for other work. Other regular or temporary assistant registrars are usually paid an hourly rate for registering voters. The basis for paying temporary assistant registrars, who work on the annual town census, varies among towns. Some towns pay an hourly rate and others pay a certain amount for each name listed or for each household contacted. Members of civic organizations who are appointed as assistant registrars usually do this work as a public service and are not paid.

**NOTE:** Assistant registrars appointed for high schools or vocational schools may be paid by the town. Or, they may be given additional compensation by the school where they are regularly employed under the school employees' collective bargaining agreement.

## **VI. ABSENT REGISTRATION OFFICERS (APPOINTED BY REGISTRARS)**

[51:22A]

Before every primary and election, the registrars may appoint absent registration officers who, in addition to the registrars and regular assistant registrars, may attend persons claiming to have the qualifications for voting but who, because of physical disability, are unable to apply in person for registration at the office or at an outside registration session. These physically disabled persons may apply to be registered in their homes. (see 51:42A)

Absent registration officers must be appointed from the enrolled voters of the town and shall, as nearly as may be, equally represent the two leading political parties. Note that the phrase *as nearly as may be* appears in 51:22A with respect to party balance. This indicates that strict adherence to equal party representation is not required by law in the appointment of the total number of absent registration officers. However, in towns which make such appointments, an equal number of Democrats and Republicans is usually appointed to avoid complaints that one party has been favored over the other. Also note that each applicant must be registered by two officers of different parties under 51:42A. (see VOTER REGISTRATION, I. ABSENT REGISTRATION PROCEDURES on page 81)

Absent registration officers shall, in the performance of their duties, have all of the powers and be subject to all of the obligations and penalties of registrars. Their doings shall be under the direction of and subject to the revision and acceptance of the registrars.

Each absent registration officer should take the oath of office the same as a registrar before taking any official action. (see II. E. OATH on page 5) Also absent registration officers are usually paid at an hourly rate for their work. (see II. G. COMPENSATION on page 7)

## **VII. ELECTION COMMISSIONS [51:16A]**

A town may establish a board of election commissioners or an election commission by accepting 51:16A by majority vote at an annual town meeting.

A town may also establish an election commission under a home rule charter or special act. If your town has done so, check the provisions of the charter or special act.

### **A. TRANSFER OF DUTIES AND RECORDS**

The board of election commissioners shall be the lawful successor of the board of registrars and, with respect to elections, of the town clerk. It has all the powers, rights, duties and liabilities of boards of registrars and, with respect to elections, of the town clerk. It also has all the powers of selectmen, boards of registrars and town clerks with respect to caucuses, primaries and elections.

**EXCEPTION:** The selectmen retain the power and duty of giving notice of elections and fixing the days and hours of holding them. They are responsible for preparing the election warrant and having it posted. However, the constable makes his return of service to the election commission instead of to the town clerk since the commission is responsible for conducting elections.

Immediately upon acceptance of 51:16A, or when a charter or special act creating an election commission becomes effective, all books, papers and records and all other property in the possession of the registrars of voters and all books, papers, records etc. of the town clerk which relate to or are required for use in the conduct of elections, must be transferred to the election commission. The records may or may not be physically moved depending upon whether or not the election commission has an office separate from the town clerk's office, but jurisdiction over the records must be transferred.

#### B. Original Election Commission

The first election commission established must consist of the three registrars in office at the time of the acceptance of 51:16A or the effective date of a charter or special act, who shall serve until the expiration of the term to which they were appointed. A fourth person, who takes the place of the town clerk, must be appointed by the selectmen for a term of four years beginning on the next April first.

#### C. SUBSEQUENT APPOINTMENTS

As the term of each member of the original commission expires, or if a vacancy occurs, the selectmen must appoint a commissioner. The procedures appointing election commissioners are the same as those for appointing registrars outlined in II. A. 1. Town Committee to Submit List of Names on page 2, and II. A. 2. Failure to Submit Names on page 2.

#### D. TERM OF OFFICE

Each appointment must be made for a term of four years beginning on April 1st. If, however, an appointment must be made to fill a vacancy, the person appointed serves only until the expiration of the term.

Each commissioner serves until his successor is appointed and qualified by taking the oath of office.

#### E. PARTY REPRESENTATION

Each appointment to the commission must be made so that the members shall equally represent the two leading political parties.

#### F. QUALIFICATIONS

The qualifications for appointment as an election commissioner are the same as for a registrar. (see II. A. 7. Qualifications on page 3.)

#### G. CHAIRMAN AND SECRETARY

The board of election commissioners shall organize annually in April of each year by choosing a chairman and a secretary. However, if the commissioners cannot agree upon a chairman or secretary, these officers shall be designated by the selectmen.

The secretary of the board must keep full and accurate records of the proceedings of the board and shall perform such other duties as the board may require. The secretary of an election commission generally performs the same

duties as the clerk to the board of registrars. (see III. B. As Clerk to Board on page 8)

However, the election commission may and usually does appoint an executive secretary who is a regular employee and is responsible for the administration of the department.

#### H. REMOVAL OF ELECTION COMMISSIONER

Procedures for removal of an election commissioner are the same as Removal of Registrar on page . Note that the information concerning party imbalance caused by the enrollment of the town clerk does not apply since the town clerk is not a member of the board.

#### I. RESTRICTIONS ON ELECTION COMMISSIONERS

See II. D. RESTRICTIONS ON REGISTRARS on page 5.

#### J. OATH

See II. E. OATH on page 5.

#### K. COMPENSATION

While 51:23 requires that the compensation of the registrars be determined by the selectmen, 51:16A provides that the compensation of the election commissioners is to be determined by the town. Compensation may not be based upon the number of names listed or registered by them.

The funds to pay the commissioners must appear in the town budget and be appropriated at town meeting. Usually, the board of election commissioners prepares its own budget and makes recommendations to the town with respect to commissioners' salaries. (see II. G. COMPENSATION on page 7 for further information on salary and payment)

#### L. SELECTMEN TO PROVIDE OFFICE, ASSISTANCE & TRANSPORTATION

See II. H. SELECTMEN TO PROVIDE OFFICE, ASSISTANCE & TRANSPORTATION on page 8.

### VIII. TEMPORARY COMMISSIONERS

The selectmen may appoint a temporary election commissioner for the same reasons and using the same procedures as outlined under IV. TEMPORARY REGISTRARS on page 10.

### IX. ASSISTANT COMMISSIONERS [51:16A]

The board of election commissioners may appoint assistant commissioners and such assistants as it deems necessary who shall at all times equally represent the two leading political parties.



Assistant commissioners have such powers and perform such duties as are prescribed for assistant registrars and shall perform such other duties as the election commissioners may require. (see V. ASSISTANT REGISTRARS, A. through F. on pages 11, 12 and 13)

#### **X. ABSENT REGISTRATION OFFICERS (APPOINTED BY COMMISSIONERS)**

The election commissioners may appoint absent registration officers the same as outlined under VI. ABSENT REGISTRATION OFFICERS (APPOINTED BY REGISTRARS) on page 14.

SAMPLE REQUEST FOR TEMPORARY REGISTRAR

(Registrars' Letterhead)

Date \_\_\_\_\_

To: Board of Selectmen

Re: Temporary Registrar

This is to request that the Board of Selectmen appoint two temporary registrars under the provisions of Chapter 51, section 20 of the General Laws.

The need for temporary registrars is caused by the illness of [name of registrar] who represents the Democratic party and by the necessary absence from the state of [name of registrar] who represents the Republican party. A temporary registrar of each party will be needed. These temporary registrars will serve at the recount to be held on [date].

We recommend that [name], an enrolled Democrat, and [name] an enrolled Republican, both of whom have agreed to serve and who have been approved by the Chairman of their respective town committees, be appointed.

We respectfully request that the appointment of a temporary registrar be made as soon as possible.

\_\_\_\_\_  
Registrar

\_\_\_\_\_  
Registrar

SAMPLE INSTRUCTIONS FOR SCHOOL ASSISTANT REGISTRARS  
51:42E, 1986:630, AS AMENDED BY 1987:438

Board of Registrars  
Town of [Name]

Please read these instructions before you register any persons at the high school or vocational school for which you have been appointed. It is essential that you follow these instructions carefully.

1. Establish hours for registering eligible students and school employees that are convenient for you, your work environment and satisfies the needs of persons being registered. Post and publicize these hours.
2. All information must be legibly printed in black ink on the affidavit of registration forms supplied to you. Be sure you have a good supply of blank forms at all times. Call the Town Clerk's office for additional forms.
3. Affidavit forms do not leave your possession. Forms must be completed and signed in your presence. Use the regular affidavit form for persons who are residents of this town. Use the out-of-office form for residents of any other city or town. The applicant may complete the form. Or, you may obtain the information and complete the form. Then have the applicant check the information for accuracy and sign the form. Be sure the form is dated.

Regular Affidavit of Registration Form

- a. Name: should be entered as the applicant wishes it to appear on the voting list. For example, John J. Smith, Jr.; John Smith; John J. Smith. Print last name first.
- b. Address: street, house number and apartment number, if any. Add mailing address, if different.
- c. Residence, January 1st: Residence on January first of current year, if different from current address.
- d. Other Information: Date and place of birth and occupation must be entered on all forms. The box after Birth or Naturalized must be checked as applicable. Applicant must be a U.S. citizen. To enroll in a political party, applicant should check the appropriate box after "Do you wish to enroll in a political party?" or enter "No." Be sure the applicant has seen the question if no answer has been entered.

INSTRUCTIONS FOR SCHOOL ASSISTANT REGISTRARS (continued)

- e. Applicant's Signature: Ask applicant to read, to himself/herself, the statement above the signature line and sign the form as the name is printed above.
- f. Assistant Registrar's Signature: Sign your name on the line after "Witness."

Out-of-Office Affidavit of Registration Forms

Out-of-Office forms should be completed the same as regular affidavit forms. Three boxes are provided in item 11. for the applicant to indicate whether or not he wishes to enroll in a political party. In addition, applicant's height should be entered in item 9. Ask the applicant for proof of residence showing the applicant's name and current residence, such as, driver's license, school ID, etc. Enter type of proof shown in item 16. If no proof of residence shown, enter "none." Form should be completed and accepted whether or not proof of residence has been presented.

4. Check affidavit for completeness before the applicant leaves. Do not leave any blanks on the form. Enter "n/a" next to questions which do not apply to the applicant. This will show the Town Clerk's/Registrars' Office that all questions were answered.
5. Enter applicant's telephone number on the form at top right corner [under applicant's signature]. This is optional information.
6. If an applicant refuses to provide required information, do not argue with him. Point out that the information is required by law. If he still refuses, tell him that the Board of Registrars will review his affidavit and contact him.
7. Completed affidavits of registration must be returned by Friday of each week to the Town Clerk's/Registrars' Office at Town Hall. Special return dates will be arranged for the last day of registration before an election or town meeting. It is essential that a good working relationship be maintained between the School Assistant Registrar and the Office regarding the filing of completed affidavits. They must be timely filed to be entered on the voting list.
8. Notify the Board of Registrars immediately if you are no longer able to serve as an Assistant Registrar.

CONTACT THE TOWN CLERK FOR FURTHER INFORMATION OR QUESTIONS.