



# Secretary of State

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## Final WAC changes Winter 2014

Many of the changes update the WACs to reflect previous legislative changes, such as vote-by-mail, date changes, and the Top Two Primary. Changes worth noting:

### WAC 434-208-060:

- Clarifying that a non-UOCAVA voter who returns a ballot electronically must later return hard copies "of the ballot and ballot declaration."

### WAC 434-230-015:

- Correcting wording in the ballot declaration from "oath" to "declaration." Counties can continue to use their stock of materials through the end of 2014.
- Implementing the new U.S.P.S. regulation that requires the amount of postage necessary to be included in vote-by-mail instructions.
- Implementing a requirement that ballots that have sequential numbering not be issued sequentially.

### WAC 434-230-130:

- Implementing the new U.S.P.S. regulation that requires specific postage phrasing to be printed on the return envelope.

### WAC 434-235-020:

- Clarifying that, although a UOCAVA voter can register after the deadlines, a UOCAVA voter cannot update a registration after the deadlines.
- Clarifying what to do after the election with a UOCAVA voter who gets registered at the County Auditor's Office due to insufficient information – place the voter on inactive status.
- Clarifying a discrepancy between Washington law and HAVA on whether UOCAVA voters must provide a driver's license, last four digits of a Social Security number, or other ID in order to be registered.

### WAC 434-235-040:

- Verbiage on processing electronically returned ballots is moved from the WAC chapter on service & overseas voters (Chapter 434-235) to the WAC chapter on Elections by Mail (Chapter 434-250).

### WAC 434-250-037:

- Listing in one WAC what must be included in the mail ballot certification.

### WAC 434-250-100:

- Clarifying how ballot boxes may be emptied and ballots transported back to the Auditor's Office.
- Clarifying how to handle voters who are in line at a ballot box or voting center at 8:00. As long as a voter is in line at 8:00, the voter can finish voting and submit the ballot.

### WAC 434-250-105:

- Requiring all voters who vote on a DRE to sign the ballot declaration.

### WAC 434-250-120:

- Clarifying the procedures for processing a ballot returned electronically.

### WAC 434-250-200:

- Implementing the new U.S.P.S. regulation that requires election offices to include more specific postage information in instructions, or establish an account to pay for ballots returned with insufficient postage.

WAC 434-250-320:

- Requiring each county to provide at least two ballot deposit sites for 18 days prior to election day.

WAC 434-261-086:

- Implementing the recommendations of the Voter Intent Committee.

WAC 434-261-100:

- Duplicating ballots using automated duplication technology (such as a 2D bar code).

WAC 434-261-108:

- Requiring optical scan counties to use a variety of scanners, if more than one scanner is used in the election, for the manual audit.

WAC 434-262-031:

- Allowing votes to be counted when two ballots are returned together, with only one signature. The votes in common can be counted. This is a change in policy.

WAC 434-324-111:

- Prohibiting a county from processing a voluntary cancellation during the voter registration between the deadline for updating a registration (29 days) and certification of the election, to prevent voters from canceling one registration so they can submit a new registration elsewhere.

WAC 434-381-120:

- Allowing more time for pro & con arguments for initiatives to the Legislature, constitutional amendments and referendum bills.

**WAC 434-12A-110 Exemptions.** (1) The Public Records Act provides that a number of document types are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the office of the secretary of state for inspection and copying:

RCW 5.60.060(2) (attorney-client privilege, together with attorney work product privilege).

RCW 5.60.060(5) (communications to a public officer in official confidence).

RCW 5.60.070 (communications between a mediator and a party to mediation).

RCW 19.34.240 (digital signatures).

RCW 19.34.420 (digital signatures).

RCW 29A.08.710 through ((29A.08.785)) 29A.08.775 (voter registration records).

RCW 29A.32.100 (arguments and statements for voters pamphlet).

((~~RCW 29A.60.080 (sealing of voting devices).~~))

RCW 29A.60.110 (sealing of ballot containers).

RCW 40.14.030 (exempt records accessioned into state archives).

RCW 40.24.070 (address confidentiality program).

RCW 43.07.100 (records of entities supplying information to the bureau of statistics).

5 U.S.C. § 552(a) (the federal Privacy Act).

The foregoing list is for informational purposes only and failure to list an exemption shall not affect the efficacy of any exemption. The secretary of state reserves the right to determine that a public record is exempt under the provisions of state law.

(2) The office of the secretary of state is prohibited by statute from disclosing lists of individuals for commercial purposes.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-208-060 Electronic filings.** (1) In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents:

(a) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(b) Any minor party or independent candidate filing material for president and vice-president, except nominating petitions;

(c) Lists of presidential electors selected by political parties or independent candidates;

(d) Voted ballots and signed ballot declarations from service and overseas voters received no later than 8:00 p.m. on election day. Voted ballots and signed ballot declarations from voters who are neither service nor overseas voters received no later than 8:00 p.m. on election day, as long as hard copies of the ballot and ballot declaration are received no later than the day before certification of the election((. Consistent with WAC 434-250-080, it is the first ballot and declaration received that may be processed and counted. Voted ballots received electronically no later than 8:00 p.m. on election day are timely even if the postmark on the return envelope is after election day));

(e) Resolutions from cities, towns, and other districts calling for a special election;

(f) Voter registration forms, unless the form is illegible or the signature image is poor quality requiring the county auditor to reject the form;

(g) Signed ballot declarations, and any accompanying materials, submitted pursuant to RCW 29A.60.165 and WAC 434-261-050; and

(h) Requests to withdraw.

(2) If payment of a fee is required, the electronic filing is not complete until the fee is received.

(3) No initiative, referendum, recall, or other signature petitions may be filed electronically.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-208-130 Political parties.** (1) ((For purposes of RCW 29A.04.086, "major political party" means a political party whose nominees for president and vice president received at least five percent of the total votes cast for that office at the last preceding presidential election. A political party that qualifies as a major political party retains such status until the next presidential election at which the presidential and vice presidential nominees of that party do not receive at least five percent of the votes cast.))

((2))) For purposes of RCW 42.17A.005, the secretary of state recognizes as a minor political party a political party whose nominees for president and vice-president qualified to appear on the ballot in the last preceding presidential election according to the minor party nomination process provided in chapter 29A.56 RCW ((29A.20.111 through

~~29A.20.201~~). A political party that qualifies as a minor political party retains such status until certification of the next presidential election. This definition is for purposes of chapter 42.17A RCW only.

((+3))) (2) As allowed by WAC 434-215-012, 434-215-120, and 434-215-130, candidates for partisan office may state a preference for any political party and are not restricted to stating a preference for a political party that meets the definition of major or minor political party. A candidate's party preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate. With the exception of elections for president and vice-president, a party's status as a major or minor political party, or a candidate's preference for a major or minor political party, plays no role in how candidates qualify to appear on the primary election ballot, qualify to appear on the general election ballot, or are elected to public office.

**AMENDATORY SECTION** (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-208-140 Election notices.** Election notices are governed by RCW 29A.04.220 and ((~~29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011))~~) 29A.52.355.

(1) "Short titles for ballot measures" means the name of the jurisdiction, the measure number, and the heading or caption.

(2) The notice for elderly and disabled person required by RCW 29A.04.220 may be combined with the notice of election required by RCW ((~~29A.52.XXX (section 45, chapter 10 (ESSB 5124), Laws of 2011))~~) 29A.52.355 in a single publication.

(3) Public meetings associated with the election include county canvassing board meetings.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-209-020      Definitions.

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-215-021 Declaration of candidacy—Precinct committee officer.** Declarations of candidacy for the office of precinct committee officer shall be in substantially the following form:



# Declaration of Candidacy

## Precinct Committee Officer

<b>instructions</b>	File this form with your county elections department. No filing fee is required. <b>Note:</b> This document becomes public record once filed.		
<b>office information</b>	member of the <input type="radio"/> Democratic Party <input type="radio"/> Republican Party  precinct representing (name / number)		
<b>personal information</b> <i>as registered to vote</i>	first name	middle	last
	date of birth (mm / dd / yyyy)		phone number
	residential address	city / ZIP	
<b>ballot information</b>	exact name I would like printed on the ballot ( <i>only contested races will appear on the ballot</i> )		
<b>contact information</b>	mailing address ( <i>if different from residential address</i> )	city / ZIP	
	email address	phone number	
<b>oath</b>	I declare that the above information is true, that I am a registered voter residing at the residential address and precinct listed above, and that I am a candidate for Precinct Committee Officer for the party and precinct identified above.  Further, I declare, under penalty of perjury, that I will support the Constitution and laws of the United States, and the Constitution and laws of the State of Washington.		
	sign here	date here	
<b>for office use only</b>	voter registration number	date	
	<input type="checkbox"/> precinct verified	office code	
	staff		

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AMENDATORY SECTION (Amending WSR 11-05-008, filed 2/3/11, effective 3/6/11)

**WAC 434-215-025 Filing fee petitions.** (1) When a candidate submits a filing fee petition in lieu of his or her filing fee, as authorized by RCW 29A.24.091, voters eligible to vote on the office in the general election are eligible to sign the candidate's filing fee petition.

(2) ((The filing fee petition described in RCW 29A.24.101(3) does not apply. The filing fee petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

"We, the undersigned registered voters of [the jurisdiction of the office], hereby petition that [candidate's] name be printed on the ballot for the office of [office for which candidate is filing a declaration of candidacy]."

(3)) A candidate submitting a filing fee petition in the place of a filing fee may not file the declaration of candidacy electronically.

((4)) (3) A candidate submitting a filing fee petition must submit all signatures when filing the declaration of candidacy. The candidate cannot supplement the signatures at a later date.

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-215-130 Minor political party candidates and independent candidates.** (1) In the election system enacted as chapter 2, Laws of 2005, there is no distinction between major party candidates, minor party candidates, or independent candidates filing for partisan congressional, state, or county office. All candidates filing for these partisan offices have the same filing and qualifying requirements. All candidates for partisan office have the option of stating on the ballot their preference for a political party, or stating no party preference. The party preference information plays no role in determining how candidates are elected to public office.

(2) ((The requirements in RCW 29A.20.111 through 29A.20.201 for minor political party candidates and independent candidates for partisan office to conduct nominating conventions and collect a sufficient number of signatures of registered voters do not apply to candidates filing for partisan congressional, state, or county office. The requirements in RCW 29A.20.111 through 29A.20.201 for minor political party candidates and independent candidates only apply to candidates for president and vice president of the United States.)) If two or more certificates of nomination are filed purporting to nominate the same candidates for president and vice-president by two different minor political parties, or both by a party and as an independent candidate, the first valid certificate of nomination filed with the secretary of state shall be accepted and subsequent certificates must be rejected.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-215-150      No major party ticket.

**WAC 434-230-015 Ballots and instructions.** (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least 18 years old on election day;

Voting only once in this election;

Not under the authority of the Department of Corrections for a Washington felony conviction; and

Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this ((oath)) declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

County auditors may use existing stock of declarations until ((June 1, 2012)) December 31, 2014.

(d) Explain how to make a mark, witnessed by two other people, if unable to sign the declaration;

(e) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;

(f) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(g) If applicable, explain that postage is required, ((if applicable)) or exactly how much postage is required. See WAC 434-250-200 on return postage;

(h) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(i) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(j) Include, for a primary election that includes a partisan office, a notice on an insert explaining:

"In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(k)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice-president appear on the general election ballot, the following must be added to the statement required by (k)(i) of this subsection:

"The election for president and vice-president is different. Candidates for president and vice-president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6)(a) If the ballot includes a partisan office, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(7) Counties may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.170.  
~~((Ballots shall not be formatted as stated in RCW 29A.04.008 (6) and  
(7), 29A.36.104, 29A.36.106, 29A.36.121, 29A.36.161(5), and 29A.  
36.191.))~~

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

**WAC 434-230-025 Order of offices.** Measures and offices must be listed in the following order, to the extent that they appear on a primary or election ballot:

- (1) Initiatives to the people;
- (2) Referendum measures;
- (3) Referendum bills;
- (4) Initiatives to the legislature and any alternate proposals;
- (5) Proposed constitutional amendments (senate joint resolutions, then house joint resolutions);
- (6) Advisory votes;
- (7) Countywide ballot measures;  
((+7))) (8) President and vice-president of the United States;  
((+8))) (9) United States senator;  
((+9))) (10) United States representative;  
((+10))) (11) Governor;  
((+11))) (12) Lieutenant governor;  
((+12))) (13) Secretary of state;  
((+13))) (14) State treasurer;  
((+14))) (15) State auditor;  
((+15))) (16) Attorney general;  
((+16))) (17) Commissioner of public lands;  
((+17))) (18) Superintendent of public instruction;  
((+18))) (19) Insurance commissioner;  
((+19))) (20) State senator;  
((+20))) (21) State representative;  
((+21))) (22) County officers;  
((+22))) (23) Justices of the supreme court;  
((+23))) (24) Judges of the court of appeals;  
((+24))) (25) Judges of the superior court; and  
((+25))) (26) Judges of the district court.

For all other jurisdictions, the offices in each jurisdiction shall be grouped together and listed by position number according to county auditor procedures.

AMENDATORY SECTION (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

**WAC 434-230-055 Partisan primary.** In a primary for partisan congressional, state or county office conducted pursuant to chapter 2, Laws of 2005 (Initiative 872):

(1) Voters are not required to affiliate with a political party in order to vote in the primary election. For each office, voters may vote for any candidate in the race.

(2) Candidates are not required to obtain the approval of a political party in order to file a declaration of candidacy and appear on the primary or general election ballot as a candidate for partisan office. Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate. A candidate's political party preference is not used to determine which candidates advance to the general election.

(3) Based on the results of the primary, the two candidates for each office who receive the most votes and who receive at least one percent of the total votes cast for that office advance to the general election. The primary election does not serve to nominate any political party's candidates, but serves to winnow the number of candidates down to a final list of two for the general election. Voters in the primary are casting votes for candidates, not choosing a political party's nominees. ((RCW 29A.36.191 does not apply since the predecessor statute, RCW 29A.36.190, was repealed in chapter 2, Laws of 2005.))

(4) Chapter 2, Laws of 2005 (Initiative 872) repealed the prior law governing party nominations. Political parties may nominate candidates by whatever mechanism they choose. The primary election plays no role in political party nominations, and political party nominations are not displayed on the ballot.

((5) If dates, deadlines, and time periods referenced in chapter 2, Laws of 2005, conflict with subsequently enacted law, such as chapter 344, Laws of 2006, the subsequently enacted law is effective.))

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-230-100 Political party precinct committee officer.** (1) The election of major political party precinct committee officers is established in RCW ((29A.52. (section 3, chapter 89, Laws of 2012))) 29A.52.171 and RCW 29A.80.051.

(2) The election of precinct committee officer is an intraparty election; candidates compete against other candidates in the same political party.

(a) If only one candidate files for a position, that candidate is deemed elected without appearing on the ballot and the county auditor shall issue a certificate of election.

(b) If more than one candidate files for a position, the contested race must appear on the ballot at the primary and the candidate who receives the most votes is declared elected.

(c) If no candidates file during the regular filing period, the race does not appear on the ballot and the position may be filled by appointment pursuant to RCW 29A.28.071.

(d) No write-in line may be printed on the ballot for a contested race, and no write-in votes may be counted.

(3) If both major political parties have contested races on the ballot in the same precinct, the political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the other political party appearing second. Within each party, candidates shall be listed in the order determined by lot.

(4)(a) The position of political party precinct committee officer must appear following all measures and public offices.

(b) The following explanation must be printed before the list of candidates: "For this office only: In order to vote for precinct committee officer, a partisan office, you must affirm that you are a Democrat or a Republican and may vote only for one candidate from the party you select. Your vote for a candidate affirms your affiliation with the same party as the candidate. This preference is private and will not be matched to your name or shared."

(c)(i) If all candidates are listed under one heading, the applicable party abbreviation "Dem" or "Rep" must be printed next to each candidate's name, with the first letter of the abbreviation capitalized. For example:

John Smith Dem

Jane Doe Dem

(ii) If candidates are listed under a major political party heading, the applicable heading of either "democratic party candidates" or "republican party candidates" must be printed above each group of candidates. The first letter of each word must be capitalized.

(d) One of the following statements, as applicable, must be printed directly below each candidate's name: "I affirm I am a Democrat." or "I affirm I am a Republican."

(5) A voter may vote for only one candidate, regardless of party, for precinct committee officer. If a voter votes for more than one candidate, the votes must be treated as overvotes.

**AMENDATORY SECTION** (Amending WSR 08-15-052, filed 7/11/08, effective 8/11/08)

**WAC 434-230-110 President and vice-president of the United States.** (1) When the race for president and vice-president appears on a general election ballot, the candidates for these offices must be paired together.

(2) The full name of the political party, rather than an abbreviation, must be provided for each pair of candidates, with a designation that these candidates are the nominees of the party. The first letter of each word in the political party name must be capitalized. For example:

Example Party Nominees

(3) If candidates are not nominees of a political party and are running as independent candidates, that description must be provided for the pair of candidates. The first letter of each word in the description must be capitalized. For example:

### Independent Candidates

(4) The order that candidates appear on the ballot is based on their political party (The political party that received the highest number of votes from the electors of this state for the office of president at the last presidential election must appear first, with the candidates of the other political parties following according to the votes cast for their nominees for president at the last presidential election. Candidates of parties that did not have nominees in the last presidential election, and independent candidates, follow in the order of their qualification with the secretary of state), as established by RCW 29A.36.161. Minor party and independent candidate nominating petitions are processed in the order in which they are submitted to the office of the secretary of state.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-230-130 Envelopes.** Mail-in ballots must be accompanied by the following:

(1) A security envelope or sleeve, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;

(2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the official election materials notice required by the United States Postal Service, display the words ("~~POSTAGE REQUIRED~~") "APPLY FIRST-CLASS POSTAGE HERE" or "POSTAGE PAID" in the upper right-hand corner, and conform to postal department regulations.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-230-047      Nonpartisan county office.

WAC 434-230-095      When a candidate dies or is disqualified.

**WAC 434-230-045 Candidate format.** (1) For each office or position, the names of all candidates shall be listed together. If the office is on the primary election ballot, no candidates skip the primary and advance directly to the general election.

(2)(a) On the primary election ballot, candidates shall be listed in the order determined by lot.

(b) On the general election ballot, the candidate who received the highest number of votes in the primary shall be listed first, and the candidate who received the second highest number of votes in the primary shall be listed second. If the two candidates who received the most votes in the primary received exactly the same number of votes, the order in which their names are listed on the general election ballot shall be determined by lot.

(c) The political party that each candidate prefers is irrelevant to the order in which the candidates appear on the ballot.

(3) Candidate names shall be printed in a type style and point size that can be read easily. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include, but are not limited to, printing a smaller point size or different type style.

(4) For partisan office:

(a) If the candidate stated his or her preference for a political party on the declaration of candidacy, that preference shall be printed below the candidate's name, with parentheses and the first letter of each word capitalized, as shown in the following example:

John Smith

(Prefers Example Party)

(b) If the candidate did not state his or her preference for a political party, that information shall be printed below the candidate's name, with parentheses and the first letter of each word capitalized, as shown in the following example:

John Smith

(States No Party Preference)

(c) The party preference line for each candidate may be in smaller point size or indented.

(d) The same party preference information shall be printed on both primary and general election ballots.

(5) If the office is nonpartisan, only the candidate's name shall appear. Neither "nonpartisan" nor "NP" shall be printed with each candidate's name.

(6) The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

**WAC 434-235-020 Voter registration.** (1) A service or overseas voter may register to vote by providing:

(a) A voter registration application issued by the state of Washington;

(b) A federal post card application issued by the federal voting assistance program;

(c) A federal write-in absentee ballot issued by the federal voting assistance program;

(d) A national mail voter registration form issued by the election assistance commission; or

(e) A ballot with a valid signature on the ballot declaration.

(2) Pursuant to RCW 29A.40.010 and 29A.40.091, a service or overseas voter does not have to be registered in order to request a ballot. Consequently, a service or overseas voter who is not already registered in Washington may request a ballot and ((be registered)) register after the registration deadlines of RCW 29A.08.140 have passed. A service or overseas voter who is already registered to vote in Washington may not transfer or update a registration after the deadlines in RCW 29A.08.140 have passed.

(a) If the voter is not currently registered, the county auditor must register the voter immediately. The voter must be flagged in the voter registration system as a service or overseas voter.

(b) A service or overseas voter must use his or her most recent residential address in Washington, or the most recent residential address in Washington of a family member.

(c) If the county auditor is unable to precinct the voter due to a missing or incomplete residential address on the application, the county auditor must attempt to contact the voter to clarify the application.

(i) If, in the judgment of the county auditor, there is insufficient time to correct the application before the next election or primary, the county auditor must issue the ballot as if the voter had listed the county auditor's office as his or her residence. A special precinct for this purpose may be created. The only offices and issues that may be tabulated are those common to the entire county and congressional races based on the precinct encompassing the auditor's office.

(ii) After the election or primary, the county auditor must place the voter on inactive status and send the voter a confirmation notice to obtain the voter's correct residential address.

(d) A service or overseas voter ((who registers to vote by signing the ballot declaration)) is not required to provide a driver's license number, Social Security number or other form of identification as required ((in)) by RCW 29A.08.107.

(3) The county auditor must offer a service or overseas voter the option of receiving blank ballots by e-mail or postal mail. This requirement is satisfied if the service or overseas voter registers on an application that offers electronic ballot delivery as an option, or if the voter expresses a preference when registering, updating a registration, or requesting a ballot. The county auditor must attempt to contact the voter by phone, e-mail, postal mail, or other means. If the voter does not indicate a preference or does not respond, the county auditor must send ballots by postal mail.

**WAC 434-235-040 Processing ballots.** (1) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of a federal write-in absentee ballot or a special absentee ballot if the intention of the voter can be ascertained.

(2) For service and overseas voters, the date on the ballot declaration associated with the voter's signature determines the validity of the ballot. The signature on the ballot declaration must be dated no later than election day.

(3) Voted ballots returned by fax or e-mail must be received no later than 8:00 p.m. on election day. ((The county auditor must apply procedures to protect the secrecy of voted ballots returned by fax or e-mail. Voted ballots returned by e mail may be returned as multiple attachments or multiple e mails. In order to maintain the secrecy of the ballot, the county auditor must print the e mail and attachments. The printed e mail and declaration page must be processed and retained the same as a ballot declaration. The printed ballot must be processed and retained the same as other ballots. In order to maintain the secrecy of the ballot, the electronic versions of the e mail, ballot declaration, and ballot are exempt from public disclosure.))

(4) The county auditor must provide statistics on voting by service and overseas voters in the certification report required by RCW 29A.60.235 and in response to requests by the federal election assistance commission.

**WAC 434-235-030 Voting.** (1) A service or overseas voter may request or return a ballot by:

- (a) Any manner authorized by WAC 434-250-030;
- (b) A federal post card application issued by the federal voting assistance program; or
- (c) A federal write-in absentee ballot issued by the federal voting assistance program.

(2) The county auditor must issue a ballot by mail, e-mail, or fax if specifically requested by the voter. A ballot does not have to be mailed if it is e-mailed or faxed to the voter. If an e-mail is returned as undeliverable and the voter has not provided an alternate e-mail address, then the ballot must be sent by postal mail.

(3) Ballot materials must include the mailing address, phone number, fax number, e-mail address, and web site of the county auditor's office to enable a voter to contact the elections office for additional information about the election. Ballot materials must include instructions on how to return the ballot by fax, e-mail, or postal mail, including how to include the ballot privacy sheet between the declaration page and the ballot. Ballot materials must include instructions on how to confirm that the voted ballot has been received by the elections office, in a format that the voter can keep after the voted ballot has been returned.

(4) If the county auditor is unable to issue a ballot due to insufficient information, the county auditor must attempt to contact the voter, consistent with WAC 434-235-020, to clarify the request. If the county auditor is unable to obtain sufficient information, other than residential address, to issue the ballot, the county auditor must attempt to notify the voter of the reason that the ballot was not issued.

(5) Pursuant to RCW 29A.40.091, return envelopes must be printed to indicate that they may be returned postage-free.

NEW SECTION

**WAC 434-250-037 Mail ballot certification.** Pursuant to RCW 29A.40.070, fifteen days before each primary or election, the county auditor shall certify to the secretary of state:

(1) That ballots were mailed or issued to service and overseas voters at least forty-five or thirty days before election day, whichever deadline is applicable. For elections that include a federal office, the certification must include the number of ballots mailed or issued to service and overseas voters;

(2) That ballots were mailed or issued to regular voters at least eighteen days before election day;

(3) That ballots issued via electronic ballot delivery systems were proofed and checked for accuracy prior to the mailing deadline for service and overseas ballots; and

(4) If any ballots were not mailed or issued by the applicable deadlines, the reason for the delay and steps taken to remedy the delay.

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-250-100 Ballot deposit sites.** (1) If a location only receives ballots and does not issue any ballots, it is considered a ballot deposit site. Ballot deposit sites may be staffed or unstaffed.

(a) If a ballot deposit site is staffed, it must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. If a deposit site is staffed by two or more persons appointed by the county auditor, the appointees shall be representatives of different major political parties whenever possible. Deposit site staff shall subscribe to an oath regarding the discharge of their duties. Staffed deposit sites open on election day must be open until 8:00 p.m. Staffed deposit sites may be open according to dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff. ((If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place and refer the ballot to the canvassing board.))

(b) Unstaffed ballot deposit sites consist of secured ballot boxes that allow return envelopes, once deposited, to only be removed by authorized staff. Ballot boxes located outdoors must be constructed of durable material able to withstand inclement weather, and be sufficiently secured to the ground or another structure to prevent their removal. From eighteen days prior to election day until 8:00 p.m. on election day, two people who are either employees of or appointed by the county auditor must empty each ballot box with sufficient frequency to prevent damage and unauthorized access to the ballots.

(2) Ballot boxes must be secured at all times, with seal logs that document each time the box is opened and by whom. Ballots must ((be placed into secured transport carriers and returned to)) either be transported to the county auditor's office or another designated

location by at least two authorized people, or placed into a secured transport carrier for transport to the county auditor's office or other designated location. At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots; however, any voter who is in line at 8:00 p.m. must be allowed to vote and deposit his or her ballot. If a ballot is returned after the ballot box is emptied or secured at 8:00 p.m. on election day, the ballot must be referred to the canvassing board.

(3) Within twenty-five feet of a ballot deposit site that is not located within a voting center, no person may electioneer, circulate campaign material, solicit petition signatures, or interfere with or impede the voting process. Whenever it is necessary to maintain order around a ballot deposit site, the county auditor may contact a law enforcement agency for assistance.

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-250-105 Voting centers.** (1) If a location offers replacement ballots, provisional ballots, or voting on a direct recording electronic device, it is considered a voting center. The requirements for staffed ballot deposit sites apply to voting centers. Each voting center must:

(a) Be an accessible location. "Accessible" means the combination of factors which create an environment free of barriers to the mobility or functioning of voters. The environment consists of the routes of travel to and through the buildings or facilities used for voting. The Americans with Disabilities Act Checklist for Polling Places shall be used when determining the accessibility of a voting center. A voting center is fully accessible if all responses in each category are "Yes";

(b) Be marked with signage outside the building indicating the location as a place for voting;

(c) Issue ballots that include a declaration in the ballot materials;

(d) Offer disability access voting in a location or manner that provides for voter privacy. For each voting center, the county auditor must have a contingency plan to accommodate accessible voting in the event that an accessible voting unit malfunctions or must be removed from service;

(e) Offer provisional ballots, which may be sample ballots that meet provisional ballot requirements;

(f) Have electronic or telephonic access to the voter registration system, consistent with WAC 434-250-095, if the voting center offers voting on a direct recording electronic voting device. The ((voter must either:

((i))) county auditor shall require the voter to print and sign the ballot declaration provided in WAC 434-230-015. Ballot declaration signatures may not be maintained in the order in which they were signed. Before the voter may vote on a direct recording electronic voting device, the county auditor must either:

((i)) Verify the signature on the ballot declaration against the signature in the voter registration record; or

(ii) Require the voter to provide photo identification, consistent with RCW 29A.40.160; ((or

((ii) Sign the ballot declaration required by WAC 434-230-015, and the signature on the declaration must be verified against the signature in the voter registration record before the voter may vote on a direct recording electronic voting device;))

(g) Provide either a voters' pamphlet or sample ballots;

(h) Provide voter registration forms;

(i) Display a HAVA voter information poster;

(j) Display the date of that election;

(k) During a primary that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(j), and during a general election that includes a partisan office, display the notice provided in WAC 434-230-015 (3)(k). The party preference notices may also be posted on-screen in direct recording electronic voting devices;

(l) Provide instructions on how to properly mark the ballot; and

(m) Provide election materials in alternative languages if required by the Voting Rights Act.

(2) Where it appears that a particular voter is having difficulty casting his/her vote, and as a result, is impeding other voters from voting, the staff may provide assistance to that voter in the same manner as provided by law for those voters who request assistance. Where it appears that a voter is impeding other voters from voting to simply cause delay, the staff shall ask the voter to expedite the voting process. In the event the voter refuses to cooperate, the staff shall, whenever practical, contact the county auditor, who may request assistance from the appropriate law enforcement agencies if he or she deems such action necessary.

(3) At exactly 8:00 p.m. on election day, all ballot boxes must be emptied or secured to prevent the deposit of additional ballots; however, any voter who is in a voting center or in line at a voting center at 8:00 p.m. must be allowed to vote and deposit his or her ballot. Voted ballots, including provisional, mail-in, and direct recording electronic and paper records, must be placed into secured transport carriers for return to the county auditor's office or another designated location.

AMENDATORY SECTION (Amending WSR 12-14-074, filed 7/2/12, effective 8/2/12)

**WAC 434-250-110 Processing ballots.** (1) "Initial processing" means all steps taken to prepare ballots for tabulation. Initial processing includes, but is not limited to:

(a) Verification of the signature and postmark on the ballot declaration;

(b) Removal of the security envelope from the return envelope;

(c) Removal of the ballot from the security envelope;

(d) Manual inspection for damage, write-in votes, and incorrect or incomplete marks;

(e) Duplication of damaged and write-in ballots;

(f) Scanning and resolution of ballots on a digital scan voting system; and

(g) Other preparation of ballots for final processing.

(2) "Final processing" means the reading of ballots by an optical scan voting system for the purpose of producing returns of votes cast, but does not include tabulation.

(3) "Tabulation" means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.

(4) Prior to initial processing of ballots, the county auditor shall notify the county chair of each major political party of the time and date on which processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of ballots.

(5) Initial processing of voted ballots, which may include scanning and resolving ballots on a digital scan voting system, may begin as soon as voted ballots are received. All ballots must be kept in secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel. The county auditor must ensure that all security envelopes and return envelopes are empty, either by a visual inspection of the punched hole to confirm that no ballots or other materials are still in the envelopes, or by storing the envelopes with a tie, string, or other object through the holes.

(6) Final processing of voted ballots, which may include scanning ballots on an optical scan voting system, may begin after 7:00 a.m. on the day of the election. Final processing may begin after 7:00 a.m. the day before the election if the county auditor follows a security plan that has been submitted ((an)) by the county auditor and approved ((security plan to)) by the secretary of state ((that)) to prevent((s)) tabulation until after 8:00 p.m. on the day of the election.

(7) Tabulation may begin after 8:00 p.m. on the day of the election.

(8) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

**WAC 434-250-120 Verification of the signature and return date.**

(1) A mail ballot shall be counted if:

(a) The ballot declaration is signed with a valid signature;

(b) The signature has been verified pursuant to WAC 434-379-020, or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark; and

(c)(i) The envelope is postmarked not later than the day of the election and received not later than the day before certification of the election;

(ii) The ballot is deposited in a ballot drop box no later than 8:00 p.m. on election day; or

(iii) The ballot ((~~of a service or overseas voter~~) is received by fax or e-mail ((is received)) no later than 8:00 p.m. on election day. If the ballot is from a voter who is neither a service nor overseas voter, a hard copy of the ballot and ballot declaration must also be received no later than the day before certification of the election.

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark or if the postmark is unreadable, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.110. If a ballot is from a service or overseas voter, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.100.

(3) The signature on the ballot declaration must be compared with the signature in the voter's voter registration file using the standards established in WAC 434-379-020. The signature on a ballot declaration may not be rejected merely because the signature is not dated, unless the date is necessary to validate the timeliness of the ballot. The signature on a ballot declaration may not be rejected merely because the name in the signature is a variation of the name on the voter registration record. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.

(4)(a) For ballots returned by fax or e-mail, the county auditor must apply procedures to protect the secrecy of the ballot. If returned by e-mail, the county auditor must print the e-mail and attachments; the printed e-mail and signed declaration page must be processed and retained like other ballot declarations, and the printed ballot must be processed and retained like other ballots. The electronic versions of the e-mail, ballot declaration, and ballot are exempt from public disclosure in order to maintain secrecy of the ballot. Voted ballots returned by e-mail may be returned with multiple attachments or as multiple e-mails.

(b) If the ballot is from a voter who is neither a service nor overseas voter, the voter must also return a hard copy of the ballot and ballot declaration no later than the day before certification.

(i) Consistent with WAC 434-250-080, the first valid ballot and declaration received is counted; subsequently received versions are not counted.

(ii) In order to maintain secrecy of the ballot, the hard copy ballot may not be compared to the ballot received electronically.

(iii) Voted ballots returned electronically no later than 8:00 p.m. on election day are timely even if the hard copy subsequently returned contains a postmark after election day.

(c) Ballots returned electronically with a missing or mismatched signature are processed as established in RCW 29A.60.165 and WAC 434-261-050.

(5) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

#### NEW SECTION

**WAC 434-250-200 Return postage.** The Mailing Standards of the United States Postal Service, Domestic Mail Manual, requires each county auditor to include on the ballot, ballot instructions, mailing instructions or return envelope, and the specific amount of first-class postage necessary to return the ballot by mail. This is not required:

- (1) For ballots issued to service and overseas voters;
  - (2) For ballots returned using the business reply mail service;
  - (3) For ballots returned with postage prepaid by stamps, meter, or permit reply mail; or
- (4) If the county auditor has an account with the post office guaranteeing payment of return postage due.

**AMENDATORY SECTION** (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-250-320 Locations to deposit ballots.** A county auditor must provide at least two locations to deposit ballots beginning eighteen days prior to election day and ending at 8:00 p.m. on election day. These locations may be either a ballot deposit site, as defined in WAC 434-250-100, or a voting center, as defined in WAC 434-250-105. At least one location may be at the county auditor's office. All other deposit sites must be at geographical locations that are different from the county auditor's office.

**WAC 434-250-095 Direct recording electronic voting devices.** (1)

((If a voter requests to vote on a direct recording electronic voting device, the county auditor must first confirm that the voter has not already returned a voted ballot. Confirmation that the voter has not already returned a voted ballot may be achieved by accessing the county voter registration system by electronic, telephonic, or other means. If the county auditor is unable to confirm that the voter has not already returned a voted ballot, the voter may not vote on a direct recording electronic voting device.)

In order to prevent multiple voting, the voter must be immediately credited or otherwise flagged as having voted. If a voted mail ballot is subsequently returned after a ballot is cast on the direct recording electronic voting device, the mail ballot must not be counted.

(2)) Before a direct recording electronic voting device may be used by a voter, an election officer must verify:

(a) The paper printer or paper canister is secured so that the paper record may not be removed from the device by anyone other than an election officer;

(b) Only a blank portion of the paper record is visible to the voter as he or she approaches the device; and

(c) The paper printer or paper canister is sealed with a numbered seal to ensure the paper tape cannot be removed by the voter.

(2) Before a direct recording electronic voting device may be used by a voter, an election officer must confirm that the voter has not already returned a voted ballot. Confirmation that the voter has not already returned a voted ballot may be achieved by accessing the county voter registration system by electronic, telephonic, or other means. In order to prevent multiple voting, the voter must be immediately credited or otherwise flagged as having voted. If the county auditor is unable to confirm whether the voter has already returned a voted ballot, the voter may not vote on a direct recording electronic voting device. If a voted mail ballot is subsequently returned after a ballot is cast on the direct recording electronic voting device, the mail ballot must not be counted.

(3)(a) If a ballot on a direct recording electronic device has not been cast but has been printed by the voter, the election officer may cast the ballot.

(b) If a ballot on a direct recording electronic device has not been printed nor cast by the voter, the election officer must cancel the ballot and make a corresponding notation in the accountability form.

(4) If any seal or lock on a direct recording electronic device, including seals for the paper printer or paper canister, has been broken or tampered with, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. A written report regarding the circumstances of the removal from service must be sent to the county canvassing board.

(5) If the paper printer for a direct recording electronic device malfunctions or runs out of paper, the following must occur:

(a) If the election officer has confirmed that no ballots have been cast after the printer ran out of paper or malfunctioned, he or she must remove the direct recording electronic device and paper printer from service, and document the problem. The direct recording

electronic device and paper printer may be returned to service only if the problem has been corrected.

(b) If the election officer is unable to confirm that no ballots were cast after the printer ran out of paper or malfunctioned, or if the problem cannot be corrected, the direct recording electronic device and paper printer must be removed from service for the remainder of the election. The auditor must present a written report regarding the circumstances of the removal from service to the county canvassing board.

(6) If an electronic ballot has been cast without a readable corresponding paper record, the county auditor may print the ballot image stored on the device for use as a paper record for that device, in the case of an audit or manual recount. This may require printing all ballot images from that machine.

(7) A provisional ballot may only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state.

(8)(a) If a direct recording electronic voting device must be transferred from a voting center that is not in the same location as the counting center, the paper records must be either:

(i) Placed in transfer containers; or

(ii) Transferred in the paper printer or paper canister if the paper printer or paper canister is sealed so the paper record cannot be removed without breaking the seal.

(b) Paper records must be accompanied by a transmittal sheet which must include at a minimum:

(i) The voting center where the direct recording electronic device was utilized;

(ii) The seal number from the paper printer; and

(iii) The serial number or other identifier of the direct recording electronic device if distinctly unique from the seal number on the paper record printer or paper canister.

(c) If paper records are placed in a transfer container, the election officer must sign the transmittal sheet and place it in the transfer container. The number of paper record tapes included in the container must be recorded on the transmittal sheet. A unique prenumbered seal must be applied to the container.

(d) The data pack or cartridge of the direct recording device must be transported to the counting center in a sealed container.

**WAC 434-261-086 Statewide standards on what is a vote.** (1) Pursuant to 42 U.S.C. § 15481(a)(6) and *Bush v. Gore*, 531 U.S. 98 (2000), the following standards determine whether irregular marks on a ballot constitute a valid vote that may be counted.

(a) Target area. Any marks made in the target area shall be counted as valid votes, with the exceptions below. Any marks made outside of the target area shall be valid only if they (~~fulfill the consistent pattern requirements~~) form a pattern of similar marks as outlined in (b) of this subsection, or qualify as written instructions in (e) of this subsection. Marks that trace or outline the target area are not valid votes unless they (~~fulfill the consistent pattern requirements~~) form a pattern of similar marks as outlined in (b) of this subsection. The following marks in the target area are exceptions that are not valid votes:

- (i) Obvious stray marks~~((.))~~;
- (ii) Hesitation marks~~((.))~~;
- (iii) Parts of written notes~~((.))~~; and
- (iv) Corrected votes, as described in (c) and (e) of this subsection.

(b) ((Consistent)) Pattern of similar marks. Marks made outside of the target area shall ~~((only))~~ be counted as valid votes ~~((if)) as long as those marks form a ((consistent)) pattern of similar marks ((is used throughout the whole ballot. This means that)). All races and issues for which the voter has indicated a choice outside the target area must have ((the same)) a similar mark.~~

(i) Marks made outside of the target area may be counted as valid votes even if one pattern of similar marks is used on one page of the ballot and another pattern of similar marks is used on another page of the ballot.

(ii) Marks made outside of the target area shall be counted as valid votes if one pattern of similar marks is used for measures and another pattern of similar marks is used for candidate races.

(iii) If some marks are in the target area and some are not, but the same type of mark is used ((in a consistent pattern throughout the whole ballot)), all such marks shall be counted as valid votes.

(iv) If the marks strike through candidate names or ballot measure responses in a ((consistent)) pattern of similar marks throughout the ((whole)) ballot, all such marks shall be counted as valid votes.

(v) A mark outside the target area on a ballot that contains only one race or measure is not required to form a pattern.

(c) Corrected votes.

(i) If the voter has followed the instructions for correcting a vote, the stricken vote shall not be counted.

(ii) If a second choice is marked, it shall be counted as a valid vote. If a second choice is not marked, the race shall be considered undervoted.

(iii) If the voter has marked two target areas and placed an 'X' or slash over one of the marked areas, the choice without the 'X' or slash shall be counted as a valid vote.

(d) Not a correction. If the voter has both marked a choice correctly and placed an 'X' in the same target area, but has not marked a second target, it shall be counted as a valid vote. Changes made by

the voter to wording printed on the ballot will not invalidate votes cast for that race or measure.

(e) Written instructions. If the voter has attempted to vote or correct a vote ((and provides)) by providing written instruction regarding his or her intent, it shall be counted as the voter instructed. Written instructions can include((s)) words, circles, lines, or arrows.

(f) Identifying marks. Marks identifying the voter, such as initials, signatures, or addresses do not disqualify a ballot.

(g) Overvotes. Races or issues that have more target areas marked than are allowed are overvotes. No votes for that race or issue shall be counted. An exception is write-in votes for a candidate already printed on the ballot, as provided in (i) of this subsection.

(h) Write-in: Blank target area. If a name is written on a write-in line, it shall be counted as a valid write-in vote regardless of whether the corresponding target area is marked.

(i) Write-in: Already on the ballot. If the name of a candidate who is already printed on the ballot is written in, that vote shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate. This applies even if both target areas are marked or no target areas are marked.

(j) Write-in: Name variations. If a write-in vote is cast for a declared write-in candidate using a commonly recognizable nickname or spelling variation, it shall be counted as a valid vote for that candidate.

(k) Write-in: Blank line. If the write-in target area is marked, but no name is written on the line, it shall not be counted as a valid vote, even though it may be tallied as a write-in vote by the tabulation system.

(l) Write-in: Blank line and candidate. If a candidate's target area is marked, and the write-in target area is marked but no name is written on the line, it shall not be tallied as an overvote, but shall be counted as a valid vote for the printed candidate.

(m) Write-in: Name combinations. If a write-in vote is cast for a candidate with a combination of names already on the ballot, it shall NOT be counted as a vote for either printed candidate, but rather shall be counted as a valid vote for the name as written.

(n) Write-in: Overvotes. If a candidate's target area is marked and something other than that candidate's name is written in the write-in response area, it shall be counted as an overvote and not a valid vote for any candidate. This applies whether or not the target area for the write-in is marked.

(o) Write-in: Not eligible. A write-in vote for a race not appearing on the voter's ballot shall not be counted.

Exception: If a provisional ballot has been cast and the voter has written in an office or measure that is not on the ballot, that vote shall be counted if it is determined, based on the voter's registration, that he or she is eligible to vote for that office or measure.

(p) Write-in: Vote in the wrong place. A write-in vote for a race appearing elsewhere on the ballot shall be counted as a valid vote, as long as all other requirements are fulfilled and the office, position number and political party, if applicable, are clearly indicated.

(q) Messy marks. When otherwise valid votes marked ((for a candidate)) in a target area partially extend into the response area ((of another candidate)), it shall be counted as a vote if most of the mark is in the ((proper)) target area and intent can easily be discerned.

(r) Pattern of partisan voting. Voter intent in any single contest shall not be determined based on a pattern of partisan voting on the ballot.

Exception: On a federal write-in absentee ballot (FWAB) in which the voter has not written in a candidate's name but has written in the name of a political party, the written instructions may be counted as a vote if the canvassing board can discern that a candidate's party preference is consistent with the voter's instructions. The canvassing board shall not count the instructions as a vote if no candidate's party preference is consistent with the voter's instructions, or if multiple candidates' party preferences are consistent with the voters' instructions.

(s) Anything else. Voter intent on questionable marks not covered by the rules in this manual must be determined by county canvassing boards according to all applicable laws of the state of Washington and the canvassing board manual. Where more than one rule may apply, the county canvassing board has authority to determine which rule is most appropriate.

(2) The secretary of state shall publish an illustrated version of these standards in each optical scan and digital scan voting system used in the state. The secretary of state shall distribute the illustrated version to each county canvassing board and post it on the web site.

(3) The secretary of state shall periodically review and update the manual as necessary, and seek input from county canvassing boards and other interested parties to ensure that the standards remain current and comprehensive.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-261-100 Ballot duplication procedures.** (1) Written procedures shall be established detailing the situations in which ballots may be duplicated. These procedures shall be included as a part of the county canvassing board manual.

(2) If a county uses an automated duplication program, only votes appearing in a human-readable form on the original ballot may be duplicated onto a machine-readable ballot. The human-readable votes on the original ballot must be compared to the votes printed on the duplicated ballot to ensure that the votes are duplicated accurately. If a human-readable version of any races or ballot pages of the original ballot are not returned or available, votes in those races may not be duplicated or counted.

NEW SECTION

**WAC 434-261-108 Random check of ballot counting equipment.** If a random check of up to six batches of ballots is conducted pursuant to RCW 29A.60.170 in a county that uses optical scan voting equipment, each batch must be tabulated on a different scanner if more than one scanner is used in the election. If there are more scanners used in

the election than batches to be checked, then the scanners must be selected at random.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-262-020 Preliminary abstract of votes.** (1) Prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. The preliminary abstract of votes must list separately for each precinct:

- (a) ((Votes cast by mail ballot;)) Number of registered voters;
- (b) Number of ballots cast;
- (c) Votes cast for and against each measure(s);
- ((e)) (d) Votes cast for each candidate(s); ((and  
(d))) (e) Total number of write-in votes in each race; and
- (f) Total number of overvotes and undervotes in each race.

(2) Pursuant to RCW 29A.60.230, the county auditor may aggregate results or take other necessary steps to maintain the secrecy of ballots.

(3) The county auditor shall inspect the preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-262-031 Rejection of ballots or parts of ballots.** (1) The disposition of provisional ballots is governed by WAC 434-262-032. The county canvassing board must reject any ballot cast by a voter who was not qualified to vote, or for other reasons required by law or administrative rule. A log must be kept of all voted ballots rejected, and must be included in the minutes of each county canvassing board meeting.

(2) Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

- (a) Where a voter has already voted one ballot;
- (b) Where two voted ballots are ((contained within a)) returned ((mail ballot envelope containing)) together:
  - (i) If the two ballots are returned with only one valid signature on the ballot declaration, ((unless both ballots are voted identically, in which case one ballot will)) the races and measures voted the same on both ballots may be counted once.
  - (ii) If ((there are)) the two ballots are returned with two valid signatures on the ballot declaration, both ballots ((must)) may be counted in their entirety;
- (c) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent consistent with WAC 434-261-086;
- (d) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;
- (e) Where the voter has overvoted;
- (f) Where the voter validly transferred out of the county.

**WAC 434-262-070 Official county canvass report.** (1) Upon completion of the verification of the auditor's abstract of votes and the documentation of any corrective action taken, the county canvassing board shall sign a certification that:

(a) States that the abstract is a full, true, and correct representation of the votes cast for the issues and offices listed thereon;

(b) Provides the total number of registered voters and votes cast in the county;

(c) Contains the oath required by RCW 29A.60.200, signed by ~~((all members of the board or their designees))~~ the county auditor and attested to by the chair or designee who administered the oath; and

(d) Shall have a space where the official seal of the county shall be attached.

(2) The official county canvass report shall include:

(a) The certification;

(b) The auditor's abstract of votes as described in WAC 434-262-030;

(c) The reconciliation report required by RCW 29A.60.235, which must include documentation that the number of ballots counted plus the number of ballots rejected is equal to the number of ballots received, and any additional information necessary to explain variances; and

(d) If applicable, a written narrative of errors and discrepancies discovered and corrected.

(3) The certification shall be signed by all members of the county canvassing board or their designees. If one member of the canvassing board cannot be present, and a designee for that member is unavailable, the certification shall be signed by a quorum of the board.

(4) The official county canvass report is the cumulative report referenced in RCW 29A.60.230. This report may not be subsequently amended or altered, except in the event a recount conducted pursuant to chapter 29A.64 RCW, or upon order of the superior court. The vote totals contained therein shall constitute the official returns of that election.

**WAC 434-324-026 Voter registration form.**

((

**instructions**

You must be a United States citizen to register to vote.

**how to register to vote or update a registration**

Please print all information clearly using black or blue pen.

Mail or deliver this form to your County Elections Office. Addresses are on the reverse side.

**for more information**

online [www.vote.wa.gov](http://www.vote.wa.gov)

call 1-800-448-4881

visit your County Elections Office

This registration will be in effect for the next election if postmarked or delivered no later than the Monday four weeks before Election Day.

If you miss this deadline, please contact your County Elections Office.

You will receive your ballot by mail. Contact your County Elections Office for in-person voting options.

If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both.

Your name, address, gender and date of birth are public information.

12/2011

**Washington State Voter Registration Form**

register online at [www.myvote.wa.gov](http://www.myvote.wa.gov)

**! qualifications**

**if you mark no to either of these questions, do not complete this form**

- yes  no I am a citizen of the United States of America.  
 yes  no I will be at least 18 years old by the next election.

**personal information**

last name \_\_\_\_\_ first \_\_\_\_\_ middle \_\_\_\_\_

male  female

date of birth (mm / dd / yyyy) \_\_\_\_\_

residential address (in Washington) \_\_\_\_\_

city \_\_\_\_\_ ZIP \_\_\_\_\_

mailing address (if different than residential address) \_\_\_\_\_

city \_\_\_\_\_ state / ZIP \_\_\_\_\_

email address (optional) \_\_\_\_\_ phone number (optional) \_\_\_\_\_

- I am in the Armed Forces (includes National Guard and Reserves).  
 I am a U.S. citizen living outside the U.S.

**Washington driver license / state ID #**

\_\_\_\_\_

**if you do not have a Washington driver license or state ID card, provide the last four digits of your Social Security number**

xx - xx - \_\_\_\_\_

**declaration**

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I am not presently denied the right to vote as a result of being convicted of a felony, I will have lived in Washington at this address for 30 days immediately before the next election at which I vote, and I will be at least 18 years old when I vote.

sign here

date here

**former registration**

**if you are already registered and are changing your name or address, fill out this section (this information will be used to update your registration)**

former last name \_\_\_\_\_ first \_\_\_\_\_ middle \_\_\_\_\_

former residential address \_\_\_\_\_ city \_\_\_\_\_ state / ZIP \_\_\_\_\_

))

## Instructions

**Use this form to register to vote or to update an existing registration.**

Print all information clearly using black or blue pen.

Mail or deliver this completed form to your county elections department. Addresses are on the next page.

### Deadline

This registration will be in effect for the next election if postmarked or delivered no later than the Monday four weeks before Election Day.

If you miss this deadline, contact your county elections department.

### Voting

You will receive your ballot in the mail. Contact your county elections department if you wish to vote in person.

### Notice

If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both.

### Public disclosure

Your name, address, gender and date of birth are public information.

### For more information

web [www.vote.wa.gov](http://www.vote.wa.gov)

call 1-800-448-4881

visit your county elections department

# Washington State Voter Registration Form

Register online at [www.myvote.wa.gov](http://www.myvote.wa.gov)

## 1 Personal information

last name \_\_\_\_\_ first \_\_\_\_\_ middle \_\_\_\_\_

date of birth (mm/dd/yyyy) \_\_\_\_\_  male  female

residential address (in Washington) \_\_\_\_\_ apt # \_\_\_\_\_

city \_\_\_\_\_ ZIP \_\_\_\_\_

mailing address (if different than residential address) \_\_\_\_\_

city \_\_\_\_\_ state / ZIP \_\_\_\_\_

phone number (optional) \_\_\_\_\_ email address (optional) \_\_\_\_\_

## 2 Qualifications

**If you mark no to either of these questions, do not complete this form**

yes  no I am a citizen of the United States of America.

yes  no I will be at least 18 years old by the next election.

## 3 Military / overseas status

I am in the Armed Forces (includes National Guard and Reserves; and military spouses or dependents away from home because of service).

I live outside the U.S.

## 4 Identification — Washington driver license / ID number

\_\_\_\_\_

x x x - x x - \_\_\_\_\_

## 5 Former registration

**If you are already registered and are changing your name or address, fill out this section (this information will be used to update your registration)**

former last name \_\_\_\_\_ first \_\_\_\_\_ middle \_\_\_\_\_

former residential address \_\_\_\_\_ city \_\_\_\_\_ state / ZIP \_\_\_\_\_

## 6 Declaration

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, I will be at least 18 years old when I vote, I am not disqualified from voting due to a court order, and I am not under Department of Corrections supervision for a Washington felony conviction.

sign here \_\_\_\_\_

date here \_\_\_\_\_

## NEW SECTION

**WAC 434-324-028 Illegible or missing postmarks.** (1) Consistent with RCW 29A.08.020, if the postmark on a voter registration application submitted by mail is illegible or missing, the date of receipt by

the elections office is considered the date of application. If an application is received by the elections official by the close of business on the fifth day after the cutoff date for voter registration, the application is considered to have arrived by the voter registration deadline.

(2) Postage that contains a date, such as metered postage or a dated stamp, is not a postmark. If an application has dated postage and no postmark, it is an application missing a postmark.

**AMENDATORY SECTION** (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, e-mail or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identification notice at the time of registration that includes a postage prepaid, preaddressed form by which the applicant may verify or send information. The identification notice must include:

(a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, he or she is provisionally registered to vote.

(b) A statement explaining that if this information is not provided, the applicant's ballot will not be counted.

(c) A statement explaining that federal law requires the applicant to provide his or her driver's license number, state identification card number or the last four digits of his or her Social Security number, or a copy of one of the following forms of identification, either before or when ((they)) he or she votes:

((i)) A Washington driver's license or state ID card;

((ii)) The last four digits of his or her Social Security number;

((iii)) Valid photo identification;

((iv)) (i) A valid enrollment card of a federally recognized tribe in Washington;

((v)) (iii) A current utility bill, or a current bank statement;

((vi)) (iv) A current government check;

((vii)) (v) A current paycheck; or

((viii)) (vi) A government document, other than a voter registration card, that shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state ID card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time he or she votes after registering.

(4) If the applicant fails to respond with adequate documentation to verify his or her identity, the applicant's voter registration record must remain flagged. The applicant must be notified at the time of each election that the ballot will not be counted unless he or she provides adequate verification of identity.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified his or her identity, the provisional registration shall be canceled.

AMENDATORY SECTION (Amending WSR 10-14-091, filed 7/6/10, effective 8/6/10)

**WAC 434-324-076 Voter registration updates.** (1) The county auditor may request additional identifying information before processing a voter registration update submitted on behalf of a family or household member.

(2) If a voter submits a registration transfer to a new county by the statutory deadline, but the voter's previous county issues the voter a ballot before the transfer is processed and the voter votes the ballot issued by the previous county, the previous county must treat the voted ballot as if it is a provisional ballot and forward it to the voter's new county. The previous county does not need to forward the ballot if none of the races or issues on the voted ballot from the previous county is on a ballot in the voter's new county. If any races or issues on the ballot from the old county are applicable to the voter's residential address in the new county, the votes on those races and issues should only be counted by the new county if the voter does not vote and return a ballot issued by the new county.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

**WAC 434-324-111 Voluntary cancellation of voter registration.** A voter may cancel his or her own voter registration by submitting a signed written notification to the auditor for the county in which he or she is registered to vote. Prior to cancellation of such a registration record, the auditor must ensure the signature on the notification matches the signature in the voter registration file by utilizing criteria outlined in WAC 434-379-020. A county auditor may not process a voluntary cancellation between the deadline in RCW 29A.08.140 for updating a registration and certification of the primary or election.

**WAC 434-324-115 Challenge of voter's registration.** All county auditors and the secretary of state shall furnish to the public on request forms ((substantially similar to the sample included below for the purpose of allowing)) that allow a registered voter to challenge the registration of another voter pursuant to RCW 29A.08.810 through 29A.08.850. The secretary of state must make the form available on its web site.

((VOTER REGISTRATION CHALLENGE

**AFFIDAVIT**

I, . . . . . declare under penalty of perjury under the laws of the State of Washington that I am a registered voter in the State of Washington and that I hereby challenge the voter registration of:

Name	Registered Address
------	--------------------

I have personal knowledge and belief that this person is not qualified to vote or does not reside at the address given on his or her voter registration record, as evidenced below. I have exercised due diligence to personally verify the evidence presented.

**REASON FOR CHALLENGE**

Check the appropriate box below. The voter:

- Is not a U.S. Citizen.
- Will not be at least eighteen years old by the next election.
- Has been convicted of a felony and his or her right to vote has not been restored.
- Has been judicially declared ineligible to vote due to mental incompetency.
- Does not reside at the address at which he or she is registered to vote, in which case I am submitting either:
  - 1) The address at which the challenged voter actually resides: . . . . .  
or
  - 2) Evidence that I exercised due diligence to verify that the voter does not reside at the address provided and to attempt to contact the voter to learn the voter's actual residence. I personally:
    - Sent a letter with return service requested to all known addresses for the voter;
    - Visited the voter's residential address to contact persons at the address to determine if the voter actually resides there. If I was able to contact anyone who owns, manages, resides, or is employed at the address, I am submitting a signed affidavit from that person stating that, to his or her personal knowledge, the voter does not reside at the address;

- Searched local telephone directories to determine whether the voter maintains a telephone listing at an address within the county;
- Searched county auditor property records to determine whether the voter owns any property in the county; **and**
- Searched the statewide voter registration data base to determine if the voter is registered at any other address in the state.

List the evidence for the challenge:

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---

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---

Signature of Challenger

Date and Place Signed

---

Address

City, State, Zip

Attach all necessary documentation.

**FILING A VOTER REGISTRATION CHALLENGE**

**General Information**

The registration of a person as a voter is presumptive evidence of that person's right to vote. A voter registration challenge cannot be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to a challenge are public records. A challenge may be dismissed if it is not in proper form or if the reason is not grounds for a challenge. The challenge process is established in RCW 29A.08.810 through 29A.08.850. Residency requirements are established in Article VI, section 4 of the Washington state Constitution, RCW 29A.04.151 and 29A.08.112.

**Who May File a Challenge and When**

A registered voter or the prosecuting attorney may file a challenge. To affect an upcoming election, the challenge must be filed at least forty-five days before the election. However, if the challenged voter registered less than sixty days before the election or moved less than sixty days before the election without transferring the registration, the challenge must be filed at least ten days before the election or ten days after the voter registered, whichever is later.

**Exceptions to the Residency Requirements**

A voter does not lose his or her voting residency if absent due to state or federal employment, military service, school attendance, confinement in a public prison, out-of-state business, or navigation at sea. A voter who lacks a traditional residential address, such as a person who resides in a shelter, park, motor home or marina, is assigned a precinct based on the voter's physical location.

**The Hearing**

~~The county auditor notifies the voter and challenger of the hearing date and time. The voter and challenger may either appear in person or submit testimony by affidavit. The county auditor presides over the hearing, unless the challenge was filed during the forty five days before an election, in which case the county canvassing board presides over the hearing. The challenger has the burden to prove by clear and convincing evidence that the voter's registration is improper. The voter has an opportunity to respond. The final decision may only be appealed in superior court.)~~

**AMENDATORY SECTION** (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

**WAC 434-324-118 Data auditing of county voter election management system with the official statewide voter registration data base.** Each auditor must perform data audits of its county election management system to ensure all of its data matches data in the official statewide voter registration data base. The data audits must be performed on a periodic basis and must be performed within a reasonable amount of time prior to an election.

During data auditing, the auditor must transfer voter registration records from the county election management system to the official statewide voter registration data base for verification of voter information and voter status. The official statewide voter registration data base must update the voter information and verify that the voter status provided by the county election management system matches the voter status in the official statewide voter registration data base. Upon completion of this verification process, the voter's registration status is either:

(1) Confirmed, and the county is authorized to issue a ballot to the voter; or

(2) Denied because the official statewide voter registration data base indicates the voter's registration record is in pending or canceled status. The auditor must update the county election management system with the appropriate voter status, or investigate the discrepancy. The voter is not authorized to vote.

((In addition, the county election management system must update the statewide voter registration data base with the appropriate voter information.))

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

**WAC 434-335-270 Definition of official logic and accuracy test.** As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW 29A.12.130 ((for all voting systems used)).

NEW SECTION

**WAC 434-335-275 Pretest.** The county auditor must pretest all programming and tabulation equipment to be used in the primary or election prior to the official logic and accuracy test.

AMENDATORY SECTION (Amending WSR 05-18-022, filed 8/29/05, effective 9/29/05)

**WAC 434-335-280 Logic and accuracy test conduct.** The county must provide adequate personnel to properly operate the ballot ((counting equipment)) tabulation system. Whenever possible, the ((equipment should)) system shall be operated during the test by the same person or persons who will be responsible for ((the ballot count)) operating the system on election day. ((If any error in programming or mechanical function is detected, the cause must be determined and corrected, and an errorless test completed before the primary or election.)) The official logic and accuracy test shall be conducted as follows:

(1) Every ballot tabulator and scanner to be used in the primary or election shall be tested. Digital scan test decks shall be scanned during the official logic and accuracy test.

(2) Undervotes recorded by a digital scan system shall be auto-resolved. Some undervotes may be manually resolved to demonstrate the process.

(3) Optical scan tabulators shall be set to out-stack blank ballots, overvotes, and write-in votes.

(4) A printout of the test results shall be produced and compared to the expected test results. If the test results do not match the expected test results, the reason for the discrepancy must be satisfactorily determined and corrections made, if necessary.

(5) The upload of results to the secretary of state's office shall be tested and verified.

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

**WAC 434-335-300 Logic and accuracy testing of ((voting)) vote tabulation systems ((and equipment)).** ((+1)) At least three days be-

fore each state primary or general election, the office of the secretary of state ((must)) shall observe the official logic and accuracy test of the ((programming of the vote tabulating system to be used at that primary or election)) vote tabulation system prepared by the county auditor. The test must verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. ((The test must also verify that the machines are functioning to specifications.))

(2) County auditors must conduct the test in the same manner as subsection (1) of this section for special elections not held in conjunction with a state primary or general election. The secretary of state is not represented at the tests for special elections.))

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

**WAC 434-335-310 Procedures for ((conduct of primary or general election)) conducting an emergency logic and accuracy test.** If the official logic and accuracy test cannot be completed at the scheduled time and place, an emergency test must be scheduled by the county auditor. The emergency test must be conducted and properly completed prior to ((the)) processing ((of)) any official ballots through the ((tabulating)) vote tabulation system. If ((no)) a representative of the office of the secretary of state is ((able)) unable to attend the emergency test, the county auditor and another member of the county canvassing board or their designated representative must observe the test and certify the results. Observers and notification must be provided pursuant to WAC 434-335-290 and 434-335-320.

AMENDATORY SECTION (Amending WSR 08-05-120, filed 2/19/08, effective 3/21/08)

**WAC 434-335-320 Scheduling the logic and accuracy test ((scheduling and preparation))-State primary and general election.** ((Prior to each state primary and general election, the office of the secretary of state must prepare a schedule of logic and accuracy tests.)) The office of the secretary of state must contact each county auditor at least ((thirty)) forty-five days before ((the)) a state primary or general election to schedule the official logic and accuracy test. After the test has been scheduled, the county auditor ((must)) shall notify the parties, press, public, and candidates of the date and time of the test.

NEW SECTION

**WAC 434-335-323 Preparing the logic and accuracy test.** (1) Each county shall prepare a matrix of the test pattern used to mark the test deck of ballots for the official logic and accuracy test. The ma-

trix shall consist of a spreadsheet listing the number of votes cast for each candidate and responses for and against each measure in each precinct or ballot style. The matrix shall include:

(a) For every precinct or ballot style, the first response position of every race or measure marked so the total votes cast for the first candidate of a race or the first response to a measure equals the total number of precincts or ballot styles being tested;

(b) Two votes for the second response position, three votes for the third response position, four votes for the fourth response position, etc.;

(c) For each tabulator's test deck:

(i) One write-in vote;

(ii) One overvoted race;

(iii) One blank ballot; and

(iv) At least one of each type of ballot to be used during the election including ballots on demand, alternative language ballots, electronically marked ballots, and electronically duplicated ballots.

(d) For all responses within a race or measure, including write-ins, unique results. Additional ballots must be added to the test deck in the following circumstances:

(i) Within a race or measure, more than one response has the same results;

(ii) A candidate appears in two different races on the same ballot; and

(iii) More than one measure appears on a ballot within the same jurisdiction and each has the same response position names. For example, if two measures with "yes" and "no" response names appear for the same jurisdiction, the test results shall be unique between the two measures.

(2) A copy of the county's test matrix and a sample ballot shall be sent to the office of the secretary of state by the fourteenth day prior to the official logic and accuracy test. The office of the secretary of state shall review the provided matrix to determine if it is prepared in accordance with this section.

(3) The county auditor shall produce a test deck of ballots based on the test matrix to be used in the official logic and accuracy test.

#### NEW SECTION

**WAC 434-335-325 Exception to logic and accuracy test pattern.** A county auditor may file an exception request with the secretary of state to modify the test pattern provided in WAC 434-335-323. The county auditor must provide a description of the modification in detail, a sample test matrix, and the reasons for an exception. The exception request must be filed with the secretary of state no later than July 1st. The secretary of state must accept or reject the request in writing within thirty days. Accepted test patterns may be used in all future elections.

**WAC 434-335-330 Logic and accuracy test certification.** (1) The official logic and accuracy test shall be certified by the county auditor or deputy, the secretary of state representative, and any political party observers ((must certify that the test of voting systems that will be used in the)) for a state primary or general election ((was conducted)) in accordance with RCW 29A.12.130. ((This certification must include verification that)) Additionally, the county auditor must verify in writing that the version numbers for all software, firmware, and hardware of the voting system used have not changed from the certified versions. ((Copies of this certification must be retained by the secretary of state and the county auditor and may be posted by electronic media. All test results, test ballots, and a copy of the tabulation programming or the actual tabulation equipment must be kept in secure storage employing the use of numbered seals and logs or other security measures that will detect any inappropriate access to the materials until the day of the primary or election. These items may be sealed and stored separately.)

(2) For special elections not held in conjunction with a state primary or general election, the secretary of state is not represented and does not retain a copy of the certification. The county auditor or deputy and any political party observers must certify that the test of voting systems that will be used in the special election was conducted in accordance with RCW 29A.12.130. This certification must include verification that the version numbers for all software, firmware, and hardware of the voting system used have not changed from the certified versions. Copies of this certification must be retained by the county auditor and may be posted by electronic media. All test results, test ballots, and a copy of the tabulation programming must be kept in secure storage, employing the use of numbered seals and logs or other security measures that will detect any inappropriate access to the materials until the day of the primary or election. These items may be sealed and stored separately.

(3)) (2) The county auditor shall provide the secretary of state representative copies of the following documents:

- (a) Test results;
- (b) A zero report;
- (c) Signed verification of the version numbers;
- (d) Signed certification of the official logic and accuracy test;
- (e) A test log of:
  - (i) The number of accessible voting units to be used in the primary or election; and
  - (ii) The electronic duplication system, if electronic duplication will be used in the primary or election; and
- (f) Any other documentation requested by the secretary of state representative in advance of the official test.

(3) Copies of the certification documents must be retained by the secretary of state and the county auditor. All test results, test ballots, the signed certification, and a copy of the tabulation programming or the actual tabulation equipment must be kept in secure storage until the day of the primary or election. The secure storage must use numbered seals and logs that will detect any inappropriate access.

(4) If, for any reason, ((any)) changes are made to the ballot counting programming after the official logic and accuracy test, an

emergency logic and accuracy test must be conducted pursuant to WAC 434-335-310.

NEW SECTION

**WAC 434-335-335 Other primaries and elections.** For a primary or election that is not a state primary or election, the county auditor must conduct the official logic and accuracy test in the same manner as though it is a state primary or election.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-335-430	Definition.
WAC 434-335-440	Logic and accuracy pretest—State primary and general election—Optical and digital scan systems.
WAC 434-335-445	The preparation of logic and accuracy test decks.
WAC 434-335-450	Optical and digital scan test ballot selection—State primary and general elections.

**WAC 434-379-009 Processing filed petitions.** (1) To allow for sufficient personnel to accept and process signed petitions, the sponsor of an initiative or referendum must make an appointment (~~(with the office of the secretary of state)~~) to file the signed petitions at least two business days in advance. Pursuant to RCW 29A.72.170, the secretary of state must reject petitions until a sufficient number that meet the minimum signature requirement are filed together. If the petitions are accepted and filed, additional petitions may be submitted until the applicable deadline established by RCW 29A.72.160. When submitting the petitions, the sponsor must also provide the text of the measure, exactly as it was printed on the circulated petitions, in electronic Microsoft Word format.

(2) Upon receipt of the petitions, the office of the secretary of state shall count the number of petitions received, and provide that total to the sponsor.

(3) A petition may not be rejected merely because it includes stray marks, scribbles, notes, or highlighting as long as the printed text on the petition is not illegible.

(4) A petition may not be rejected merely because the circulator's declaration on the back side of the petition is unsigned, or is signed with a stamp. AGO 2006 No. 13; *Washington Families Standing Together v. Secretary of State Sam Reed*, Thurston County Superior Court No. 09-2-02145-4, September 8, 2009.

(5) Once a petition is submitted to the office of the secretary of state, a person may not withdraw his or her signature from a petition. Letters submitted to the secretary of state requesting the removal of a signature from a petition must be retained by the secretary as part of the public record for the petition.

(6) Each petition must be reviewed for fraud, such as patterns of similar handwriting indicating forged signatures.

(7) Each signature line must be reviewed to invalidate:

(a) Obscenities;

(b) Lines with an out-of-state address;

(c) Text that is not a name;

(d) Duplicate names;

(e) Lines that are crossed out and not readable;

(f) Lines that include a name and address that both appear to be fictitious; or

(g) Lines that are blank or unfilled.

(8) The following characteristics of a signature line do not, by themselves, invalidate the signature:

(a) A name that is fictitious with an address that does not appear to be fictitious. Lines that include a name that appears to not be fictitious but an address that does appear to be fictitious, or vice versa;

(b) Lines that are crossed out but still readable;

(c) Lines that are missing a printed name;

(d) Lines that are missing any portion of the address;

(e) Multiple lines that have similar handwriting, as long as the signature handwriting is not similar;

(f) Lines in which the signature, printed name, or address is written in the wrong field; or

(g) Signatures, printed names, or addresses written in the margin.

(9) After each signature line has been reviewed, the remaining signatures must be counted to obtain the total number of signatures submitted. That total must be provided to the sponsor.

(10) The secretary of state must verify either a random sample of the signatures submitted using the statistical formula authorized by RCW 29A.72.230 and established in WAC 434-379-010, or all of the signatures submitted. If the measure does not qualify for the ballot based on a random sample, the secretary of state must proceed to a full check of all signatures submitted. The secretary of state must follow WAC 434-379-020 to verify signatures.

**AMENDATORY SECTION** (Amending WSR 05-12-116, filed 5/31/05, effective 7/1/05)

**WAC 434-379-010 Random sampling procedure.** In the verification of signatures on initiative and referendum petitions, under RCW 29A.72.230, the following statistical test may be employed:

(1) Take a minimum three percent unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the number of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of the number of signatures required by Article II, Section ((1A)) 1 of the Washington State Constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legisla-

ture as provided in RCW 29A.72.230 or to the county auditors as provided in RCW 29A.72.250.

**WAC 434-381-120 Deadlines.** (1) Candidate statements and photographs shall be submitted to the secretary of state no later than the Friday following the last day of the filing period.

(2) For ballot measures, including initiatives, referenda, alternatives to initiatives to the legislature, and constitutional amendments, the following documents shall be filed with the secretary of state on or before the following deadlines:

(a) Appointments of the initial two members of committees to prepare arguments for and against measures:

(i) For an initiative to the people or referendum measure: ((Within)) No later than seven business days after the submission of signed petitions to the secretary of state;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, ((within)) no later than seven business days after the adjournment of the regular or special session at which the legislature approved or referred the measure to the ballot(±);

(b) Appointment of additional members of committees to prepare arguments for and against ballot measures, ((not)) no later than the date the committee submits its initial argument to the secretary of state;

(c) For arguments for or against a ballot measure(±):

(i) For an initiative to the people or referendum measure: No later than ten business days following appointment of the initial committee members;

(ii) For an initiative to the legislature, with or without an alternative, constitutional amendment or referendum bill, no later than fourteen business days following appointment of the initial committee members;

(d) Rebuttals of arguments for or against a ballot measure, ((by)) no later than five business days following the transmittal of the final statement to the committees by the secretary. The secretary shall not transmit arguments to opposing committees for the purpose of rebuttals until both arguments are complete.

(3) If a ballot measure is the product of a special session of the legislature and the secretary of state determines that the deadlines set forth in subsection (2) of this section are impractical due to the timing of that special session, then the secretary of state may establish a schedule of deadlines unique to that measure.

(4) The deadlines stated in this rule are intended to promote the timely publication of the voters' pamphlet. Nothing in this rule shall preclude the secretary of state from accepting a late filing when, in the secretary's judgment, it is reasonable to do so. Once statements or arguments are submitted to the secretary, changes by the candidate or committee will not be accepted unless requested by the secretary.

AMENDATORY SECTION (Amending WSR 08-23-094, filed 11/19/08, effective 12/20/08)

**WAC 434-840-005 Definitions.** For the purposes of this chapter:

(1) "Address" means any physical locations where the participant resides, works, or attends school, for which the participant is requesting confidentiality.

(2) "Address confidentiality program (ACP)" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

(3) "Agency" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

(4) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides advocacy, counseling, referral, or shelter services to victims of sexual assault, domestic violence, trafficking, or stalking who has been designated by the respective agency, and has been accepted by the secretary of state to assist individuals with threat assessment, safety planning, determining whether the program's services can help keep the victim safe, and the completion and submission of the ACP application.

(5) "Authorization card form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.

(6) "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

(7) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual residential address the agency is incapable of fulfilling its statutory duties and obligations.

(8) "Protected records voter" means a program participant who has applied and qualified ((as an ongoing absentee voter)) for confidential voter registration, as provided under RCW 40.24.060, WAC 434-840-100, and 434-840-310.

(9) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(10) "Substitute mailing address" means the mailing address designated by the secretary of state which shall not be the program participant's residential address as documented on her or his application for program participation.

AMENDATORY SECTION (Amending WSR 08-23-094, filed 11/19/08, effective 12/20/08)

**WAC 434-840-100 ((Acknowledgement)) Acknowledgment for marriage and voting record confidentiality.** (1) When a program participant re-

quests confidentiality for marriage records, both the program participant and her or his intended spouse shall sign and date a statement provided by the secretary of state, that describes access limitations on confidential marriage records.

(2) When a program participant requests confidentiality for voting records, she or he shall sign a statement provided by the secretary of state that documents the date of this request ((and the ongoing absentee ballot voting process to be used)).

(3) The authorized personnel shall receive the original copy of this signed ((acknowledgement)) acknowledgment, the address confidentiality program shall have one copy and the program participant shall have one copy.