WAC 434-250-030 Special absentee ballots. (1) As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor must provide the applications. The form must include:

(a) A space for the voter to print ((his or her)) the voter's name and address where registered to vote;

(b) A postal or mailing address;

(c) A space for an overseas or service voter not registered to vote in Washington to indicate ((his or her)) the voter's last residential address in Washington;

(d) A checkbox indicating that the voter will be unable to vote and return a regular ballot by normal delivery within the period provided for regular ballots; and

(e) A checkbox requesting that a regular ballot be forwarded as soon as possible.

(2) The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section. Any application for a special absentee ballot received more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or held by the auditor until the appropriate time for processing. When regular mail ballots are available, a signed request for a special absentee ballot is not required.

(3) Upon receipt of a special absentee ballot request, a regular ballot is mailed if available. If regular ballots are not available, the county auditor shall immediately send a special absentee ballot containing the known offices and measures scheduled to appear on the ballot; space for the voter to write in the name of any eligible candidate for each office and vote on any measure; and a list of any known candidates and issues referred to the ballot.

(4) If a regular ballot is returned, the special ballot is not counted.

(5) Write-in votes on special ballots are counted in the same manner as other valid write-in votes for declared candidates.

WAC 434-250-070 Forwarding ballots. (1) ((If the county auditor chooses to forward ballots,)) The county auditor must utilize postal service endorsements that allow ((the)) ballots to be forwarded, allow the county auditor to receive the updated address information for forwarded ballots, and allow the return of ballots not capable of being forwarded. A voter may only vote a ballot specific to the address where he or she is currently registered to vote, rather than a ballot specific to a new address.

(2) ((If the county auditor does not forward ballots, the envelope must clearly indicate the ballot is not to be forwarded and is to be returned to the county auditor with any available address updates. If the county auditor receives updated address information from the

~~post office, the county auditor may send the voter a ballot specific to the address where the voter is registered to vote.~~

~~(3)~~)) If a ballot is returned or forwarded, the county auditor must, following certification of the election, either:

(a) Transfer the voter registration and send the voter an acknowledgment notice, if the updated address is within the county; or

(b) Place the voter on inactive status and send the voter a confirmation notice to all known addresses, if no updated address information was received or the updated address is outside the county.

AMENDATORY SECTION (Amending WSR 18-10-003, filed 4/19/18, effective 5/20/18)

WAC 434-250-080 Replacement <u>and reissued</u> ballots. The county auditor shall issue a replacement ballot, as authorized by RCW 29A.40.070, if the request is received prior to 8:00 p.m. on election day. Requests may be made in person, in writing, by telephone, or electronically, by the voter, a family member, or a registered domestic partner.

<u>The request for a replacement ballot does not update the voter's ballot type or style. The replacement ballot becomes the voter's current ballot and the original ballot is suspended. However, should the original ballot be received first, it shall be processed.</u>

<u>The county auditor shall reissue a new ballot when the registered voter has taken action to update their voter registration and the ballot type or style has changed. After the deadline for mail and online registration, a person who is already registered to vote in Washington must request a reissued ballot in person. The reissued ballot becomes the current ballot and all other ballots are suspended.</u>

<u>No additional ballot may be issued to a voter whose ballot has already been accepted. If the voter asserts they have not voted and requests a ballot, then a provisional ballot must be issued pursuant to WAC 434-262-032.</u>

Each county auditor shall allow access to an electronic ballot system to both active and inactive voters for replacement ballots no later than the eighth day prior to election day.

If a voter appears in person at a county auditor's office before 8:00 p.m. election day and requests a ballot, the county auditor must determine if the voter is registered to vote in Washington.

(1) If the voter is registered in the same county, issue a replacement <u>or reissued</u> ballot.

(2) If the voter is registered in another county, <u>and the voter does not wish to update their registration,</u> access and print a replacement ballot from that county, if the electronic ballot system is available.

(3) If the voter is not registered within the state ((~~or the electronic ballot system is not available~~)), the county auditor ((~~must offer the voter a provisional~~)) <u>shall register the voter and issue a current</u> ballot.

((~~Replacement ballots or the original ballot, whichever is received first,~~)) <u>The current ballot</u> shall be ((~~credited to the voter's registration file and tabulated~~)) <u>accepted for initial processing</u> if the ballot meets all requirements for tabulation. If the auditor receives additional ballots from a voter, as indicated by the fact that

the ((~~voter is already credited with voting~~)) <u>voter's cast ballot has been accepted</u>, the additional ballots shall not be counted and shall be forwarded to the county canvassing board for ((~~rejection~~)) <u>informational purposes only.</u>

<u>(4) When a voter's ballot has been accepted, additional ballots are considered invalid and shall not be rejected by the county canvassing board</u>.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-250-095 Direct recording electronic voting devices. (1) 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~~)) <u>a ballot has not been accepted for that voter</u>. Confirmation that ((~~the voter~~)) <u>a ballot</u> has not already ((~~returned a voted ballot~~)) <u>been accepted</u> 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~~)) <u>a ballot has been accepted for that voter</u>, the voter may not vote on a direct recording electronic voting device. <u>The voter may vote a paper provisional ballot.</u> If a voted ((~~mail~~)) <u>paper</u> ballot is subsequently ((~~returned~~)) <u>received</u> after a ballot is cast on the direct recording electronic voting device, the ((~~mail~~)) <u>paper</u> 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.

AMENDATORY SECTION (Amending WSR 16-13-063, filed 6/13/16, effective 7/14/16)

WAC 434-250-105 Voting centers. (1) If a location offers replacement ballots, <u>reissued ballots,</u> 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.~~))

<u>(2) At least one voting center must be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of the special, primary, or general election. Additional voting centers, and additional locations that are not vot-</u>

ing centers, established by the county auditor to provide other services are not required to be open for the full eighteen-day voting period. In addition to the requirements of RCW 29A.40.160, 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 located in a public building or building that is leased by a public entity including, but not limited to, libraries;

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

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

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

((~~(f)~~)) (g) 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 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((~~;~~

~~(g)~~)).

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

((~~(h)~~)) (i) Provide voter registration ((~~forms~~)) services pursuant to RCW 29A.08.140. If the voter registration system is unable to process applications, the county auditor shall offer conditional registration and balloting services;

((~~(i)~~)) (j) Display a HAVA voter information poster, containing an example of an actual ballot or a sample ballot in substantially the same format as an actual ballot;

((~~(j)~~)) (k) Display the date of that election;

((~~(k)~~)) (l) 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 appropriate party preference 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)~~)) (m) Provide instructions on how to properly mark the ballot; and

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

((~~(2)~~)) (3) Where it appears that a particular voter is having difficulty casting ((~~his/her~~)) their 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)~~)) (4) 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~~)) their 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.

(5) The requirements for staffed ballot deposit sites per WAC 434-250-100 apply to voting centers.

(6) The county auditor may establish which services will be provided at additional locations, which days and hours the additional locations will be open, and shall publish the information for voters.

AMENDATORY SECTION (Amending WSR 19-01-102, filed 12/18/18, effective 1/18/19)

WAC 434-250-110 Processing ballots. (1) Ballot processing definitions:

(a) "Initial processing" means all steps taken to prepare ballots for tabulation.

((~~Initial processing includes, but is not limited to:~~

~~(a)~~)) (b) "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.

(c) "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.

(d) "Conditional" means a ballot issued when the voter registration system is unable to process an application submitted in person. The voter is conditionally registered and the voter's current ballot shall be accepted only after the application has been processed.

(2) 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.

(3) Initial processing includes, but is not limited to:

(a) Identification and receipt of current and suspended ballots:

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(i) Current ballots are received and prepared for signature veri-fication;

(ii) Suspended ballots are received and held until the seventh day following election day to allow time for a voter's current ballot to be received.

(b) Sorting of suspended ballots due to voter registration trans-fers:

(i) In-county suspended ballots are secured and held;

(ii) Out-of-county suspended ballots are sent with expedited shipping to the voter's new county in Washington. The suspended ballot must be sent to the new county as soon as possible, but not more than two business days after receipt. Suspended ballots received between seven days after election day and prior to certification shall be mailed to the voter's new county within one day of receipt. Following certification, suspended ballots are mailed to the voter's new county for retention.

(c) Processing of current and suspended ballots:

(i) If the voter's current ballot is received and accepted for tabulation prior to the seventh day after election day, the suspended ballot becomes invalid;

(ii) If the voter's current ballot is not received prior to the seventh day after election day, duplicate the suspended ballot onto the precinct ballot that matches the voter's current registration re-cord.

(d) Verification of the signature and postmark on the ballot dec-laration by the county of current registration;

((~~(b)~~)) (e) Removal of the security envelope or sleeve from the return envelope;

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

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

((~~(e)~~)) (h) Duplication of ballots;

((~~(f)~~)) (i) Digital scanning and resolution of ballots by batch where tabulation does not take place; and

((~~(g)~~)) (j) Other preparation of ballots for final processing.

((~~(2) "Final processing" means the reading of ballots by an opti-cal 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 per-son, 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 pro-cessing, final processing, or tabulation, if they so choose, but fail-ure to appoint or attend shall not preclude the processing or tabula-tion of ballots.~~

~~(5)~~)) (4) Initial processing of voted ballots may begin as soon as voted ballots are received. Initial processing includes digital scanning and resolution of ballots where tabulation does not take place. All ballots must be kept in secure storage until final process-ing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unau-

thorized 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)~~)) (5) 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 by the county auditor and approved by the secretary of state to prevent tabulation until after 8:00 p.m. on the day of the election.

((~~(7)~~)) (6) Tabulation may begin after 8:00 p.m. on the day of the election.

((~~(8)~~)) (7) 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.

AMENDATORY SECTION (Amending WSR 19-05-041, filed 2/14/19, effective 3/17/19)

WAC 434-250-120 Verification of the signature and return date. (1) A ((~~mail~~)) ballot shall be counted if:

(a) The voter has not already cast a ballot that has been accepted in the election;

(b) The ballot declaration is signed with a valid signature. A valid signature may be the voter's name or a distinctive mark or symbol signed by the voter((~~.~~)):

(i) If the voter is unable to sign ((~~his or her~~)) their name, the voter may make a mark or symbol with two witnesses' signatures. A signature stamp accompanied by two witness signatures is an acceptable mark((~~.~~));

(ii) A power of attorney cannot be used as a signature for a voter((~~;~~

~~(b)~~)).

(c) The signature has been verified by the county of current registration pursuant to WAC 434-379-020; and

((~~(c)~~)) (d)(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. A postmark is any official mark, imprint, or application that verifies when a ballot entered the U.S. postal system. The postmark on the envelope is the official date of mailing. If there

are two postmarks, the earlier postmark is the date of mailing. A hand cancellation by an agent of the U.S. Postal Service is a postmark.

If the postmark is illegible or missing, the date of the voter's signature is the date of mailing as per RCW 29A.40.110. If the postmark is illegible or missing and the voter did not include a date with their signature, county auditors may use available U.S. Postal Service tools to verify the date of mailing;

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

(iii) For service and overseas voters, the ballot is received by fax or email no later than 8:00 p.m. on election day. Only service and overseas voters can submit ballots by fax or email.

(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) Consistent with WAC 434-250-080, the voter's current ballot and signed declaration shall be accepted for initial processing; ballots previously or subsequently received are not counted nor rejected by the county canvassing board. Such ballots shall be invalid and categorized as informational only.

(a) If the first ballot received is identical to the voter's current ballot because the voter submitted a replacement ballot, the replacement ballot shall be referred to signature verification for initial processing.

(b) If the first ballot received is suspended because of a voter registration update, the suspended ballot shall be held by the county of current registration. The county of registration may choose to manually check the suspended ballot for signature issues and send a cure form, while allowing time for the current ballot to be received and accepted.

(4) 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)) their 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)) (5) For service and overseas ballots returned by fax or email, the county auditor must apply procedures to protect the secrecy of the ballot. If returned by email, the county auditor must print the email and attachments; the printed email 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 email, ballot declaration, and ballot are exempt from public disclosure in order to maintain secrecy of the bal-

lot. Voted service and overseas ballots returned by email may be returned with multiple attachments or in multiple emails.

(a) Service and overseas ballots returned by fax or email with a missing or mismatched signature are processed as established in RCW 29A.60.165 and WAC 434-261-050.

(b) Only service and overseas voters are eligible to return a ballot electronically. For electronic ballots received from voters who are not service or overseas voters the county auditor must:

(i) Contact the voter immediately if a fax or email ballot is received to notify the voter that they must return their ballot by mail or ballot drop box.

(ii) Count only the ballot received by mail or ballot drop box if the voter returns both an electronic ballot and a ballot by mail or ballot drop box.

(iii) Send the electronic ballot to the canvassing board for rejection if the voter did not return a ballot by mail or ballot drop box.

((~~(5)~~)) (6) 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.

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