

WAC 434-324-005 Definitions. As used in this chapter:

- (1) "Accepted" means the voter's ballot has been signature verified and is ready for initial processing.
- (2) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.
- (3) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.
- (4) "Auditor" or "county auditor" means (~~"county auditor" and means~~) the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.
- (5) "Conditional registration" means an in-person voter registration application submitted when the voter registration system is unable to process applications. Conditionally registered voters are issued a current ballot for their precinct whenever possible; they are not issued a provisional ballot.
- (6) "Current ballot" means the ballot which matches the precinct, precinct portion or split in which the voter is currently registered to vote. This is the most recently issued ballot type or style.
- (7) "Electronic registration" means the electronic submission of voter registration applications.
- (8) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration database.
- (9) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.
- (10) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.
- (11) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter or the registration is a potential felon, potential duplicate match, or a future voter.
- (12) (~~"Pending cancellation" means the registered voter's registration record must be canceled within a specified amount of time and he or she is not eligible to vote.~~) "Qualified tribal identification" means tribal identification from an issuer of tribal identification that has agreed to make digitized signature information available for the purpose of voter registration.
- (13) "Received" means the voter's ballot has been returned to the county and entered into the system, but not yet accepted.
- (14) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.
- (15) "Registration number" means a unique identifier assigned to each registered voter, pursuant to RCW 29A.08.125.
- (16) "Reissued ballot" means a new ballot issued to a voter due to an address update within the state that changes the voter's ballot type or style. A reissued ballot becomes the current ballot and all other ballots are suspended.
- (17) "Replacement ballot" means a ballot that is the same type or style as the most recently issued. The request for a replacement ballot does not update the voter's current ballot type or style.

(18) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on ~~((his or her))~~ the secretary's behalf.

(19) "Suspended ballot" means any ballot that is not the current ballot. The suspended ballot may be accepted when the current ballot is not received or accepted.

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

WAC 434-324-008 ((Review of county)) Election management system((s)). ~~((1) Each auditor must notify the secretary of the intent to purchase or install a new county election management system. The county election management system must be approved by the secretary to ensure it meets the technical specifications promulgated by the secretary to interface with the official statewide voter registration database. This approval must be obtained prior to the purchase or installation of the system.~~

~~(2) A county))~~ The secretary of state shall provide an election management system ((must have)) that has the capability to:

~~((a))~~ (1) Store information required in WAC 434-324-010;

~~((b))~~ (2) Generate a list of registered voters in a county and their registration statuses;

~~((c))~~ (3) Track information specific to single elections, including the issuance and return of ballots;

~~((d))~~ (4) Scan voter registration forms; and

~~((e))~~ (5) Store and provide access to images of signatures of registered voters.

~~((3) A county's))~~ The election management system must conform to all of the requirements of state law and of these regulations ~~(, and if it does not, the secretary must notify the auditor of the nature of the nonconformity. The auditor must correct the nonconforming aspects of the county election management system and provide to the secretary such evidence of the change or changes in the system as the secretary may deem appropriate)).~~

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

WAC 434-324-010 ((County)) Election management system—Applications for voter registration. (1) Each auditor must enter and maintain voter registration records in the official statewide voter registration database by using ~~((a county))~~ the election management system. Each record must contain at least the following information from the voter registration application in a format compatible with the official statewide voter registration database:

(a) Name;

(b) Complete residential address;

(c) Complete mailing address;

(d) ~~((County registration number;~~

~~((e))~~ State)) Voter registration number;
~~((f))~~ (e) Gender;
~~((g))~~ (f) Date of birth;
~~((h))~~ (g) Date of original registration;
~~((i))~~ (h) Applicable district and precinct codes;
~~((j))~~ (i) Elections in which the individual ~~((has))~~ was eligible to vote and if the voter voted, if available;
~~((k))~~ (j) Washington state driver license number, Washington state identification card number, valid tribal identification card, and/or the last four digits of the applicant's Social Security number; and
~~((l))~~ (k) An electronic scanned image file ~~((format .tiff))~~ of the applicant's signature.

(2) In the case of an applicant who provides a copy of one of the alternative forms of identification listed in RCW 29A.08.107 for registration purposes, the auditor must either maintain a scanned image of the identifying document or make a notation in the registration record indicating which alternative form of identification was provided to the auditor. Pursuant to RCW 29A.08.710, a scanned image of the identification is not available for public inspection or copying.

(3) (a) If a voter registration application is incomplete, the county auditor may use other government resources and public records to confirm the missing information, except if the missing information is the applicant's signature or confirmation of United States citizenship. The county auditor may also attempt to contact the applicant by phone, email or other means to obtain identification information.

(b) If, after these attempts, the county auditor is still unable to obtain the incomplete information, the county auditor must send the applicant a verification notice as defined by RCW 29A.08.030.

(4) ~~((Upon entry of an applicant's information, the auditor must check for duplicate entries.))~~ When the county auditor enters an applicant's information into the secretary of state's voter registration database, the auditor must check for potential duplicate registrations found by the system.

(5) Each auditor must ~~((have a))~~ use quality assurance ~~((program))~~ procedures to maintain accurate data entry into the statewide voter registration database.

AMENDATORY SECTION (Amending WSR 19-12-115, filed 6/5/19, effective 7/6/19)

WAC 434-324-031 Electronic voter registration. (1) The secretary of state's electronic voter registration web page must have the capability to:

(a) Reject applicants without a Washington state driver's license, state identification card, or valid tribal identification as defined by RCW 29A.08.123 and 29A.40.160;

(b) Require the applicant to affirmatively assent to the use of ~~((his or her))~~ the applicant's driver's license, state identification card, or valid tribal identification card signature for voter registration purposes;

(c) Require the applicant to attest to the truth of the information provided on the application;

(d) Retrieve a digital copy of each applicant's driver's license or state identification card signature from the department of licensing or from an issuer of tribal identification that has agreed to make digitized signature information available for this purpose, and include it with the other information required for each applicant's voter registration; and

(e) Electronically transfer all information required for each applicant's voter registration to ~~((his or her))~~ their county auditor for entry into the statewide voter registration database ~~((through the county election management system))~~.

~~(2) ((Once election registration information is entered into county election management systems,))~~ The same timelines and processes used for registration by mail apply to electronic registration. A county auditor shall accept online and by mail applications no later than eight days before an election, and in-person applications at locations designated by the county auditor until 8:00 p.m. on election day.

AMENDATORY SECTION (Amending WSR 19-12-115, filed 6/5/19, effective 7/6/19)

WAC 434-324-036 County-to-county transfers. (1) A registered voter may transfer ~~((his or her))~~ their registration to another county by submitting a new voter registration application, or returning a signed confirmation notice that provides the ~~((new address))~~ minimum information required for a county-to-county transfer: Name, residential address, date of birth or voter registration number, and signature on the voter registration declaration.

(2) The county auditor shall expedite the mailing of a confirmation notice to complete the county-to-county transfer.

The minimum information necessary to complete the transfer to the new county is:

~~((1))~~ (a) Name;

~~((2))~~ (b) Residential address;

~~((3))~~ (c) A signature on the oath in RCW 29A.08.230; and

~~((4))~~ (d) Either date of birth or voter ID number.

(3) The new county may request additional information to confirm that the registration application is a transfer.

If the voter provides the required information, the county shall forward the confirmation notice by mail or electronically to the county auditor of the voter's new county of residence.

(4) If the voter provides a mailing address, but no residence address, the county auditor shall update the mailing address and keep the voter on active status. The county auditor may contact the voter to verify they still reside in the county of registration.

(5) If the request is missing information other than a residence address, the county auditor must send the request to the county where the voter currently resides. The receiving county will process the request and contact the voter as is necessary to transfer the registration in the same manner as other incomplete voter registration applications.

When ~~((a voter requests to))~~ the county auditor receives a transfer request after ballots have been mailed, the county auditor shall verify that ~~((a))~~ no ballot has ~~((not))~~ been accepted for that voter.

If a ballot has not been accepted, the county auditor shall complete the transfer and issue the voter a current ballot.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-040 (~~(Data transfer to secretary and registration status)~~) **Processing voter registrations.** (1) (~~Following entry into the county election management system, all information in the application for voter registration must be transferred electronically to the secretary for identity verification. The secretary must assign the application a state identification number~~) Upon entry of a new voter registration, the statewide voter registration database must assign a registration identification number to the registration.

(2) If the applicant provided a Washington driver's license number (~~(or)~~), state identification card number or valid tribal identification card, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of (~~his or her~~) their Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

(3) If the applicant's identity is not verified or cannot be verified in the (~~computerized~~) automated verification process, (~~the secretary must notify the county election management system accordingly.~~) the county auditor must (~~first~~) confirm the accuracy of the information entered (~~in the county election management system~~) from the voter registration application. The county auditor must correct any errors and again attempt to verify the applicant's identity automatically.

(4) If the applicant provided a Washington driver's license number (~~(or)~~), state identification number, or valid tribal identification number and the identity is not verified in the (~~computerized~~) automated verification process, the county auditor may check department of licensing records to verify the applicant's identity. If the county auditor has the voter's Washington driver's license number, state identification number, or valid tribal identification card number, information on the application may be considered a "match" if (~~the number on the application exactly matches a number issued by the department of licensing, and~~) it is clear to the county auditor that the information on the application describes the person on the department of licensing record. Reasons that the county auditor may conclude that the information on the application describes the person on the department of licensing record include, but are not limited to, the following:

(a) The first, middle, or last name on the application is a variation of the first, middle, or last name in the department of licensing record;

(b) The first, middle, or last name has transposed letters or another typographical error on the application or in the department of licensing record;

(c) The first and last names are transposed on the application or in the department of licensing record;

(d) The first and middle names are transposed on the application or in the department of licensing record;

(e) The applicant has a compound or hyphenated name which is not accurately or completely set forth on the application or in the department of licensing record;

(f) The first or middle name is abbreviated with initials on the application or in the department of licensing record;

(g) The last name on the application and the last name in the department of licensing record are not the same but, based on other information, the county auditor concludes that one of the names is a maiden name or a former name of the same person; or

(h) The month and day of the applicant's date of birth are transposed on the application or in the department of licensing record.

If the county auditor concludes that the information on the application describes the person on the department of licensing record, the county auditor must override the ~~((computerized))~~ failure to verify through the automated verification process and must note the reason it is considered a match. The county auditor must place the applicant on the official list of registered voters in active status.

~~((5))~~ (i) If the applicant's identity is not verified in the ~~((computerized))~~ automated verification process ~~((, either because the information did not match or because the applicant claimed he or she did not have a driver's license or Social Security number))~~ and the voter's identification could not be confirmed through the department of licensing, the applicant must be provisionally registered pursuant to RCW 29A.08.107. The registration record must be flagged as still requiring verification of the applicant's identity before the applicant's ballot may be counted.

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

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, valid tribal identification card, or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, email 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 additional 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))~~ they have been provisionally registered to vote.

(b) A statement explaining that if this additional 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))~~ their driver's license number, state identification card number, valid tribal identification card number or the last four digits of ~~((his or her))~~ their Social Security number,

or a copy of one of the following forms of identification, either before or when ~~((he or she votes))~~ they vote:

- (i) Valid photo identification;
- (ii) A valid enrollment card of a federally recognized tribe in Washington;
- (iii) A current utility bill, or a current bank statement;
- (iv) A current government check;
- (v) A current paycheck; or
- (vi) A government document, other than a voter registration card, ~~((that))~~ which shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state ~~((ID))~~ identification card, valid tribal identification 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))~~ they vote after registering.

(4) If the applicant fails to respond with adequate documentation to verify ~~((his or her))~~ the applicant's 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 is provided.

(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))~~ or provided information to verify identity, the provisional registration shall be canceled.

(6) The county auditor shall not mail an identification notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

AMENDATORY SECTION (Amending WSR 07-02-100, filed 1/3/07, effective 2/3/07)

WAC 434-324-055 Duplicate voter registration search conducted by secretary. Upon receipt of an applicant's electronic voter registration record from the auditor, and on a ~~((monthly))~~ daily basis, the secretary must search for potential duplicate registration records in the official statewide voter registration database by comparing the applicant's name and date of birth or other identifying information provided by the applicant on the voter registration form. Duplicates will be determined by comparing the signatures on all available records. If a voter is transferring ~~((his or her))~~ their registration to a new county or if any other information on the application has been updated, the auditor of the new county must update the registration record in the state database. ~~((A duplicate registration record must not be maintained as a new registration record.))~~

AMENDATORY SECTION (Amending WSR 19-12-115, filed 6/5/19, effective 7/6/19)

WAC 434-324-076 Voter registration updates. (1) Pursuant to RCW 29A.08.140, a person already registered to vote in Washington may update their registration by submitting an address change using a registration application or making notification via any non-in-person method that is physically received by an election official no later than eight days before election day, or by appearing in person no later than 8:00 p.m. on election day.

(2) The county auditor may request additional identifying information before processing a voter registration update submitted on behalf of a family or household member.

(3) If a voter submits a registration transfer to a new county by the statutory deadline, but the voter's previous county issued the voter a ballot before the transfer is processed and the voter's ballot issued by the previous county was received but not yet accepted, the previous county must mail the suspended ballot to the voter's new county. If any races or issues on the suspended ballot from the previous county are applicable to the voter's residential address in the new county, the votes on those races and issues should be counted by the new county only when the voter does not vote and return a current ballot, or when the current ballot (~~is not accepted~~) cannot be processed due to incorrect or incomplete information on the ballot envelope.

(4) If a participant in the future voter program established under RCW 29A.08.170 submits an address change, the county auditor must change the address listed on the application.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-085 Acknowledgment notice. (1) The auditor must send an acknowledgment notice to an individual by nonforwardable, address correction requested mail if an individual:

- (a) Registers to vote;
- (b) Transfers (~~his or her~~) their registration record within the county;
- (c) Transfers (~~his or her~~) their registration record from another county within Washington state; or
- (d) Changes from one precinct to another because of a change in precinct boundaries.

(2) The acknowledgment notice must include:

- (a) Voter's full name;
- (b) Mailing address;
- (c) County name;
- (d) Precinct name and/or number; and
- (e) The date the voter registered.

(3) The county auditor shall not mail an acknowledgment notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

WAC 434-324-087 Confirmation notice. (1) When a voter is placed on inactive status, the county auditor must send a confirmation notice (~~sent~~) to (~~an inactive~~) the voter (~~must be sent~~) by first-class forwardable mail, and must include a response form that:

(a) Is preaddressed and postage prepaid;

(b) Includes either the voter's date of birth (~~(, county voter ID number, or state voter ID)~~) or voter registration number;

(c) Asks the voter to verify (~~his or her~~) their current address; and

(d) Asks the voter to sign the oath in RCW 29A.08.230.

(~~County auditors may use an existing stock of confirmation notices until December 31, 2012.~~)

(2) When the voter sends the county auditor a response to the confirmation notice, the auditor must:

(a) Transfer the voter's registration and send the voter an acknowledgment notice if the response indicates that the voter has moved within the county (~~(, the auditor must transfer the voter's registration and send the voter an acknowledgment notice)~~).

(~~(3)(a) If~~) (b) Forward the confirmation notice to the voter's new county by mail or electronically if the response indicates that the voter has moved to another county within Washington and the confirmation notice contains the minimum information required by WAC 434-324-036 (~~(, the county auditor shall not cancel the voter but must immediately forward the confirmation notice to the county auditor in the voter's new county)~~).

The county auditor in the voter's new county must register the voter using the information and signature on the confirmation notice. The new county must transfer the registration from the old county to the new county and send the voter an acknowledgment notice.

(~~(b)~~) (c) Send the voter a voter registration application if the response indicates that the voter has moved to another county within Washington but the confirmation notice does not contain the minimum information required by WAC 434-324-036 (~~(, the county auditor shall not cancel the voter but must send the voter a registration application)~~). The voter shall remain on inactive status according to RCW 29A.08.635.

(~~(4)(a)~~) (d) Cancel the voter's registration if the response indicates that the voter has moved out-of-state and the response is signed (~~(, the county auditor must cancel the voter)~~).

(~~(b) If~~) (e) Keep the voter on inactive status according to RCW 29A.08.635 if the response indicates that the voter has moved out-of-state but is not signed (~~(, the county auditor shall not cancel the voter)~~).

(3) The county auditor shall not mail a confirmation notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-090 Cancellation due to death—Process. (1) An auditor must cancel the voter registration records of a deceased voter as authorized by RCW 29A.08.510.

(2) In addition to comparing a list of deceased persons prepared by the registrar of vital statistics with voter registration records pursuant to RCW 29A.08.510, the secretary may also compare voter registration records with deceased persons' information from the Social Security Administration. Comparisons must be conducted on a monthly basis. For any potential matches identified through the registrar of vital statistics or Social Security Administration, the secretary must confirm that the dates of birth are identical. The secretary must generate a county list of matching names, identified as potentially deceased voters, and provide the names to each auditor electronically. The auditor must review the list (~~within five days~~) and approve or reject the proposed cancellations. The secretary may assist the auditor with this review.

(3) The county auditor must remove a participant from the future voter program established under RCW 29A.08.170 upon receipt of documentation from Vital Statistics, Social Security Administration or written confirmation from another registered voter that the participant is deceased.

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

WAC 434-324-103 Verification notices. A verification notice must be sent when a voter registration application does not contain all the minimum information required in RCW 29A.08.010. The notice must be sent by first-class forwardable mail and must include a response form that:

(1) Is preaddressed and postage paid or is accompanied by a pre-addressed and postage paid return envelope.

(2) Requests that the applicant provide the missing information only.

(3) Requests that the applicant provide the missing information within forty-five days from the date the verification notice was mailed.

If the applicant does not respond by the forty-five day deadline, the voter registration application is considered void.

The county auditor shall not mail a verification notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

WAC 434-324-106 Felony screening process—Potential match check.

(1) The law on when the right to vote is restored following a felony conviction is established in RCW 29A.08.520. ~~((Three times a year))~~ Upon receiving new data from the department of corrections or at least on a monthly basis, the secretary must compare the voter registration records to lists of ~~((felons))~~ persons who are either incarcerated or on community supervision with the Washington state department of corrections, and to lists of ~~((felons))~~ persons convicted in federal district courts with a sentence of at least fifteen months incarceration. The secretary must create a list of ~~((felon))~~ voters potentially under authority of DOC by matching the first name, last name, date of birth, and other identifying information.

(2) For each ~~((felon))~~ voter, the secretary must change the voter's registration status to "pending ~~((cancellation.~~" This change of status must be entered prior to the first extraction or pull of mail ballots. The official statewide voter registration database must automatically notify the county election management system of the change)) status" with a status reason that indicates the record is a potential felon. Voters with pending ~~((cancellation))~~ status must not be issued a ballot.

~~((3))~~ The secretary must mail a notification letter to each felon whose status is pending cancellation. The notification letter must be sent to the felon's last known registration mailing address and, if the person is incarcerated or on community supervision with the department of corrections, to the offender's department of corrections address indicating that his or her voter registration is about to be canceled. The letter must contain language notifying the felon that he or she must contact the auditor's office to contest the pending cancellation. The letter must also inform the felon that he or she may request a provisional ballot for any pending elections. The notification letter must include:

~~(a) An explanation that a felon loses the right to vote until the right is restored;~~

~~(b) For a conviction in a Washington state court, the right to vote is restored as long as the felon is not serving a sentence of confinement or subject to community custody with the department of corrections. For a conviction in another state or federal court, the right to vote is restored as long as the felon is no longer incarcerated;~~

~~(c) The reason the felon has been identified as ineligible to vote;~~

~~(d) An explanation that the felon's voter registration will be canceled due to the felony conviction; and~~

~~(e) How to contest the pending cancellation. The secretary must send to each auditor the voter registration and conviction information for each matched felon registered in that county.~~

(4) If the felon fails to contact the auditor within thirty days, the felon's voter registration must be canceled. If an election in which the felon would otherwise be eligible to vote is scheduled to occur during the thirty days, the felon must be allowed to vote a provisional ballot.

(5) The felon's eligibility status may be resolved and the pending cancellation status reversed without scheduling a hearing if the felon provides satisfactory documentation that the felon's voting rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the felon is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record to prevent future cancellation on the same basis.

(6) If the felon requests a hearing, the auditor must schedule a public hearing to provide the felon an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the felon would otherwise be eligible to vote is scheduled. The notice must be mailed to the felon's last known registration mailing address and must be postmarked at least seven calendar days prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(7) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence or custody or supervision information from the Washington department of corrections, the out-of-state court or prison, or the federal court or Bureau of Prisons, sufficient to prove by clear and convincing evidence that the felon is ineligible to vote. It is not necessary that the copy of the document be certified.

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in which the felon would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending cancellation status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be counted if otherwise valid. The prosecuting attorney must continue to research the felon's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility prior to the next election in which the felon would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation on the same basis.

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent future

~~cancellation on the same basis. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.~~

~~(10) If the felon's voter registration is canceled after the felon fails to contact the auditor within the thirty day period, the felon may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (6) through (9) of this section.)~~

NEW SECTION

WAC 434-324-1065 Felony screening process—Mailing to potential matches. The secretary must mail a notification letter to each person under authority of DOC whose status is pending cancellation. The notification letter must be sent to the person's last known registration mailing address and, if the person is incarcerated or on community supervision with the department of corrections, to the person's department of corrections address indicating that their voter registration is about to be canceled. The letter must contain language notifying the person that they must contact the auditor's office to contest the pending cancellation. The letter must also inform the person that they may request a provisional ballot for any pending elections. The notification letter must include:

(1) An explanation that a person under authority of DOC loses the right to vote until the right is restored;

(2) For a conviction in a Washington state court, the right to vote is restored as long as the person is not serving a sentence of confinement or subject to community custody with the department of corrections. For a conviction in another state or federal court, the right to vote is restored as long as the person is no longer incarcerated;

(3) The reason the person has been identified as ineligible to vote;

(4) An explanation that the person's voter registration will be canceled due to the felony conviction if they do not respond within thirty days from the date of the letter; and

(5) How to contest the pending cancellation. The secretary must send to each auditor the voter registration and conviction information for each matched person under authority of DOC registered in that county.

NEW SECTION

WAC 434-324-107 Felony screening process—Contesting cancellation or canceling. (1) If a person under authority of DOC fails to contact the auditor within thirty days of the date of the letter, that person's voter registration must be canceled. If an election in which the person would otherwise be eligible to vote is scheduled to occur

during the thirty days, the person must be allowed to vote a provisional ballot.

(2) The person's eligibility status may be resolved and the pending status reversed without scheduling a hearing if the person provides satisfactory documentation that the person's voting rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the person is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record to prevent future cancellation on the same basis.

(3) If the person under the authority of DOC requests a hearing, the auditor must schedule a public hearing to provide the person an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the person would otherwise be eligible to vote is scheduled. The notice must be mailed to the person's last known registration mailing address and must be postmarked at least seven calendar days prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(4) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence or custody or supervision information from the Washington department of corrections, the out-of-state court or prison, or the federal court or Bureau of Prisons, sufficient to prove by clear and convincing evidence that the person is ineligible to vote. It is not necessary that the copy of the document be certified.

(5) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the person's voting eligibility in time to hold a hearing prior to certification of an election in which the person would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be counted if otherwise valid. The prosecuting attorney must continue to research the person's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the person's voting eligibility prior to the next election in which the person would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation on the same basis.

(6) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the person would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the person is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The person must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the person's voting eligibility. If the person is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registra-

tion must be canceled. If the voter is determined to be eligible to vote, the voter's pending status must be reversed and the secretary must flag the voter registration record to prevent future cancellation on the same basis. The person must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

(7) If the person's voter registration is canceled after the person fails to contact the auditor within the thirty day period, the person may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (3) through (6) of this section.

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

WAC 434-324-108 Incapacitated persons lacking voting rights—Notice from court. Upon receipt of a court order declaring an incapacitated person does not retain voting rights as outlined in RCW 11.88.010, the auditor must search (~~(his or her county)~~) the state election management system to determine whether the person is a registered voter. If the auditor determines the incapacitated person's name and other identifying information match, (~~(he or she)~~) they must cancel the incapacitated person's voter registration and send (~~(notification to the secretary through the county election management system. After canceling an incapacitated person's registration, the auditor must send)~~) a cancellation notice to the incapacitated person using the last known address.

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

WAC 434-324-111 Voluntary cancellation of voter registration. A voter may cancel (~~(his or her)~~) their own voter registration by submitting a signed written notification to the auditor for the county in which (~~(he or she)~~) the voter 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.

A participant in the future voter program established under RCW 29A.08.170 may be removed from the program by submitting a signed written notification to the auditor for the county in which they live. The auditor shall process the notification in the same manner as other voluntary cancellations.

AMENDATORY SECTION (Amending WSR 09-18-098, filed 9/1/09, effective 10/2/09)

WAC 434-324-113 Lacking the qualifications necessary to vote.

(1) If, at any time, the secretary finds that a registered voter does not possess the qualifications required by state law to exercise (~~his or her~~) their right to vote for reasons not listed in this chapter, the secretary must refer such information to the appropriate county auditor and county prosecutor.

(2) If, at any time, the auditor finds that a registered voter does not possess the qualifications required by state law to exercise (~~his or her~~) their right to vote for reasons not listed in this chapter, the auditor must notify the county prosecutor.

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

WAC 434-324-125 Voter registration database manual. The secretary of state and each county auditor must conduct voter registration list maintenance, process online voter registrations, motor voter registrations and agency-based registrations, and update registrations according to procedures and instructions in the statewide voter registration database (~~online help~~) manual.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-324-118 Data auditing of county voter election management system with the official statewide voter registration database.