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May 6, 2022

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 22101

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
Chief, Elections Division

RE: Primary Election: Surrendering Vote-by-Mail Ballots

This memorandum is intended to provide a reminder of the procedures for surrendering vote-by-mail ballots and is not intended to affect any process a county may have in place for the drop-off of a voted vote-by-mail ballot.

A surrendered vote-by-mail ballot is one that the voter does not intend to cast—rather the voter is returning it so they may receive a nonprovisional (also referred to as “live,” “regular,” or “polling place”) ballot. A nonprovisional ballot is one that will be placed directly into the ballot box; it will not go into a ballot identification envelope.

The process of surrendering vote-by-mail ballots and the issuance of nonprovisional or provisional ballots is provided in Elections Code sections 3015 and 3016. These code sections apply to all counties regardless of how the election is conducted.

Issuance of Nonprovisional Ballots

If a vote-by-mail voter appears at a vote center, at their designated polling place on Election Day, or the regular or satellite office of their elections official where voting is permitted on or before Election Day, that voter **shall be permitted to vote a nonprovisional ballot** if either of the following conditions is satisfied:

1) The voter surrenders their vote-by-mail ballot

-OR-

2) The voter is unable to surrender their vote-by-mail ballot, but the precinct board, vote center election board, or elections official does all of the following:

- (a) Verifies that the voter has not returned their voted vote-by-mail ballot, and
- (b) Notates the voter's voter record to ensure that the voter's vote-by-mail ballot is not cast or tabulated after they vote at the polls.

(Elec. Code, § 3015.)

Any vote-by-mail voter, who properly surrenders a vote-by-mail ballot (or the voting location meets Section 3015's conditions) and is issued a nonprovisional ballot, must sign the roster/index/electronic poll book or any roster supplement. (Elec. Code, §§ 14105(a), 14107, 14109, 14216.)

Issuance of Provisional Ballots

A vote-by-mail voter **shall be issued a provisional ballot**, in accordance with Section 14310, if:

The voter is unable to surrender their vote-by-mail ballot and

- 1) The precinct board, vote center election board, or elections official cannot:
 - (a) Verify if the voter has returned their voted vote-by-mail ballot, and
 - (b) Notate the voter's voter record accordingly.

-OR-

- 2) The precinct board or elections official cannot readily determine if the voter is in the correct polling location.

(Elec. Code, §§ 3016, 14310(f).)

Vote-by-Mail Identification Envelopes and Multiple Ballot Requests

Elections Code section 3015, which provides for the surrender of vote-by-mail ballots, does not require a voter to surrender their vote-by-mail ballot envelope in order to receive a nonprovisional ballot. Section 3015 only requires the surrender of "vote by mail voter ballots." Requiring a voter to surrender their vote-by-mail ballot envelope along with their vote-by-mail ballot to receive a nonprovisional ballot is contrary to the provisions of Section 3015.

To ensure that a voter who has surrendered their vote-by-mail ballot is not issued multiple ballots, the following safeguards for the ballot auditing processes can be employed:

One option is for a county to consider suspending the processing of returned vote-by-mail ballots for voters who requested ballots after rosters are generated. These ballots could be separated for processing after Election Day and after the polling place voter history has been applied to the county's Election Management System (EMS).

A second option is for a county to work with their EMS vendor to add a notation on the roster that is sent to the polls to indicate that a voter was issued multiple vote-by-mail ballots. If the voter cannot surrender *both (or all)* of the ballots that were issued to them, the county must require the voter to vote provisionally, unless the specified conditions apply.

Vote Center Counties: Suggested Reminder for Election Workers

You may wish to provide to your vote center workers the following information regarding provisional ballots:

As a vote center worker, you have a duty to assist in the administration of the election. You should *never* turn away a voter from the vote center. A voter *always* has the right to cast a ballot, although scenarios will arise where a voter may not be able to cast a nonprovisional ballot (a ballot that goes directly into the ballot box) and they will be required to vote a provisional ballot (a ballot that goes into an envelope).

A provisional ballot is used in a polling location when:

- A voter's name does not appear on any of the roster lists provided.
 - In this instance, the voter can conditionally register to vote (CVR) and vote a CVR provisional ballot (unless "Instant CVR" is available).
- A voter's name (unless it is a changed surname) or address is different than that listed on the roster lists.
 - In this instance, the voter can conditionally re-register to vote and vote a CVR provisional ballot (unless "Instant CVR" is available).
- A voter with "Proof of Residence Required" next to their name in the roster is unable to provide proof of residence.
 - The "Proof of Residence" requirement can be satisfied with over 30 acceptable documents listed in your poll worker handbook. A photo ID is acceptable but is not required to satisfy proof of residence.
- A voter is challenged by a member of the election board (not by a member of the public), and the challenge is not resolved in their favor.
- A voter's voter record indicates that they have already cast a ballot.

Polling Place Counties: Suggested Reminder for Poll Workers

You may wish to provide to your poll workers the following information regarding provisional ballots:

As a poll worker, you have a duty to assist in the administration of the election. You should *never* turn a voter away from the polls. A voter *always* has the right to cast a ballot, although scenarios will arise where a voter may not be able to cast a

nonprovisional ballot (a ballot that goes directly into the ballot box) and he or she will be required to vote a provisional ballot (a ballot that goes into an envelope).

A provisional ballot is used in a polling place when:

- A voter's name does not appear on any of the roster lists provided.
 - In this instance, the voter can conditionally register to vote (CVR) and vote a CVR provisional ballot (unless "Instant CVR" is available).
- A voter is at the wrong precinct and their ballot is not available at your location, but the voter still wants to vote at this polling site.
- A vote-by-mail voter wants to vote at this precinct, but cannot surrender their vote-by-mail ballot, and your location
 - cannot verify if the voter has already returned their voted vote-by-mail ballot and cannot notate the voter's voter record accordingly.
- **-OR-**
 - cannot determine if the voter is in the correct polling location.
- A voter's name (unless it is a changed surname) or address is different than that listed on the roster lists.
 - In this instance, the voter can conditionally re-register to vote and vote a CVR provisional ballot (unless "Instant CVR" is available).
- A voter with "Proof of Residence Required" next to their name in the roster is unable to provide proof of residence.
 - The "Proof of Residence" requirement can be satisfied with over 30 acceptable documents listed in your poll worker handbook. A photo ID is acceptable but is not required to satisfy proof of residence.
- A voter is challenged by a member of the precinct board (not a member of the public), and the challenge is not resolved in their favor.

If you have any questions, please feel free to contact Rachelle Delucchi at rdelucch@sos.ca.gov. Thank you.