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October 26, 2026

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 26275

TO: All County Clerks/Registrars of Voters

FROM: /s/ Rachelle Delucchi
Elections Counsel

RE: General Election: Follow up - Close of Polls and Release of Vote Totals

This memorandum will add clarification to CCROV #26273 in the event a county elections official, in consultation with their county counsel, extends the time for closing a polling place in their county past 8:00 p.m. on Election Day, Tuesday, November 3, 2026. (See, Elec. Code, § 407.)

- The Section 407 extension only applies to the specified polling place in the county where voting at a specific polling place was disrupted as a result of a violation of Elections Code section 403, 404 or 18370(a). (Elec. Code, § 407(a).)
  - The extension does not automatically apply to every polling place in the county.
  - There is no difference in the application of this law to Voter's Choice Act (VCA) counties versus non-VCA counties.

- The Section 407 extension can only be applied to a polling place. (Elec. Code, § 407(a).)
  - The extension cannot be applied to a vote-by-mail (VBM) ballot drop box.
  - At 8:00 p.m. on Election Day, all VBM ballot drop boxes must be locked and covered or otherwise made unavailable. (Cal. Code Regs., tit. 2, § 20136.)

- During the extended time, votes cast at the polling place with the extension shall be by provisional ballot. (Elec. Code, § 407(b).)
  - If a voter enters the specified polling place and requests a ballot to vote, a provisional ballot must be provided to that voter.
  - Provisional ballots cast during the extension must be segregated from provisional ballots cast during the non-extended time.

  - If a voter enters the specified polling place with a voted VBM ballot, the ballot must be placed into a provisional ballot envelope.
    - A voter must not be allowed to place a voted ballot without an envelope directly into the ballot box (see, Elec. Code, § 3016.5); the ballot must be in a provisional ballot envelope.
    - If the voter refuses to place their voted VBM ballot into a provisional envelope, the non-provisional ballot should be further segregated for later determination.

- Provisional ballots cast during the extended time at the polling place with the extension, like other provisional ballots cast during the non-extended time, shall not be included in any semiofficial or official canvass, except as set forth in Elections Code section 14310.
  - Our office will contact the county with the extension and provide additional guidance based on the specific circumstances.

- At the polling places where the closing time <u>has not been extended</u>, the election workers may proceed with the requirements set forth in subdivisions (a) and (b) of Elections Code section 15250.5.
  - HOWEVER, the elections workers must not post or "tape" a copy of the "results of votes cast form" until the extension of the polls has been concluded or as soon as practicable after the extension concludes. (See, Elec. Code, §§ 15250.5(c), 15150, 15152.)
  - In lieu of posting the vote cast form, county elections officials may direct their election workers to post signage informing the public that not all polls in the State are closed, and that once all polls are closed, the votes cast form will be posted as soon as practicable. (See, attachment with suggested draft language for signage.)

- All county elections officials may continue processing VBM ballot return envelopes and VBM ballots during the extended time. (See, Elec. Code, § 15101.)
  - The processing of VBM ballot return envelopes and VBM ballots could have begun on the date the ballots were mailed by the county elections official. (Elec. Code, § 15101(a).)
  - Processing VBM return envelopes "may include verifying the voter's signature on the vote by mail ballot return envelope pursuant to Section 3019 and updating voter history records." (Elec. Code, § 15101(b)(1).)
  - Processing VBM ballots "includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election." (Elec. Code, § 15101(b)(2).)

  - HOWEVER, results of any VBM ballot tabulation or count shall not be released before the close of the polls on the day of the election. (Elec. Code, § 15101(c).)

- No county may release vote totals (to our office or on county elections officials' websites) until the time the extension is concluded in the affected county, or until the court order is vacated in the affected county (Elec. Code, §§ 15150, 15152.).
  - HOWEVER, in counties where the closing time of any of their polling places has not been extended, county elections officials may post local results (i.e., NO results for any statewide candidates, state ballot measures, or shared contests) during the extended time. (Elec. Code, § 15152.)
    - Any county choosing to post ONLY local results during the extended time should proceed with caution, so as to not inadvertently post results that should not be posted.
    - It is suggested that the county run tests prior to Election Day to determine if their local results can be segregated and reported separately from statewide results.

- No county should upload any vote results to the Secretary of State's office until all polling places throughout the State have closed.

A "Notice of Extension of Time for Closing a Polling Place on Election Day" form was attached to CCROV #26273. That form must be submitted for either a court ordered extension or a county elections official's extension under Elections Code section 407. We once again recommend that you review the form with your county counsel as soon as possible. If you or your county counsel has any questions, please reach out to our office.

Please contact Rachelle Delucchi at rdelucch@sos.ca.gov and Robbie Anderson at aanderso@sos.ca.gov should you have any questions.

Thank you.

Attachment

ATTENTION

The closing time of one or more polling places in the State has been extended by either a Superior Court order or pursuant to Elections Code section 407.

Once the extension of time for closing the polling place has concluded, the results of votes cast at this polling place will be posted, as soon as practicable, pursuant to Elections Code section 15250.5(c). (See, Elec. Code, §§ 15150, 15152.)

Please contact our office at _____ if you have any questions.