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ELECTIONS DIVISION

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May 17, 2018

County Clerk/Registrar of Voters (CC/ROV) Memorandum #18127

TO: All County Clerks/Registrars of Voters

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

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

The June Primary will be the first statewide election since Elections Code sections 3015 and 3016 amended by Senate Bill 286 (Stats. 2017, Ch. 806) went into effect. These sections address surrendered vote-by-mail ballots and the issuance of nonprovisional/regular and provisional ballots. These sections apply to counties conducting traditional elections, as well as those conducting elections under the California Voter's Choice Act (VCA).

For purposes of this memorandum, a surrendered vote-by-mail ballot is one that the voter does not intend to cast—rather the voter is returning the vote-by-mail ballot in order to receive a nonprovisional ballot.

This guidance is not intended to affect any process a county may have in place for the drop-off of a voted vote-by-mail ballot.

Issuance of a Nonprovisional Ballot

If a vote-by-mail voter appears at their designated polling place on Election Day, or appears at a vote center 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 his or her vote-by-mail ballot or
- 2) The voter is unable to surrender his or her vote-by-mail ballot but the precinct board, vote center election board, or elections official does both of the following:
 - (a) Verifies that the voter has not returned his or her 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 he or she votes at the polls.

(Elections Code § 3015.)

Issuance of Provisional Ballot

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

- 1) The voter is unable to surrender his or her vote-by-mail ballot and
or
- 2) The precinct board or elections official cannot readily determine if the voter is in the correct polling location (in a non-VCA county).
(Elections Code §§ 3016, 14310.)

Vote-By-Mail Voters on Roster (Non-VCA Counties)

To facilitate the ability of poll workers to identify vote-by-mail voters, the names of the voters who were mailed ballots for this election should appear on the voter roster/electronic poll book or any roster supplement that is maintained at the polling place. Moreover, any vote-by-mail voter who properly surrenders a vote-by-mail ballot (or the voting location can meet Section 3015's conditions) and is issued a nonprovisional ballot must sign the roster/index/electronic poll book or any roster supplement. (Elections Code §§ 14105(a), 14107, 14109, 14216.)

Suggested Reminder for Poll Workers (Non-VCA Counties)

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 regular/nonprovisional ballot and he or she will be required to vote a provisional ballot.

A provisional ballot is used in a polling place only when:

- A voter's name does not appear on any of the roster lists provided.
- A voter is at the wrong precinct, but still wants to vote at this polling site.
A vote-by-mail voter wants to vote at this precinct, but cannot surrender his or her vote-by-mail ballot, AND your location cannot verify if the voter has already returned his or her voted vote-by-mail ballot, and cannot notate the voter's voter record accordingly.
- A voter's name (unless it is a changed surname) or address is different than that listed on the roster lists.
- A voter with "Proof of Residence Required" next to his or her 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 and the challenge is not resolved in his or her favor.

Suggested Reminder for Vote Center Workers (VCA Counties)

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 a voter away 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 regular/nonprovisional ballot and he or she will be required to vote a provisional ballot.

A provisional ballot is used in a vote center only 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 and vote a conditional voter registration provisional ballot.
- 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 conditional voter registration provisional ballot.
- A voter's voter record indicates that they have already cast a ballot.
- A voter with "Proof of Residence Required" next to his or her 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 and the challenge is not resolved in his or her favor.

If you have any questions, please feel free to contact Rachelle Delucchi at rdelucch@sos.ca.gov or (916) 657-2166. Thank you.