



**ALEX PADILLA** | SECRETARY OF STATE | STATE OF CALIFORNIA  
ELECTIONS DIVISION

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January 16, 2020

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 20019

TO: All County Clerks/Registrars of Voters

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

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

Elections Code sections 3015 and 3016 address surrendered vote-by-mail ballots and the issuance of nonprovisional/regular and provisional ballots. These code 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 it 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 Nonprovisional Ballots**

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 all 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.

(Elec. Code, § 3015.)

## Issuance of Provisional Ballots

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

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

**-OR-**

- 3) The voter is unable to surrender his or her vote-by-mail ballot and the precinct board or elections official (in a non-VCA county) cannot readily determine if the voter is in the correct polling location.

(Elec. Code, §§ 3016, 14310(f).)

## 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 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.)

## 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 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 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.
- **-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 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 by a member of the precinct board (not a member of the public), 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 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 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.

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- 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 his or her favor.
- A voter's voter record indicates that they have already cast a ballot.

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