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ELECTIONS DIVISION

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September 9, 2020

County Clerk/Registrar of Voters (CC/ROV) Memorandum #20202

TO: All County Clerks/Registrars of Voters

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

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

A surrendered vote-by-mail ballot is one that the voter does not intend to cast—rather the voter is returning it to 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 an 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 has not been amended or waived by any Executive Order or legislation relating to the November 3, 2020, General Election. These code sections apply to all counties regardless of how the election is conducted.

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.

This memorandum does not change the guidance provided in CCROV [#20019](#) or CCROV [#20041](#). It only updates the guidance considering the different methods by which counties are conducting the November 3, 2020, General Election. (See attached chart identifying the five methods.)

Issuance of Nonprovisional Ballots

If a vote-by-mail voter appears at a vote center or consolidated polling place (counties using Method #1 or #2), at their designated polling place on Election Day (counties

using Method #3 or #4), 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.)

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:

- 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 county using Method #3 or #4) 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 voters to surrender their vote-by-mail ballot envelopes 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 to consider suspending the processing of returned vote-by-mail ballots for voters who requested multiple ballots after you generate your rosters. These ballots could be separated for processing after Election Day and after the polling place voter history has been applied to your EMS.

A second option is to work with your EMS vendor to add a notation on the roster you send 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, you must require them to vote provisionally, unless the specified conditions apply.

Counties using Method #1 or #2: Suggested Reminder for Election Workers

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

As a [vote center or poll] 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 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 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 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 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.

Counties using Method #3 or #4: 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 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.

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

Chart attached below

November 3, 2020, General Election

	Method of Conducting Election	Election Specifics	Authority
1	Voter's Choice Act (VCA) - Vote Centers	<p>In-Person Voting Locations: VCA counties, at a minimum: must open vote centers E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm. (can open vote centers before E-3, if desired)</p> <p>Ballot Drop-off Locations: no change - must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 through Election Day open at a minimum during regular business hours (Elections Code sections 4005, 4007)</p> <p>1 Exterior Drop Box: E-28 through Election Day open a minimum of 12 hours</p>	Election conducted under Elections Code sections 1801, 4005-4007; Executive Order N-67-20
2	Consolidated Polling Place - Countywide Voting	<p>In-Person Voting Locations: 1 per 10,000 voters; must open consolidated polling places E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm; voters can vote anywhere in the county</p> <p>1 In-Person Voting Location: E-28 through Election Day must offer full services (EC section 1802(d)(1)) and urged to offer appointments at this location</p> <p>Ballot Drop-off Locations: must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 through Election Day open at a minimum during regular business hours</p> <p>1 Exterior Drop Box: E-28 through Election Day open a minimum of 12 hours</p>	Election conducted under Elections Code section 1802(b), (c), (d); Executive Order N-67-20
3	Consolidated Polling Place - Voters Assigned to Specific Location	<p>In-Person Voting Locations: 1 per 10,000 voters; must open consolidated polling places E-3 through E-1 for 8 hours a day; on Election Day from 7am - 8pm; voters assigned to specific voting location</p> <p>1 In-Person Voting Location: E-28 through Election Day must offer full services (Elections Code section 1802(d)(1)) and urged to offer appointments at this location</p> <p>Ballot Drop-off Locations: must have at least 2 OR 1 per 15,000 voters (whichever results in the greater number of locations); E-28 through Election Day open at a minimum during regular business hours</p> <p>1 Exterior Drop Box: E-28 through Election Day open a minimum of 12 hours</p>	Election conducted under Elections Code section 1802(b), (c), (d); Executive Order N-67-20
4	Traditional Polling Place	<p>In-Person Voting Locations: Counties will maintain the same number of polling places as they had in the March 2020 Primary, open on Election Day from 7am - 8pm</p> <p>Ballot Drop-off Locations: At County Discretion</p>	Election conducted under Elections Code section 12223; see also, Elections Code section 1802(a) and Executive Order N-67-20
5	All Mail Ballot	<p>Counties will continue to run their election as an All Mail Ballot Election</p> <p>Ballot Drop-off Locations: At County Discretion</p>	Election conducted under Elections Code section 3005