

Chapter 4

Voter Registration Applications and Voter List Maintenance

Table of Contents

I.	Overview	1
II.	Acceptance of Valid Voter Registration Application	1
III.	Notification of Disposition of Voter Registration Application: Voter Notification Card	3
	A. Application Accepted	3
	B. Application Rejected or Request to Cure Defect	4
IV.	Residency Confirmation Procedures and Mailings	6
	A. Voter Notification Card (VNC)	7
	B. Preelection Residency Confirmation Postcard	8
	1. National Change of Address System (NCOA) Data	10
	2. County Voter Information Guide	11
	3. Consumer Credit Reporting Agency	12
	C. Alternative Residency Confirmation (ARC) Postcard	13
V.	Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records	14
	A. Address Confirmation Notices Sent for In-State Moves	14
	B. Address Confirmation Notices Sent for Out-of-State Moves	16
	C. Address Confirmation Notices Sent If No Forwarding Address	17
	D. Updating or Inactivating Registrations Based on Responses to Address Confirmation Notices	17
	1. Elections Code Section 2225(b)	17

2.	Elections Code Section 2225(c)/Section 8(d)(2) of the NVRA	18
E.	Cancelling Registrations After Two General Federal Elections	18

I. Overview

Promoting the exercise of the fundamental right to vote and facilitating voter participation in elections is at the heart of the NVRA. (52 U.S.C. § 20501.) Exemplifying these principles, the purposes of the NVRA are fourfold: “(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office; (2) to make it possible for Federal, State, and local governments to implement this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office; (3) to protect the integrity of the electoral process; and (4) to ensure that accurate and current voter registration rolls are maintained.”

Section 8¹ of the NVRA requires that any list maintenance program aimed at ensuring the integrity of voter registration rolls conforms to certain basic requirements, and be uniform, nondiscriminatory and in compliance with the Voting Rights Act of 1965. (52 U.S.C. § 20507.) Section 8 also establishes specific requirements concerning (1) voter registration processing; (2) notices to voters regarding the disposition of voter registration applications; (3) maintenance of a general program that makes a “reasonable effort to remove the names of ineligible voters from the lists of eligible voters” by reason of death or change in the residence of the registrant. (52 U.S.C. § 20507.) And, Section 8(d) provides that voters shall not be removed from the official list of eligible voters on the ground that the registrant has changed residence unless (1) the registrant confirms in writing a change of residence outside the registrar’s jurisdiction, or (2) the registrant has failed to respond to an address confirmation notice in the form specified in Section 8(d)(2), and has not offered or appeared to vote in any election within the next two federal general election cycles following the date of the address confirmation notice.²

California law imposes its own requirements regarding notifications to persons who register to vote and list maintenance activities. The following sections describe these state law requirements and their relationship to the requirements under Section 8 of the NVRA.

II. Acceptance of Valid Voter Registration Application

The NVRA specifies the time period for accepting valid voter registration applications (also known in the paper form as voter registration cards (VRCs)), and for determining eligibility for an upcoming election. The NVRA requires states to accept valid voter registration applications submitted to any NVRA voter

¹ Throughout this chapter, “Section 8” refers to 52 U.S.C. § 20507.

² Counties must maintain all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, with some exceptions. “Records” includes lists of the names and addresses of voters to whom Section 8(d)(2) notices were sent, and information concerning whether the voters responded. (See, Chapter 6, Recordkeeping and Reporting Requirements; 52 U.S.C. § 20507(i).)

registration agency by the state's voter registration deadline, which in California is 15 days before each election. (Elec. Code, § 2102; 52 U.S.C. § 20507(a)(1).)³

Under the NVRA, a voter registration application must be accepted as timely for an upcoming election if it is received in one of the following ways:

By an elections official by mail, and was:

- **Postmarked** on or before the voter registration deadline

By the Department of Motor Vehicles (DMV), and was:

- **Submitted** to DMV on or before the voter registration deadline

By another NVRA voter registration agency, and was:

- **Accepted** at the agency on or before the voter registration deadline

By an elections official, and was:

- **Received** by the elections official on or before the voter registration deadline

(52 U.S.C. § 20507(a)(1)(A)-(D).)

California law generally mirrors the NVRA with respect to the time periods for determining eligibility. Under California law, a voter registration deadline is 15 days prior to the election. (Elec. Code, §§ 2102 (a)(1)-(4), 2114, 2119(d)(1)-(4).) California law also provides for registration over the internet through the California Online Voter Registration Application, which must be submitted on or before the 15-day voter registration deadline. (Elec. Code, § 2196.) The Secretary of State has issued a guidance document, "Updating Voter Registration Dates," for county elections officials to use when adding or updating voter registration dates. (See guidance document, Updating Voter Registration Dates, attached as Appendix C.) This guidance document addresses the applicable registration date for voter registration applications submitted to and/or processed by an NVRA registration agency.

The DMV and other agencies designated as NVRA voter registration agencies must transmit completed paper VRCs to elections officials within 10 days of acceptance and within five days, if accepted within five days of the voter registration deadline. (52 U.S.C. §§ 20504(e), 20506(d).) As a best practice, the Secretary of State recommends daily transmittal of paper VRCs to elections officials to minimize the potential for delay and to ensure that eligible voters can vote in an upcoming federal, state, and local election.

³ In California, same day voter registration/conditional voter registration (CVR) and CVR provisional voting is available following the 15-day close of registration up through and including Election Day. CVR and CVR provisional voting are offered at all polling locations. (Elec. Code, § 2170.)

County elections officials must process voter registration applications immediately. (Cal. Code Regs., tit. 2, § 20108.40.) While delays may occur in the transmittal of voter registration applications from the DMV or another NVRA voter registration agency, elections offices must nevertheless process as timely, completed applications that are: (1) accepted by the DMV or another NVRA voter registration agency on or before the voter registration deadline, and (2) received by the elections official prior to the certification of the election. (Elec. Code, § 2102(a)(2); Cal. Code Regs., tit. 2, § 20108.18(b)(3).)

III. Notification of Disposition of Voter Registration Application: Voter Notification Card

Section 8 of the NVRA requires that elections officials notify each voter registration applicant of the disposition of his or her voter registration application, for instance, whether the application is accepted or rejected, or whether additional information is needed. (52 U.S.C. § 20507(a)(2).)

While the NVRA is silent with respect to a particular method for notifying an applicant about the disposition of his or her application, state law provides for the following methods and requirements.

A. Application Accepted

A completed voter registration application must contain the following statutorily required information: facts establishing the applicant as an elector, the applicant's name, place of residence, mailing address if different than the place of residence, date of birth, country of birth, driver license (or state identification card) number or last four digits of social security number, and that the applicant is not in state or federal prison for a felony conviction. (Elec. Code, § 2150(a).) The application must also certify as to the truthfulness and correctness of the contents and be signed under penalty of perjury. (Elec. Code, § 2150(b).)

In California, when a voter registration application is processed and the applicant's eligibility is verified, the application is accepted and the applicant becomes a registered voter, or if it is a reregistration, the voter's existing registration record is updated. (Elec. Code, §§ 2102, 2115, 2119, 2155, 2170.) Once an application is accepted or a registration updated (including the updating of a mailing address), the county elections official must provide notification to the voter by mailing a *non-forwardable* Voter Notification Card (VNC).⁴ (Elec. Code, § 2155.) County elections officials mail the VNCs to the residence address listed, unless a separate mailing address has been provided. California law allows the county elections official to notify

⁴ Pursuant to California law, county elections officials also mail a VNC upon receipt of an address correction notice or letter responding to a mailing under Elections Code sections 2119, 2155, 2220 through 2226, or the NVRA. (Elec. Code, §§ 2155, 2155.3.)

applicants of properly executed affidavits of registration by text message or email that their voter registration information has been received and that they will receive a VNC. (Elec. Code, § 2155.4.)

Elections Code section 2155 provides that the voter notification shall be in substantially the following form:

VOTER NOTIFICATION

You are registered to vote. The party preference you chose, if any, is on this card. This card is being sent as a notification of:

1. Your recently completed affidavit of registration.

OR,

2. A change to your registration because of an official notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write to our office immediately.

OR,

3. Your recent registration with a change in party preference. If this change is not correct, please call or write to our office immediately.

You may vote in any election held 15 or more days after the date on this card.

Your name will appear on the roster kept at the polls.

Please contact our office if the information shown on the reverse side of this card is incorrect.

(This language is also found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.) The VNC satisfies the NVRA's requirement to notify each voter registration applicant of the disposition of his or her registration application. (52 U.S.C. § 20507(a)(2).)

B. Application Rejected or Request to Cure Defect

A county elections official may reject an application if (1) the applicant does not meet the qualifications for registering to vote; or (2) the application is

missing required information, and the missing information does not have an applicable rebuttable presumption and the elections official cannot obtain the information from the applicant. (Elec. Code, §§ 2150, 2153, 2154.)

When required information is missing from the voter registration application, county elections offices must attempt to contact the applicant. (Elec. Code, §§ 2150, 2153.) For example, if an applicant has not checked the “Yes” box to indicate U.S. citizenship and instead left the U.S. citizenship check box on the application blank, the application cannot be accepted; the county elections official must attempt to contact the applicant to seek this information. (See Elec. Code, §§ 2111, 2112, 2150(a)(1), 2153; 52 U.S.C. § 21083(b)(4)(A), (B) (HAVA).)

Generally, if required information is missing, but the mailing address is legible, the county elections official must send the applicant a new VRC or document requesting the missing information. With respect to the effective date of the affidavit, the following guidance has been provided:

If upon initial submission, a signature is missing:

after the applicant returns the VRC or document with the signature, the voter registration application must be processed, and the voter registered with an effective date of the date the unsigned affidavit was initially received.

If upon initial submission other information, such as a date of birth, name, or citizenship affirmation is missing, or if the applicant used a PO Box or business address as a residence address, or if the stated address is nonexistent:

after the applicant returns the VRC or document providing the missing information, the voter registration application must be processed, and the voter registered with an effective date of the date the affidavit is completed or the missing information is received.

(See Appendix C, Updating Voter Registration Dates.) If no response is received from the applicant, then the applicant shall not be registered. (Elec. Code, § 2153.)

However, if the voter registration application is executed under penalty of perjury, and the missing information falls within the “rebuttable presumption” category, the application cannot be rejected, and the county elections official is not required to contact the applicant for this information. (Elec. Code, § 2154.) The following are rebuttable presumptions set forth in California law:

- No middle name or initial is provided – the presumption is that none exists.
- No party preference is provided – the presumption is that the applicant declined to disclose a party preference.⁵
- No execution date is provided – the presumption is that the application was executed on or before the 15-day close of registration, provided that the county elections official either: (1) received the application on or before the 15-day close; or (2) received by mail the application and it is postmarked on or before the 15-day close.
- No state of birth within the United States is provided, but instead “U.S.A.,” “United States,” or other indication of the United States is provided – the presumption is that the applicant was born in a state or territory of the United States. The affiant’s failure to furnish his or her place birth shall not preclude his or her affidavit of registration from being deemed complete. However, as stated above, the affiant must have checked the “Yes” box to indicate U.S. Citizenship before an affidavit of registration can be deemed complete.

(Elec. Code, § 2154(a)-(d).)

If the application is rejected for other reasons, the county elections officials must notify the applicant of the reason for rejection. (Elec. Code, § 2153; 52 U.S.C. § 20507(a)(2).)

IV. Residency Confirmation Procedures and Mailings

Section 8 requires that the state “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of” death or change of address. (52 U.S.C. § 20507(a).) The NVRA does not mandate any particular method of identifying ineligible voters. State law, however, provides several methods for elections officials to confirm registrants’ addresses in compliance with NVRA requirements, as described below.⁶

⁵ Updates to a voter registration record through a California Department of Motor Vehicles (DMV)-based voter registration transaction are handled differently: when an applicant updates his or her voter registration record, but does not indicate a party preference, and a preference had previously been chosen, the party preference reverts to the most recent party preference. (See Section III of Chapter 2, Voter Registration at Department of Motor Vehicles (DMV).)

⁶ In addition to the residency confirmation procedures provided in Elections Code sections 2220-2226 and set forth in this Section, the Secretary of State receives and sends on to county elections officials change-of-address information from specific transactions at the DMV. (See Chapter 2, Voter Registration at Department of Motor Vehicles (DMV).)

Some of these methods to confirm addresses may result in elections officials placing a voter's registration on inactive status, as described below. Under California law, voters with an inactive status are not mailed election materials, and they are not taken into consideration in determining the number of signatures required for qualification of candidates or ballot measures, precinct size, or other election administration processes. (Elec. Code, § 2226(a)(2).)

The Secretary of State strongly recommends⁷ that a list of inactive voters, in addition to the required list of active voters, be provided to each polling place in the county. (Elec. Code, §§ 349.5, 359, 359.2, 2183, 2191, 2226(c).) If the county elections official provides a list of inactive voters to the polling place and an inactive voter offers/appears to vote and is on the list, the voter shall be provided a nonprovisional ballot to vote. If the county elections official does not provide a list of inactive voters to the polling place or if a list is provided, but the inactive voter is not on the list and the inactive voter offers/appears to vote, the voter shall be provided an opportunity to vote provisionally. (Elec. Code, §§ 2170, 14310.)

A. Voter Notification Card (VNC)

As described in Section III above, "Notification of Disposition of Voter Registration Application: Voter Notification Card," California law requires a Voter Notification Card (VNC) to be sent to each voter registration applicant who submits a properly executed and complete voter registration application, including a reregistration and a change of mailing address. (Elec. Code, §§ 2155, 2155.3.) Additionally, county elections officials must also send VNCs upon the receipt of an address correction notice or letter responding to a mailing under Elections Code section 2119, Article 2 (commencing with Section 2220), or the NVRA.⁸ (Elec. Code, § 2155.)

The purpose of the VNC is two-fold: (a) to notify the applicant that he or she is registered to vote, and (b) to confirm the voter's address and voter preference information. (Elec. Code, § 2155.) The voter notification shall state the party preference for which the voter has registered in the following format: "Party: (Name of political party)."

VNC cards are *non-forwardable*, first-class mail sent to the residence address listed on the voter's registration application, unless a separate mailing address has been provided. The post office provides updated information if the VNC cannot be delivered as addressed but does not forward it to the addressee.

⁷ At least one federal district court has found that the failure to provide a list of inactive voters at all polling locations violates the fundamental right to vote. (See, *Common Cause N.Y. v. Brehm, et al.* (Jan. 10, 2020) No. 17-CV-06770.)

⁸ This includes voter registration applications and change-of-address information received from specific transactions at the DMV. (See Chapter 2, Voter Registration at Department of Motor Vehicles (DMV).)

A voter's voter registration will remain active even if the voter does not respond to a VNC.

If a voter replies to a VNC with an address change within his or her county, the county elections official shall update the voter's registration record and send a VNC to the new address. If the voter replies with a residence address change in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the voter's new residence address shall send a new VNC to the new address. (Elec. Code, §§ 2119, 2120, 2155, 2226(a)(1); 52 U.S.C. §§ 20507(d)(3), (f); see also Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.")

If a VNC is returned by the post office, it will be treated as a notice of change of address and subsequently, a *forwardable* address confirmation mailing will be sent to the voter.

If the address change is to an address in the same county, the county elections official shall update the voter's registration record and send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the voter's new residence address shall send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is to another state, if there is no forwarding address, or a returned mailing indicates that the voter does not live at that address, the county elections official shall update the voter's registration record to inactive and send a confirmation mailing that complies with Elections Code section 2225(c)/Section 8(d)(2).

(See Elec. Code, §§ 2225, 2226; 52 U.S.C. § 20507(c)(1)(B), (d)(2); see also Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records"; a diagram related to this and other mailings is attached as Appendix E.)

B. Preelection Residency Confirmation Postcard

California law also requires county elections officials to conduct a residency confirmation procedure at least 90 days before the direct primary election. (Elec. Code, § 2220(a).) This confirmation is initiated by mailing a *non-forwardable* postcard, sent “Address Correction Requested, Return Postage Guaranteed,” to each registered voter of the county prior to a direct primary election. The postcard must be in substantially the following form:

We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you still live at the address noted on this postcard, your voter registration will remain in effect and you may disregard this notice.

2. If the person named on this postcard is not at this address, please return this postcard to your mail carrier.

(Elec. Code, § 2220(a).) (This language is also found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.) The county elections official is not required to mail a preelection residency confirmation postcard to any voter who has voted at an election in the last six (6) months or to any person who will not be 18 years of age on or before the direct primary election. (Elec. Code, § 2220(b).)

A voter’s voter registration will remain active even if the voter does not respond to a preelection residency confirmation postcard.

If a voter replies to a preelection residency confirmation postcard with an address change within their county, the county elections official shall update the voter’s registration record and send a VNC to the new address. If the voter replies to a preelection residency confirmation postcard with a residence address change in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the “push voter” function); the county elections official associated with the voter’s new residence address shall send a VNC to the new address. (Elec. Code, §§ 2119, 2120, 2155, 2226(a)(1); 52 U.S.C. §§ 20507(d)(3), (f); see also Section V, “Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.”)

If a preelection residency confirmation postcard is returned by the post office, it will be treated as a notice of change of address and subsequently,

a *forwardable* address confirmation mailing shall be sent to the voter, as specified in Elections Code section 2221(a).

If the address change is to an address in the same county, the county elections official shall update the voter's registration record and send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the voter's new residence address shall send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is to another state, if there is no forwarding address, if it is returned by the post office as undeliverable, or if a returned mailing indicates that the voter is not at that address, the county elections official shall update the voter's registration record to inactive and send a confirmation mailing that complies with Elections Code section 2225(c)/Section 8(d)(2).

(See Elec. Code, §§ 2221(a), 2225, 2226; 52 U.S.C. § 20507(c)(1)(B), (d)(2); see also Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.")

As an alternative to the preelection residency confirmation postcard, county elections officials may use any of the following methods:

1. National Change of Address System (NCOA) Data

In California, the Secretary of State obtains National Change of Address System (NCOA) data from the California Employment Development Department and forwards the information to the county elections officials through the statewide voter registration system. (Elec. Code, § 2222; 52 U.S.C. § 20507(c)(1)(A).)

If the NCOA data indicates a change of address, it shall be treated as a notice of change of residence and subsequently, a *forwardable* address confirmation mailing shall be sent to the voter.

If the address change is to an address in the same county, the county elections official shall update the voter's registration

record and send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the “push voter” function); the county elections official associated with the voter’s new residence address shall send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is to another state or if there is no forwarding address, the county elections official shall update the voter’s registration record to inactive and send a confirmation mailing that complies with Elections Code section 2225(c)/Section 8(d)(2).

(See Elec. Code, §§ 2225, 2226; 52 U.S.C. § 20507(c)(1)(B), (d)(2); see also Section V, “Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.”)

2. County Voter Information Guide

County elections officials may include the return address of the county elections official’s office on the outside portion of the county voter information guide or envelope mailed to the voter for an election conducted within the last six (6) months preceding the start of the confirmation process, along with the following statement:

Address Correction Requested and Notice:

If the person named on the county voter information guide is not at the address, please help keep the voter rolls current and save taxpayer dollars by returning this county voter information guide to your mail carrier.

(Elec. Code, § 2223; this language is also found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.)

If the results of these efforts indicate a change of address from a physical mail back or an Address Change Service (ACS) electronic file, it will be treated as a notice of change of address and

subsequently, a *forwardable* address confirmation mailing will be sent to the voter.

If the address change is to an address in the same county, the county elections official shall update the voter's registration record and send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the residence address change is in another county, the county elections official of the former county shall alert the county elections official associated with the new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the voter's new residence address shall send an address confirmation mailing that complies with Elections Code section 2225(b) to the new address.

If the address change is to another state, if there is no forwarding address, if this mailing is returned by the post office as undeliverable, if the ACS file indicates that the mailing is undeliverable, or if a returned mailing indicates that the voter is not at that address, the county elections official shall update the voter's registration record to inactive and send a confirmation mailing that complies with Elections Code section 2225(c)/Section 8(d)(2).

(See Elec. Code, §§ 2225, 2226; 52 U.S.C. § 20507(c)(1)(B), (d)(2); see also Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.")

3. Consumer Credit Reporting Agency

County elections officials may contract with a consumer credit reporting agency or its licensees to obtain use of change-of-address data. (Elec. Code, § 2227.) If the results of these efforts indicate a change of address, the county elections official shall send a *forwardable* notice, including a postage-paid and preaddressed return form, which may be in the form of a postcard, to the registered voter to enable the voter to verify or correct address information. The *forwardable* notice shall be in substantially the following form:

We have received notification that you have moved to a new residence address in _____ County. You will remain registered to vote at your old address unless you notify our office that the address to which this card was mailed is a

change of your permanent residence. Please notify our office in writing by returning the attached postage-paid postcard. If this is not a permanent residence, and you do not wish to change your address for voting purposes, please disregard this notice.

(This language is also found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.) The results of this mailing can only be used to update a voter's record or confirm their address. A voter's registration record cannot be changed to inactive status or cancelled for failure to respond to this postcard or if the postcard is returned as undeliverable. (Elec. Code, § 2227(f).) To initiate the inactivation or cancellation process, a different residency confirmation procedure must be used. (See, e.g., Elec. Code, §§ 2220-2226.)

C. Alternative Residency Confirmation (ARC) Postcard

The procedure for sending alternative residency confirmation (ARC) postcards was found in Elections Code section 2224. Assembly Bill (AB) 504 ("AB 504") (Berman) Chapter 262, Statutes of 2019, provides that Section 2224 became inoperative on January 1, 2020.

If elections officials had used the ARC postcard process, it could only lead to cancellation if the county elections official received as a result of the ARC postcard information or a notification that the voter no longer resides in California, and then sent the voter a *forwardable* address confirmation notice that complies with Section 8(d)(2) of the NVRA. (See Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.")⁹

For voters who have an "inactive" voter registration status as the result of having been mailed an ARC postcard, the county elections official "shall" send a forwardable address verification mailing, as set forth in subdivision (c) of Section 2225. The voter registration record of a voter who fails to respond to the address verification mailing, and who does not offer to vote or vote at any election between the date of the mailing described in Section 2225 and two federal general elections after the date of that mailing, shall be canceled. (Elec. Code, § 2226(a)(3); see Section V, "Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records.")

⁹ The Stipulated Order in *Wilson v. United States of America*, is no longer applicable as it has since been superseded by legislative amendments.

V. Address Confirmation Notices; Updating, Inactivating, and Cancelling Voter Registration Records

If county elections officials receive information indicating that a voter has moved to a new address, county elections officials send address confirmation notices as provided in California law and in NVRA Section 8(d)(2), as described below. (Elec. Code, §§ 2155, 2225, 2226; 52 U.S.C. § 20507(c), (d) and (f).) This information may be received from the voter directly, NCOA information, as well as in response to VNCs, preelection residency confirmation postcards, or county voter information guides. (Elec. Code, §§ 2155, 2155.3, 2220, 2222, 2223, 2225.)

The address confirmation process may ultimately result in cancellation of a voter registration record.¹⁰ Cancellation of a voter registration record because of a change of address requires compliance with the address confirmation process outlined below, in accordance with NVRA Section 8(d)(2). Thus, all address confirmation notices sent to registrants who are believed to have moved out-of-state, have no forwarding address, or have mail returned as undeliverable with no forwarding address, must comply with Section 8(d)(2) in order for those registrations to be cancelled. (Elec. Code, § 2225(c).)

A. Address Confirmation Notices Sent for In-State Moves

If a county elections official receives a mailing **from the voter** indicating the voter has moved to:

- **a new address in the same county in which the voter is currently registered**, it will be treated as a notice of change of address. The county elections official immediately shall update the registration record to show the new address and send a VNC. (Elec. Code, § 2155.)
- **a new residence address in another county within California**, it will be treated as a notice of change of address. The county elections official in receipt of the change-of-address information shall not remove the voter as an active voter from their county, but instead immediately shall alert the county elections official associated with the new residence address about the voter's new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections

¹⁰ Under Section 8 of the NVRA and California law, a voter registration record may be cancelled for a variety of reasons, such as: by written request from the voter, because of death or the voter has been found to be mentally incompetent to vote, because the voter is serving a state or federal prison term for the conviction of a felony, or following the process established in California law and in NVRA Section 8(d)(2), described below, for voters who have moved to a new address. (Elec. Code, § 2201; 52 U.S.C. § 20507(a)(3), (4).) Additional reasons for cancellation in California are: by court order, upon notification the voter is registered in another state, or upon proof that the person is ineligible to vote. (Elec. Code, § 2201.) Cancelled registration records may be disposed of after five (5) years. (Elec. Code, § 17000.)

official associated with the voter's new residence address shall send a VNC to the new address. (Elec. Code, § 2155.)

If a county elections official receives a mailing **returned by the post office with, or NCOA data** indicating a voter has moved to:

- **a forwarding or new address in the same county in which the voter is currently registered**, it will be treated as a notice of change of address. The county elections official immediately shall update the registration record to show the new address and send a *forwardable* mail notice of the address change and a postage paid, pre-addressed return form for the voter to verify or correct the address information, as described in Elections Code section 2225(b). (Elec. Code, §§ 2222, 2225(b), 2226(a)(1); 52 U.S.C. §§ 20507(c)(1)(B)(i), (d)(3), (f).)
- **a forwarding or new residence address in another county within California**, it will be treated as a notice of change of address. The county elections official in receipt of the change-of-address information shall not remove the voter as an active voter from their county, but instead immediately shall alert the county elections official associated with the new residence address about the voter's new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the new residence address must send a *forwardable* mail notice of the address change and a postage paid, pre-addressed return form enabling the voter to verify or correct the address information, as described in Elections Code section 2225(b). (Elec. Code, §§ 2222, 2225(b), 2226(a)(1); 52 U.S.C. §§ 20507(c)(1)(B)(i), (d)(3).)

For these in-state moves, Elections Code section 2225(b) prescribes that the language of the *forwardable* mail notice:

We have received notification that you have moved to a new residence address in California. Your voter registration record has been updated to this new address. If this is correct, you do not have to take any action. If this is incorrect, you can notify our office by either returning the attached postage-paid postcard, or by calling toll free; you must notify us at least 15 days prior to the next election or you may be required to vote using a provisional ballot.

(This language is found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.) A voter with an active voter status and a new valid address within California should not be placed on inactive status and

should not be subject to cancellation. Such a voter should not receive a Section 8(d)(2) notice. (Elec. Code, § 2225(e).)

B. Address Confirmation Notices Sent for Out-of-State Moves

If a county elections official receives a mailing **from the voter** indicating the voter has moved out of state, no address confirmation notice is required to be sent. Instead, the county elections official shall cancel the voter's record and send the required notification to the voter regarding the cancellation of the voter's record. (Elec. Code, § 2201(a); Cal. Code Regs., tit. 2, § 20070.)

If a mailing is returned by the post office with a **forwarding address outside California**, or if **NCOA data indicates a voter has moved outside California**, these should be treated as notices of change of address. The county elections official must send a *forwardable* address confirmation mailing to the voter. Upon the sending of this mail notice, the county elections official shall update the voter's record to "inactive." This mail notice must comply with the requirements of Section 8(d)(2), in order to initiate the cancellation process. (Elec. Code, §§ 2221(a)(1), 2225(c), (f); 52 U.S.C. § 20507(c)(1)(A), (B)(ii), (d)(1), (2)(A), (B), (3).)

The 8(d)(2) notice must provide a postage paid, pre-addressed return form for the voter to state his or her current address, and must explain that: (1) if the registrant did not change his or her residence, or changed residence within California, the registrant should return the card not later than 15 days prior to the date of the next election; (2) that if the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice; (3) if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters; and (4) if the registrant has changed residence to a place outside of California, the notice must include information concerning how the voter can continue to be eligible to vote. For example, information can be provided regarding the National Mail Voter Registration Form, which can be downloaded at: <https://www.eac.gov/voters/national-mail-voter-registration-form/>. (52 U.S.C. § 20507(d)(2); see *Husted v. A. Philip Randolph Institute*, 138 S. Ct. 1833 (2018) attached as Appendix F.)

(Suggested language and format for 8(d)(2) notices is also found in Appendix D, Recommended Language for List Maintenance Mailings; a diagram related to this and other mailings is attached as Appendix E.)

C. Address Confirmation Notices Sent If No Forwarding Address

State law provides that notification received through **NCOA or Operation Mail that a voter has moved and has not given a forwarding address** requires the mailing of a *forwardable* notice to the voter. (Elec. Code, § 2225(a)(2).)

If a mailing is returned by the post office as **undeliverable and with no forwarding address**, in order to begin the cancellation process, the county elections official must send to the voter at that same address a *forwardable* address confirmation mailing that complies with Elections Code section 2225(c) (which refers to Section 8(d)(2) of the NVRA).

Upon the sending of this mail notice, the county elections official shall update the voter's record to "inactive." (Elec. Code, §§ 2221(a)(1), 2225(c), (f); 52 U.S.C. § 20507(d)(2)(A), (3).)

D. Updating or Inactivating Registrations Based on Responses to Address Confirmation Notices

If in response to any of the address confirmation notices described above (under Elections Code section 2225(b) or pursuant to Section 8(d)(2) of the NVRA), the voter provides written confirmation of a **change of address to a new residence address in California**, the county elections official immediately shall alert the county elections official associated with the new residence address about the voter's new residence address through use of the statewide voter registration system (in the statewide voter registration system this is known as the "push voter" function); the county elections official associated with the voter's new residence address shall then send a VNC to the new address to confirm the change in registration. (Elec. Code, §§ 2155, 2226(a)(1).)

1. Elections Code Section 2225(b)

If a voter does not return an address confirmation notice sent in accordance with Elections Code section 2225(b), the voter's status shall remain active.

If an address confirmation notice sent pursuant to Elections Code section 2225(b) is **returned as undeliverable**, in order to initiate the cancellation process, a *forwardable* address confirmation notice that complies with Section 8(d)(2) of the NVRA must then be mailed to the voter, and the voter's status shall be changed to inactive. (Elec. Code, §§ 2225(c), (f), 2226(a)(2).)

2. Elections Code Section 2225(c)/Section 8(d)(2) of the NVRA

If a voter does not return an address confirmation notice sent in accordance with Elections Code section 2225(c)/Section 8(d)(2) of the NVRA, the voter's status shall remain inactive. In accordance with NVRA section 8(d)(2), should the voter contact the county elections official at least 15 days prior to the next election, the county elections official will update the voter's voter registration record to that of active. (Elec. Code, § 2225(c).)

If an address confirmation notice sent pursuant to Elections Code section 2225(c)/Section 8(d)(2) of the NVRA is **returned as undeliverable**, the voter's status remains as inactive.

If, on or before the second general election for federal office after the address confirmation notice is sent, a voter with inactive status has not moved to a different state and (1) offers to vote in **any** election,¹¹ or (2) notifies the county elections official of continued residency, the county elections official shall restore the voter's status to active. (Elec. Code, § 2226(c); 52 U.S.C. § 20507(e).)

E. Cancelling Registrations After Two General Federal Elections

If a voter fails to return an address confirmation notice, sent in accordance with Section 8(d)(2) as set forth above, does not offer or appear to vote in any election within the next two federal general election cycles following the mailing of that notice; and does not notify a county elections official of continued residency within California,¹² the county elections official must update the voter's registration record to reflect that the registration is cancelled. (Elec. Code, §§ 2225(c), 2226(b); 52 U.S.C. §§ 21803(a)(4)(A), 20507(a)(4), (d)(3); see *Husted v. A. Philip Randolph Institute*, attached as Appendix F.)

¹¹ The following is a non-exhaustive list of examples of offering to vote: interactions with county elections official relating to the voter's registration record, submittal of a vote-by-mail application, and voting provisionally.)

¹² This notification to a county elections official may be made directly by the voter, or through a voter registration application or change-of-address information received from specific transactions at the DMV. (See Chapter 2, Voter Registration at Department of Motor Vehicles (DMV).)