



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

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September 29, 2020

County Clerk/Registrar of Voters (CC/ROV) Memorandum #20226

TO: All County Clerks/Registrars of Voters

FROM: /s/ Raj Bathla
Sr. Legal Analyst

RE: Emergency Regulations: Signature Verification, Ballot Processing, and
Ballot Counting

The Secretary of State has adopted emergency regulations pertaining to Signature Verification, Ballot Processing, and Ballot Counting. These regulations are in effect as of September 28, 2020, and will expire on July 28, 2021, unless that date is extended, or the emergency regulations are made permanent by regulatory action.

These regulations provide clear and uniform guidance to California's 58 counties' elections officials for consistent practices relating to verifying signatures on elections-related petitions, vote-by-mail identification envelopes, and provisional ballot envelopes. In addition, the regulations provide guidance for uniform ballot processing and ballot counting. These regulations will ensure uniform practices throughout the State of California for the upcoming November 3, 2020, General Election.

The final text of the emergency regulations is attached to this memorandum and is available on our website at: <https://www.sos.ca.gov/administration/regulations/>.

The Secretary of State's office will provide a briefing on the new regulations in the near future.

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

Enclosed
- Notice of Approval of Emergency Regulations

**State of California
Office of Administrative Law**

In re:
Secretary of State

Regulatory Action:

Title 02, California Code of Regulations

Adopt sections: 20910, 20960, 20961,
20962, 20980, 20981,
20982, 20983, 20984,
20985, 20990, 20991,
20992, 20993

Amend sections:
Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2020-0918-01

OAL Matter Type: Emergency (E)

In this emergency rulemaking action the Secretary of State adopts new Chapter 8.3 regarding signature verification, ballot processing and counting.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 9/28/2020 and will expire on 7/28/2021. The Certificate of Compliance for this action is due no later than 7/27/2021.

Date: September 28, 2020



Amy R. Gowan
Attorney

For: Kenneth J. Pogue
Director

Original: Alex Padilla, Secretary of State
Copy: Robbie Anderson

EMERGENCY

For use by Secretary of State only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP 28 2020

1:45 pm

| | | | |
|---|---------------------------------|---|-------------------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z- | REGULATORY ACTION NUMBER 2020 | EMERGENCY NUMBER 0918-01E |
| For use by Office of Administrative Law (OAL) only | | | |
| NOTICE | | REGULATIONS | |
| AGENCY WITH RULEMAKING AUTHORITY SECRETARY OF STATE | | | AGENCY FILE NUMBER (If any) |

2020 SEP 18 P 4: 21
OFFICE OF ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | | | |
|--|--|--|----------|------------------------|-------------------------------|
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| OAL USE ONLY | | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| | | | | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | | | |
|--|---|---|---|
| 1a. SUBJECT OF REGULATION(S) <i>not agency request</i> | | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) | |
| PETITION PROCESSING, SIGNATURE VERIFICATION, AND BALLOT PROCESSING AND COUNTING | | | |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | | | |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | | ADOPT SEE ATTACHED. | |
| TITLE(S) | | AMEND | |
| TITLE 2 | | REPEAL | |
| 3. TYPE OF FILING | | | |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | <input type="checkbox"/> Other (Specify) | | |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) | | | |
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) | | | |
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) | <input checked="" type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> \$100 Changes Without Regulatory Effect | <input type="checkbox"/> Effective other (Specify) |
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY | | | |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal | |
| <input type="checkbox"/> Other (Specify) | | | |
| 7. CONTACT PERSON ROBBIE ANDERSON | TELEPHONE NUMBER 916-216-6488 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) aanderso@sos.ca.gov |

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|--|--------------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Susan Lapsley</i> | DATE 9/18/2020 |
| TYPED NAME AND TITLE OF SIGNATORY SUSAN LAPSLEY | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 28 2020

Office of Administrative Law

California Secretary of State - Proposed Regulatory Action
PETITION PROCESSING, SIGNATURE VERIFICATION, AND BALLOT PROCESSING AND COUNTING

STATE OF CALIFORNIA – OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION
STD. 400(REV. 10/2019)

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)

SECTION(S) AFFECTED (List all section number(s) individually)

per agency
request *are*

ADOPT: 20910, ~~20920~~, ~~20930~~, ~~20931~~, ~~20940~~, ~~20941~~, ~~20942~~, ~~20950~~, 20960, 20961, 20962, ~~20970~~, 20980,
20981, 20982, 20983, 20984, 20985, 20990, 20991, 20992, 20993.

California Secretary of State
Proposed Regulatory Action: Signature Verification, Ballot Processing and
Ballot Counting

ALL SECTIONS ARE BEING ADOPTED.

California Code of Regulations
Title 2. Administration
Division 7. Secretary of state

**CHAPTER 8.3. SIGNATURE VERIFICATION, BALLOT PROCESSING,
AND BALLOT COUNTING**

ARTICLE 1. GENERAL

20910. Applicability of This Chapter

(a) The regulatory purpose of this Chapter is to ensure uniform application and practices for signature verification on local and statewide election-related petitions, vote-by-mail identification envelopes, and provisional ballot envelopes.

(b) In addition, the regulatory purpose of this Chapter is to provide uniform vote counting standards for consistent application of ballot processing and counting throughout the state. The regulations set forth in this Chapter shall apply to ballots cast in elections held pursuant to the California Elections Code.

Note: Authority cited: 52 U.S.C. 21081(a)(6); 3026, 14314, Elections Code; Section 12172.5, Government Code. Reference cited: Sections 100, 333, 3019, 14310, Elections Code; Section 12172.5, Government Code.

ARTICLE 6. SIGNATURE COMPARISON

20960. Signature Verification Process

(a) For signature verification, the elections official must compare the signature on an initiative, referendum, recall, nominating petition or paper, signature in-lieu of filing fee, and any other petition or paper must be compared to the voter's signature(s) in the voter's registration record. In addition, the elections official must compare the signature on a voted vote-by-mail envelope and a voted provisional ballot envelope to the voter's signature(s) in the voter's registration record prior to counting a ballot.

(b) The comparison of a signature shall begin with the basic presumption that the signature on the petition or ballot envelope is the voter's signature.

(c) Exact matches are not required for an elections official to confirm a valid signature.

(d) Similar characteristics between a signature being compared and any signature in the voter's registration record are sufficient to determine a signature is valid.

- (e) In comparing signatures, elections officials may not review or consider a voter's party preference, race, or ethnicity.
- (f) In comparing the signatures, the elections official may consider the following characteristics when visually comparing a signature to determine whether the signatures are from the same signer:
- (1) Slant of the signature.
 - (2) Signature is printed or in cursive.
 - (3) Size, proportions, or scale.
 - (4) Individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on the letters f, g, j, y, or z.
 - (5) Spacing between the letters within the first and/or last name and between first and last name.
 - (6) Line direction.
 - (7) Letter formations.
 - (8) Proportion or ratio of the letters in the signature.
 - (9) Initial strokes and connecting strokes of the signature.
 - (10) Similar endings such as an abrupt end, a long tail, or loop back around.
 - (11) Speed of the writing.
 - (12) Presence or absence of pen lifts.
 - (13) Misspelled names.
- (g) In comparing signatures of vote-by-mail identification envelopes and provisional ballot envelopes, elections officials shall consider as explanations for the following discrepancies in signatures:
- (1) Evidence of trembling or shaking in a signature could be health-related or the result of aging.
 - (2) The voter may have used a diminutive of their full legal name, including, but not limited to the use of initials, or the rearrangement of components of their full legal name, such as a reversal of first and last names, use of a middle name in place of a first name, or omitting a second last name.
 - (3) The voter's signature style may have changed over time.
 - (4) The signature on the vote-by-mail identification envelope or provisional ballot envelope may have been written in haste.
 - (5) A signature in the voter's registration file may have been written with a stylus pen or other electronic signature tool that may result in a thick or fuzzy quality.
 - (6) The surface of the location where the signature was made may have been hard, soft, uneven, or unstable.
- (h) In addition to the characteristics listed in subdivisions (f) and (g), the elections official may also consider factors applicable to a particular voter, such as the age of the voter, the age of the signature(s) contained in the voter's record, the possibility that the voter is disabled, the voter's primary language, and the quality of any digitized signature(s) contained in the voter's record.
- (i) Only a signature possessing multiple, significant, and obvious differing characteristics with all signatures in the voter's registration record will be subject to additional review by the elections official.
- (j) A signature that the initial reviewer identifies as possessing multiple, significant, and obvious distinctive differing characteristics from the signature(s) in the voter's registration record shall only be rejected if two different elections officials unanimously find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record.

(k) When evaluating signatures, elections officials may review using broad characteristics to evaluate an entire signature as a unit or they may narrow the scope of their examination to that of specific letters within a signature.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Sections 3019 and 14310, Elections Code; Section 12172.5, Government Code.

20961. Signature Verification Technology

In the event the elections official uses signature verification technology to compare the signature on a vote-by-mail ballot identification envelope to the signature(s) in the voter's registration file, and the technology rejects the signature, the elections official shall utilize the provisions of Elections Code section 3019 and Section 20960 to manually compare the signature.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 3019, Elections Code; Section 12172.5, Government Code.

20962. Signature Verification Training

In the event the elections official conducts training for staff who are responsible for the signature verification process, that training shall address, at a minimum, the following:

- (a) Standards established by this Article and any applicable provisions of the California Elections Code.
- (b) General handwriting identification principles.
- (c) Variations in signatures by voters whose primary language uses non-Roman characters.
- (d) Variations in signatures that can be caused by disabilities.
- (e) Variations in signatures caused by aging of the signer.
- (f) Variations in signatures caused by the collection of electronic signatures.
- (g) The elimination of implicit bias.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 3019, Elections Code; Section 12172.5, Government Code.

ARTICLE 8. UNIFORM VOTE COUNTING STANDARDS

20980. Purpose of This Article

The purpose of this article is to provide standards to define the circumstances under which "marking" of a ballot constitutes a vote and when a vote will or will not count for each category of voting system certified and in use in California.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

20981. Definitions

As used in this Article, the following words have the following meanings:

- (a) A “blank ballot” is a ballot on which the voter has made no marks in any voting position target, or one which has been marked with an unreadable marker, or one which has been consistently marked outside of the "read" area of the ballot scanner.
- (b) “Candidate” means a person who is seeking nomination or election to a specified office and who either has met the legal requirements to have their name printed on the ballot or is eligible to have their name written in on the ballot and counted as the voter's choice for the contest.
- (c) A “damaged ballot” is a ballot that has been torn, bent, or otherwise mutilated or rendered unreadable such that it cannot be processed by the ballot tabulating equipment designed for use with the ballot.
- (d) A “duplicated ballot” is a ballot which is a true copy of the originally cast ballot. It is created when damage, improper marking or some other action/defect prevents the original ballot from being read by a ballot tabulating machine and is used to properly process and count the votes originally cast by the voter. A duplicated ballot also is necessary for a ballot cast using a remote accessible vote-by-mail ballot.
- (e) A “listed candidate” is a candidate whose name appears on the ballot at the time the voter received the ballot, as opposed to a write-in candidate.
- (f) A “measure” is a ballot proposition, which appears on a ballot and requires voter action in order to enact or reject a proposed law.
- (g) An “overvote” occurs when a voter marks more than the maximum number of voting position targets allowed in the contest.
- (h) “Personal information” shall have the meaning set forth in Elections Code section 14287.
- (i) An “undervote” occurs when a voter marks less than the maximum number of voting position targets allowed in a contest.
- (j) A “voting position target” refers to that area of the ballot adjacent to each candidate or measure, or that area of the ballot, specifically designated to record the voter's choice for that contest. The term applies to all types of voting position targets on ballots, regardless of what form they may take, including, but not limited to, rectangle, oval, circle, square, hole punch, cross punch, slotting and open arrow.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 303.3, 14287, 15210, Elections Code; Section 12172.5, Government Code.

20982. General Vote Counting Standards

The following general standards shall apply in the counting of all ballots and votes, regardless of the voting system used, for both the initial count and for any recount.

- (a) A ballot that is not marked as provided by law must be segregated and counted in the manner directed by the elections official. Any ballot that contains personal information, or that is torn, bent, or mutilated shall be segregated as directed by the elections official and a duplicate ballot shall be prepared pursuant to Elections Code section 15210. A ballot that contains marks or markings not related to an indication of the vote choice for a contest and that are not personal information shall be counted. Duplication is not required unless the ballot contains personal information, or the condition of the ballot or markings on the ballot interfere with the ability of the vote tabulation equipment to tally the ballot.
- (b) A vote for any candidate or ballot measure shall not be rejected solely because the voter failed to follow instructions for marking the ballot. If, for any reason, it is impossible to

determine the choice of the voter for any candidate or ballot measure, the vote for that candidate or ballot measure shall be considered void.

(c) A mark is considered valid when it is clear that it represents the voter's choice and is the technique consistently used by the voter to indicate his or her selections.

(1) Such marks may include, but are not limited to, properly filled-in voting position targets, checkmarks, X's, circles, completed arrows, or any other clear indication of the voter's choice, such as the word "yes" next to a candidate's name or a voting position target for a ballot measure.

(2) Conversely, a mark crossed out by the voter, or the word "no" next to a candidate's name or a voting position target for a ballot measure shall not be considered to be a valid vote but will, instead, be deemed an indication that the voter did not choose to cast a vote for that candidate or measure.

(d) In determining the validity of a partially filled-in voting position target, the consistency of a voter's marks on the entire ballot shall be taken into consideration. A "hesitation mark" such as a dot in the voting position target shall not be considered a valid mark unless it is demonstrated that the voter consistently marked his or her ballot in such a manner.

(e) If a contest is marked with more choices than there are offices to be filled or measures that may prevail, the vote shall not be counted for that contest, but shall be counted in all other contests in which there is no overvote and the voter's choice can be clearly determined.

(f) If a contest is marked with fewer choices than there are offices to be filled or measures that may prevail, the vote choice(s) for all otherwise properly marked candidates or measures shall be counted.

(g) Write-in votes shall be counted pursuant to the provisions established in Elections Code sections 14420, 15342 and 15342.5.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 13204, 14287, 14420, 15154, 15208, 15210, 15342, and 15342.5, Elections Code; Section 12172.5, Government Code.

20983. Optical Scan Voting Systems

(a) When optical scan technology is used to count the votes on a ballot, the provisions of this section shall apply.

(b) The following standards shall be used to determine whether there is a clear indication on the ballot that the voter has made a definite choice. The examples used in this section refer to the "voting position target" as defined in Section 20981. The same principles demonstrated in the examples below shall apply to all types of voting position targets on optical scan ballots, regardless of what form they may take (e.g., rectangle, oval, circle, square, open arrow).

(c) A voter's choice shall be considered a valid vote if the voter:

(1) Indicates their vote choice by consistently filling inside the entire voting position target.

(2) Indicates their vote choice by consistently filling in less than the entire voting position target for all vote choices on the ballot and the ballot is processed in a manner consistent with the use procedures provided and approved for the voting system used in the county.

(3) Indicates their vote choice by consistently placing a distinctive mark, such as (X) or (√) or (←), inside the associated voting position target for a candidate choice or ballot measure.

(4) Indicates their vote choice by consistently placing a distinctive mark, such as (X) or (√) or

(←), in the corresponding space directly above, below or beside the associated voting position target for a candidate or ballot measure.

(5) Marks their vote choices by encircling the entire voting position target for a candidate or ballot measure, or the candidate's name or Yes/No option for a measure.

(6) Indicates a voting error correction by using correction tape, strikeover, white-out or generic written note of instruction and marks another vote choice for the same contest on the ballot.

(7) Writes in a qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, in the designated write-in spaces directly below the list of candidates for that office and marks the associated write-in voting target position.

(8) Writes in a listed candidate's name in the designated write-in space and marks the associated write-in voting target position. In such case, the vote shall be counted as a single vote for the listed candidate.

(9) Marks a voting target position for a listed candidate and also enters the listed candidate's name in the designated candidate write-in space. In such case, the vote shall be counted as a single vote for the listed candidate.

(10) Writes in qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, on the secrecy sleeve envelope or stub and indicates the contest for which the vote is being cast, in the case of voting systems where write-in spaces appear separately from the list of candidates for an office and do not provide voting position targets.

(d) A voter's choice shall be considered an invalid vote if the voter:

(1) Uses random markings, indentations, punctures or impressions, squiggly/dimpled or crimp marks, pinholes or pinpricks on a ballot, and there is no distinctive and consistent voting pattern to clearly indicate the voter's choice(s).

(2) Indicates vote choice by filling in less than the entire voting position target, and the voter has not consistently marked the entire ballot in the same manner, making the voter's choice unclear.

(3) Inconsistently places a mark above, below or beside the associated voting position target on a ballot, instead of inside the voting position target, and the voter's choice cannot be clearly determined.

(4) Writes in the name of a person who has not qualified as a write-in candidate.

(5) Writes in a listed candidate's name in the designated write-in space and fills in the associated voting position target for a different listed candidate in the same contest.

(6) Writes in a candidate name that is unrecognizable/undecipherable and it cannot be determined for whom the vote is intended to be cast.

(7) Writes in a qualified write-in candidate's name in the designated write-in space and does not fill in the associated voting position target for the write-in candidate. However, in the event of a manual recount, pursuant to Elections Code section 15342.5 if the intent of the voter can be determined, the vote shall be counted regardless of whether the voter has filled in the associated voting position target for the write-in candidate.

(8) Uses pressure-sensitive stickers, rubber stamps, glued stamps, or any other device not provided for in the voting procedures for the approved voting system used by the county to indicate the name of the voter's choice for a write-in candidate.

(e) If the voter leaves the voting booth without casting the ballot, the precinct official shall cause the ballot to be cast without examining the ballot.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 15154, 15342.5, Elections Code; Section 12172.5, Government Code.

20984. Other Paper Voting Systems

- (a) A paper ballot shall be subject to the standards in the section applicable to the voting system on which it is processed.
- (b) When paper ballots, or voting responses on paper other than a ballot, are counted by the hand and eye, the provisions of Section 20983 shall apply.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

20985. Direct Recording Electronic (DRE) Voting Systems

- (a) When direct recording electronic (DRE) technology is used to cast and count the votes on a ballot, the provisions of this section shall apply. The following standards shall be used to determine whether the voter has made a definite choice.
- (b) A voter's choice shall be considered a valid vote if the voter:
 - (1) Operates the DRE in a manner to cause an "X" or "√" or "highlight" or similar designation to display in the voting target position of the name of the candidate or measure for which the voter chooses to vote, followed by the voter activating the cast vote indicator.
 - (2) Operates the DRE in a manner to cause the name of a qualified write-in candidate to be entered in the designated write-in space, followed by the voter activating the cast vote indicator.
 - (3) Operates the DRE in a manner to cause the name of a candidate listed on the ballot to be entered in the designated write-in space, followed by the voter activating the cast vote indicator.
 - (4) Operates the DRE in a manner to cause the cast ballot indicator to be activated and has not voted for more contests or candidates than the number for which the voter is eligible to vote.
- (a) If the voter leaves the voting booth without causing the ballot to be cast, the precinct official shall cause the ballot to be cast, without examining how any votes have been recorded on the machine.

Note: Authority cited: 52 U.S.C. 21081(a)(6); Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

ARTICLE 9. PROCESSING OF VOTE-BY-MAIL AND PROVISIONAL BALLOTS

20990. Vote-by-mail Ballot Processing and Return Status

- (a) Upon receipt of a voted vote-by-mail ballot, the elections official shall, immediately upon receipt and/or processing the ballot identification envelope, enter the return status of that ballot into the statewide voter registration system pursuant to Section 19091(c).
- (b) The received vote-by-mail ballot shall be processed in accordance with Elections Code section 3019.

(c) The signature on the vote-by-mail ballot identification envelope shall be examined pursuant to Section 20960 and Elections Code section 3019. The examination of the signature shall be liberally construed in the favor of the voter.

(d) If the voter did not sign the vote-by-mail ballot identification envelope, or if the elections official has determined that the signature on the vote-by-mail ballot identification envelope does not compare to the signature(s) of the voter in the voter's record, the elections official shall, within 24 hours of discovery, provide the voter with the applicable notice to cure the missing or mismatched signature pursuant to Elections Code section 3019(d) or (e).

(e) For the notice described in subdivision (d), the elections official shall:

(1) Provide the notice to the voter in the voter's preferred language that is covered by Section 203 of the Federal Voting Rights Act of 1965.

(2) Include a statement on the notice that the signature provided by the voter may be added to the voter's registration record to be used for signature comparison purposes in future elections, if the signature provided in the cure compares to the signature(s) of the voter in the voter's record.

(3) Include a postage-paid return envelope with the notice for the voter to return their signature cure.

(f) Upon the final adjudication of the voted vote-by-mail ballot, the elections official shall enter the appropriate reason code for the disposition of the ballot into the statewide voter registration system in accordance with Section 19092.

Note: Authority cited: Section 3026, Elections Code; Section 12172.5, Government Code.

Reference cited: 52 U.S.C. 10503; Sections 3010, 3019, 14201, Elections Code; Section 12172.5, Government Code.

20991. Standards for Valid and Invalid Vote-by-Mail Ballots

(a) A vote-by-mail ballot shall be subject to the standards provided in the approved use procedures for the system on which it is processed and the provisions of the Elections Code. In addition, the following standards shall also apply.

(b) A voter's ballot shall be considered a valid ballot, if the:

(1) Voter's signature on the returned vote-by-mail identification envelope compares with the signature(s) in the voter's registration record.

(2) Damaged, torn or otherwise non-processable ballot can be duplicated to exactly reflect the voter's choices and thereby enable the ballot to be processed on the system provided for that purpose. Standards for duplicating ballots are set forth in Elections Code section 15210 and in the applicable voting system use procedures for the county. In addition, a ballot received from a voter who uses a remote accessible vote-by-mail ballot system shall have their ballot duplicated for processing.

(3) Voter prints their name on the signature portion of the vote-by-mail ballot identification envelope, and it compares with a printed signature(s) in the voter's registration record.

(4) Voter uses a variation of the signature(s) appearing in the voter's registration record caused by the substitution of initials for the first or middle name, or both, and the signature compares with the affidavit of registration or the signature(s) in the voter's registration record, as identified in Section 20960(g)(3).

(5) Voter does not sign the vote-by-mail ballot identification envelope in the appropriate space, but the signature does appear elsewhere on the identification envelope and compares with the signature(s) in the voter's registration record.

- (6) Voter uses a mark on both the vote-by-mail ballot identification envelope and the affidavit of voter registration, and the mark compares.
 - (7) Vote-by-mail ballot is postmarked or date stamped on or before Election Day by a bona fide private mail delivery service and received by the elections official in accordance with Elections Code section 3020.
 - (8) Vote-by-mail ballot identification envelope has no dated postmark, the postmark is illegible, and there is no date stamp for receipt from a bona fide private mail delivery service, but the voter has dated the vote-by-mail ballot identification envelope or the envelope otherwise indicates that the ballot was executed on or before Election Day and the ballot was received by the elections official in accordance with Elections Code section 3020.
 - (9) Voter indicates vote choice(s) by writing the name(s) of the candidate(s) or indicating the vote(s) on the measure(s) in a letter or note, and returns it in a vote-by-mail ballot identification envelope with a valid signature. If the voter's choice(s) can be determined, the ballot shall be duplicated pursuant to Elections Code section 15210 to reflect the voter's choices and processed as if cast by the voter.
 - (10) Voter, instead of using his or her official ballot, marks a sample ballot and mails it in the vote-by-mail ballot identification envelope and the signature on the identification envelope compares with the signature(s) in the voter's registration record.
 - (11) Two or more ballots are returned in one vote-by-mail ballot identification envelope, and there are an equal number of distinct signatures on the identification envelope that can be attributed to eligible vote-by-mail voters and each of these signatures compares with the signature(s) in the applicable voter's registration record.
 - (12) The voter returns their vote-by-mail ballot identification envelope of a different voter, but the elections official is able to identify the correct voter and the voter's signature compares with the signature(s) in the voter's registration record.
 - (13) A military or overseas voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia and transmits a voted ballot by facsimile pursuant to Elections Code section 3106.
- (c) A voter's ballot shall be considered an invalid ballot, if the:
- (1) Elections official has determined that the signature on the vote-by-mail ballot identification envelope does not match the voter's signature in the voter's registration record, and pursuant to California Elections Code section 3019(d), the voter does not cure the ballot by providing the elections official with a signed form within the timeframe provided by Section 3019(d).
 - (2) Vote-by-mail ballot envelope is not signed by the voter and pursuant to California Elections Code section 3019(e), the voter does not cure the ballot by providing the elections official with a signed form within the timeframe provided by Section 3019(e).
 - (3) Vote-by-mail ballot identification envelope is signed using power of attorney.
 - (4) Vote-by-mail ballot is not timely received by the voter's elections official via the United States Postal Service or a bona fide private mail delivery company in accordance with Elections Code section 3020.
 - (5) Vote-by-mail ballot is delivered by USPS or bona fide private mail service to the elections official in accordance with Elections Code section 3020, but the postmark or private mail service date stamp indicates that it was received by the carrier after Election Day.
 - (6) Vote-by-mail ballot is delivered by USPS or bona fide private mail service to the elections official in accordance with Elections Code section 3020 without a legible postmark date or date

stamp from the private mail service and the vote-by-mail ballot identification envelope indicates the ballot was executed after Election Day.

(7) Vote-by-mail ballot is received by elections official after Election Day by some method other than USPS or bona fide private mail service.

(8) Voter, who is not a military or overseas voter, transmits his or her voted ballot by facsimile.

(9) The signature on the form provided by either Elections Code section 3019(d) or (e), when compared to the signature(s) in the voter's registration record, does not appear to be the same.

(10) Vote-by-mail ballot identification envelope contains two or more voted vote-by-mail ballots but there are less than an equal number of distinct signatures on the vote-by-mail envelope. In this instance neither ballot shall be counted.

Note: Authority cited: 52 U.S.C. Section 21081(a)(6); Section 12172.5, Government Code.

Reference cited: Sections 303.3, 3009, 3011, 3017, 3019, 3020, 3106, 15210, Elections Code; Section 12172.5, Government Code.

20992. Provisional Ballot Processing and Return Status

(a) Upon receipt of a voted provisional ballot, the elections official shall, immediately upon adjudication of the ballot, enter the status of that ballot into the statewide voter registration system pursuant to Section 19093.

(b) The voted provisional ballot shall be processed in accordance with Elections Code section 14310.

(c) The signature on the provisional ballot envelope shall be examined pursuant to Section 20960 and Elections Code section 14310. The examination of the signature shall be liberally construed in the favor of the voter.

(d) If the voter did not sign the provisional ballot envelope, or if the elections official has determined that the signature on the provision ballot envelope does not compare to the signature(s) of the voter in the voter's record, the elections official shall, within 24 hours of discovery, provide the voter with the applicable notice to cure the missing or mismatched signature pursuant to Elections Code section 3019(d) or (e).

(e) For the notice described in subdivision (d), the elections official shall:

(1) Provide the notice to the voter in the voter's preferred language that is covered by Section 203 of the Federal Voting Rights Act of 1965.

(2) Include a statement on the notice that the signature provided by the voter may be added to the voter's registration record to be used for signature comparison purposes in future elections, if the signature provided in the cure compares to the signature(s) of the voter in the voter's record.

(3) Include a postage-paid return envelope with the notice for the voter to return their signature cure.

(f) Upon the final adjudication of the voted provisional ballot, the elections official shall enter the appropriate reason code for the disposition of that ballot into the statewide voter registration system in accordance with Section 19094.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Sections 14310, 14314, Elections Code; Section 12172.5, Government Code.

20993. Standards for Valid and Invalid Provisional Ballots

(a) A provisional ballot shall be subject to the standards in the section applicable to the voting system on which it is processed. In addition to those standards, the following standards shall also apply.

(b) A voter's choice shall be considered a valid vote, if the:

(1) Voter casts a provisional ballot and the voter's eligibility can be confirmed and the voter's choice is clearly marked, the vote shall be counted. The determination of eligibility to vote shall be liberally construed in favor of the voter.

(2) Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, all votes properly cast in contests for which the voter was legally entitled to vote will be counted.

(c) A voter's choice shall be considered an invalid vote, if the:

(1) Voter casts a provisional ballot and the voter's ineligibility is confirmed by clear and convincing evidence based upon a review of available records, in which case the ballot shall not be counted.

(A) Examples of records that may be sufficient to demonstrate a voter's ineligibility include, but are not limited to:

(i) Information recently provided by the California Department of Corrections and Rehabilitation or a county superior court that clearly and convincingly states that the voter is ineligible to vote because they are currently on parole due to a felony conviction.

(ii) Information recently provided by a county superior court that clearly and convincingly states that the court has made a determination of incompetency to vote

(iii) Information provided by the California Department of Public Health or other sources that clearly and convincingly states that the voter died prior to the date the provisional ballot was cast.

(2) Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, in which case all votes cast in contests for which the voter was not legally entitled to vote will not be counted.

Note: Authority cited: 52 U.S.C. Section 21081(a)(6); Section 14314, Elections Code; Section 12172.5, Government Code. Reference cited: Section 14310, Elections Code; Section 12172.5, Government Code.