



August 5, 2020

The Honorable Alex Padilla
California Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814

Via email

C/o James Schwab and Steve Reyes

Re: Proposed Regulations

Dear Secretary Padilla:

On behalf of the American Civil Liberties Union of California, Asian Americans Advancing Justice - Asian Law Caucus, the Brennan Center for Justice, Disability Rights California, the League of Women Voters of California, and the California Voter Foundation, we thank you for the opportunity to review the draft regulations on the processing of vote-by-mail and provisional vote processing, for taking the time to discuss the regulations with us, and for the recommendations you have already incorporated. Please accept the following comments and proposed modifications to the draft emergency regulations relating to Title 2, Division 7, Chapter 8.3 of California Code of Regulations. Our comments and suggested modifications are limited to Article 6 and Article 9 of the draft regulations. We have also attached as Exhibit A our line edits to the regulations.

Article 6 - Section 20960

Explicitly state that exact matches are not necessary to confirm a valid signature.

California Elections Code section 3019 requires elections officials to *compare* a voter's signature on their ballot envelope to the signatures on file for the voter and decide if they compare. The statute does not use the word "match." In fact, forensic experts have suggested that a lack of training, proper equipment, the number of samples available, and the poor quality of signatures on file, all contribute to a challenging

environment to make signature comparisons, let alone matches.¹ Yet not all counties specifically instruct their staff that they are not seeking a match.²

Recently-issued guidance in Michigan addressed this challenge by stating that “it is not necessary for the voter’s signature to perfectly match the signature on file.”³ We suggest including explicit instructions like this in section 20960.

Clarify that similar characteristics between a signature being compared and any signature on file are sufficient to determine a signature is valid.

The proposed regulations do not currently include a standard for accepting a signature. We believe finding similar characteristics should be sufficient to accept a signature. This is consistent with section 3000 of the California Elections Code and section 20990 of the proposed regulations that require the examination of signatures to be liberally construed in favor of voters. It is also consistent with the practices in some counties that consider one matching characteristic sufficient for comparing signatures.⁴ The Michigan guidance similarly instructs elections officials that “[i]f there are any redeeming qualities in the [absentee voter] application or return envelope signature as compared to the signature on file, treat the signature as valid.”⁵

Instruct elections officials to seek to eliminate the visibility of identifying information.

Ballots of Black, Latinx, and Asian-American voters have been rejected at higher rates.⁶ We believe keeping identifying information from being visible during the review of signatures will add another layer to protect against bias, as well as help ensure confidence in the process.

Subdivision (c) should be clarified to remove ambiguity.

¹ See, e.g., Declaration of Linton Mohammed in Support of Plaintiffs’ Motion for Writ of Mandate at 7, *La Follette v. Padilla*, No. CPF-17-515931 (Cal. Super. Jan. 19, 2018).

² See, e.g., Kim Alexander and Seiska Mills, *Improving California’s Vote-by-Mail Process: A Three-County Study*, California Voter Foundation, (August 2014), calvoter.org/sites/default/files/cvf_vbm_study.pdf.

³ *Absent Voter Ballot Application and Ballot Processing: Signature Verification and Voter Notification*, Michigan Bureau of Elections, available at bit.ly/2ZPTS2p (last visited Aug. 4, 2020).

⁴ See *Signature Verification and Mail Ballots: Guaranteeing Access While Preserving Integrity*, Stanford Law School Law and Policy Lab 26, (May 15, 2020), www-cdn.law.stanford.edu/wp-content/uploads/2020/04/SLS_Signature_Verification_Report-5-15-20-FINAL.pdf.

⁵ *Supra* note 3, at 1.

⁶ See, e.g., Declaration of Paul Mitchell in Support of Plaintiffs’ Motion for Writ of Mandate at 3, *La Follette v. Padilla*, No. CPF-17-515931 (Cal. Super. Jan. 19, 2018), www.rubenmajor.com/wp-content/uploads/2018/03/Mitchell-Declaration.pdf (finding higher rates of vote-by-mail ballots rejected for Latinx and Asian American voters); Joanna Lee and Deanna Kitamura, *Asian Americans Face Higher than Average Vote-by-Mail Ballot Rejection Rates in California*, Asian Americans Advancing Justice – California (Aug. 2017), www.advancingjustice-la.org/sites/default/files/issuebrief-vbm-FINAL-1.pdf (finding the vote-by-mail ballot rejection rate for Asian Americans in four populous counties was 15% higher than the overall rejection rate in those counties, and over half of rejected vote-by-mail ballots from Asian Americans had a mismatched signature, compared to 44% for all voters); Anna Baringer, Michael C. Herron, and Daniel A. Smith, *Vote by Mail and Ballot Rejection: Lessons from Florida for Elections in the Age of the Coronavirus* (Apr. 25, 2020), https://electionscience.clas.ufl.edu/files/2020/04/Baringer_Herron_Smith_VBM_FL.pdf (finding vote-by-mail ballot rejections impact Black voters, voters with disabilities, and young voters at higher rates).

We suggest deleting the reference to “matching” for consistency with California law. We also think the “obvious and predominantly matching” language used in subdivision (c) creates a standard for matching that is too strict and could lead to increased disenfranchisement. Instead, we suggest including the list in subdivision (c) as examples of the types of characteristics elections officials should observe in comparing signatures to meet the standard we discussed above of “similar characteristics.”

We also recommend removing the reference in subdivision (c)(14) to “any other noticeable discrepancy.” This reference is vague and creates an opportunity to flag arbitrary insignificant variations in signatures. Instead, we suggest just leaving the reference to misspelled names. If the Secretary believes a “catchall” is necessary for this section, we suggest referencing “Other significant and obvious similarities or differences in characteristics.”

Insert a new subdivision with examples of explanations for discrepancies in signatures.

There are many common reasons why a voter’s signature may appear dissimilar to their signatures on file. Several explanations for discrepancies are included in the Michigan guidance that we recommend adding, including trembling or shaking, use of diminutives, and a signature evolving over time.⁷ Additionally, we suggest including in this section that a return envelope signature or electronic signature on file may have been written in haste, that an electronic signature may have been written with a stylus pen, and that voters may use variations of their name, such as rearranging the order of first and last name. We also suggest moving subdivision (c)(13), the surface of the location where the signature was made, to this new subdivision, because it is better classified as an explanation for discrepancies.

Delete references to predominantly matching characteristics used in subdivisions (c) and (e).

These references appear to create a *matching* standard, even though Elections Code section 3019 does not require one. Instead we suggest a “multiple, significant and obvious standard” for signature rejection. This is the standard used in Michigan.⁸ We believe it will set clear guidance that slight variations are never enough to trigger rejections.

Clarify that three total reviewers of a signature, including two elections officials, must unanimously find a signature does not compare.

Subdivision (f) creates a standard that a signature subject to a second review has to be unanimously approved. We think this is an inappropriate standard that risks disenfranchising voters and being unworkable. Instead, we believe if any of the reviewers find that the signature should be accepted, the ballot must be accepted. We think this subdivision is also unworkable as drafted because it is not clear how to resolve a dispute between reviewers. Instead, California should follow Colorado’s practice of only rejecting a ballot if a team of three unanimously agree.⁹ If the reviewers do not agree, then a ballot must be accepted.

⁷ *Supra* note 3, at 1-2.

⁸ *Id.*

⁹ Colo. Rev. Stat. § 1-7.5-107.3(2)(b).

Create a “beyond a reasonable doubt” standard for rejecting a signature comparison.

We believe there should be an evidentiary standard for the rejection of a signature. We recommend following the evidentiary standard used in Florida of beyond a reasonable doubt for their canvas of vote-by-mail ballots.¹⁰ This standard fits the spirit of liberally construing this section in favor of voters.

Subdivision (g) is vague, limits the ability to successfully compare signatures, and should be deleted.

The cluster concept is undefined and vague and could lead to inconsistent implementation. We believe it inappropriately raises the bar to successfully compare a signature. This section should be deleted in favor of the “similar characteristics” standard for a successful comparison, and a “multiple, significant and obvious” standard for rejecting a signature.

Article 9, Section 20990

Delete the reference to signature matches in subdivision (d).

The code does not require voters to match a signature. Replace “match” with “compare.”

Include a space on cure notices for a voter to certify that they have a disability, condition, or illness preventing them from consistently signing their name.

Allowing voters to certify that they cannot sign their names consistently will help resolve persistent signature issues for voters with disabilities or health conditions, and has been recommended by national disability rights advocates.¹¹

Article 9, Section 20991

Clarify that elections officials should use multiple signatures on file to make a signature comparison.

Subdivision (b) appears to limit the signatures that could be used for comparisons by making reference to vote-by-mail applications as a source for signature comparisons. We suggest instead clarifying that a signature should be compared to at least 10 of the voter’s most recent signatures on file before it is rejected. This will help the reviewers see if a voter’s signature has evolved over time and is a practice recommended by forensic experts.¹²

Clarify that a vote-by-mail ballot missing a postmark on the envelope must be accepted if a voter dates the ballot envelope by Election Day.

The use of “indicates” in subdivision (b)(8) could be made more clear by clarifying that in the absence of a postmark, the date the voter writes on their ballot envelope is sufficient to demonstrate that a ballot is timely. This change is consistent with Elections Code section 3020.

¹⁰ Fl. Rev. Stat. §101.68(1)(c).

¹¹ *Voting by Mail is Essential for Voters with Disabilities, but It’s Not Enough*, ACLU (July 7, 2020), www.aclu.org/news/votingrights/voting-by-mail-is-essential-for-voters-with-disabilities-but-its-not-enough/.

¹² *Supra* note 1, at 14.

Facilitate counting of ballots when a voter uses the wrong identification envelope.

Voters residing in the same household, such as spouses, may switch their identification envelopes by accident. Some counties report that they already make efforts to count the ballots of spouses or household members who accidentally switch envelopes.¹³ This practice of “marrying up” ballots should be standardized across all counties. We suggest adding an additional subsection (12) that a voter’s ballot shall be considered a valid vote in cases where the voter returns their ballot in the vote-by-mail identification envelope of a different voter, but the elections official is able to identify the correct voter and the voter’s signature compares.

Article 9, Section 20992

Conform the outreach provisions in the provisional ballot processing section to the vote-by-mail provisions.

We recommend adding requirements in section 20990 of the draft regulations for the protections for provisional voters, including notification within 24 hours of a determination that there is a signature mismatch or a missing a signature, that the notice be in the voter’s preferred language, that the voter receive notice that the signature used to cure will be added to their voter registration record, and that the notice include a postage-paid return envelope.

Additionally, we recommend a provision for notice to voters if a voter’s ballot is being rejected for eligibility issues. Voters should have an opportunity to know why their ballot is being rejected and have an opportunity to fix that issue. We also suggest voters be given the opportunity to certify in that notice that they have a disability, condition, or illness preventing them from consistently signing their name.

Article 9, Section 20993

Correct the evidentiary standard for the processing of provisional ballots.

The draft regulations flip the presumption that ballots are valid. Instead of requiring clear and convincing evidence of *ineligibility* before rejecting a ballot, the draft regulations require clear and convincing evidence to *accept* the ballot. This could cause elections officials to mistakenly think that more than attestation is required to “clearly and convincingly” show that a voter is eligible. We recommend clarifying that a ballot will only be rejected if there is clear and convincing evidence of ineligibility.

New Sections

Create a new section with additional notice requirements to help increase the response rate.

A recent study of notice methods in California found that many, but not all counties, are already using phone calls and emails to get voters to cure signature issues.¹⁴ Michigan’s guidance similarly requires elections offices to contact voters by email and phone, if available.¹⁵ The California study found that

¹³ *Supra* note 2, at 35.

¹⁴ *Supra* note 4, at 43.

¹⁵ *Supra* note 3, at 3.

counties that mailed a second notice to voters “[is] the single most effective tool for improving cure rates,” and that counties that used them had cure rates nearly twice as high as counties that did not send a second notice.¹⁶

We also suggest encouraging elections officials to proactively request signature samples from voters as a practice they can use to continually update voter records and get the latest versions of signatures.

Create a new section banning the challenge of voters’ ballots by election observers.

We suggest an additional section clarifying that observers of the processing of vote-by-mail and provisional ballots may not challenge any individual ballots. This will protect the privacy of voters’ signatures, and avoid partisan and other bad actors from attempting to challenge voters for political or discriminatory reasons.

Create a new section with standards for training.

The recent California study demonstrated that training practices are inconsistent throughout the state, and do not all rely on guidance from experts in the field. For example, “counties under 100,000 are more likely to use informal ‘on the job’ training. . . [and] some larger counties, with populations of a million, rely on informal training processes.”¹⁷ They also found that “internal materials can vary widely, ranging from a short PowerPoint deck citing general best practices to lengthy, county-specific, step-by-step manuals describing each stage of the verification process.”

We recommend all volunteers, temporary staff, and elections office staff receive training by an independent expert on signature comparisons at least annually. We further recommend that permanent staff who are making ultimate decisions about the counting of a ballot must receive training on implicit bias.

Create a new section with reporting requirements.

We recommend additional procedures to mandate reporting of the notice and cure, and rejections of vote-by-mail and provisional ballots. The data currently available on the Secretary of State’s website does not include details as to why ballots are rejected, which makes it challenging to understand the trends. There also is no provisional ballot data currently available on the Secretary’s website, and the data reported to the Elections Assistance Commission on provisional ballots is limited.

¹⁶ *Supra* note 4, at 39, 51.

¹⁷ *Supra* note 4, at 31.

We appreciate the opportunity to meet with you and discuss these regulations and look forward to discussing this with you further.

Sincerely,

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Exhibit A

CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
DIVISION 7. SECRETARY OF STATE
CHAPTER 8.3. PETITION PROCESSING, SIGNATURE
VERIFICATION, AND BALLOT PROCESSING AND COUNTING
(DRAFT - July 24, 2020)

ARTICLE 1. GENERAL

20910. Applicability of This Chapter

(a) The regulatory purpose of this Chapter is to ensure uniform application and practices for elections officials related to the examination of initiative, referendum, recall, nominating petition or paper, signature in-lieu of filing fee, and any other petition or paper, as well as for signature verification on petitions and on vote-by-mail identification envelopes and provisional ballot envelopes. The regulations set forth in this Chapter shall apply to local and statewide petitions. Any exception to the general application of this Chapter will be noted.

(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: Help America Vote Act of 2002, 52 U.S.C. Section 21081(a)(6); Sections 100, 333, 3026, 14314, Elections Code; Section 12172.5, Government Code. Reference cited: Sections 3019, 14310, Elections Code; Section 12172.5, Government Code.

ARTICLE 2. PETITION FORMAT

20920. Petition Format

(a) A petition signature shall be included in a raw count and shall be subject to signature verification when all sections of the petition include all elements required by Elections Code sections 100, 100.5, 101, 102, 103, 104, 105, 106, 107, 108, 9008, 9009, 9010, 9011, 9012, 9013, 9015, 9020, 9021, 9022, 9108, and 9109.

(b) Notwithstanding subdivision (a), a petition signature shall be included in a raw count and the signature shall be subject to signature verification if:

(1) The space on the petition section identifying the jurisdiction where the petition section was circulated is left blank.

(2) The petition section has signatures on the back of a printed petition, if the signatures are before the circulator's declaration and each page bearing signatures contains all elements required by statute. This provision does not apply to a recall petition.

(3) The entire face of the petition section indicates the petition section was circulated among voters of counties other than the county where the petitions were filed but contain one or more signatures of voters registered in the county of filing. However, any signatures of voters registered in another county shall be included in the raw count but shall not be subject to verification.

- (4) The petition section is labeled as being circulated in counties other than the county of filing but contains one or more signatures of voters registered in the county of filing. However, any signatures of voters registered in another county shall be included in the raw count but shall not be subject to verification.
 - (5) The petition section is photocopied, but it includes all elements required by statute and bears original signatures, original printed names and residence addresses.
 - (6) The entire petition section is reproduced in handwriting, and it includes all elements required by statute. This provision does not apply to a recall petition.
 - (7) The petition section does not include a one-inch space at the top of each page and/or after the name of the signer. This provision does not apply to a recall petition.
- (c) Notwithstanding subdivisions (a) and (b), a petition signature shall be included in a raw count and the signature shall not be subject to signature verification if:
- (1) The petition directs signers to include their “address as registered” rather than their “residence address.” This provision does not apply to a recall petition.
 - (2) One or more pages of a multi-page statewide initiative or referendum petition section fail to include the title and summary while remaining pages of the same section are properly identified. However, the failure to include the title and summary on one page or more pages of a statewide initiative or referendum petition section does not invalidate other pages of the same section that otherwise include all elements required by statute.
 - (3) The required text of a measure, declaration of circulator, or title and summary have been cut off one page of a multi-page petition section. A section of a petition may be a single page or multiple pages that are securely bound together. However, the failure to include the required text of a measure, declaration of circulator, or title and summary on one page of a petition section does not invalidate other pages of the same section that otherwise include all elements required by statute.
 - (4) Signatures are on loose-leaf or other paper informally identified as part of a petition section, but are not bearing proper caption, text, or the title and summary. This provision does not apply to a recall petition, a nomination petition, or a signature in-lieu filing fee petition.
 - (5) The Attorney General’s identification number is missing on a petition section of a statewide initiative or referendum petition.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Sections 100, 100.5, 101, 102, 103, 104, 105, 106, 107, 108, 9008, 9009, 9010, 9011, 9012, 9013, 9015, 9020, 9021, 9022, 9108, and 9109, Elections Code; Section 12172.5, Government Code.

ARTICLE 3. PETITION SIGNATURES AND RESIDENCE ADDRESSES

20930. Petition Signatures

- (a) A petition signature shall be included in a raw count and the signature shall be subject to signature verification if:
 - (1) If two signers of a petition occupy the same signature box, but only one residence address is listed, only the signature of the person who handwrote the residence address.
 - (2) If the signer’s registration was electronic, and there is no handwriting to compare, only the first name in the signature box.

(3) If a signer of a petition prints MR. AND MRS. SMITH and signs Mr. & Mrs. Smith, or uses a nickname, initials, prefixes, maiden name, married name, spouse's name or a misspelling, but only when it appears to have been made by the same person with the matching signature and correct residence address.

(b) A petition signature shall be included in a raw count, but the signature shall not be subject to signature verification if:

(1) The signer prints their name and residence address but leaves the signature space blank. However, if the signature on the voter's registration record is printed and otherwise matches the printed name on the petition, the signature shall be subject to the verification process.

(2) If a line appears through a signature, name, or address, but not all three, the elections official shall have the discretion to determine whether or not there is sufficient information present to subject the signature to the verification process.

(3) The signer does not provide a written or printed name.

(c) A petition signature shall not be included in a raw count and the signature shall not be subject to signature verification if:

(1) A line appears through the name, address, and signature of the signer.

(2) Correction tape or correction fluid is used and it obscures any part of the signature or new information is written on top of it.

(3) No signatures or identifying information appears in the signer spaces, but one or more signatures appear in the completed declaration of circulator.

(4) Signatures are appended to the petition section so as to appear after the declaration of circulator.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

20931. Residence Address

(a) A petition signature shall be included in a raw count and the signature shall be subject to signature verification if:

(1) The signer provides the correct house number and street name, but the apartment field is either blank or contains a different letter or number than what is reflected in the voter's registration record.

(2) The signer provides the correct house number but abbreviates the street name or uses another name for the street, and the elections official can determine the address.

(A) Example – 132 Hollywood Bl. is written on the petition, but the full name of the street is Hollywood Boulevard.

(B) Example – 1234 Hwy 49 (old street name) is written on the petition, but the signer's residence address in the voter's registration record is 1234 Coloma Road (new/current street name).

(3) The signer provides the correct street name and house number but omits or provides a different fraction than what the signer's residence address in the voter's registration record.

(4) The signer provides a P.O. Box and a street address in the same box, if the street address matches the residence address in the voter's registration record.

(5) The signer provides their previous address and the current address and moved during the time the petition section was circulated, and the voter was properly registered at one of the addresses during the time the petition section was circulated.

- (6) The signer provides their residence address (street name, house number, and zip code), but fails to provide the city.
- (7) The signer provides their residence address (street name and house number) but abbreviates or uses another name for the city.
- (A) Example of an acceptable abbreviation for a city – 456 Main Street, CV, 12345 (on petition) and 456 Main Street, Chula Vista, CA 12345 (in the signer’s registration record).
- (B) Example of an acceptable city name change – 123 Broadway Street, Hollywood, CA 12345 (on the petition) and 123 Broadway Street, Los Angeles, CA 12345 (in the signer’s registration record).
- (8) The signer uses cursive writing in the space designated for the signer’s printed name, if the signer can be identified. However, if the signer cannot be identified, the signature shall be included in the raw count, but the signature shall not be subject to the verification process.
- (9) The signer either adds or omits a suffix such as Jr. or II from either the petition or the voter’s registration record, as long as the signer provides the correct residence address.
- (10) If the signer provides one of the following non-traditional residence addresses, or provides a residence address that differs from the residence address on the voter’s registration record, but is within the same precinct:
- (A) Native American Indian Reservation – If the provided residence address is assigned by the tribe or a non-public agency and the move is within the reservation. However, if the provided residence address is assigned by a public agency and is listed in the official street file or in the county elections management system, any change would invalidate the provided residence address.
- (B) Marina or boat slip – If the provided residence address is within the same marina.
- (C) University – If the provided residence address is in the same building or residence hall and has the same street number.
- (D) Military base – If the provided residence address is a non-traditional address or equivalent. However, if the provided residence address is a traditional address and is listed in the official street file or in the county elections management system, any change would invalidate the provided residence address.
- (E) Mobile home park – If the provided residence address is within the same mobile home park and contains the same street number.
- (11) If an address change due to an address update label affixed by the United States Postal Service (USPS) is made to a voter record after the petition is circulated, and:
- (A) The voter's address on the petition is the same as the address provided via an address update label affixed by the USPS and the registration effective date (or the transaction date if the registration date was not updated by the transaction) is on or before the date the voter signed the petition. However, if the voter's address on the petition is the same as the address provided via an address update label affixed by the USPS and the registration effective date (or the transaction date if the registration date was not updated by the transaction) is after the date the voter signed the petition, the elections official shall include the signature in the raw count, but the signature shall not be subject to the verification process.
- (B) The voter's address on the petition is the different from the address provided via an address update label affixed by the USPS, and the registration effective date (or the transaction date if the registration date was not updated by the transaction) is after the date the voter signed the petition. However, if the voter's address on the petition is different from the address provided via an address update label affixed by the USPS and the registration effective date (or the transaction

date if the registration date was not updated by the transaction) is on or before the date the voter signed the petition, the elections official shall include the signature in the raw count, but the signature shall not be subject to the verification process.

(C) If the effective registration date change in (B) or (C) occurred during the dates between which all the signatures to the petition or paper were obtained as reported in the declaration signed by the circulator of the petition, it shall be presumed that the voter signed the petition with their previous address prior to the effective date of the address change or signed with their new address after the effective date of the address change.

(b) A petition signature shall be included in a raw count, but the signature shall not be subject to signature verification if:

(1) The signer provides a house number that is different from their registered address. However, if the voter reregistered with the new address by the day the petition is signed, then the signature shall be subject to the verification process.

(2) The signer transposes the house number of the residence address. However, if the signer signed the same petition twice, but transposed the house number on one of the two signatures, the signature with the correct information will be subject to the verification process, while the other will be invalidated as unregistered (if the house number exists) or as a duplicate (if the house number does not exist).

(3) The signer does not use their own handwriting to write their name, residence address or signature, or that information is preprinted prior to circulation. However, if the signer is disabled and cannot print or sign their name or write their residence address, or if the voter has a signature stamp that is the same as on the voter's registration record, the signature is subject to signature verification. In either case, a witness must also sign for the signature to be valid.

(4) The signer provides a P.O. Box only or provides no address whatsoever. However, if the signer has no residence address (for example, a homeless voter) and the signer provides the original identifying information that placed them in a precinct, the signature shall be subject to signature verification.

(5) The signer fails to provide the name of the city and the zip code.

(6) The signer has no residence address and provides cross streets on the petition that do not match the cross streets on the voter's registration record.

(7) The signer is a pre-registered voter and is not yet 18 years of age at the time of signing.

(A) If the pre-registered voter turned 18 during the dates between which all the signatures to the petition or paper were obtained as reported in the declaration signed by the circulator of the petition, it shall be presumed that the voter was 18 at the time of signing.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

ARTICLE 4. VOTER REGISTRATION STATUS

20940. Timing of Registration

(a) The signer of a petition must be a registered voter at the time they sign the petition. Registration can be done at the same time the petition is signed. The provisions of this Article provide the elections official with direction on how to properly determine registration status

within the jurisdiction where the petition was circulated. Any determination of timing or effective date of a registration shall be made in accordance with Section 19076.

(b) The signer shall be deemed properly and timely registered and the signature shall be included in a raw count and the signature shall be subject to signature verification if:

(1) The voter's current residence address in the voter's registration record is different due to an update to the voter's record, but was the correct residence address on any date between the dates which all the signatures to the petition or paper were obtained as reported in the declaration signed by the circulator of the petition.

(2) The signer's voter registration affidavit does not contain a date of execution and was received by the elections official on or before the last date of circulation of the petition section.

(c) The signer shall be deemed properly and timely registered and the signature shall be included in a raw count, but the signature shall not be subject to signature verification if:

(1) The signer has a different residence address, but the residence address is within the jurisdiction where the petition is circulated.

(2) The signer's voter registration affidavit does not contain a date of execution and was received by the elections official after the last date of circulation of the petition section.

(3) The signer's voter registration affidavit is executed after the dates which all the signatures to the petition or paper were obtained as reported in the declaration signed by the circulator of the petition. The signer has preregistered to vote but was not 18 years of age on any date between the dates which all the signatures to the petition or paper were obtained as reported in the declaration signed by the circulator of the petition.

(4) The signer's voter registration affidavit does not contain a date of execution and the voter's registration affidavit was received by the elections official after the last date of circulation of the petition.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

20941. Automatic Updates to a Voter's Registration

If a voter's registration is automatically updated after the petition was circulated, the signature shall be included in a raw count and the signature shall be subject to signature verification if:

(a) The voter's address on the petition is the same as the address provided after the automatic update, and the effective date of the change is on or before the voter signed the petition.

However, if the address on the petition is the same as the address provided after the automatic update, but the effective date of the change is after the voter signed the petition, the signature shall be included in a raw count, but the signature shall not be subject to signature verification.

(b) The voter's address on the petition is different from the address provided after the automatic update, and the effective date of the change is after the date the voter signed the petition.

However, if the address on the petition is different from the address provided after the automatic update, but the effective date of the change is on or before the voter signed the petition, the signature shall be included in the a count, but the signature shall not be subject to signature verification.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code.

20942. Canceled and Inactive Registrations

(a) A petition signature shall be included in a raw count and shall be subject to signature verification if the address on the voter's registration is different than the address provided on the petition or the voter is no longer registered, but they are at the correct address as a confirmed canceled voter and one of the following apply:

(1) The effective date of the cancellation of the voter's registration was after the last date of circulation of the petition. However, if the effective date of the voter's cancellation was before the first date of circulation of the petition or at a different address, the elections official shall include the signature in a raw count but the signature shall not be subject to signature verification.

(2) The voter's registration was canceled in error.

(b) A petition signature shall be included in a raw count and shall be subject to signature verification, and the voter's address shall be restored to the original address, if the address provided on the petition is the same as the address on the voter's registration, but the voter is an unconfirmed inactive voter.

(c) If a voter with a registration status of inactive, as defined by Section 19062(o), signs a petition and provides a residence on a petition that matches the residence address in the voter's record, the elections official shall update the voter's status to active.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Sections 2220, 2221, 2222, 2223, 2224, 2225, 2226, and 2227, Elections Code; Section 12172.5, Government Code.

ARTICLE 5. DECLARATION OF CIRCULATOR

20950. Declaration of Circulator

(a) A petition signature shall be included in a raw count and the signature shall be subject to signature verification if the declaration of circulator complies with Elections Code sections 104, 107, 9021, 9109, 9022 and/or 11046.

(b) Notwithstanding subdivision (a), a petition signature shall be included in a raw count and the signature shall be subject to signature verification if:

(1) The circulator failed to sign their entire name, including their middle name.

(2) The dates of circulation in the declaration of circulator are in handwriting different from the circulator's handwriting, and the difference is subtle or not readily apparent.

(3) The year of circulation provided in the circulator's declaration is preprinted or stamped, but the month and day are hand-written.

(4) The declaration of circulator has no date of execution and no dates of circulation, but the circulator has signed the petition and provided a date of signing.

(5) The declaration of circulator contains a space for the beginning date of circulation and a separate space for the ending date of circulation, and only one of the spaces is complete.

(6) The declaration of circulator contains either a date of circulation or a date of execution, but not both.

(7) The dates on the declaration of circulator are after the date the petition section was filed.

(8) The petition section contains dates supplied voluntarily by the signer(s), and conflict with the dates contained in the declaration of circulator.

- (9) The circulator is not registered to vote or is not registered in the jurisdiction in which the petition is circulated.
- (10) The circulator is not a resident of the state or jurisdiction in which the petition is circulated.
- (11) The declaration of circulator does not contain an address, or only a P.O. Box address is provided.
- (12) The circulator failed to sign the declaration of circulator but is also a signer on the same petition section and provides their residence address and signature.
- (c) Notwithstanding subdivisions (a) and (b), a petition signature shall be included in a raw count, but the signature shall not be subject to signature verification if:
- (1) Signatures appear in the signer's spaces, but the declaration of circulator is left blank or is unsigned.
 - (2) It is readily apparent that the dates of circulation in the declaration of circulator are in handwriting different from the circulator's handwriting.
 - (3) The day of the month and/or the month provided in the circulator's declaration is preprinted or stamped.
 - (4) The declaration of circulator has no date of execution and no dates of circulation.
 - (5) The month, day, or year of circulation in the declaration of circulator precede the first date of circulation.
 - (6) Information that must be in the circulator's own handwriting in the declaration of circulator is photocopied.
 - (7) The circulator did not sign the declaration of circulator and is not a signer of that petition section.
- (d) If the petition section contains generalized dates of circulation, the following shall apply:
- (1) A petition signature shall be included in a raw count and the signature shall be subject to signature verification if the circulator's declaration contains only a month and year, and:
 - (A) the voter's registration was on or before the last day of circulation. Example: Circulation date – April 2020 and the petition is filed May 28, 2020; the last date of circulation is deemed to be April 30, 2020.
 - (B) the voter's registration was on or before the petition file date. Example: Circulation date – April 2020 and the petition is filed April 15, 2020; the last date of circulation is deemed to be April 15, 2020.
 - (2) A petition signature shall be included in a raw count, but the signature shall not be subject to signature verification if the circulator's declaration contains only a month and year, and the voter's registration was after the last day of circulation. Example: Circulation date is April 2020 and the petition is filed April 15, 2020; the last date of circulation is deemed to be April 15, 2020 and the voter registration date is April 18, 2020.
- (e) The elections official shall verify that one of the following conditions is met:
- (1) The petition includes the disclosure statement described by subdivision (b) of Elections Code section 107, or
 - (2) A declaration by the circulator is present stating that the circulator showed each signer a valid and unfalsified "Official Top Funders" sheet, as required by Elections Code section 107.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Section 12172.5, Government Code; 104, 107, 9021, 9109, 9022, 11046, Elections 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 necessary to confirm a valid signature.

(d) Similar characteristics between a signature being compared and any signature on file is sufficient to determine a signature is valid.

(e) On initial review, elections officials should seek to eliminate the visibility of identifying information.

~~(e)(f)~~ In comparing the signatures ~~to determine obvious and predominantly matching characteristics~~, 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)(1) Surface of the location where the signature was made.~~

~~(14)(13)~~ Any other noticeable discrepancy such as misspelled names.

(g) In comparing signatures of vote by mail and provisional envelopes, elections officials shall consider as explanations for 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 use of initials, or the rearranged of components of their full legal name, such as reversal of first and last names, use of middle name in place of first name, or omitting a second last name.

(3) The voter's signature style may have changed over time.

(4) The return envelope signature or electronic signature on file may have been written in haste.

(5) A signature on file may have been written with a stylus pen or other electronic signature tool that may result in a thick or fuzzy quality.

(6) Surface of the location where the signature was made may have been uneven or unstable.

~~(d)~~(h) In addition to the characteristics listed in subdivision ~~(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.

~~(e)~~(i) Only a signature possessing multiple, significant and obvious ~~and predominantly matching differing~~ characteristics with ~~the all~~ signatures in the voter's registration record ~~may~~ will be subject to additional review ~~ed and determined to be a match by a single county elections official.~~

~~(f)~~(j) A signature that the initial reviewer identifies as possessing ~~one or more distinctive~~multiple, significant and obvious differing characteristics from the signature(s) in the voter's registration record shall only be rejected if ~~be reviewed by at least two different elections officials before the signature is accepted as a matching signature or rejected as a non-matching signature unanimously find beyond a reasonable doubt that the signature differs in multiple, significant and obvious respects from all signatures on file for the voter.~~

~~(g) — A single matching characteristic listed in subdivision (e) is insufficient to conclude that the signatures are by the same writer. There must be a combination or cluster of shared characteristics to determine that the signature is by the same writer. Likewise, there must be a cluster of differing characteristics to conclude that the signatures are by different writers.~~

~~(h)~~(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.

ARTICLE 7. SIGNATURE WITHDRAWAL

20970. Signature Withdrawal

(a) A voter who has signed an initiative, referendum, or recall petition may submit a written request to the appropriate elections official to request that their name removed from the petition.

(b) An elections official who receives a written request from a voter who wishes to remove their signature from a petition shall use the following guidelines when reviewing a written request:

(1) The written request shall not be accepted if any of the following are missing from the request:

(A) The identification of the petition – either a name or a number.

(B) The signature of the voter.

(C) The address of the voter.

- (D) A statement that the voter seeks to withdraw a signature after signing a petition.
- (2) A pre-printed request to withdraw a signature from a petition is valid if all of the required information is included, and the request contains the signature of the voter.
- (3) If the signature on the written request does not match the signature in the voter's registration record, the withdrawal shall not be accepted.
- (4) The written request must be received prior to the date the petition is filed. Any written request to withdraw received after the date the petition is filed shall not be accepted. This section shall not apply to a supplemental withdrawal period for a recall petition.
- (5) If the written request is dated the date the petition is filed, or after, but is received prior to the day the petition is filed, the request may be accepted. The written request does not need to contain a date.
- (6) If the written request is dated prior to the date the petition section is circulated containing the signature, the request may be accepted. The written request does not need to contain a date.
- (7) The written request may be received by fax or email, but the request must be received prior to the day the petition is filed in order to be accepted.

Note: Authority cited: Section 12172.5, Government Code. Reference cited: Sections 103, 9602, 11108(b), 11303, 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: Help America Vote Act of 2002, 52 U.S.C. Section 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.

- (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: Help America Vote Act of 2002, 52 U.S.C. Section 21081(a)(6); Section 12172.5, Government Code. Reference cited: Section 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: Help America Vote Act of 2002, 52 U.S.C. Section 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 13204, 14287, 14420, 15154, 15208, 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 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 (Ö) 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 (Ö) 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.

(c) If a 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: Help America Vote Act of 2002, 52 U.S.C. Section 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 15154(c), (d), 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: Help America Vote Act of 2002, 52 U.S.C. Section 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.
 - (5) 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: Help America Vote Act of 2002, 52 U.S.C. Section 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 adjudication of the ballot, 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 match-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.
 - (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 space for a voter to certify that they have a disability, condition, or illness preventing them from consistently signing their name.

(4) 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: 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.

~~(a)~~(b) A ballot shall not be rejected for a signature that does not compare unless the signature has been compared against at least the 10 most recent signatures on file in the voter's record.

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

(1) Voter's signature on the returned vote-by-mail identification envelope compares with the signature on the current or any previous affidavit of registration, if any, or the signature(s) in the voter's registration record. ~~If the elections official has compared the signature on the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the vote-by-mail application may be used rather than the affidavit of registration or signature(s) in the voter's registration record to make the signature comparison.~~

(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.

(3) Voter prints their name on the signature portion of the vote-by-mail ballot identification envelope, and it compares with a printed signature on the current or any previous affidavit of registration, if any, or the signature(s) in the voter's registration record. ~~If the elections official has compared the signature on the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the vote-by-mail application may be used rather than the affidavit of registration or the signature(s) in the voter's registration record to make the signature comparison.~~

(4) Voter uses a variation of the signature appearing on the current or any previous affidavit of registration, if any, or the signature(s) 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. ~~If the elections official has compared the signature on the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the application may be used rather than the affidavit of registration or the signature(s) in the voter's registration record make the signature comparison.~~

(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 on the current or any previous affidavit of registration, if any, or the signature(s) in the voter's registration record. ~~If the elections official has compared the signature on the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the~~

~~application may be used rather than the affidavit of registration or the signature(s) in the voter's registration record to make the signature comparison.~~

(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 and 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 15201 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 current or previous affidavit of registration, if any, or the signature(s) in the voter's registration record . ~~If the elections official has compared the signature on the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the application may be used rather than the affidavit of registration or the signature(s) in the voter's registration record to make the signature comparison.~~

(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 current or previous affidavit of registration, if any, or the signature(s) in the applicable voter's registration record. ~~If the elections official has compared the signature of the voter's vote-by-mail application with the affidavit pursuant to Elections Code section 3009, the application may be used rather than the affidavit of registration or the signature(s) in the voter's registration record to make the signature comparison.~~

~~(12)~~ (12) Voter returns their ballot in the vote-by-mail 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 on the current or any previous affidavit of registration, if any, or the signature(s) in the voter's registration record.

~~(e)(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 ~~choice~~ballot shall be considered an invalid ~~vote~~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 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.

Note: Authority cited: Help America Vote Act of 2002, 52 U.S.C. Section 21081(a)(6); Section 12172.5, Government Code. Reference cited: Sections 3009, 3011, 3017, 3019, 3020, 3106, 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 identification envelope, or if the elections official has determined that the signature on the provisional ballot identification envelope does not compare 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) Provisional ballot voters who have been determined to be ineligible during review shall be notified within 24 hours and given an opportunity to cure the eligibility issue.

- (f) For the notice described in subdivision (d) and (e), the elections official shall:
- (1) Provide the notice to the voter in the voter's preferred language.
 - (2) Include a statement on the notice that the signature provided by the voter in response to the notice 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 space for a voter to certify that they have a disability, condition, or illness preventing them from consistently signing their name.
 - (4) Include a postage-paid return envelope with the notice for the voter to return their signature cure.

(d)(g) 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 cannot be 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: Help America Vote Act of 2002, 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.

20994. Notice and Cure

- (a) If an elections official has a phone number or e-mail address for a voter whose vote-by-mail or provisional ballot has been rejected, the elections official shall attempt to call and e-mail the voter informing the voter of the defect and the need to cure within 6 days of sending the initial mail notice required by section 3019.
- (d) Within seven days of sending an initial notice required by section 3019, the elections official shall send a second notice by mail to a voter if the voter has not attempted to cure.
- (e) Elections officials are encouraged to proactively request and maintain signature samples from voters, especially for voters whose existing samples are more than five years old, and voters whose only signature sample is electronic.

20995. Elections Observers

- (a) Elections observers may not challenge individual ballots for any reason.

20996. Training

- (a) Before conducting signature comparisons and at least annually thereafter, all volunteers, temporary elections staff, or elections office staff shall be trained by an independent expert on signature comparisons.
 - (1) Training shall include at a minimum:
 - (A) Standards established by this Chapter and California law.
 - (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 voters.
 - (F) Variations in signatures caused by the collection electronic signatures.
- (b) Any permanent staff involved in signature comparisons shall additionally be trained on implicit bias.

20997. Reporting

(a) Counties shall report to the Secretary within 60 days of each statewide election in a format prescribed by the Secretary:

(1) The number of vote by mail and provisional voters initially determined to have a defect with their ballot, broken down by the type of defect.

(2) The number of vote by mail and provisional voters contacted and given an opportunity to cure a defect, and the methods used to notify those voters.

(3) The number of vote by mail and provisional ballots cured by voters and the methods used to cure.

(4) The number of vote by mail and provisional ballots finally rejected for any reason and the reason for rejection.

(5) Any cases referred to a district attorney.

(b) The Secretary shall report data received pursuant to subdivision (a) on the Secretary's website within 90 days of the election.

(c) Any voter whose ballot is rejected shall be notified after the election. That notice shall include a request for a new signature sample from voters whose signature was rejected.