



*Washington Secretary of State*

# CLEARINGHOUSE

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## ELECTIONS NOTICE

Issue #12-08  
October 16, 2012

### **Processing Electronic Ballots**

Ballots may be returned in a variety of ways including by mail, fax, email, drop box, or other electronic means. UOCAVA voters do not need to return a hard copy of the ballot in order for an electronic ballot to be counted. Hard copy ballots returned by non-UOCAVA voters must be received by the day before certification.

With the exception of special absentees and federal write-in absentees, the first **valid** ballot returned by a voter must be counted. A special absentee or federal write-in absentee ballot is voided when the voter returns a regular ballot. If a regular ballot is not received by the day before certification, the special absentee/federal write-in absentee ballot is counted.

Applying state laws and rules to electronic ballots should be as consistent as possible with mail ballots to ensure all voters are treated equally and fairly, as required by state and federal law.

This Clearinghouse clarifies the procedures for returned ballots using 14 scenarios. Following these scenarios, the supporting RCWs and WACs are listed.

When a scenario below refers to a ballot lacking a signed declaration, it means either the declaration included with the ballot was not signed, or no declaration page was included with the ballot.

Remember, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) includes any voter that is in the military, reserves, military dependents, and overseas voters. WAC references to "Service Voter" include voters who meet either the federal definition for "uniformed service voter" or the state definition for "service voter." The state and federal definitions are provided in WAC 434-235-010. Voters may have indicated their status as a service or overseas voter on their voter registration, on their ballot request, in correspondence with the state or county elections office, or simply by listing a military or overseas mailing address.

#### **Ballots from all voters—electronic or mail: UOCAVA or non-UOCAVA**

- 1. A returned ballot does not include a signed ballot declaration, or the signature on the declaration does not match the signature in the voter registration record.**

The appropriate signature form must be immediately sent to the voter. A validly signed declaration must be submitted by the day before certification in order for the ballot to be counted. The completed forms for a missing or mismatched signature may be returned by mail, electronically, or in person. (See #5)

- 2. A returned ballot does not include a signed ballot declaration. A second ballot with a validly signed ballot declaration is returned with a valid postmark.**

Count the second ballot as it is returned on time and it is the first valid ballot received from that voter.

The first ballot cannot be counted because it lacks a validly signed declaration. (See #9)

- 3. A returned ballot does not include a signed ballot declaration. A second ballot with a validly signed ballot declaration is returned, but is postmarked after Election Day.**

The signed declaration on the second ballot does NOT apply to the first ballot.

The first ballot cannot be counted until the voter submits a signed declaration for that ballot. Use normal signature cure procedures to obtain a signed declaration. If a declaration is not submitted, neither ballot may be counted. (See #10)

- 4. Someone other than the registered voter returns a voted ballot. Either the declaration is not signed, or the signature on the declaration doesn't match the signature on file. The voter agrees to provide a signed declaration at a later date.**

These actions could be two crimes: the person who voted and returned another person's ballot, and the voter who signed the declaration for a ballot cast by another. (RCW 29A.84.030, 29A.84.610, 29A.84.650 and 29A.84.680.)

Refer these ballots to your Prosecuting Attorney.

### Ballots from UOCAVA voters returned electronically

- 5. A ballot returned electronically does not include a validly signed ballot declaration.**

Regardless of *how* a voter returns a ballot, whether by postal mail, electronically or ballot drop box, the voter must be provided the same opportunity to complete the ballot declaration. If the ballot is returned without a signed declaration, the voter must be contacted to cure the signature. (See #1)

A hard copy of the ballot is not required for a UOCAVA voter; the electronic ballot may be counted when the voter submits a validly signed declaration.

## Ballots from non-UOCAVA voters returned electronically

**6. A ballot returned electronically does not include a validly signed ballot declaration.**

Regardless of *how* a voter returns a ballot, whether by postal mail, electronically or ballot drop box, the voter must be provided the same opportunity to complete the ballot declaration. If the ballot is returned without a signed declaration, the voter must be contacted to cure the signature. (See #1)

The voter must submit a validly signed declaration, and a hard copy of the ballot, before the electronic ballot can be counted.

**7. A signed declaration is returned electronically, but there is no ballot accompanying the declaration. The hard copy ballot is later returned in an envelope postmarked after Election Day.**

The electronic ballot is treated like a returned ballot envelope that has no ballot inside. In this case, the hard copy ballot cannot be counted because it was not received by 8:00 p.m. on Election Day nor did it have a valid postmark.

If the hard copy of the ballot and validly signed declaration are returned together before 8:00 p.m. on Election Day or with a valid postmark, then that ballot may be counted.

**8. A hard copy of the ballot is not received by the day before certification.**

If the hard copy is not received, the ballot cannot be counted.

The ballot returned electronically from a non-UOCAVA voter cannot be counted unless a hard copy of the ballot is received no later than the day before certification of the election.

**9. An electronic ballot does not include a signed ballot declaration. A hard copy ballot is returned with a validly signed ballot declaration and a valid postmark.**

Count the second ballot as it is the first valid ballot received from that voter.

The first ballot cannot be counted because it lacks a validly signed declaration. (See #2)

**10. An electronic ballot does not include a signed ballot declaration. The second ballot is returned with a validly signed ballot declaration, but is postmarked after Election Day.**

The signed declaration on the second ballot does NOT apply to the first ballot.

The electronic ballot cannot be counted until the voter submits a signed declaration for that ballot. Use normal signature curing procedures to obtain a signed declaration. If a declaration is not submitted, neither ballot may be counted. (See #3)

- 11. The ballot returned electronically does not include a signed ballot declaration. The hard copy of the ballot is later returned, but it too does not include a signed ballot declaration. The voter returns a completed declaration by the day before certification.**

Count the electronic ballot. The signed declaration applies to the ballot returned electronically as it was the first ballot in.

Please note a signed declaration to cure a missing signature can be returned electronically without a hard copy follow-up.

- 12. The ballot and the signature on the declaration returned electronically are received prior to 8:00 pm on Election Day. The signature on the declaration matches the voter registration signature. A hard copy of the ballot is received by the day before certification without a signed declaration.**

Count the electronic ballot. A validly signed declaration is required for the ballot that is counted and it was provided with the electronic ballot. A signed declaration on the hard copy is not required to count the electronic ballot.

- 13. The signature on the declaration returned electronically matches the voter registration signature. The signature on the hard copy declaration returned by mail also matches the voter registration signature, but is not an exact copy of the signature on the electronic declaration.**

In this case, the ballot returned electronically should be counted because it was the first ballot received *and* it has a valid signature on the declaration.

As long as the first ballot received is accompanied by a validly signed declaration, you are not required to check the signature on the hard copy declaration, and there is no reason to compare the signatures on the two ballot declarations.

- 14. The signatures on both the electronic and hard copy ballots match the voter registration record. The Canvassing Board wants to open the second ballot and compare the votes to the electronic ballot.**

The second ballot should remain unopened. The votes on the two ballots should not be compared; this would likely violate secrecy of the ballot. Only the first ballot with a validly signed declaration may be counted.

In this case, the ballot returned electronically should be counted because it was the first ballot received *and* has a valid signature on the declaration.

## **Supporting RCWs and WACs:**

### **A. Timing**

**Ballots received by 8:00 p.m. on Election Day, or postmarked no later than Election Day**

“The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election.” RCW 29A.40.110(3).

“Each ballot that was returned before 8:00 p.m. on the day of the special election, general election, or primary, and each ballot bearing a postmark on or before the date of the special election, general election, or primary and received no later than the day before certification, must be included in the canvass report.” RCW 29A.60.190.

## **B. Multiple ballots received from the same voter**

**The first ballot with a valid signature on the ballot declaration that is received is the ballot that should be counted.**

“Replacement ballots or the original ballot, whichever is received first, shall be credited to the voter's registration file and tabulated if the ballot meets all requirements for tabulation. If the auditor receives additional ballots from a voter, as indicated by the fact that the voter is already credited with voting, the additional ballots shall not be counted and shall be forwarded to the county canvassing board for rejection.” WAC 434-250-080.

“Consistent with WAC 434-250-080, it is the first ballot and declaration received that may be processed and counted.” WAC 434-208-060(1)(d).

“Ballots or parts of ballots shall be rejected by the canvassing board in the following instances: ... (a) Where a voter has already voted one ballot.” WAC 434-262-031(2)(a).

“If the voter voted a regular ballot and a provisional ballot, the provisional ballot is not counted if the regular ballot has already been counted. The regular ballot is not counted if the provisional ballot has already been counted.” WAC 434-262-032(6).

If the ballot cannot be read by the tabulation equipment, the votes must be duplicated onto a readable ballot. RCW 29A.60.125.

## **C. The ballot declaration**

### **Unsigned ballot declarations**

“If the voter neglects to sign the ballot declaration, the auditor shall notify the voter by first-class mail and advise the voter of the correct procedures for completing the unsigned declaration.” RCW 29A.60.165.

“(1) If a voter neglects to sign a ballot declaration, ... the county auditor shall notify the voter by first class mail of the correct procedures for curing the signature. ... (2) If the voter neglects to sign, ... the voter must either: (a) Appear in person and sign the declaration no later than the day before certification of the primary or election; or (b) Sign a copy of the declaration ... and return it to the county auditor no later than the day before certification of the primary or election.” WAC 434-261-050.

A similar opportunity to provide a valid signature is allowed when the signature on the ballot declaration does not match the signature in the voter registration record. See RCW 29A.60.165 and WAC 434-261-050.

#### **Signed ballot declarations returned by electronic transmission**

“[T]he secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents: ... (g) Signed ballot declarations, and any accompanying materials, submitted pursuant to WAC 434-261-050.” WAC 434-208-060(1).

#### **D. Method for returning a voted ballot**

##### **Service and overseas voters may return a ballot by electronic transmission**

“Service and overseas voters must be provided with instructions and a secrecy cover sheet for returning the ballot and signed declaration electronically. A voted ballot and signed declaration returned electronically must be received by 8:00 p.m. on the day of the election or primary.” RCW 29A.40.091(4).

“Any overseas voter or service voter may return the signed declaration and voted ballot electronically by 8:00 p.m. on the day of the primary or election....” RCW 29A.40.110(4)

“[T]he secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents: ... (d) Voted ballots and signed ballot declarations from service and overseas voters received no later than 8:00 p.m. on Election Day. WAC 434-208-060(1).

“Voted ballots returned by e-mail may be returned as multiple attachments or multiple e-mails.” WAC 434-235-040.

##### **Other voters may return a ballot by electronic transmission**

“[T]he secretary of state or the county auditor shall accept and file in his or her office electronic transmissions of the following documents: ... (d) ... Voted ballots and signed ballot declarations from voters who are neither service nor overseas voters received no later than 8:00 p.m. on Election Day, as long as hard copies are received no later than the day before certification of the election.” WAC 434-208-060(1).

For further information, please contact the Certification and Training Program at [ctsupport@sos.wa.gov](mailto:ctsupport@sos.wa.gov) or (360) 902-4165.