

Chapter 434-379 WAC

INITIATIVES AND REFERENDA

(Formerly chapter 434-79 WAC)

WAC

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WAC 434-379-005 Filing of an initiative or referendum—Fee—Required documents. A person desiring to file with the secretary of state a proposed initiative to the people, initiative to the legislature, or referendum measure may do so by filing the following documents:

- (1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;
- (2) An affidavit declaring under penalty of perjury:
 - (a) That the person submitting the proposed measure is over eighteen years of age and competent to testify;
 - (b) That the person submitting the proposed measure is a registered voter in the state of Washington;
 - (c) Whether the proposed measure is an initiative to the people, initiative to the legislature, or referendum; and
 - (d) The subject of the initiative, or the bill number of the legislation being referred; and
- (3) A nonrefundable filing fee of five dollars for each measure submitted.

The proposed measure is not considered filed with the secretary of state until all documents and fees are filed, including any original versions required.

Once the proposed text to an initiative or referendum is filed, the secretary of state shall submit the text with required information to the code reviser within one business day.

[Statutory Authority: RCW 29A.04.611. WSR 17-12-090, § 434-379-005, filed 6/6/17, effective 7/7/17; WSR 09-03-110, § 434-379-005, filed 1/21/09, effective 2/21/09; WSR 06-23-094, § 434-379-005, filed 11/15/06, effective 12/16/06. Statutory Authority: RCW 29A.04.611 and 43.07.120. WSR 05-12-116, § 434-379-005, filed 5/31/05, effective 7/1/05.]

WAC 434-379-007 Certificate of review. After filing the documents listed in WAC 434-379-005, a copy of the documents is sent to the code reviser. The code reviser shall issue a certificate of review certifying that he or she has reviewed the measure and that any recommendations have been communicated to the sponsor. Within fifteen working days after the date that the secretary of state submits the proposed measure to the code reviser's office, the sponsor shall file the measure and the certificate of review with the secretary of state for assignment of a serial number. The secretary of state shall refuse to make such assignment unless the measure is accompanied by a certificate of review that has substantially the same topic as the measure.

(6/6/17)

[Statutory Authority: RCW 29A.04.611 and 43.07.120. WSR 05-12-116, § 434-379-007, filed 5/31/05, effective 7/1/05.]

WAC 434-379-0073 Transmittal to the attorney general. Once the proposed text and certificate of review to an initiative or referendum is received, the secretary of state shall place the assigned serial number and the date filed on the top of the initiative or referendum text submitted by the sponsor. The secretary of state will submit the text with required information to the attorney general within one business day of the sponsor filing the proposed text.

[Statutory Authority: RCW 29A.04.611 and 29A.04.620. WSR 16-13-063, § 434-379-0073, filed 6/13/16, effective 7/14/16.]

WAC 434-379-0077 Withdrawal of an initiative or referendum. A sponsor may withdraw an initiative or referendum by submitting a written request to the secretary of state. The sponsor may withdraw an initiative or referendum until the time when the measure's ballot title and summary are finally established. The ballot title and summary are considered finally established five days after the attorney general submits the ballot title and summary to the secretary of state or, in the case of an appeal, when the court has rendered a final order. The sponsor cannot withdraw an initiative or referendum after it is finally established.

[Statutory Authority: RCW 29A.04.611 and 29A.04.620. WSR 16-13-063, § 434-379-0077, filed 6/13/16, effective 7/14/16.]

WAC 434-379-008 Petition requirements. (1) Petitions must be at least eleven inches wide by fourteen inches long.

- (2) Petitions must include:
 - (a) The initiative or referendum number;
 - (b) The ballot title, which must include:
 - (i) The subject, not more than ten words;
 - (ii) The concise description, not more than thirty words; and
 - (iii) The question.
 - (c) The form and text required by:
 - (i) RCW 29A.72.110 for an initiative to the legislature;
 - (ii) RCW 29A.72.120 for an initiative to the people; or
 - (iii) RCW 29A.72.130 for a referendum measure.
 - (d) The warning in RCW 29A.72.140, printed on the front to cover at least four square inches;
 - (e) Numbered lines, not more than twenty, with space for each person to provide his or her:
 - (i) Original signature;
 - (ii) Printed name; and
 - (iii) Address, city, and zip code where registered to vote.
 - (f) A blank space on the bottom left hand corner of the front side, one and one-half inch square;
 - (g) The full text of the measure printed on the back;

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- (h) The circulator's declaration printed on the back; and
- (i) Petition sheets printed with a one-inch margin on the bottom may be submitted through December 31, 2016.

[Statutory Authority: RCW 29A.04.611. WSR 17-12-090, § 434-379-008, filed 6/6/17, effective 7/7/17. Statutory Authority: RCW 29A.04.611 and 29A.04.620. WSR 16-13-063, § 434-379-008, filed 6/13/16, effective 7/14/16. Statutory Authority: RCW 29A.04.611. WSR 12-14-074, § 434-379-008, filed 7/2/12, effective 8/2/12. Statutory Authority: RCW 29A.04.611, 29A.04.255. WSR 11-05-008, § 434-379-008, filed 2/3/11, effective 3/6/11. Statutory Authority: RCW 29A.04.611. WSR 06-23-094, § 434-379-008, filed 11/15/06, effective 12/16/06; WSR 06-11-043, § 434-379-008, filed 5/10/06, effective 6/10/06.]

WAC 434-379-009 Processing filed petitions. (1) To allow for sufficient personnel to accept and process signed petitions, the sponsor of an initiative or referendum must make an appointment to file the signed petitions at least two business days in advance. Pursuant to RCW 29A.72.170, the secretary of state must reject petitions until a sufficient number that meet the minimum signature requirement are filed together. If the petitions are accepted and filed, additional petitions may be submitted until the applicable deadline established by RCW 29A.72.160. When submitting the petitions, the sponsor must also provide the text of the measure, exactly as it was printed on the circulated petitions, in electronic Microsoft Word format.

(2) Upon receipt of the petitions, the office of the secretary of state shall count the number of petitions received, and provide that total to the sponsor.

(3) A petition may not be rejected merely because it includes stray marks, scribbles, notes, or highlighting as long as the printed text on the petition is not illegible.

(4) A petition may not be rejected merely because the circulator's declaration on the back side of the petition is unsigned, or is signed with a stamp. AGO 2006 No. 13; *Washington Families Standing Together v. Secretary of State Sam Reed*, Thurston County Superior Court No. 09-2-02145-4, September 8, 2009.

(5) Once a petition is submitted to the office of the secretary of state, a person may not withdraw his or her signature from a petition. Letters submitted to the secretary of state requesting the removal of a signature from a petition must be retained by the secretary as part of the public record for the petition.

(6) Each petition must be reviewed for fraud, such as patterns of similar handwriting indicating forged signatures.

(7) Each signature line must be reviewed to invalidate:

- (a) Obscenities;
- (b) Text that is not a name;
- (c) Duplicate names;
- (d) Lines that are crossed out and not readable;
- (e) Lines that include a name and address that both appear to be fictitious; or
- (f) Lines that are blank or unfilled.

(8) The following characteristics of a signature line do not, by themselves, invalidate the signature:

- (a) A name that is fictitious with an address that does not appear to be fictitious. Lines that include a name that appears to not be fictitious but an address that does appear to be fictitious, or vice versa;
- (b) Lines that are crossed out but still readable;
- (c) Lines that are missing a printed name;

- (d) Lines that are missing any portion of the address;
- (e) Multiple lines that have similar handwriting, as long as the signature handwriting is not similar;

(f) Lines in which the signature, printed name, or address is written in the wrong field; or

(g) Signatures, printed names, or addresses written in the margin.

(9) After each signature line has been reviewed, the remaining signatures must be counted to obtain the total number of signatures submitted. That total must be provided to the sponsor.

(10) The secretary of state must verify either a random sample of the signatures submitted using the statistical formula authorized by RCW 29A.72.230 and established in WAC 434-379-010, or all of the signatures submitted. If the measure does not qualify for the ballot based on a random sample, the secretary of state must proceed to a full check of all signatures submitted. The secretary of state must follow WAC 434-379-020 to verify signatures.

[Statutory Authority: RCW 29A.04.611. WSR 17-12-090, § 434-379-009, filed 6/6/17, effective 7/7/17; WSR 14-06-040, § 434-379-009, filed 2/26/14, effective 3/29/14; WSR 12-14-074, § 434-379-009, filed 7/2/12, effective 8/2/12.]

WAC 434-379-010 Random sampling procedure. In the verification of signatures on initiative and referendum petitions, under RCW 29A.72.230, the following statistical test may be employed:

(1) Take a minimum three percent unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the number of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of the number of signatures required by Article II, Section 1 of the Washington state Constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legislature as provided in RCW 29A.72.230 or to the county auditors as provided in RCW 29A.72.250.

[Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-379-010, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 29A.04.611 and 43.07.120. WSR 05-12-116, § 434-379-010, filed 5/31/05, effective 7/1/05. Statutory Authority: RCW 29A.04.610. WSR 04-15-089, § 434-379-010, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 29.04.080, 29.04.210, 29.36.150 and 29.79.200. WSR 97-21-045, recodified as § 434-379-010, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 29.79.200 and 29.04.080. WSR 97-17-035, § 434-79-010, filed 8/13/97, effective 9/13/97. Statutory Authority: RCW 29.79.200. WSR 78-08-032 (Order 78-2), § 434-79-010, filed 7/17/78.]

WAC 434-379-012 Acceptance of signatures. (1) The secretary of state must determine if the person who signed a petition is registered to vote. The information may be researched in voter registration records using first name, last name, address, or any combination thereof. A signature may not be rejected merely because:

(a) The person signed with a middle name, nickname, or initials instead of the first name in the voter registration records, as long as the handwriting is clearly the same;

(b) The last name on the petition differs from the last name in the voter registration records, as long as the addresses and the handwriting on the first name are clearly the same;

(c) The last name on the petition or in the voter registration records is hyphenated while the last name in the other source is not;

(d) The first name and last name on the petition are reversed in the voter registration records;

(e) The address on the petition does not match the address in the voter registration records;

(f) The handwriting on the printed name or address does not match the handwriting on the signature; or

(g) The voter is on inactive status.

(2) If the secretary of state is unable to locate the person in the voter registration records, the signature shall be rejected as not registered to vote.

(3) If the person is registered to vote, the signature on the petition sheet must be matched to the signature in the person's voter registration record using the standards in WAC 434-379-020. If the signature on the petition:

(a) Matches the signature in the voter registration record, the signature must be accepted.

(b) Does not match the signature in the voter registration record, the signature must be rejected.

(c) Matches the signature in the voter registration record but another signature on the petition has already been accepted for that voter, the subsequent signature must be rejected as a duplicate.

[Statutory Authority: RCW 29A.04.611. WSR 12-14-074, § 434-379-012, filed 7/2/12, effective 8/2/12.]

(6/6/17)

WAC 434-379-020 Signature verification standard.

A signature on a petition sheet must be matched to the signature on file in the voter registration records. The following characteristics must be utilized to evaluate signatures to determine whether they are by the same writer:

(1) Agreement in style and general appearance, including basic construction, skill, alignment, fluency, and a general uniformity and consistency between signatures;

(2) Agreement in the proportions of individual letters, height to width, and heights of the upper to lower case letters;

(3) Irregular spacing, slants, or sizes of letters that are duplicated in both signatures;

(4) After considering the general traits, agreement of the most distinctive, unusual traits of the signatures.

A single distinctive trait is insufficient to conclude that the signatures are by the same writer. There must be a combination or cluster of shared characteristics. Likewise, there must be a cluster of differences to conclude that the signatures are by different writers.

[Statutory Authority: RCW 29A.04.611, 29A.04.530. WSR 06-02-028, § 434-379-020, filed 12/28/05, effective 1/28/06. Statutory Authority: RCW 29A.04.611 and 43.07.120. WSR 05-12-116, § 434-379-020, filed 5/31/05, effective 7/1/05.]