

Chapter 434-840 WAC

ADDRESS CONFIDENTIALITY PROGRAM

WAC

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		434-840-370	Election challenges. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-370, filed 9/26/91, effective 10/27/91.] Repealed by WSR 08-23-094, filed 11/19/08, effective 12/20/08. Statutory Authority: RCW 40.24.090.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

434-840-050	Notification of program participant status. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-050, filed 9/26/91, effective 10/27/91.] Repealed by WSR 98-19-063, filed 9/16/98, effective 10/17/98. Statutory Authority: RCW 40.24.090.
434-840-090	Program participant compliance with agency rules. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-090, filed 9/26/91, effective 10/27/91.] Repealed by WSR 98-19-063, filed 9/16/98, effective 10/17/98. Statutory Authority: RCW 40.24.090.
434-840-120	Record confidentiality. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-120, filed 9/26/91, effective 10/27/91.] Repealed by WSR 98-19-063, filed 9/16/98, effective 10/17/98. Statutory Authority: RCW 40.24.090.
434-840-130	Agency response to public disclosure requests. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-130, filed 9/26/91, effective 10/27/91.] Repealed by WSR 98-19-063, filed 9/16/98, effective 10/17/98. Statutory Authority: RCW 40.24.090.
434-840-300	Notification for voting record confidentiality. [Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-300, filed 9/26/91, effective 10/27/91.] Repealed by WSR 98-19-063, filed 9/16/98, effective 10/17/98. Statutory Authority: RCW 40.24.090.
434-840-320	Maintaining protected records voter information. [Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-320, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-320, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-320, filed 9/26/91, effective 10/27/91.] Repealed by WSR 08-23-094, filed 11/19/08, effective 12/20/08. Statutory Authority: RCW 40.24.090.
434-840-330	Mailing protected records voter ballots. [Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-330, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-330, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-330, filed 9/26/91, effective 10/27/91.] Repealed by WSR 08-23-094, filed 11/19/08, effective 12/20/08. Statutory Authority: RCW 40.24.090.
434-840-340	Processing protected records voter ballot. [Statutory Authority: RCW 29A.04.611. WSR 07-09-036, § 434-840-340, filed 4/11/07, effective 5/12/07. Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-340, filed 9/16/98, effective 10/17/98. Statutory

WAC 434-840-001 Authority and purpose. These rules are adopted pursuant to RCW 40.24.030 and 40.24.090. The purpose of this chapter is to provide the administrative procedures necessary to implement chapter 40.24 RCW; to provide a procedure for state and local agencies to respond to requests for public records without disclosing the location of a program participant; to provide a procedure to facilitate interagency cooperation in providing address confidentiality for a program participant; to establish uniform statewide procedures for maintaining the confidentiality of a program participant's name and address information in marriage and voting records; and to provide a procedure for state and local agencies to accept a program participant's use of a substitute mailing address.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-001, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-001, filed 9/26/91, effective 10/27/91.]

WAC 434-840-005 Definitions. For the purposes of this chapter:

(1) "Address" means any physical locations where the participant resides, works, or attends school, for which the participant is requesting confidentiality.

(2) "Address confidentiality program (ACP)" means the agency employee designated by the secretary of state with responsibility for developing and administering the program that implements the provisions of chapter 40.24 RCW.

(3) "Agency" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of that agency.

(4) "Application assistant" means an employee of a state or local agency, or of a nonprofit program that provides advo-

cacy, counseling, referral, or shelter services to victims of sexual assault, domestic violence, trafficking, or stalking who has been designated by the respective agency, and has been accepted by the secretary of state to assist individuals with threat assessment, safety planning, determining whether the program's services can help keep the victim safe, and the completion and submission of the ACP application.

(5) "Authorization card form" means the incomplete form for an authorization card on which no identifying program participant information has been entered.

(6) "Authorized personnel" means an employee of a county auditor's office, a county recording office, the Washington state department of health, or the office of the secretary of state who has been designated by the chief executive officer of the respective agency, to process and have access to voter application, voting records, marriage applications and records pertaining to program participants.

(7) "Bona fide statutory or administrative requirement" means that without possession of an individual's actual residential address the agency is incapable of fulfilling its statutory duties and obligations.

(8) "Protected records voter" means a program participant who has applied and qualified for confidential voter registration, as provided under RCW 40.24.060, WAC 434-840-100, and 434-840-310.

(9) "Record" means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(10) "Substitute mailing address" means the mailing address designated by the secretary of state which shall not be the program participant's residential address as documented on her or his application for program participation.

[Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-840-005, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-005, filed 11/19/08, effective 12/20/08; WSR 05-13-059, § 434-840-005, filed 6/9/05, effective 7/10/05. Statutory Authority: RCW 29A.04.610. WSR 04-15-089, § 434-840-005, filed 7/16/04, effective 8/16/04. Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-005, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-005, filed 9/26/91, effective 10/27/91.]

WAC 434-840-010 Application and certification process. (1) The program applicant shall provide all the information required on the certification application and date and sign the form. An applicant shall specify any Washington state residential addresses, work, and school addresses, if any, for which confidentiality is requested. The standard application form shall also include the application preparation date, and the signature of the application assistant as provided in RCW 40.24.080.

(2) An individual who has filed a properly completed application shall be certified as a program participant and issued a program participant authorization card. The authorization card shall include the program participant's name, authorization code, substitute mailing address, certification expiration date, and applicant's signature.

(3) A properly completed application shall be effective on the day it is received by the address confidentiality program.

(4) The term of a program participant's certification shall be four years following the effective date of her or his appli-

cation unless the certification is withdrawn or invalidated before that date.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-010, filed 11/19/08, effective 12/20/08; WSR 98-19-063, § 434-840-010, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-010, filed 9/26/91, effective 10/27/91.]

WAC 434-840-020 Exercise of program participant's privileges. (1) At the time any state or local government agency creates a new record or updates an existing record, a program participant may request that the agency use the substitute mailing address as the participant's residence, work and/or school address.

(2) A program participant shall show her or his authorization card to the agency official creating a new record and request address confidentiality through the use of the substitute mailing address as it appears on the authorization card, in lieu of her or his actual location.

(3) The agency official creating a new record may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant. The agency official may call the program to verify an individual's current participation status in the program.

(4) An agency shall accept the substitute mailing address unless the agency has received a written exemption from the secretary of state pursuant to RCW 40.24.050 and WAC 434-840-070.

[Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-020, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-020, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-020, filed 9/26/91, effective 10/27/91.]

WAC 434-840-030 Certification renewal. (1) A program participant may renew her or his program certification by filing with the address confidentiality program: (a) Her or his current authorization card; (b) a properly completed renewal application form; and (c) a new authorization card form. The program participant shall provide all the information required on the renewal application form and date and sign the form.

(2) The address confidentiality program shall: (a) Certify a program participant, who has filed a properly completed renewal application form, to participate in the program for an additional four year term unless the certification is withdrawn or invalidated before that date; (b) issue to the program participant a new authorization card which includes the program participant's name, authorization code, substitute mailing address, certification expiration date, and signature.

[Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-030, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-030, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-030, filed 9/26/91, effective 10/27/91.]

WAC 434-840-040 Certification withdrawal, invalidation, expiration, and termination. (1) A program participant may withdraw from program participation by submitting to the address confidentiality program: Written notification of withdrawal and her or his current authorization card. Certification shall be terminated on the date of receipt of this notification. If the program participant requests cancellation but does not return her or his current authorization card and/or does not submit written notification of the request, the

secretary of state may, at his/her discretion, cancel program participation based solely on the verbal request.

(2) The address confidentiality program shall terminate a program participant's certification and invalidate her or his authorization card if: (a) The program participant's certification term has expired and certification renewal has not been completed; (b) the address confidentiality program has determined that false information was used in the application process; or (c) the program participant fails to respond to the program's request for verification of the participant's residential address.

(3) The address confidentiality program may terminate a program participant's certification and invalidate her or his authorization card if: (a) The program participant no longer resides at the residential address on file, and has not provided at least two days' prior notice in writing of a change of address; (b) first class mail, certified mail, or a service of process document forwarded to the program participant by the address confidentiality program is returned as nondeliverable, refused, or unclaimed; or (c) the program participant obtains a legal change of identity.

(4) The address confidentiality program shall send written notification of the termination to the participant's last known mailing or residential address. The program participant shall have five business days in which to appeal the termination under procedures developed by the secretary of state.

(5) The address confidentiality program shall notify the appropriate authorized personnel when a participant has been terminated from the program. The authorized personnel shall transmit to the address confidentiality program all appropriate administrative records pertaining to the participant. The transmitting agency is no longer responsible for maintaining record confidentiality for a terminated program participant under chapter 40.24 RCW.

[Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-040, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-040, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-040, filed 9/26/91, effective 10/27/91.]

WAC 434-840-060 Information release to law enforcement agency. A request from a law enforcement agency for release of records in a program participant's file containing no indication the participant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, shall be in writing, on agency letterhead stationery, and shall contain the signature of the agency's chief law enforcement officer or his or her designee as defined in RCW 10.98.040, the request date, and the name of the program participant.

A request from a law enforcement agency for release of records in a program participant's file in which the participant's application affirmatively indicates that the applicant has reason to believe he or she is a victim of domestic violence, sexual assault, trafficking, or stalking perpetrated by an employee of a law enforcement agency, must be accompanied by a court order for release of records in the program participant's file.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-060, filed 11/19/08, effective 12/20/08; WSR 98-19-063, § 434-840-060, filed

(2/26/14)

9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-060, filed 9/26/91, effective 10/27/91.]

WAC 434-840-063 Issuance of a court order for address confidentiality program participant information.

A court order for address confidentiality program participant information may only be issued upon a probable cause finding by a judicial officer that release of address confidentiality program participant information is legally necessary:

(1) In the course of a criminal investigation or prosecution; or

(2) To prevent immediate risk to a minor and meet the statutory requirements of the Washington child welfare system. Any court order so issued will prohibit the release of the information to any other agency or person not a party to the order.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-063, filed 11/19/08, effective 12/20/08.]

WAC 434-840-065 Information release to nonlaw enforcement agency.

A request from a nonlaw enforcement agency for release of records in a program participant's file must be accompanied by a court order for release of records in the program participant's file.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-065, filed 11/19/08, effective 12/20/08.]

WAC 434-840-070 Agency exemption request.

(1) An agency requesting an exemption under RCW 40.24.050, must provide in writing to the secretary of state: (a) Identification of the statute or administrative rule which demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual; (b) identification and description of the specific record or record series for which the exemption is requested; (c) identification of the individuals who will have access to the record; (d) explanation of how the agency's acceptance of a substitute address will prevent the agency from meeting its obligations under the statute or rule identified above; and (e)(i) explanation of why the agency cannot meet its statutory or administrative obligations by a change in its internal procedures; and, where appropriate, (ii) description of any agency procedural change(s) that could be made that would allow it to accept the substitute address and meet its statutory or administrative obligations and an estimate of implementation time needed.

(2) The secretary of state shall file and review an agency's request for an exemption.

(3) During the review, evaluation and appeal of an agency's exemption request, the agency shall accept the use of a program participant's substitute address.

(4) The secretary of state's determination to grant or withhold a requested exemption shall be based on, but not limited to, an evaluation of the information provided under subsection (1) of this section in conformance with the statutory standard of a bona fide statutory or administrative requirement for the use of a program participant's actual address.

(5) If the secretary of state determines that an agency has a bona fide statutory or administrative requirement for the use of a program participant's actual address information and that the actual address information will be used only for those

statutory and administrative purposes, the secretary may issue a written exemption for the agency. When granting an exemption, the secretary may include: (a) An agency's obligation to maintain the confidentiality of a program participant's address information; (b) limitations on use and access to that address information; (c) term during which the exemption is authorized for the agency; (d) designation of the record format on which the address information may be maintained; (e) designation of an address information disposition date after which the agency may no longer maintain a record of the address information; and (f) any other provisions and qualifications determined appropriate by the secretary of state.

(6) When a program participant requests use of the substitute address in a record, and the agency has received an exemption for that record, the agency shall immediately provide a copy of the written exemption to the requesting program participant. The agency shall notify the address confidentiality program of the occurrence and denial of the program participant's request.

(7) The secretary of state's denial of an agency exemption request shall be made in writing and include a statement of the specific reasons therefore.

(8) An agency may appeal the denial of its request by resubmitting its written request together with additional data, information, and an explanation of corrective action taken to alleviate concerns and considerations included in the secretary of state's denial determination.

[Statutory Authority: RCW 40.24.090. WSR 05-13-059, § 434-840-070, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-070, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-070, filed 9/26/91, effective 10/27/91.]

WAC 434-840-080 Service of process. (1) The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served.

(2) Service on the secretary of state of any such summons, writ, demand, notice, or process shall be made by mailing to the substitute address or by delivering to the secretary of state at his/her office in Olympia, WA: (a) Two copies of the summons, writ, notice, demand, or process; and (b) twenty-five dollars service-of-process fee for each action or document filed.

(3) If a summons, writ, notice, demand, or process is served on the secretary of state, the secretary of state shall immediately forward a copy to the program participant at the participant's current mailing address shown on the records.

(4) The secretary of state shall maintain in the program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the secretary of state for that participant under RCW 40.24.030, which shall include the date of such service and the secretary of state's action.

[Statutory Authority: RCW 40.24.090. WSR 09-18-018, § 434-840-080, filed 8/21/09, effective 9/21/09; WSR 05-13-059, § 434-840-080, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-080, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-080, filed 9/26/91, effective 10/27/91.]

WAC 434-840-100 Acknowledgment for marriage and voting record confidentiality. (1) When a program participant requests confidentiality for marriage records, both

the program participant and her or his intended spouse shall sign and date a statement provided by the secretary of state, that describes access limitations on confidential marriage records.

(2) When a program participant requests confidentiality for voting records, she or he shall sign a statement provided by the secretary of state that documents the date of this request.

(3) The authorized personnel shall receive the original copy of this signed acknowledgment, the address confidentiality program shall have one copy and the program participant shall have one copy.

[Statutory Authority: RCW 29A.04.611. WSR 14-06-040, § 434-840-100, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-100, filed 11/19/08, effective 12/20/08; WSR 98-19-063, § 434-840-100, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-100, filed 9/26/91, effective 10/27/91.]

WAC 434-840-110 Proof of program participant's authority. (1) When a program participant requests name and address confidentiality for a marriage record, authorized personnel shall check the authorization card to confirm that the term of program participation has not expired and that the program participant's signature on the authorization card matches that on the acknowledgement form.

(2) Authorized personnel may make a photocopy of the program participant's authorization card. The authorization card shall be immediately returned to the program participant. The photocopy shall be kept with the confidential marriage record for this program participant during the time the record is filed and maintained by the county auditor or county recording officer. The authorized personnel may call the program to verify an individual's current participation status in the program.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-110, filed 11/19/08, effective 12/20/08; WSR 05-13-059, § 434-840-110, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-110, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-110, filed 9/26/91, effective 10/27/91.]

WAC 434-840-200 Notification for marriage record confidentiality. A program participant shall notify the appropriate county auditor or county recording officer of her or his request for confidentiality in marriage records by appearing in person with her or his intended spouse before the county auditor or county recording officer.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-200, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-200, filed 9/26/91, effective 10/27/91.]

WAC 434-840-210 Marriage application. (1) Authorized personnel shall verify that the application for a marriage license and certificate of marriage form are completed in full. The certificate of marriage shall contain the program participant's authorization code and expiration date.

(2) Authorized personnel shall provide the program participant with a "confidential records" envelope in which the program participant shall transmit all completed marriage documents to the county auditor or county recording officer.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-210, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-210, filed 9/26/91, effective 10/27/91.]

WAC 434-840-220 Marriage record filing. Any notation of a confidential marriage license application, certificate, or record, by authorized personnel shall be made in a manner that preserves the confidentiality of the information contained in that document.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-220, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-220, filed 9/26/91, effective 10/27/91.]

WAC 434-840-230 Marriage record transmission to department of health. The county authorized personnel shall transmit a completed marriage certificate containing the name and address of a program participant to the department of health in an envelope distinctly marked "confidential records."

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-230, filed 11/19/08, effective 12/20/08; WSR 98-19-063, § 434-840-230, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-230, filed 9/26/91, effective 10/27/91.]

WAC 434-840-240 Certified copy of marriage certificates. Upon the request of a program participant, accompanied by the appropriate fee, the address confidentiality program may request in writing a certified copy of a program participant's marriage certificate from the agency maintaining that record and release it to the program participant. A certified copy of a marriage certificate containing the name of the program participant is only available through the address confidentiality program.

[Statutory Authority: RCW 40.24.090. WSR 98-19-063, § 434-840-240, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-240, filed 9/26/91, effective 10/27/91.]

WAC 434-840-310 Protected records voter status. (1) A program participant shall apply for protected records voter status by appearing in person before the appropriate county authorized personnel or requesting an application from the address confidentiality program. The program participant shall: (a) Cancel any previously existing voter registration; and (b) provide all the information required on the protected records voter registration application.

(2) The program participant shall disclose to the authorized personnel the actual address of her or his residence only for the purpose of determining the proper precinct.

[Statutory Authority: RCW 40.24.090. WSR 08-23-094, § 434-840-310, filed 11/19/08, effective 12/20/08; WSR 05-13-059, § 434-840-310, filed 6/9/05, effective 7/10/05; WSR 98-19-063, § 434-840-310, filed 9/16/98, effective 10/17/98. Statutory Authority: 1991 c 23. WSR 91-20-074, § 434-840-310, filed 9/26/91, effective 10/27/91.]