

WSR 21-22-030
EMERGENCY RULES
SECRETARY OF STATE

[Filed October 25, 2021, 4:43 p.m., effective October 25, 2021, 4:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule is to preserve transparency in Washington's election process while preventing the disclosure of information that may increase risk to the integrity of election operations.

Citation of Rules Affected by this Order: New WAC 434-25-370.

Statutory Authority for Adoption: RCW 29A.04.230, 29A.04.611, 29A.08.710, 42.56.420.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The transparency and integrity of elections are at the heart of self-governance and the general welfare. Immediate adoption of this rule is necessary to preserve the transparency and integrity of elections. Under Washington's vote-by-mail system, signature verification is a key means of verifying the authenticity of a ballot. Widespread disclosure of images of voter signatures may undermine this verification process. There are pending Public Records Act requests that would result in the disclosure of large number of voter signatures. If voter signatures are disclosed, it will not be possible to undo the potential harm. This rule also ensures that counties may maintain transparency by permitting in-person inspection without redaction.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 25, 2021.

Sheri D. Nelson
Assistant Secretary of State

OTS-3424.2

NEW SECTION

WAC 434-250-380 Disclosure of voter signatures. (1) Voter signatures must be redacted on any ballot envelope or signature-correction form that is produced electronically or made available for public inspection, subject to the exceptions in subsections (2) and (3). The requirement applies to original documents, copies, and electronic images.

(2) Voter signatures do not have to be redacted when making ballot envelopes or signature-correction forms available for in-person public inspection, so long as photocopying, photographs, and other types of image reproduction of voter signatures are prohibited.

(3) Election officials may share unredacted ballot envelopes and signature-correction forms with other governmental entities for official purposes, provided that the ballot envelopes and signature-correction forms are shared in a secure manner.

(4) Voter signatures on ballot envelopes or signature-correction forms that are disclosed in litigation should be subject to a protective order that prohibits redisclosure of the voter signatures.

(5) Voter signatures on ballot envelopes or signature-correction forms constitute information about election security for purposes of RCW 42.56.420.

(6) Public disclosure of voter signatures on ballot envelopes or signature-correction forms may increase risk to the integrity of election operations.

(7) Subsection (2) of this section is severable. If a court concludes that agencies may not prohibit copying of records that are made available for in-person inspection, then voter signatures on ballot envelopes and signature-correction forms must be redacted for in-person inspection of records.

(8) For purposes of this regulation, "signature-correction form" means any form submitted by a voter for the purpose of curing a missing or mismatched signature on a ballot declaration or otherwise updating the voter signature.

(9) For purposes of this section, "voter signature" means any original handwritten signature or image of the voter's signature.

(10) The requirements of this section apply to any public records requests made prior to the effective date of this section for which disclosure of records has not already been completed.

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