

WSR 22-07-001

PROPOSED RULES

SECRETARY OF STATE

[Filed March 2, 2022, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-075.

Title of Rule and Other Identifying Information: Rules supporting the process for 17-year-old voters to participate in primaries if the voter will be 18 years of age prior to the following general election, this includes updates to notices in current rule.

Hearing Location(s): On April 26, 2022, at 2:00 p.m., at 520 Union Avenue, Olympia, 98504. The hearing will be conducted using [Microsoft] Teams. To join the hearing, call 1-206-899-2560 and enter Conference ID 328 918 204#. People will be able to hear and comment.

Date of Intended Adoption: April 27, 2022.

Submit Written Comments to: Fina Ormond, P.O. Box 40229, Olympia, WA 98504, email fina.ormond@sos.wa.gov, fax 360-664-4169.

Assistance for Persons with Disabilities: Contact Fina Ormond, phone 360-902-4146, fax 360-664-4169, email Fina.ormond@sos.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update rules in conformance with recent legislation granting voting opportunities to persons 17 years of age in primaries if the person will reach age 18 prior to the following general election.

Reasons Supporting Proposal: Consistency in operation in all county election offices within the state: Providing guidance on the correct processes for protecting privacy, providing voting materials that limit participation to primary topics only while preventing participation in any election held on the same day, also updating processes for a variety of notices communicating eligibility to primary only voters.

Statutory Authority for Adoption: RCW 29A.04.611.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Randy Bolerjack, deputy secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stuart Holmes, Olympia, 360-902-4151.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

March 2, 2022  
Randy Bolerjack  
Deputy Secretary of State

OTS-3410.5

**Chapter 434-232 WAC**  
**SEVENTEEN YEAR OLDS PARTICIPATING IN THE PRIMARY—FUTURE VOTERS**

NEW SECTION

**WAC 434-232-010 Definitions.** (1) "Ballot measure" for the purposes of this chapter means any question put forth for voting that involves a yes/no or approve/disapprove response. This includes, but is not limited to, any bond election; tax levy proposition; election to form, dissolve, or annex territory into a district or municipality; charter adoption, amendment, or abandonment; initiative; referendum; advisory vote; or any issue characterized by finalization of the question.

(2) "Contests prohibited to primary-only voters" means the following contests, even when held in conjunction with a primary:

(a) Any ballot measure; or

(b) Any contest where a candidate is deemed elected following the primary including, but not limited to, candidates for precinct committee officer, freeholder, charter review, and commissioners elected to a newly formed jurisdiction.

(3) "Contests subject to participation by primary-only voters" means the following contests:

(a) Nonpartisan candidate races that contain three or more candidates, appearing on a primary ballot;

(b) Partisan candidate races, regardless of the number of candidates, appearing on a primary ballot; and

(c) The presidential primary as described in chapter 29A.56 RCW regardless of the number of presidential candidates appearing on the ballot.

(4) "Primary-only voter ballots" are ballots issued to primary-only voters that contain only contests subject to participation by primary-only voters, and do not include races or contests prohibited to primary-only voters.

(5) "Primary-only voters" means a voter who is 17 years of age on the day of the primary but will reach the age of 18 on or before the date of the following November general election. Primary-only voters are only authorized to participate in primary elections and prohibited from participating in any special or general election.

(6) "Standard primary ballots" are ballots issued to all voters who are at least 18 years of age on the date of the primary that contain all applicable issues and candidate races for that ballot style.

[ ]

NEW SECTION

**WAC 434-232-020 Primary-only voters—Future voters eligible to participate in primaries.** As authorized by RCW 29A.08.170, persons signed up to register to vote as part of the future voter program are eligible to vote in state and local primaries and presidential primaries if they are 17 years of age on the day of the primary and will be

18 years of age on or before the day of the associated subsequent November general election.

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NEW SECTION

**WAC 434-232-030 Ballots issued to primary-only voters.** The county auditor may issue standard primary ballots to primary-only voters that contain all eligible races in a state, local, or presidential primary if there are no contests prohibited to primary-only voters on the ballot. When a contest prohibited to primary-only voters is held on the date of the primary as specified in RCW 29A.04.311, county election offices must issue primary-only voter ballots to primary-only voters.

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NEW SECTION

**WAC 434-232-040 Information pertaining to primary-only voters, when disclosable.** (1) Pursuant to RCW 29A.08.720, personally identifiable information from the voter registration record is exempt from public inspection and copying until the voter is 18 years of age, except for the purpose of processing and delivering ballots.

(2) Pursuant to RCW 29A.40.130, ballot issuance and return information for a primary-only voter, excluding the date of birth, gender, and address, is subject to public disclosure at the time of ballot issuance by the county auditor for a primary that the voter is eligible to participate in.

(3) Pursuant to RCW 29A.08.170, a person who signs up to register to vote must remain as a "future voter" as defined by RCW 29A.04.070 until such time as they will be eligible to vote in the next election. The voter registration information is exempt from public inspection and copying until they are 18 years of age. The ballot issuance and return information is exempt until they are eligible to participate in an election. When a person is eligible to participate in an election, the date of birth, gender, and address of the person is exempt from disclosure when providing ballot issuance and return information in accordance with RCW 29A.40.130 until they are 18 years of age.

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**OTS-3411.2**

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-045 Verification of applicant's identity.** (1) If the applicant is provisionally registered pursuant to WAC 434-324-040(5), the county auditor may use other government resources and public records to confirm the applicant's driver's license or state identification card number, valid tribal identification card, or the last four digits of the applicant's Social Security number. The county auditor may also attempt to contact the applicant by phone, email or other means to obtain identification information.

(2) If, after these attempts, the county auditor is still unable to verify the applicant's identity, the county auditor must send the applicant an identification notice at the time of registration that includes a postage prepaid, preaddressed form by which the applicant may verify or send additional information. The identification notice must include:

(a) A statement explaining that because the applicant's identity cannot be verified with the information provided on the application, they have been provisionally registered to vote.

(b) A statement explaining that if this additional information is not provided, the applicant's ballot will not be counted.

(c) A statement explaining that federal law requires the applicant to provide their driver's license number, state identification card number, valid tribal identification card number or the last four digits of their Social Security number, or a copy of one of the following forms of identification, either before or when they vote:

(i) Valid photo identification;

(ii) A valid enrollment card of a federally recognized tribe in Washington;

(iii) A current utility bill, or a current bank statement;

(iv) A current government check;

(v) A current paycheck; or

(vi) A government document, other than a voter registration card, which shows both the registrant's name and current address.

(3) If the applicant responds with updated driver's license, state identification card, valid tribal identification card, or Social Security information, or with a copy of one of the alternative forms of identification, the flag on the voter registration record must be removed, allowing the applicant's ballot to otherwise be counted the first time they vote after registering.

(4) If the applicant fails to respond with adequate documentation to verify the applicant's identity, the applicant's voter registration record must remain flagged. The applicant must be notified at the time of each election that the ballot will not be counted unless adequate verification of identity is provided.

(5) A provisional registration must remain on the official list of registered voters for at least two general elections for federal office. If, after two general elections for federal office, the voter still has not verified or provided information to verify identity, the provisional registration shall be canceled.

(6) The county auditor shall mail an identification notice to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.

(7) The county auditor shall not mail an identification notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-045, filed 6/10/20, effective 7/11/20; WSR 14-06-040, § 434-324-045, filed 2/26/14, effective 3/29/14. Statutory Authority: RCW 29A.04.611, 29A.04.620, and 29A.04.630. WSR 11-24-064, § 434-324-045, filed 12/6/11, effective 1/6/12. Statutory Authority: RCW 29A.04.611. WSR 09-18-098, § 434-324-045, filed 9/1/09, effective 10/2/09; WSR 09-12-078, § 434-324-045, filed 5/29/09, effective 6/29/09; WSR 09-03-110, § 434-324-045, filed 1/21/09, effective 2/21/09; WSR 07-24-044, § 434-324-045, filed 11/30/07, effective 12/31/07; WSR 07-02-100, § 434-324-045, filed 1/3/07, effective 2/3/07.]

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-085 Acknowledgment notice.** (1) The auditor must send an acknowledgment notice to an individual by nonforwardable, address correction requested mail if an individual:

- (a) Registers to vote;
- (b) Transfers their registration record within the county;
- (c) Transfers their registration record from another county within Washington state; or
- (d) Changes from one precinct to another because of a change in precinct boundaries.

(2) The acknowledgment notice must include:

- (a) Voter's full name;
- (b) Mailing address;
- (c) County name;
- (d) Precinct name and/or number; and
- (e) The date the voter registered.

(3) The county auditor shall mail an acknowledgment notice to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.

(4) The county auditor shall not mail an acknowledgment notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-085, filed 6/10/20, effective 7/11/20; WSR 09-18-098, § 434-324-085, filed 9/1/09, effective 10/2/09; WSR 07-02-100, § 434-324-085, filed 1/3/07, effective 2/3/07; WSR 06-11-041, § 434-324-085, filed 5/10/06, effective 6/10/06; WSR 05-24-039, § 434-324-085, filed 11/30/05, effective 12/31/05. Statutory Authority: RCW 29A.04.610. WSR 04-15-089, § 434-324-085, 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 98-03-033, § 434-324-085, filed 1/13/98, effective 2/13/98; WSR 97-21-045, recodified as § 434-324-085, filed 10/13/97, effective 11/13/97; Order 74-4, § 434-24-085, filed 6/3/74.]

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-087 Confirmation notice.** (1) When a voter is placed on inactive status, the county auditor must send a confirmation notice to the voter by first-class forwardable mail, and must include a response form that:

(a) Is preaddressed and postage prepaid;

(b) Includes either the voter's date of birth or voter registration number;

(c) Asks the voter to verify their current address; and

(d) Asks the voter to sign the oath in RCW 29A.08.230.

(2) When the voter sends the county auditor a response to the confirmation notice, the auditor must:

(a) Transfer the voter's registration and send the voter an acknowledgment notice if the response indicates that the voter has moved within the county.

(b) Forward the confirmation notice to the voter's new county by mail or electronically if the response indicates that the voter has moved to another county within Washington and the confirmation notice contains the minimum information required by WAC 434-324-036.

The county auditor in the voter's new county must register the voter using the information and signature on the confirmation notice. The new county must transfer the registration from the old county to the new county and send the voter an acknowledgment notice.

(c) Send the voter a voter registration application if the response indicates that the voter has moved to another county within Washington but the confirmation notice does not contain the minimum information required by WAC 434-324-036. The voter shall remain on inactive status according to RCW 29A.08.635.

(d) Cancel the voter's registration if the response indicates that the voter has moved out-of-state and the response is signed.

(e) Keep the voter on inactive status according to RCW 29A.08.635 if the response indicates that the voter has moved out-of-state but is not signed.

(3) The county auditor shall mail a confirmation notice to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.

(4) The county auditor shall not mail a confirmation notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-087, filed 6/10/20, effective 7/11/20; WSR 12-14-074, § 434-324-087, filed 7/2/12, effective 8/2/12.]

AMENDATORY SECTION (Amending WSR 20-13-043, filed 6/10/20, effective 7/11/20)

**WAC 434-324-103 Verification notices.** A verification notice must be sent when a voter registration application does not contain all the minimum information required in RCW 29A.08.010. The notice must be sent by first-class forwardable mail and must include a response form that:

(1) Is preaddressed and postage paid or is accompanied by a pre-addressed and postage paid return envelope.

(2) Requests that the applicant provide the missing information only.

(3) Requests that the applicant provide the missing information within (~~forty-five~~) 45 days from the date the verification notice was mailed.

If the applicant does not respond by the (~~forty-five~~) 45 day deadline, the voter registration application is considered void.

(4) The county auditor shall mail a verification notice to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.

(5) The county auditor shall not mail a verification notice to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

[Statutory Authority: RCW 29A.04.611. WSR 20-13-043, § 434-324-103, filed 6/10/20, effective 7/11/20. Statutory Authority: RCW 29A.04.611 and 29A.04.620. WSR 16-13-063, § 434-324-103, filed 6/13/16, effective 7/14/16.]