

**ISLAND COUNTY
ELECTION CANVASSING BOARD
ADMINISTRATIVE RULES**



Procedures and Guidelines

Update adopted by the Island County Canvassing Board on August 25, 2006.

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CHAPTER ONE – GENERAL INFORMATION

Section 1. The Canvassing Board – Authorization and Purpose

- a. The Island County Canvassing Board (hereafter “Canvassing Board” or “Board”) is established under the authority of RCW 29A.60.140.
- b. The purpose of the Board is to process absentee ballots, to determine the validity of provisional ballots, to determine tie votes by lot, to resolve discrepancies in results, to schedule and conduct recount of elections, to hear and resolve certain voter registration challenges, and to canvass the votes in order to certify special, primary and general election results.

Section 2. Purpose of the Manual

The purpose of the policies and administrative procedures contained in this manual is to facilitate and govern the canvassing process and to establish a mechanism for treating matters before the Board uniformly. Statutory and regulatory authority is cited for most propositions. Provisions of these policies and procedures that do not specifically refer to statutory or regulatory authority are guidelines based on past practices and decisions of the Board. They are provided to promote consistency; however, each factual question before the Board will be reviewed on a case-by-case basis. In the event of any conflict between these policies and procedures and either state law and/or state administrative regulations, state law and/or regulations shall control. Finally, state law shall govern over any state administrative regulations.

CHAPTER TWO – THE CANVASSING BOARD

Section 1. Composition of the Canvassing Board

The statutory members of the County Canvassing Board are the County Auditor, who is the chair of the Canvassing Board, the County Prosecuting Attorney and the Chair of the Board of County Commissioners. A deputy auditor, deputy prosecuting attorney or another member of the Board of County Commissioners may serve as a substitute member for their principal when designated by their principal in writing filed in the office of the county auditor not later than the day before the first day duties are to be undertaken by the Board. (RCW 29A.60.140(1))

The County Canvassing Board may not include individuals who are candidates for an office to be voted upon at the primary election or election to be canvassed, unless no other individuals qualify to serve on the Board. (RCW 29A.60.150)

Section 2. Terms of Membership

Members of the Board shall serve for the duration of their terms of office as elected officials. Designated representatives shall remain on the Board for the duration of their designator's term of office or until such designation is revoked or modified unless the designation specifically covers only an election or specific period of time.

Section 3. Delegation of Authority

The Board may delegate, in writing, to members of the staff of the Elections Department the routine duties of canvassing the ballot returns and of counting absentee and mail ballots as permitted by these policies and procedures. The written delegation of authority shall be filed with the Auditor prior to any delegate undertaking any action on behalf of the Board. Before processing for each election, all personnel delegated authority to compare signatures on affidavits on ballot envelopes shall subscribe to an oath administered by the County Auditor regarding the discharge of those duties. In no instance may the members of the County Canvassing Board delegate the responsibility of certifying the returns of any primary or election, determining the validity of any challenged ballots, rejecting ballots or determining the validity of any provisional ballots referred to the Canvassing Board by the County Auditor. (RCW 29A.60.140(2) & (3); WAC 434-262-015 and 434-250-120)

CHAPTER THREE – MEETINGS

Section 1. Times for Meetings

- a. The Board's meetings will be convened by the Auditor.
- b. The Auditor will notify the other board members and designees of the meeting schedules by memo at least one week prior to the Board convening for a given primary or election. The Auditor shall publish notice of the meeting of the Canvassing Board as required by chapter 42.30 RCW. WAC 434-262-025.
- c. Should an emergency situation arise concerning the disposition of an election or the canvassing of the votes, the Auditor may call a special meeting of the Board to address that situation on short notice. Only the emergency situation shall be dealt with at such a meeting. Routine canvassing board processes shall not be acted upon. Notification shall be as required by RCW 42.30.080.

Section 2. Place for Meetings

The meetings of the Canvassing Board should be held at the Island County Administration Bldg., 1 NE 7th St. Coupeville, WA 98239, or as otherwise designated. A record of the proceedings of the County Canvassing Board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots. (WAC 434-262-025)

Section 3. Public Meetings

Board meetings are open to the public and subject to the requirements of the Open Public Meetings Act, Chapter 42.30 RCW.

Section 4. Quorum

All principal Board members or their designated representatives are expected to be present for Board meetings. However, two members shall constitute a quorum except for certification of an election which shall require attendance of all members.

Section 5. Decision of the Board

A majority vote of the members or designated representatives shall control and be required to carry out the business of the Board, except for certification of an election.

If only two members are present and are unable to agree on a determination, the issue will be held over until a third member is available.

CHAPTER FOUR – CANVASSING PROCEDURE

Section 1. Statutory Guidelines

Elections staff are directed to tabulate all ballots that have been properly marked according to ballot instructions or as otherwise required by statute. Any ballot deviating from the norm shall be reviewed by the Canvassing Board before a determination is made to tabulate, unless otherwise provided in this section. If the voter's intent can clearly be determined, that ballot shall be tabulated. RCW 29A.60.040, WAC 434-261-075(5)

a. Total or Partial Rejection of Ballot.

Ballots or parts of ballots shall be rejected by the Canvassing Board in the following instances:

1. Where two ballots are found folded together, or where a voter has voted more than one ballot, or where the ballot is marked so as to identify the voter;
2. Where two ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;
3. Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine voter's intent;
4. Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;
5. Where the voter has voted for more candidates for an office or positions on an issue than are permissible;
6. Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-250-040 unless the voter provides written instructions directing how the vote should be counted or the voter has clearly attempted to erase a mark;
7. Where the voter has made a write-in vote for any person who filed for the same office as either a regular or write-in candidate at the preceding primary, or the write-in vote does not contain all of the information required under RCW 29A.60.021; and

8. Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee ballots where such rejection is required by law or administrative rule.

RCW 29A.60.040; WAC 434-261-075(2); WAC 434-262-031.

Section 2. Tabulating of Votes

- a. General. The auditor and election staff shall tabulate the votes of the elections.
- b. Early Returns. The ballot cards picked up during the polling hours may be subsequently tabulated before the polls have closed; provided, that all such election returns must be held in secrecy in the same manner as the count of paper ballots during polling hours as provided by RCW 29A.60.120. Any person revealing any election returns to unauthorized persons prior to the close of polls shall be subject to the same penalties as provided by RCW 29A.84.730.

Section 3. Review and Determinations by the Board

In the event the following situations arise, all ballots concerned will be delivered to the Board for review and a determination shall be made as to whether the ballot shall be counted, partially counted, or rejected.

- a. Where the voter's intent is not clear from the marks on the ballot. (WAC 434-261-070(3))
- b. Any ballot where the eligibility of the voter to cast the ballot is in doubt. (WAC 434-261-120)
- c. Any ballot of a voter whose registration has been challenged within the time limits described by law. (See Chapter Five, Chapter Seven, Section 5, and Chapter Eight, Section 4)
- d. Any ballot whose security may have been compromised because of mishandling. Examples: Where ballots have not remained in the custody of the judges or appropriate observers or have not been properly sealed in the ballot transport carrier or election center storeroom when not in the custody of precinct election officials or Election Department Personnel.

Section 4. Processing Ballots for Board Review

- a. Provisional Ballots will be retained in their special envelopes which shall be assigned a sequential code number by Election Department staff. Processing of provisional ballots must include review of the voters'

signatures on the provisional ballot envelopes in the same manner as specified for absentee ballots in Chapter Seven, Section 2, as well as investigation of the other relevant facts to determine whether the provisional ballots should be counted.

- b. Voter's Intent. Any ballot where the voter's intent is not clear from the marks on the ballot shall be forwarded to the Canvassing Board with a brief description of the reason for questioning the ballot. Any additional material, such as a marked voter's guide, explanatory notation, etc. shall also be given to the Board to assist them in making their determination. The ballots shall be coded sequentially.
- c. Special case ballots shall be retained in a secure envelope or container depending upon the number of ballots involved. The number of ballots included, the precinct(s), reason for the ballots being reviewed, details of the circumstances as known shall be presented to the Board with the ballots. A sequential code number will be assigned to each batch.
- d. Code Numbers and Logs. Each person responsible for preparing ballots for review by the Board shall maintain a log of all such ballots identified by sequential code number, date submitted to the Board and summary of the Board's determination after review. The log regarding provisional ballots shall also list the voter's name, address, reason for voting provisional, election staff comments/recommendations, and identify the poll site inspector who received the ballot. These logs will be used to validate updates to the election tabulations based on the ballot determinations of the Board.
- e. Board Review. The Election staff shall present ballots prepared for the Board to review. They shall be responsible for preparing the minutes for each meeting detailing the decision of the Board. They shall be responsible for ensuring that all reviewed ballots are processed as determined by the Board. If the ballot must be duplicated before being tabulated, if that is the Board's determination, the usual rules in chapter 4, section 5 for duplicating a ballot shall be followed.

Section 5. Duplication Procedures

If inspection of a ballot reveals a physically damaged ballot or a ballot that may be otherwise unreadable or uncountable by the tabulation system, that ballot may be duplicated by Election staff without referral to the Canvassing Board only if the intent of the voter's marks on the ballot are clear. Examples of a voter's marks on the ballot being clear are when: (i) the voter corrects his or her mistaken vote by following the voting instructions, or (ii) as a clear and consistent pattern on the ballot, the voter circles or underlines one candidate's name or box rather than filling in the box of that candidate or a competing candidate, or where the voter

marks an “X” or a checkmark in a box, but does not fill in the box of a competing candidate. If the intent of the voter’s marks is not clear the ballot must be referred to the Canvassing Board. Teams of two or more election staff working together will duplicate ballots. Use of the resolution process of the Hart InterCivic Ballot Tabulation system, using the following steps, will qualify as “duplication” where physical duplication of a ballot is not necessary to cause the ballot to be readable or countable by the tabulation system. The following steps will be taken to maintain an audit trail:

- a. Each ballot duplicated and the duplicate ballot must be assigned the same unique control number.
- b. Each unique control number will be marked on the face of the original ballot, the face of the duplicated ballot, and on the control log.
- c. When resolving ballots identified as requiring resolution through the digital scan vote tallying system, a log of the resolutions must be printed and signed by the two staff members who conducted the resolution. That log shall be numbered and entered on the control log in (d) below.
- d. A control log will be maintained with the unique control number for duplicated ballots with a brief description of the duplication and the total number of ballots duplicated.

RCW 29A.60.125; WAC 434-250-110(c), WAC 434-261-005(2) & WAC 434-261-070(3)(b), WAC 434-261-102

Section 6. Official County Canvass Report and Certification

Upon verifying the Auditor’s abstract of votes and documenting any corrective action taken, the Board members shall sign a certification that the abstract is a full, true and correct representation of the votes cast for the listed issues and offices. The certification shall state the total number of registered voters and the total votes cast in Island County and shall contain the required oath, signed by the Board members or their official designees. In addition, the official county seal shall be attached. This certification, the Auditor’s abstract of votes, and a written narrative of any errors or discrepancies discovered by the Canvassing Board, the cause of those errors, if known, and the corrective action taken, shall constitute the official county canvass report. The Auditor shall also attach an election reconciliation report containing the election information required by RCW 29A.60.235(1). A final reconciliation report showing the information required by RCW 29A.60.235(2) shall be prepared by the Auditor and made publicly available within 30 days after election certification. If the election encompassed jurisdictions not wholly contained with Island County, a copy of the certified report shall be forwarded to the Secretary of State. A copy of the certified report for elections for districts that cover both Island and Snohomish Counties shall be

submitted to the Snohomish County Auditor. The vote totals contained in the official county canvass report shall constitute the official election returns and shall not be altered or amended except following a recount or upon a Superior Court order or by the Board convened specifically for that purpose. RCW 29A.60.235 and WAC 434-262-040, -050, -060 and -070.

CHAPTER FIVE – VOTER REGISTRATION CHALLENGES

Section 1. Duty of Canvassing Board Generally

The Board is statutorily charged with the duty to hear voter registration challenges allowed to be filed with the Elections Department less than forty-five (45) days before an election (challenges filed at least forty-five (45) days prior to an election shall be heard by the Auditor).

Section 2. Procedures for Challengers.

- a. Qualifications of Challengers. A challenger must be either a registered voter, the county prosecuting attorney or an election official poll site judge or inspector. (RCW 29A.08.810(2))
- b. Time for Challenge.
 1. Challenges By Registered Voter or Prosecuting Attorney.
 - A. Except as provided in subsection B. or C. below, a challenger must file a challenge not later than forty-five (45) days before the election. (RCW 29A.08.820(1))
 - B. Challenges initiated against a voter who registered to vote less than sixty (60) days before an election, or who changed residence less than sixty (60) days before the election without transferring his or her registration, must be filed no later than ten (10) days before the election, or within ten (10) days of the voter being added to the voter database, whichever is later.
 - C. The qualifications of any absentee voter may be challenged before the voted absentee ballot is received by the Auditor. (RCW 29A.40.140)
 2. Challenges at the Polls on Election Day. Only a precinct poll site judge or inspector election official may challenge a voter's registration at the polls on election day.. (RCW 29A.08.810(2))
- c. All Challengers Must:
 1. File with the Auditor a signed and verified affidavit subject to penalties of perjury swearing that, to the challenger's personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter is not qualified to

vote based upon one of the reasons for challenge allowed under RCW 29A.08.810(1). The challenge may not be based on unsupported allegations or allegations of anonymous third parties. (RCW 29A.08.810(3)). (Note: Secretary of State and Auditor challenges, under RCW 29A.08.520, to a voter's eligibility to vote based upon a felony conviction must be processed according to RCW 29A.08.520 and rules adopted by the Secretary of State. (RCW 29A.08.810(4)))

2. Either appear in person to present the relevant facts and arguments before the Board or submit an affidavit stating the reasons the registration is invalid in support of the challenge. (RCW 29A.08.840(3))

Section 3. Procedures for Challenged Voters

Challenged voters may:

- a. Transfer or reregister to vote until the day before the election (RCW 29A.08.840(2)).
- b. Vote a ballot which shall be placed in a sealed envelope separate from other voters' ballots and transmitted to the Board at the close of election (RCW 29A.08.820(2)(b)); and
- c. Appear at the Board hearing in person to present the relevant facts and arguments; or
- d. File an affidavit with the Board presenting any facts or arguments to support the validity of the registration. (RCW 29A.08.840(3))

Section 4. Procedures for Precinct Election Officials

Precinct Election Officials who have filed a challenge shall:

- a. Process a challenged ballot if the challenged voter wishes to vote;
- b. Either appear in person before the Board or submit an affidavit supporting the challenge. (RCW 29A.08.840(3))

Section 5. Procedures for Auditor

The Auditor shall:

- a. If the challenge is not in proper form or the factual basis for the challenge does not meet the legal grounds for a challenge, the Auditor may dismiss the challenge and notify the challenger of the reasons for the dismissal;
- b. If the challenge is in proper form and the factual basis meets the legal grounds for a challenge, by certified mail notify the challenged voter providing a copy of the challenging affidavit, informing the challenged voter that the status of the voter's registration and eligibility to vote will be determined by the Canvassing Board and notify precinct election officials in the challenged voter's precinct that a challenge has been filed;
- c. If the challenge is to the residential address provided by the voter, provide the challenged voter with notice of the exceptions allowed in RCW 29A.08.112, RCW 29A.04.151 and Article VI, section 4 of the state Constitution.
- d. Instruct both the precinct election officials and the challenged voter that a challenged ballot will be provided if this has not already been accomplished;
- e. Check the voter registration files and, if a mail or absentee ballot has been issued to the challenged voter, flag the file so that the ballot may be intercepted at the time that it is processed for signature verification;
- f. Notify the challenged voter that if he or she does not vote at the ensuing primary or election, that the challenge will be processed under a hearing by the Auditor;
- g. On behalf of the Board, notify the challenger and challenged voter and , if applicable, the challenging precinct election official and third party by certified mail of the time and location at which the Board will meet to hold a hearing on challenged ballots. (RCW 29A.08.840(2))

Section 6. Time of Hearing

The Board hearing shall occur no later than the time of certifying the particular primary, special or general election. The decision of the Board shall be made within the same time limit. (RCW 29A.08.840(6))

Section 7. Presumption

Registration creates a presumption that a voter has the right to vote as registrations are presumed valid unless and until the challenger proves by clear and convincing evidence that the challenged voter's registration is improper. (RCW 29A.08.810(1); RCW 29A.08.840(4)) A challenged person shall be permitted to vote a challenged ballot. (RCW 29A.08.830)

Section 8. Processing a Challenged Ballot at the Polls

The challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope marked "challenged ballot" and maintained separate from other voted ballots. Included with the ballot shall be the affidavit signed by the precinct election official stating the reasons the voter is being challenged.

The sealed ballots of challenged voter shall be transmitted at the close of the election to the Election office in the large envelope marked "Challenged Ballots." The Board's delegates shall give all challenged ballots to the Elections Manager who shall prepare the appropriate notifications for the Auditor and shall advise the Board of the number and status of the challenged ballots. (RCW 29A.08.820)

Section 9. Procedure at the Board Hearing

- a. Oath. All witnesses shall be placed under oath.
- b. Number of Witnesses. The number of witnesses shall not be limited unless the testimony becomes repetitive or goes beyond the time limits for presenting testimony.
- c. Length of Hearing. The challenger and challenged voter shall be provided adequate time to present evidence.
- d. Questioning of Witnesses. Members of the Board shall be free to examine any witness at any time in the proceeding.
- e. Burden and Standards of Proof. The burden is always on the challenger to prove by clear and convincing evidence that the challenged voter's registration is improper. (RCW 29A.08.840(4))
- f. Recording. The Board hearing shall be recorded on tape.

Section 10. Decision

The decision of the Board shall be made at the conclusions of the evidentiary portion of the hearing. The Canvassing Board's decision shall be final subject

only to judicial review by the superior court under chapter 34.05 RCW. (RCW 29A.08.840(6))

Section 11. Remedies

The effect of a Board decision that a challenged registration is valid shall be to count the ballot and to give the registration full effect. Registrations determined to be invalid shall be immediately canceled and the voted ballot shall not be counted.

CHAPTER SIX – GUIDELINES FOR PROCESSING PROVISIONAL BALLOTS

Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the Auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election.

A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record. Signature omissions and mismatches shall be processed in accordance with Chapter Seven, Section 2(b).

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

- a. Counted by Auditor's Election Staff.
 1. If the voter was previously registered and later canceled and the Auditor determines that the cancellation was in error, the voter's registration must be immediately restored and the provisional ballot counted.
 2. If the voter is a registered voter but has voted a ballot other than the one which the voter would have received for his or her precinct, the auditor must ensure that only those votes for the positions and measures for which the voter was eligible to vote are counted.
 3. If the voter voted a provisional ballot because he or she failed to produce identification as required by RCW 29A.44.205, the ballot is counted if the signature on the envelope matches the signature in the voter registration record. If a signature omission or mismatch is not resolved by utilizing the procedures of Chapter Seven, Section 2(b), the provisional ballot shall be referred to the Canvassing Board for disposition.
- b. Processed by Auditor's Election Staff and Referred for Determination by Canvassing Board.
 1. If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot is not counted.
 2. If the voter was previously registered and later canceled and the Auditor determines that the cancellation was not in error, the voter must be offered the opportunity to reregister and the provisional ballot is not counted.
 3. If the voter is a registered voter in another county, the Auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted, to the supervisor of elections for the jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a

primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date.

4. If an absentee voter who voted a provisional ballot at the polls has already returned a voted absentee ballot, the provisional ballot is not counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.

5. Provisional ballots voted for reasons not covered by sections a. or b. or state statute must be determined by the county canvassing board.

(WAC 434-253-047)

CHAPTER SEVEN – ABSENTEE BALLOTS

Section 1. General Provisions

- a. Absentee Ballot Status. Absentee ballots shall be handled, processed and tabulated in a manner as to provide essentially the same security and integrity afforded ballots cast at the polls. Therefore, except as provided in this chapter or otherwise required by law, policies and procedures governing poll ballots shall also apply to absentee ballots.
- b. Processing of Absentee Ballots. Ballots may only be removed from the outer envelopes after verification and validation are completed. Opened absentee ballots will be locked and sealed until they are tabulated. (RCW 29A.40.110)

Section 2. Review of Returned Ballot Envelopes.

- a. Examination. Election Department staff shall examine the statement and signature on each absentee ballot return envelope containing a ballot within.
 1. Signatures must be in the place afforded for the signature in the envelope or other as designated by the auditor. (WAC 434-240-240(2))
 2. In the event an absentee ballot contains a signature that does not match the registration signature or contains a mark other than a signature, the ballot will be counted if the signature or mark is witnessed by two witnesses and if the two witnesses sign next to the signature or mark. Ballots will not be counted if signed by Power of Attorney.
- b. Comparison of Signatures. The Election Department staff, who have had special training in signature verification and who have subscribed to an oath regarding their duties of signature verification for the particular election, shall then verify that the voter's signature is the same as that on the voter registration record of that voter using the signature verification standards established in WAC 434-379-020 (RCW 29A.40.110(3); WAC 434-250-120). A variation between the signature of the voter on the return envelope and signature in the registration records due to substitute of initials or common nickname is permitted so long as the surname and handwriting are clearly the same.

1. Signature Mismatch. If the signature does not appear to be the same, except for use of a different name under subsection 3. below, the election staff shall notify the voter by first class mail, enclosing a copy of the envelope affidavit, and advise the voter of the correct procedures for curing the signature. If the absentee or provisional ballot is received within three business days of the final meeting of the Canvassing Board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the Canvassing Board, then the election staff shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:
 - A. Appear in person and sign a new registration form no later than the day before the certification of the election (Note: The updated signature provide on the new registration form becomes the signature on the voter registration record for the current election and future elections); or
 - B. Sign a copy of the affidavit provided by the Auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the copy of the affidavit must match the signature on the identification, and both of those signatures must match the original signature on the ballot envelope. The voter must return the signed affidavit and identification to the Auditor no later than the day before the certification of the election. If the signature on the copy of the affidavit returned does not match both the original signature on the ballot envelope affidavit and the signature on the copy of the identification document, the voter must appear in person and sign a new registration form no later than the day before the certification of the election in order for the ballot to be counted; or
 - C. Sign a copy of the affidavit provided by the Auditor in front of two witnesses who attest to the signature. The signature on the copy of the affidavit must match the original signature on the ballot envelope. The voter must return the signed copy of the affidavit with two witness attestations to the Auditor no later than the day before the certification of the election. If the signature on the copy of the affidavit returned does not match the original signature on the ballot envelope affidavit, the voter must appear in person and sign a new registration form no later than the day before the certification of the election in order for the ballot to be counted.

Any returned ballot where the signature does not appear to be the same shall be referred to the Board. (RCW 29A.60.165)

2. Omitted Signature. If the voter's signature is omitted on the ballot envelope affidavit, or if the voter signs with a mark and fails to have two witnesses attest to the signature, the election staff shall notify the voter by first class mail and advise the voter of the correct procedures for curing the signature. If the absentee ballot is received within three business days of the final meeting of the Canvassing Board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the Canvassing Board, then the election staff shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:
 - A. Appear in person and sign the envelope no later than the day before the certification of the election; or
 - B. Sign a copy of the envelope affidavit provided by the Auditor, or in the case of the voter who signed with a mark have two witnesses attest to the signature by the voter's mark on the copy of the envelope affidavit, and return it to the auditor no later than the day before the certification of the election. Except for voters who sign with a mark and have two witnesses attest to the signature, if the signature on the copy of the envelope affidavit returned to the Auditor does not match the voter's signature on the registration records, the process in subsection 2. above shall be followed.

Any returned ballot where the omitted signature is not completed or the signature verified shall be referred to the Board. (RCW 29A.60.165)

3. Different Name. If the signature on an absentee or provisional ballot envelope affidavit does not match the signature on the registration record because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The Auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.
- c. Record of Omitted and Mismatched Signature Ballots. The Auditor must keep a record of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form.

(RCW 29A.60.165; WAC 434-261-050)

Section 3. Time of Voting.

- a. Deadline. All properly voted absentee ballots received on or before the day in which a primary, special or general election is certified to be held shall be included in the canvass. (RCW 29A.60.160) All other returned ballots shall be handled as follows:

- b. Ballots Received After Election Day: Determination of Date of Mailing.
 1. Overseas and/or Service Voters
 - A. Voter Attestation. The date of mailing shall be the date indicated by the voter on the return envelope. (RCW 29A.40.110(3); WAC 434-40-240)
 - B. Postmarks. If the voter signs the return envelope but fails to date it, the date on the postmark shall control.
 - C. No Postmark or Date. If the envelope is neither dated nor postmarked, the date the ballot was received in the Auditor's Office shall determine the date of mailing.
 2. All Other Voters.
 - A. Postmarks. The date of mailing shall be the postmark, if present and legible.
 - B. Illegible Postmarks. If the postmark is missing or illegible, the date on the return envelope to which the voter attests shall determine the date of mailing. (RCW 29A.40.110)
 - C. No Postmark or Date. If the envelope is neither dated nor postmarked or the postmark is illegible, the date the ballot was received in the Auditor's Office shall determine the date of mailing.

- c. Ballots Voted After Election Day. All absentee ballots showing a postmark subsequent to the date of a primary, special or general election, an affidavit signature date indicated by the voter subsequent to the date of the primary, special or general election, or ballots without postmarks or dates, shall be referred to the Board. (RCW 29A.60.050; WAC 434-250-120) Ballots voted after the election shall not count. Voters of such ballots shall not be credited with voting in that election.

Section 4. Special Absentee Ballots

- a. General Duties. Special absentee ballots (commonly known as “Submarine” ballots, as authorized by RCW 29A.40.050 and RCW 29.36.170, shall be canvassed in the same manner as regular absentee ballots. (RCW 29A.40.050 (3))
- b. Special and Regular Absentee Ballots Both Voted. If a regular absentee ballot and a special absentee ballot are both properly voted and returned by the same voter, the special absentee ballot shall be void. (RCW 29A.40.050(4))

Section 5. Challenges

The qualifications of any absentee voter may be challenged before the voted ballot is received by the Auditor. The Board has the authority to determine the legality of any challenged absentee ballot under this section. (RCW 29A.40.140)

Section 6. Determination Guidelines

- a. Envelope Postmarked After Election Date. Except as applicable for overseas and service voters, absentee ballot is not counted. No credit is given to the person signing the return envelope as having voted at that election. (RCW 29A.60.190; WAC 434-262-013(1))
- b. Postmark on Return Envelope Illegible. Check the date the voter attested to voting on the return envelope; if the date is after the day of the election, the absentee is not counted. Credit shall be given to the person signing the envelope as having voted in the election only if the ballot is counted. (RCW 29A.60.180; WAC 434-262-013(1))
- c. No signature on Return Envelope. See Section 2(b)(2) above. A ballot affidavit that is properly signed prior to the date of election certification will be processed for counting and a ballot affidavit that is not properly signed prior to the date of certification does not count. Credit shall be given to the person as having voted in the election only if the ballot is counted. (RCW 29A.60.165 ; WAC 434-262-013(1))
- d. Two Ballots Enclosed Within One Return Envelope. If both ballots are voted identically, count one ballot for the person signing the return envelope affidavit. If the ballots are not voted identically, neither ballot counts.

- e. Ballot Marked with Voter's Identity. Except for electronic facsimile ballots where the voter agrees to waive the secrecy of his or her ballot as authorized by WAC 434-208-060(4), when a ballot is marked so as to identify the voter the ballot is invalid and no votes on that ballot may be counted. When the ballot is not counted the voter is not given credit for voting. (RCW 29A.60.040; WAC 434-262-013(1))

- f. Determination of Voter's Intention on Ballot. If a ballot contains marks that differ from those specified in the voting instructions, those marks shall not be counted as valid votes unless there is a discernable and consistent pattern to the extent that the voter's intent can be clearly determined. If there is such a pattern, the ballot shall be duplicated to reflect the voter's intent. (See Chapter 4, Section 5 above) (WAC 434-261-075(5))

Section 7. Fax Ballots

- a. Electronic Facsimile Transmissions Defined. Electronic facsimile transmissions may be by standard facsimile machines or other facsimile methods such as portable document format (.pdf).

- b. Sending a Ballot by Electronic Facsimile. A paper version of the ballot may be sent by electronic facsimile transmission to a voter with a copy of the affidavit to be signed and instructions.

- c. Receipt of an Electronic Facsimile Ballot.
 - 1. Electronic Facsimile Ballot Returned by Mail. If an electronic facsimile ballot is returned by mail, the ballot shall be processed in the same manner as a regular absentee ballot.

 - 2. Non-Service Ballot Returned By Electronic Facsimile Transmission. Non-service ballots returned by electronic facsimile may be counted if they meet the following criteria:
 - A. The voter waives the secrecy of his/her ballot. (WAC 434-208-060(4))

 - B. Electronic Facsimile ballot is received prior to 8:00 p.m. on election day.

 - C. A ballot bearing the original signature of the voter on the affidavit must be received not later than the time the election results are certified. (WAC 434-208-080)

3. Service/Overseas Ballots Returned by Electronic Facsimile Transmission. Any service/overseas ballot returned by electronic facsimile transmission shall be counted if it meets other criteria for military ballots as per federal laws.

Section 8. Processing for the Board.

Ballots to be presented to the Board for Review and determination shall be processed in accordance with Chapter 4, Section 3.

CHAPTER EIGHT – ELECTION BY MAIL

Section 1. Duties Generally

The Canvassing Board through its delegates shall canvass all mail ballots. The policies and procedures governing absentee ballots shall apply to mail ballots except as herein indicated. (RCW 29A.48.060)

Section 2. Counting Ballots

Mail ballots may be counted on the day of election beginning at 7:00 a.m., but the count shall be done in secrecy in the presence of at least three election officials and political party observers, if available. The County Auditor shall request the presence of major political party observers in writing. Results of the election shall not be revealed to any unauthorized person until after the polls have closed. (RCW 29A.60.120(1))

Section 3. Criteria for Valid Mail Ballots

A mail ballot shall be considered valid and thus counted only if:

- a. It is returned in the proper return identification envelope.
- b. The signature on the return identification envelope affidavit is verified with the signature matching the voter's registration record in the same manner as for absentee votes. (RCW 29A.48.060)
- c. It is postmarked not later than the day of the election. (See Chapter Seven, Section 2 and 3 regarding criteria regarding signatures and postmarks)

Section 4. Challenges

Any mail ballot may be challenged in the same manner as absentee ballots. (RCW 29A.48.060, 29A.40.140)

CHAPTER NINE – TIES

Section 1. Resolving Tie Votes

If at any election, there is a tie vote among two or more persons, the Canvassing Board shall determine the winner by lot. (RCW 29A.60.221)

Section 2. Recount

If a tie results from the original tabulation of the ballots, the Board may direct a recount as provided in Chapter Ten before taking action to resolve the tie.

CHAPTER TEN - RECOUNTS

Section 1. Criteria for Mandatory Recount

If official election results indicate that the difference in the number of votes cast for the candidate apparently nominated or elected to any office and the number of votes cast for the closest apparently defeated opponent is less than 2,000 votes and also less than one half of one percent of the total number of votes cast for both candidates, the Canvassing Board on its own motion shall conduct a recount of all votes cast for that position. If the difference in the number of votes is less than 150 and less than $\frac{1}{4}$ of one percent, the recount shall be by hand unless the exceptions as RCW 29A.64.021 apply. The Election Department shall be delegated to conduct recounts. (RCW 29A.64.021)

Section 2. Requested Recount

- a. **Eligibility to Request a Recount.** An officer of a political party, any person for whom votes were cast in a primary or any election, or any group of five or more registered voters, may file a written application for a recount of the votes cast. Political party officers or candidates can only request recounts of candidate elections. Groups of registered voters can only request recounts of votes cast upon any question or issue. Groups of registered voters must also designate one of the group as a chairperson and shall indicate the voting residence of each member of the group. (RCW 29A.64.011)
- b. **Time for Filing Recount Application.** The person filing an application for recount must do so in writing within three days, excluding Saturdays, Sundays, and holidays of the date the Board or Secretary has declared the election results official. (RCW 29A.64.011)
- c. **Contents of Application for Recount.** An application for a recount shall state the office, issue or question for which a recount is requested and whether it is desired that the recount be conducted manually (hand-counts). (RCW 29A.64.030)
- d. **Deposit.** The person filing a recount application shall deposit with the Board a sum, either in cash or by certified check, equal to \$.25 for each ballot cast in the portion of the election to be hand counted and \$.15 for each ballot cast in the portion of the election to be machine counted. (RCW 29A.64.030)

Section 3. General Procedures for All Recounts.

- a. Time for Recount. The Board shall determine the date, time and place or places at which the recount will be conducted. (RCW 29A.64.030)
- b. Notice of Recount. The Auditor shall send notice of the time and place of the recount proceeding by certified mail to the applicant(s) and if the recount involves an office, any person for whom votes were cast for that office. The notice shall be mailed not less than two days before the date of the recount (RCW 29A.64.030). The Auditor shall also notify the affected parties by either telephone, fax, e-mail or other electronic means at the time of mailing. At least three attempts must be made over a two day period to notify the affected parties, or until the affected parties have received the notification and each attempt to notify affected parties must request a return response indicating that the notice was received. The notice shall also inform the addressees that they may witness the recount proceedings and be accompanied by a lawyer.
- c. Witness. All interested persons may attend and witness a recount proceeding by the Board subject to physical limitations of the Elections Office. In cases of insufficient space for all interested persons to view the recount, the affected parties and their counsel and then space shall be allocated to any observers formally designated by the applicant or candidate. The board may limit the number of persons observing any aspect of the process whenever it is necessary to preserve order and to safeguard the integrity of the process. (RCW 29A.64.041)
- d. Role of Witnesses. Witnesses shall be permitted to observe the recount process and to see the ballots actually recounted. However, witnesses shall not be permitted to touch the ballots nor interfere with the recount process.
- e. Recounting Votes. The sealed containers shall be opened and the ballots recounted in the presence of the Board or its delegates and all witnesses. (RCW 29A.64.041)
- f. Challenges. Challenges of ballots and/or voters shall not be allowed prior to or during a recount. The prior decision of the Board either including or excluding a particular ballot during the canvassing process is not in question during the recount. (RCW 29A.08.810; Office of the Secretary of State bulletin to County Auditors, dated 12-5-88) (Challenges or the contesting of election results are provided in Chapter 29A.68 RCW)

- g. No Ballot Signature Cures Allowed. A voter may not cure a missing or mismatched signature on an absentee, mail or provisional ballot for the purposes of counting the ballot in a recount. (RCW 29A.60.165(3); WAC 434-261-050(5))

Section 4. Special Procedures for Requested Recounts.

- a. Written Request to Stop. The applicant or applicants may file a written request to stop the recount with the Board at any time before the ballots from all of the relevant precincts have been recounted. (RCW 29A.64.041)
- b. Partial Recount. When a partial recount of votes cast changes the result of the election, the Canvassing Board shall order a complete recount of all ballots cast for the office or issue. (RCW 29A.64.050)

Section 5. Manual Recount Procedures.

The procedures for a manual recount will be as determined by the Canvassing Board.

Section 6. Posting Results of the Recount.

- a. Immediately upon completion of the recount, the Auditor will provide the affected candidates and at the Auditor's discretion, any other interested parties, the results of the recount. If the results of the recount differ from the results recorded in the official County Canvass Report, the Auditor shall advise those present that an amended abstract of voter shall be prepared and certified.
- b. Amended Abstracts. Upon the completion of the recount of the ballots, the Auditor shall prepare for the Board for certification, an amended abstract showing the revised cumulative summary of the recounted ballots, if any, as well as the votes cast in each precinct in which the office or proposition was submitted to the voters. Copies of the certified amended abstract will be distributed to the same persons or agencies as the original certified abstract of votes. (RCW 29A.64.061)