

October 16, 2017

Submitted via email to: dropboxregulations@sos.ca.gov

To: California Secretary of State regulations staff
From: Kim Alexander, California Voter Foundation
Re: Draft regulations for early ballot retrieval and drop boxes

Below are comments from the California Voter Foundation on the draft regulations for early ballot retrieval and vote-by-mail drop box and drop-off locations.

I. Early Ballot Retrieval

1) The draft regulations do not distinguish between ballots retrieved early that are inside envelopes and ballots retrieved early that are not. The regulations should make this distinction since ballots inside envelopes can be processed by election officials upon arrival, whereas “live” voted ballots contained in a ballot box and retrieved from a polling place or vote center prior to the close of polls must not be viewed until the polls have closed and must be protected from early viewing.

2) “Designated ballot retrievers” should be required to swear an oath like poll workers do; we also recommend the regulations require that election officials conduct background checks on designated ballot retrievers.

3) Regarding 20143(a)(1): while we are glad to see that the draft regulations conform with current law requiring two election workers be with voted polling place ballots at all times, we think this requirement needs some added clarity by adding the word “together”, as in:

(1) The county elections official shall assign at least two designated ballot retrievers to retrieve voted ballots **TOGETHER** from polling places prior to the closing of the polls.

4) Re #6 of this section:

(6) Prior to departure from the polling place, the precinct inspector and the designated ballot retrievers shall sign the form described in Section (a)(4) above, and shall note the time of departure.

We suggest the form also note the location from where the ballots were retrieved.

5) Re #7 of this section:

(7) Upon arrival at the office of the county elections official, a ballot receiving center, a central counting place, or a ballot processing location, the designated ballot retrievers who retrieved the ballots shall note the time of arrival on the form described in Section (a)(4) above.

We suggest adding a provision that specifies the designated ballot retrievers **return immediately** to the elections facility upon retrieval of voted ballots to avoid the risk of car break-ins or accidents.

II. Vote-by-Mail Drop Boxes and Drop-off Locations

1) RE: 20132. Drop Box Design and Requirements.

(f) The drop box shall be clearly and visibly marked, as an “Official Ballot Drop Box”. The following information shall be provided at drop-off locations in all languages required under Elections Code section 14201(c) and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503), and in the manner prescribed by the elections official:

This requirement is followed by a list of six required pieces of information to be displayed on each drop box.

We understand that Sacramento County is required to serve multiple languages under state and federal language access laws; we are concerned that listing these six disclosures in multiple languages on a single drop box may be impractical and suggest an alternative be provided for meeting this need, such as signage displayed at staffed drop-box locations.

2) Regarding the statements required above, we suggest adding the word “full” to #5:

(5) A statement requesting that the county elections official be notified immediately in the event the drop box is **FULL**, not functioning, or has been damaged in any fashion.

3) 20135. Drop-off Location and Drop Box Security.

We suggest adding a provision to this section that states the employee who is responsible for staffing a staffed drop box be required to swear an oath similar to the oath required of poll workers.

4) 20135(c):

(c) A staffed drop box shall be securely fastened to a stationary surface or to an immovable object, placed behind a counter, or can be transported to a curbside area or a mobile voting area.

If the drop box is placed behind a counter, the public notices displayed on it will not be easily viewable by the public. In such situations, the regulations should state that signage must be displayed on the counter of the location in order to provide the required disclosures.

5) 20136(a) states that:

“Information shall be included in the county’s Voter Information Guide and Sample Ballot publication or included in vote-by-mail materials sent to voters...”

These regulations are mandatory for counties adopting the Voters Choice Act and voluntary for all other counties. Therefore, we recommend that the word “or” above be replaced with “and” so that counties adopting the VCA will be required to list its drop-off locations in the county’s voter information guide.

6) 20137 (b):

(b) The retrieval form described by this Section may be in an electronic form. In the event an electronic form is used, the secure container must be identified in a manner to match the container with the electronic form.

How will the signature be obtained from the designated ballot retrievers if the form is electronic? Will it be a legally valid signature under California law? If this option is made available it should also state how a valid electronic signature will be recorded and preserved.