

## THE UCLA VOTING RIGHTS PROJECT<sup>1</sup>

### Protecting Democracy: Implementing Equal and Safe Access to the Ballot Box During a Global Pandemic

As the world turns to strategies to stave off the worse effects of the novel coronavirus, now is the time to redouble our commitment to democracy. Access to voting has been far from perfect, however over the past century America has successfully extended the right to vote to all adult citizens. Who we are is defined by this right to vote and now, during this momentous struggle, we must preserve what makes us great: a society of governments of the people, for the people and by the people.

States around the country are pushing back primary and runoff elections in the hope that, if held at a later time, election procedures can return to the old normal.<sup>2</sup> Rather than hope, we recommend taking this opportunity to plan a more accessible, more equitable system of voting that includes measure to protect against fraud and abuse while giving all Americans an equal opportunity to vote, no matter the circumstances. Viral analysis has shown that the spread of COVID-19 may spike a second time months after the initial surge, even accelerating for a second time during November 2020.<sup>3</sup> Even if the viral effects were to subside, the public education of interpersonal contact avoidance will persist in discouraging large-crowd, in-person voting for some time. While some states may delay voting, other states are facing the current pandemic with realistic solutions. Many states are relying on existing, robust vote-by-mail systems to ensure the persistence of a thriving democracy even while citizens heed public health warnings to socially distance from one another. Congress should take action, as part of the relief measures it is considering, to fund and set minimum standards for voting procedures that would apply nationwide. These standards should include (1) universal vote by mail, (2) in-person voting

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<sup>2</sup> Geoff Mulvihill, *Switching Remaining Primaries to Vote-By-Mail Not So Easy*, ASS. PRESS. (March 18, 2020), <https://apnews.com/6455b0c73c96966d5ee1ff8c76cbe279>.

<sup>3</sup> This study was analyzing COVID-19 in the United Kingdom, but since the United States and United Kingdom are taking relatively similar steps in social distancing, that the assumptions made in this study can also be applied with caution to the United States. Neil M. Ferguson, et. al., *Impact of Non-Pharmaceutical Interventions (NPIs) to reduce COVID-10 Mortality and Healthcare Demand*, Imperial College (Mar. 16, 2020), <https://www.imperial.ac.uk/media/imperial-college/medicine/sph/ide/gida-fellowships/Imperial-College-COVID19-NPI-modelling-16-03-2020.pdf>.

centers designed to limit person to person contact, (3) secure ballot drop-off centers, and (4) reasonable measures to ensure voting security and equity. If the federal government does not act, state and local leaders must do so. Considering the time necessary to erect voting infrastructure which will adequately respond to COVID-19, it is essential to pursue this action immediately.

Citizens have already begun acting in defense of their voting rights, preempting the failure of state and federal governments. Arizona is being sued over deadline provision which disenfranchises voters in general, and minority voters at higher rates than white voters.<sup>4</sup> In Texas, Democrats have filed a lawsuit that argues that existing state law that allows vote-by-email for persons with a disability of injury can be invoked by any eligible voter practicing social distancing.<sup>5</sup> In Wisconsin, a federal case has been filed to extend vote-by-mail.<sup>6</sup> Some states are moving proactively without litigation. Hawaii has cancelled plans for in-person voting for their April 4 primary election and moved to vote-by-mail.<sup>7</sup>

This paper seeks to first iterate the low-health risks and general safety to the public that voting by mail provides. Second, this paper will survey successful vote-by mail techniques utilized by jurisdictions throughout the country to serve as a guide for policymakers in Washington D.C., state capitals, and local communities. In our final section, we conclude with a series of policy recommendations to guide federal and state legislators as they consider more accessible voting systems. As events unfold, and in reviewing new data and research, the UCLA Voting Rights Project (VRP) will add to this analysis and issue revised reports and recommendations.

### **Public Health and Safety of Vote-By-Mail**

Vote-by-mail is necessary to safeguard public health while also enabling citizens to act on their fundamental right to vote. Traditional polling locations without substantial modifications could pose health and safety risks for the transmission of illnesses, especially during the COVID-19 pandemic. Traditional polling locations make social distancing difficult, as they often feature crowded lines of hundreds (if not thousands) of voters touching the same voting machines, which are rarely sterilized.<sup>8</sup> A study by the US Government found that novel coronavirus (which causes the COVID-19 illness) can remain active on plastic and stainless steel

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<sup>4</sup> See *Voto Latino Found. v. Hobbs*, No. CV-19-05685-PHX-DWL, 2020 WL 1236352 (D. Ariz. Mar. 13, 2020). More information on *Voto Latino v. Hobbs* can be found here: <https://www.democracydocket.com/arizona>.

<sup>5</sup> See Plaintiffs' Original Petition and Application for Temporary Injunction, Permanent Injunction and Declaratory Judgement, *Tx. Dem. Party et al. v. Hughs and Debeauvoir* (Tex. App. Mar. 20, 2020).

<sup>6</sup> <https://www.nytimes.com/2020/03/18/us/politics/wisconsin-primary-voting-coronavirus.html>

<sup>7</sup> Kevin Dayton, *Hawaii Democrats cancel walk-in presidential voting that was planned for April 4*, HONOLULU STAR ADVERTISER (Mar. 20, 2020), <https://www.staradvertiser.com/2020/03/20/hawaii-news/hawaii-democrats-cancel-walk-in-presidential-voting-that-was-planned-for-april-4>.

<sup>8</sup> Typically, in-person voting machines are made of a combination of metal, plastic, and other hard surfaces and [v]iruses generally remain active longer on stainless steel, plastic and similar hard surfaces than on fabric and other soft surfaces." James M. Steckelberg, *How Long Do Cold and Flu Viruses Stay Alive After Infected People Cough or Sneeze?*, MAYO CLINIC (Feb. 05, 2020), <https://www.mayoclinic.org/diseases-conditions/flu/expert-answers/infectious-disease/faq-20057907>.

“up to 2-3 days” and that “fomite transmission of HCoV-19 [novel coronavirus] is plausible. . .”<sup>9</sup> This has serious implications for the transmission of COVID-19 from surfaces throughout polling places, including voting machines themselves.

Unlike in-person voting, the risk of transmission of the novel coronavirus or illness by mail is “is theoretical and minimal.”<sup>10</sup> The U.S Postal Services, citing the Centers for Disease Control and Prevention and the World Health Organization stated that “there is currently no evidence that COVID-19 can spread through the mail.”<sup>11</sup> Items shipped through the mail are viewed by experts as being safe from transmitting or carrying viruses.<sup>12</sup> Professor of Medicine at Yale University, Joseph Vinetz, stated that “[i]f somebody were to, say, cough ... on a box or on a letter, the chances of that remaining viable for the period of time it's in transit seems extremely unlikely.”<sup>13</sup> Now more than ever, mail is thereby the best method to safeguard the health of all voters.

### **Existing Infrastructure**

Many states already have a robust vote-by-mail infrastructure in place. Nearly half of states have provisions allowing some voting to be conducted by mail-delivered ballots, and several states allow it for all elections. Six states conduct all elections by mail; four states permit counties to opt into conducting all elections by mail; eight states permit some elections to be conducted by mail; five states permit certain jurisdictions or portions of a jurisdiction to be designated as all-mail based on population; 33 states and Washington, D.C. offer “no-excuse” absentee/mailed ballot voting, meaning any voter can receive an absentee ballot if they request one;<sup>14</sup> and all of the remaining states allow limited absentee/mailed ballot voting for at least some voters.

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<sup>9</sup> Neeltje van Doremalen, et. al., *Aerosol and Surface Stability of HCoV-19 (SARS-CoV-2) compared to SARS-CoV-1*, March 13, 2020, <https://www.medrxiv.org/content/10.1101/2020.03.09.20033217v1.full.pdf>.

<sup>10</sup> N’dea Yancey-Bragg, *Coronavirus Can Live on Surfaces for Days, But It Can’t Travel Through the Mail, Experts Say*, USA TODAY (Mar. 21, 2020), <https://www.usatoday.com/story/news/nation/2020/03/21/can-coronavirus-travel-though-mail-experts-say-no/2862947001>.

<sup>11</sup> Kate Gibson, *Can the Coronavirus Spread Through the Mail?*, CBS NEWS (Mar. 18, 2020), <https://www.cbsnews.com/news/coronavirus-can-it-spread-through-the-mail-package-delivery>.

<sup>12</sup> *Q & A on Coronaviruses (COVID-19)*, WORLD HEALTH ORG., <https://www.who.int/news-room/q-a-detail/q-a-coronaviruses> (last visited Mar. 22, 2020). See also N’dea Yancey-Bragg, *Coronavirus Can Live on Surfaces for Days. But It Can’t Travel Through the Mail, Experts Say*, USA TODAY (Mar. 21, 2020), <https://www.usatoday.com/story/news/nation/2020/03/21/can-coronavirus-travel-though-mail-experts-say-no/2862947001/>. (“[T]here is currently no evidence to support the transmission of COVID-19 with imported goods.”).

<sup>13</sup> N’dea Yancey-Bragg, *Coronavirus Can Live in the Air for Hours and on Surfaces for Days, Study Finds*, USA TODAY (Mar. 18, 2020), <https://www.usatoday.com/story/news/health/2020/03/18/heres-how-long-coronavirus-can-live-surfaces-and-air-study/2863287001/>.

<sup>14</sup> See Appendix for full list of states. Rhode Island lists a number of excuses to vote absentee, but also specifies “No specific reason necessary.” Since any Rhode Islander can request an absentee ballot, NCSL has categorized it as no excuse required. *Voting Outside the Polling Place: Absentee, All-Mail and Other*

Historically, the implementation of vote by mail takes place in stages; states begin with providing all-mail elections in certain circumstances, adding additional opportunities for voting by mail as citizens become more familiar with vote by mail procedures. Six states are far along in this process: Colorado, Oregon, Washington, Hawaii, Utah, and California. While only some counties in California and Utah now implement vote by mail for all elections, all counties in both states are expected to implement vote by mail in 2020. These six states would require only minor tweaks to existing voting measures to implement universal vote-by-mail.

Other states have already begun to experiment with phasing in vote-by-mail but they will now need to move swiftly given the exigent circumstances of the pandemic. Nebraska implemented vote by mail in four counties in 2018,<sup>15</sup> while New Mexico did so in a single county that same year.<sup>16</sup> In Rhode Island, Secretary of State Nellie M. Gorbea has been working with the state's Board of Elections to try to make the April 28, 2020 primary predominantly a vote-by-mail election by automatically sending applications to all of the state's 788,000 registered voters. In New York, Douglas A. Kellner, co-chairman of the State Board of Elections, has reported that officials are considering expanding mail-in options for the April 28, 2020 primary election. In Connecticut, Secretary of State Denise Merrill asked Gov. Ned Lamont to issue an executive order permitting anyone to obtain an absentee ballot in the state's primary on April 28, 2020. Those ballots are currently available only if you are ill. These efforts demonstrate the feasibility of more widespread vote-by-mail measures.

In sum, over 23 percent of voters had cast their ballots by mail in the 2016 general election. Nevertheless, a majority of states still need to implement major changes to their election systems to provide all eligible Americans the opportunity to vote by mail.<sup>17</sup>

### **The Benefits of Vote By Mail**

Vote by mail provides important benefits even in the absence of a pandemic. It promotes voter convenience, as citizens can vote at home without time pressure, as well as political discussion.<sup>18</sup> Vote by mail also may result in financial savings, as jurisdictions no longer need to

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*Voting at Home Options*, NAT. CONF. OF STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (last visited Mar. 22, 2020).

<sup>15</sup> Editorial Staff, *Editorial: Nebraska Leaders Should Explore Further Options for Voting by Mail*, OMAHA WORLD-HERALD (Oct. 27, 2018), [https://www.omaha.com/opinion/editorial-nebraska-leaders-should-explore-further-options-for-voting-by/article\\_56a87ed0-ba7e-54ab-8704-1bc703a168f3.html](https://www.omaha.com/opinion/editorial-nebraska-leaders-should-explore-further-options-for-voting-by/article_56a87ed0-ba7e-54ab-8704-1bc703a168f3.html).

<sup>16</sup> Blake Gumprecht, *Las Cruces Voters Approve All Four GO Bond Measures*, LAS CRUCES SUN NEWS (Aug. 21, 2018), <https://www.lcsun-news.com/story/news/2018/08/21/las-cruces-voters-approve-all-four-go-bond-measures-special-election/1059601002/>.

<sup>17</sup> AMBER MCREYNOLDS, NATIONAL VOTE AT HOME INSTITUTE, VOTE AT HOME SCALE PLAN (2020), [https://www.voteathome.org/wp-content/uploads/2020/03/VAHScale\\_StrategyPlan.pdf](https://www.voteathome.org/wp-content/uploads/2020/03/VAHScale_StrategyPlan.pdf).

<sup>18</sup> Sean Richey, *Who Votes Alone? The Impact of Voting by Mail on Political Discussion*, 40 AUSTL. J. POL. SCI. 435 (2005).

meet traditional staffing and equipment needs.<sup>19</sup> Vote by mail may also increase voter turnout,<sup>20</sup> especially among minorities<sup>21</sup> and the differently abled.<sup>22</sup> Decreases in voter participation associated with vote by mail schemes can also be mitigated with adequate voter communication.<sup>23</sup> Vote by mail schemes are also more secure from digital hacking efforts. While “there [is] basically no such thing as a hacker-proof electronic voting machine,”<sup>24</sup> the paper record of mail voting plus the elimination of thousands of electronic vote recording machines, substantially lowers the opportunity for hacking. Research indicates that voters approve of vote at home measures.<sup>25</sup> Indeed, the voter has the ability to keep their own record of their voted ballot, something usually lacking from in-person voting schemes. Such personal records could help detect fraud and abuse in close elections during judicially managed election contests.

### **Areas for Improving Vote-by-Mail**

All voting methodologies involve potential drawbacks. In person voting through direct-recording electronic (DRE) machines, especially those without paper records, are susceptible to some degree to electronic manipulation. Further, not all citizens interact well with an electronic voting machine, thus sometimes frustrating vote choice. The point is not that in-person voting is unacceptable, only that in-person voting potentially suffers from more issues than does vote-by-mail. Fortunately, vote-by-mail systems can be designed to deal with many of the election

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<sup>19</sup> David Roberts, *The Simple Voting Reform That Works Wherever it's Tried*, VOX (March 24, 2018), <https://www.vox.com/policy-and-politics/2018/5/23/17383400/vote-by-mail-home-california-alaska-nebraska>. See also *Colorado Voting Reforms: Early Results*, PEW CHARITABLE TRUST, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/03/colorado-voting-reforms-early-results> (last visited Mar. 21, 2020) (Costs decreased by an average of 40 percent in five election administration-related categories. The 46 (of 64) counties with data available spent about \$9.56 per vote in the 2014 general election, compared with nearly \$16 in 2008.).

<sup>20</sup> Alan S. Gerber, Gregory A. Huber, & Seth J. Hill, *Identifying the Effects of All-Mail Elections on Turnout: Staggered Reform in the Evergreen State*, POL. SCI. RES. & METHODS, 1 (2013), <https://www.cambridge.org/core/journals/political-science-research-and-methods/article/identifying-the-effect-of-allmail-elections-on-turnout-staggered-reform-in-the-evergreen-state/3725E51B9B7F331D77DC9B49130D7F7D>; GEORGE PILLSBURY ET AL., NONPROFIT VOTE AND ELECTIONS PROJECT, AMERICA GOES TO THE POLLS 2018 (2019), <https://www.voteathome.org/wp-content/uploads/2019/03/america-goes-polls-2018.pdf> (Nonprofit Vote provided comprehensive research into the 2018 elections showing the three reforms that had the most positive impact on voter engagement. They were: VAH, Same Day Registration, and Automatic Voter Registration).

<sup>21</sup> Vote by mail facilitates participation by Latino and Black voters. See Priscilla L. Southwell, *A Panacea for Latino and Black voters? Elevated Turnout in Vote by Mail Elections*, 47 SOC. SCI. J. 819 (2010).

<sup>22</sup> Arlene Kanter and Rebecca Russo, *The Right of People with Disabilities to Exercise Their Right to Vote Under the Help America Vote Act*, 30 MENTAL AND PHYSICAL DISABILITY L. REP. 852 (2006).

<sup>23</sup> (How Does Vote)

<sup>24</sup> David Roberts, *The Simple Voting Reform That Works Wherever it's Tried*, VOX (March 24, 2018), <https://www.vox.com/policy-and-politics/2018/5/23/17383400/vote-by-mail-home-california-alaska-nebraska>.

<sup>25</sup> *2016 General Election Survey*, DHM RESEARCH, <https://www.voteathome.org/wp-content/uploads/2018/12/Oregon-Public-Broadcasting-Statewide-Survey-October-2016-2.pdf> (last visited Mar. 22, 2020).

security complaints. When implementing vote by mail schemes, it is important to remain attentive to potential issues, and to actively mitigate the effect that transitioning to mail voting can have.

**Disparate impact** – just like in-person voting, poorly designed and implemented vote-by-mail schemes could potentially have a disparate impact on the indigent, the impoverished, communities of color- especially Native Americans. Many Native American reservation residents do not have street addresses, and their P.O. boxes may be shared.<sup>26</sup> Other minorities are “less likely to have permanent addresses than nonminority citizens, more apt to live in areas with inconsistent mail delivery, and more prone not to return mail they receive.”<sup>27</sup> Thus, jurisdictions implementing vote-by-mail need to be cognizant of potential differential access and implement procedures to ensure all citizens have access to a mail ballot.

**Screening out rightful ballots** - during receipt and processing, vote by mail may screen out rightful ballots. “[T]ens of thousands of these mail-in ballots are likely to be rejected--and the voter might never know, or know why.”<sup>28</sup> Vote by mail measures often use signature matching as a way to authenticate ballots. When there is a mismatch between a signature on a voters’ registration and their ballot, the ballot may be deemed invalid. Dr. Daniel Smith of the University of Florida, a leading expert on vote-by-mail, has studied absentee ballot rejection rates and concluded that county-level rejection rates vary considerably suggesting local county administrators are using different criteria for what constitutes a problematic ballot.<sup>29</sup> Further, registered voters who were black, Hispanic or Democrat experienced higher rejection rates of their ballots in the state of Florida.<sup>30</sup> Beyond Florida, the signature matching process has been used by states to restrict and discriminate, resulting in the rejection of thousands of ballots. For example, during the 2018 midterm elections, Georgia election officials discarded hundreds of absentee ballots.<sup>31</sup> “Of those discarded ballots, more than one-third came from the racially diverse Gwinnett County, where more than half of the rejected ballots belonged to African American or Asian American voters.”<sup>32</sup> As states implement vote-by-mail, it is important that signature matching processes are not overly restrictive, and leave ample opportunity for voters to correct or “cure” their ballot. States should also adopt alternatives to signature verification.

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<sup>26</sup> Brakebill v. Jaeger, 905 F.3d 553, 557 (8th Cir. 2018); *see also* Declaration of Matthew A. Barreto, Ph.D., Brakebill, et al. v. Jaeger, 905 F.3d 553(8th Cir. 2018) (No. 18-1725).

<sup>27</sup> Nicholas O. Stephanopoulos, Disparate Impact, *Unified Law*, 128 *Yale L. J.* 1566, 1644–45 (2019).

<sup>28</sup> *See* Pam Fessler, *Want Your Absentee Vote to Count? Don't Make These Mistakes*, NPR (Oct. 22, 2014, 4:31 PM), <https://www.npr.org/2014/10/22/358108606/want-your-absentee-vote-to-count-dont-make-these-mistakes>.

<sup>29</sup> Daniel Smith, *Analysis of Absentee (“Vote-By-Mail”) Ballots Cast in Florida* (Sept. 13, 2016), <https://electionsmith.files.wordpress.com/2016/10/smith-coie-jenner-report-dnc-fdp.pdf>.

<sup>30</sup> “ACLU Report Finds Varying Rates of Rejected Vote-by-Mail Ballots Across Florida Counties.” <https://www.aclufl.org/en/press-releases/aclu-report-finds-varying-rates-rejected-vote-mail-ballots-across-florida-counties>

<sup>31</sup> Danielle Root, *Voter Suppression During the 2018 Midterm Election*, CENTER FOR AMERICAN PROGRESS (Nov. 20, 2018, 9:03 AM), <https://www.americanprogress.org/issues/democracy/reports/2018/11/20/461296/voter-suppression-2018-midterm-elections/>

<sup>32</sup> *Id.*

When executed carefully, vote-by-mail methods can improve enfranchisement over in-person voting.

**Language accessibility** – Just like DREs, vote-by-mail requires careful attention to the language accessibility of ballots. Under the Department of Justice’s guidelines for implementation of Section 203 of the Voting Rights Act regarding language minority groups, materials generally provided by mail to residents must be offered in the applicable minority language.<sup>33</sup> If not, “the Attorney General will determine whether an effective targeting system has been developed.”<sup>34</sup> Applicable remedies sufficient to comply with Section 203 compliance should include “mailing of materials in the minority language to persons who are likely to need them or to residents of neighborhoods in which such a need is likely to exist, supplemented by a notice of the availability of minority language materials in the general mailing (in English and in the applicable minority language) and by other publicity regarding the availability of such materials.”<sup>35</sup> Compliance with these measures will help ensure that mail ballots are comprehensible for all voters.

**Trust of mail delivery** - decades ago, one question that came up when states transitioned to vote-by-mail was inevitably: “will my ballot get lost in the mail?” Since then, states have implemented extensive safeguards, tracking procedures, and security measures to ensure all ballots are delivered safely and in states such as Oregon and Washington confidence in their voting systems are very high. Although the fear of mail accuracy is likely less of a concern for voters who are more fearful of leaving their homes for risk of contracting or spreading the coronavirus, in more normal times many voters distrust the mail system. These concerns can be alleviated by setting a deadline for a postmark of ballots instead of requiring the ballot to be delivered by a certain date, by providing community drop-off locations which allow for no-contact ballot drop off for citizens, and other measures outlined below.

**Delays** - vote-by-mail elections may slow down the vote counting process, as we have seen in California and Washington this year. This is especially the case if all recommended security measures are implemented. Slower and more precise processing and counting of ballots, however, is not problematic for democracy. Indeed, most states do not certify “official” election results for three weeks after election day. States with large volumes of vote-by-mail are still able to process millions of voted ballots on election night and post tallies of the ballots on hand, providing clear indications of the voters’ will on election night.<sup>36</sup> Just as voters have gotten used to election results within hours of polls closing, they too will become accustomed to a longer wait. There is every reason to believe that public observation of a longer, deliberative, not in the

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<sup>33</sup> 28 C.F.R. Ch. 1, §55.18(a).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> It is only in cases of very close elections that the media may not be able to “call the election” on election night, which does not hamper democracy at all. For example, in California’s March 3<sup>rd</sup> election around 70% of votes were cast by mail and over 1 million were still left to be counted on election night, but Senator Sanders had amassed a large lead and the media was easily able to declare Sanders the winner on election night. One week later, in Washington state, Sanders and Vice President Biden were separated by less than 2% of the vote on election night. Rightfully so, the media did not declare a winner until more ballots had been processed and counted.

middle of the night, tabulation process will engender more, not less, trust in the accuracy of election outcomes.

### **Policy Recommendations: Implementing Universal Vote by Mail**

The federal government must mandate that any state receiving COVID-19 or other relief funds should prepare to allow all eligible voters to vote by mail. In the transition to universal allowance of vote-by-mail elections, states should comply with the following best practices when implementation time allows. In addition, safe and expanded in-person voting should continue within guidelines recommended by public health professionals.

#### **1. Voter Registration and Access to Mail Ballots**

- a. Increase access to voter registration. Send all voting-eligible citizens a voter registration form or allow online voter registration.
- b. States that still require an excuse to request an absentee ballot should immediately pass measures to allow any voter, without regard to age or need, to sign-up to receive a mail ballot in any election.
- c. Allow voters to sign up as permanent absentee voters (perhaps even when they register) so that they can remain signed up for future elections. Voters who are designated as permanent absentee status should automatically receive a ballot in the mail prior to every election.

#### **2. Envelope and Ballot**

- a. Require uniformity in envelope and ballot design. All jurisdictions in the state should implement the same envelope and ballot design to insure visibility and readability.<sup>37</sup> States or Counties can contract with a vendor to mail all ballots to all voters; it is more efficient for a vendor to work with the state to get the voter file than many individual localities. Centralized print operations could be established within a state without using a third-party vendor, which might be especially important if COVID-19 overwhelms local printers.
- b. Ballot envelopes should include paid postage for return. Paid postage could be covered by federal funds if the federal government created an indicia for all domestic ballots. This way, postage for outbound and inbound mail ballots would be billed directly to the federal government. Regardless, the government should cover the cost of postage.
- c. Standardize return addresses within each county. Every ballot in the state should have one return address.

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<sup>37</sup> The Center for Civic Design has a recommended template based on usability testing and states like California and Michigan have already adopted this as a statewide template. These templates are available at <https://civicdesign.org>.

- d. Implement a unique barcode on each ballot and envelope to allow voters to track the status of their ballot
- e. In elections held during a presidential or gubernatorial emergency or disaster declaration, voters should be permitted to access a secure website, login, and print their ballot and ballot envelopes from home. Effective voter verification systems should be provided (discussed below) which allow the voter to provide photographs, personal ID numbers and/or other information known only to the voter to confirm they are the person who voted on their ballot.

### 3. Mail-In Submission or Ballot Drop-off

- a. States should establish a strong working relationship with the US Postal Service. Formulate a schedule, review postal regulations, utilize intelligent mail barcodes, coordinate ballot tracking measures, and leverage cost efficiency with high-volume rates.
- b. States should implement secure drop boxes in both (1) current planned polling locations; and (2) new drop box locations. Placing ballot drop-off boxes in planned polling locations will minimize voter confusion. Additional drop-off boxes throughout jurisdictions will maximize access.
- c. Ballot drop-off boxes should be:
  - i. Visible, with large signage;
  - ii. In ADA accessible areas;
  - iii. In or near public buildings such as schools, public works, municipal meeting areas, malls, public parks, and other highly frequented areas.
  - iv. Drop-boxes should be locked or sealed with a tamper-evident seal. Unstaffed drop-boxes should be securely fastened to an immovable object. Staffed drop-boxes should be fastened to an immovable object, placed behind a counter, or otherwise safeguarded. If possible, drop-boxes should be monitored by video surveillance.<sup>38</sup>

### 4. Modify In-Person Polling Places

- a. During times of national or statewide emergency or natural disaster declaration, any in-person polling locations must be meet the following requirements to maintain social distance between voters and help minimize crowds:<sup>39</sup>
  - i. Remove any long-term care or senior living facilities as planned polling places;
  - ii. Be situated in larger rooms with space for distancing, such as school gymnasiums;

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<sup>38</sup> Cal. Elec. Code 40059(a)(B).

<sup>39</sup> This is particularly important because the CDC has recently recommended canceling gatherings of 50 people or more for eight weeks. *Get Your Mass Gatherings or Large Community Events Ready*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html> (last visited Mar. 22, 2020).

- iii. Have clearly demarcated standing areas providing for 6+ feet of space between voters and workers;
- iv. Endeavor to hire more election officials to administer day-of election procedures;
- v. Maximize the number of polling machines, and allocate limited polling machines strategically to areas most likely to experience voter build-up;
- vi. Offer gloves to voters;
- vii. Provide paper ballots that are marked in pen, and encourage voters to bring their own pens;
- viii. Provide sanitization stations with sterilizer dispensers;
  - ix. Regularly and thoroughly clean polling stations throughout each day
  - x. Provide modified voting hours for elderly or at-risk populations, emulating the efforts of stores nationwide to protect the most vulnerable.<sup>40</sup>
- b. All states should classify election administrators, officials, volunteers, and any other election related workers (including part-time workers or independent contractors) as emergency personnel.
- c. States should offer early voting to minimize crowds. More days of early voting will help reduce crowds on election day. These polling locations must follow the above recommendations.

## 5. Creation of a Real-Time Ballot Tracking System

- a. Vote-by-mail systems should allow voters to track their ballot from the time it is sent to the time it is scanned and finally accepted.
  - i. Counties must prepare envelopes that have individual barcodes that are scanned at specific points during reception of the voted ballot, counting of ballot, and either acceptance or rejection of ballot.
    1. Ballots will remain confidential.
- b. Tracking of ballots should be available online through the respective county registrar or clerk's office.<sup>41</sup>
  - i. Other tracking options should include text, email, and phone.

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<sup>40</sup> This is already implemented by grocery stores in the US and Europe. Denise Lavoie *Stores Set Up Senior Shopping Hours Amid Coronavirus Fears*, A.P. (Mar. 20, 2020, 4:48 AM), <https://www.usnews.com/news/business/articles/2020-03-20/stores-set-up-senior-shopping-hours-amid-coronavirus-fears>.

<sup>41</sup> Counties such as Denver and Boulder utilize a program called Ballot TRACE, which enables election officials and voters to track their ballots from the printer, to the county's mail facility, to a local postal carrier, and back again through the mail to the respective election division. Additionally, voters in counties that use Ballot TRACE can choose to receive messages about their ballot's status through email or text message. DENVER GOV., <HTTPS://WWW.DENVERGOV.ORG/CONTENT/DENVERGOV/EN/DENVER-ELECTIONS-DIVISON/VOTER-ELECTION-INFORMATION/BALLOT-LIFE-CYCLE.HTML> (last visited Mar. 22, 2020). Washington state created an online system that enables voters to enter their first and last names and date of birth to track their ballot. *See* WASH. SEC. OF STATE, (last visited Mar. 22, 2020). <r.votewa.gov/WhereToVote.aspx> (last visited Mar. 22, 2020).

## 6. Create a Fail-Safe for Signature Matching of Vote-by-Mail Ballots

- a. Allow multiple ways for voters to verify their identity, which could include signature or other verification means. This is especially important in states that lack election officials trained in forensic handwriting analysis and states with no standardized guide for signature matching.
- b. Signature verification:
  - i. Require statewide standards for signature verification to prevent individual counties from using too harsh, or too lenient match algorithms.
  - ii. States must publish to the general public their signature matching verification process 2 weeks before vote by mail ballots are mailed.<sup>42</sup>
  - iii. If signature cannot be verified/validated, then rely on a secondary verification mechanism in subpoint c.
- c. In addition to signature, verification should be possible through alternatives such as:
  - i. The last four digits of a voter's Social Security Number;
  - ii. A voter's bank statement or utility bill;
  - iii. A voter's drivers' license number or passport number;
  - iv. Digital photograph of the voter.
  - v. Fingerprint affixed to the ballot.
  - vi. Sworn statement.
- d. Process all ballots on central count scanning equipment and set up 24/7 camera surveillance that can be streamed online for the whole ballot operation.
- e. Provide a ballot-processing environment that also allows for the safe/secure/healthy observation of workers by third parties. This will help bolster public confidence and allow officials to perform a ballot comparison audit.

## 7. Create or Extend the “Cure Period” for Vote-by-Mail Ballots

- a. Voters must be allowed an opportunity to correct or “cure” any errors in their mail ballot. This curing process must be meaningful and have a clear set of standards in order to comply with the U.S. Constitution.<sup>43</sup>
- b. 16 states have statutes that address signature matching discrepancies and provide voters a process to ensure their votes are counted.<sup>44</sup> Among these 16, elements of

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<sup>42</sup> Colorado's Secretary of State publishes a Signature Verification Guide. See CO. SEC. OF STATE, <https://www.sos.state.co.us/pubs/elections/docs/SignatureVerificationGuide.pdf> (last visited Mar. 22, 2020).

<sup>43</sup> *Democratic Exec. Comm. of Fla. v. Detzner*, 347 F. Supp. 3d 1017, 1022 (N.D. Fla. 2018) (“The precise issue in this case is whether Florida's law that allows county election officials to reject vote-by-mail and provisional ballots for mismatched signatures—with no standards, an illusory process to cure, and no process to challenge the rejection—passes constitutional muster. The answer is simple. It does not.”).

<sup>44</sup> *Verification of Absentee Ballots*, NAT. CONF. OF STATE LEGISLATURES, <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee->

Minnesota, Oregon, and Washington state laws should be used as models for curing processes.<sup>45</sup>

- c. The following measures are recommended:
  - i. If a vote-by-mail ballot is missing a signature or has signature discrepancies, the envelope must remain sealed. A voter must be notified that their ballot has been rejected within 72 hours of its rejection, and all communications with the voter must be recorded.
  - ii. The County Clerk must notify a voter through multi-modal communication, including telephone, text message, email, and/or mail to inform the voter that their ballot has been rejected.
  - iii. The official must document the attempts made to contact the voter.
  - iv. Once notified, the voter should be given the opportunity to cure the discrepancy. These include online or telephonic identity verification or providing the voter with a replacement absentee ballot and return envelope. The least preferable method would be for an in-person cure.
  - v. The curing period should last until 21 days after election day.
  - vi. County auditors should be required to contact by phone any voters with outstanding ballots awaiting to be cured.
- d. States should follow any of the above approaches to ensure that voters are not being disenfranchised through voting by mail.
- e. Because of the potential challenges related to detecting and correcting signature discrepancies, we strongly recommend the allowance of other verification forms as laid out in 6(c).

## 8. Voter Communication

- a. Educate voters about the new system through mailers, online advertisement, phone, email, and other media. A multi-modal outreach campaign should provide at least four targeted voter communications to adequately promote voter engagement.<sup>46</sup>
- b. Work with USPS to implement a communications plan. USPS can help deliver a notice to each customer to register to vote, update their registration in advance, and provide a reminder to keep addresses current.

## 9. Uniform Reporting of Ballot Outcomes

- a. Each state must create a uniform reporting database. This will facilitate research to better understand voting by mail.

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ballots.aspx?fbclid=IwAR2Cr0iMIEUJC4gPz\_nJCtObO9pO8Z1o2nk\_y0qfnBu2\_Aml7ggIKsu84dM (last visited Mar. 22, 2020).

<sup>45</sup> See Appendix for the text of these three statutes.

<sup>46</sup> ELIZABETH BERGMAN ET AL., HOW DOES VOTE BY MAIL AFFECT VOTERS? A NATURAL EXPERIMENT EXAMINING INDIVIDUAL-LEVEL TURNOUT (2020).

- b. These databases must be made publicly available on each state's Secretary of State website, publishing mail status, usage rates, and denial rates of all mail ballots on or before the canvas.

### **A Workable Minimum: Necessary Alternatives**

Anything short of the above best practices must at least meet minimum measures to accommodate COVID-19 and comply with the right to vote guarantees of the 14th and 15th Amendments. This includes the following measures:

1. States must establish "no excuse" absentee ballots, allowing any registered voter to request an absentee without requiring that the voter state a reason for his/her desire to vote absentee.
2. States must provide paid postage on all vote by mail ballot envelopes.
3. States must send vote-by-mail applications to all registered voters or provide applications online or via phone or email.
4. Each budget year, states should designate existing state and local employees as emergency election workers who are provided regular training and are on standby to be re-assigned as election staff during a presidential or gubernatorial emergency or disaster declaration
5. All states must establish a fair ballot verification process using both signature matching systems and another alternative process.
6. States must provide an allowance of in-person curing by voters 14 days after an election at multiple municipal buildings throughout each county.
7. The state must provide mail-in ballot drop-off locations at minimum all planned polling sites for the 2020 General Election.

### **Conclusion**

Given the urgency and importance of the fair and safe administration of the 2020 general election, states and Congress must act immediately to address the significant and novel challenges posed by COVID-19. The standards outlined herein covered four significant measures that states can begin implementing immediately: (1) universal vote by mail, (2) in-person voting centers designed to limit person to person contact, (3) secure ballot drop-off centers, and (4) reasonable measures to ensure voting security and equity. Any delay in the coming weeks could lead to substantial difficulties and dire consequences for the administration of the 2020 general election. UCLA VRP will continue to monitor the situation and remains available as a resource for leaders seeking to respond fairly, safely, and constitutionally to the unfolding crisis.

Appendix**STATE VOTE-BY-MAIL PRACTICES<sup>47</sup>****(1) All Elections Conducted by Mail**

<b>State</b>	<b>Measure</b>
<b>Colorado</b> (CRS §1-5-401)	All elections shall be conducted by mail.
<b>Hawaii</b> (Hawaii Stat. §11-101)	Beginning with the 2020 primary election, all elections shall be conducted by mail.
<b>Oregon</b> (ORS §254.465)	All elections conducted by mail.
<b>Washington</b> (Rev. Code of Wash. 29A.40.010)	All elections conducted by mail.

**(2) Permit Counties to Opt into Conducting All Elections by Mail**

<b>State</b>	<b>Measure</b>
<b>California</b> (Cal. Elec. Code §§4005-4008, §3005, §4000)	After/on January 1, 2018, fourteen counties may conduct all-mail elections. After January 1, 2020, any county may conduct any election as an all-mail election following statutory guidelines.
<b>Utah</b> (Utah Code Ann. §20A-3-302)	Jurisdictions may decide to conduct elections entirely by mail. Beginning in 2020, all counties will conduct all-mail ballot elections.
<b>Nebraska</b> (Neb. Rev. Stat. §32-960, §32-952)	Any county of less than 10,000 inhabitants may apply to the Secretary of State to mail ballots for all elections in lieu of establishing polling places. Special ballot measure elections that meet certain criteria may also be held by mail.
<b>North Dakota</b> (ND Cent. Code)	Counties may conduct any election by mail. Applications for mailed ballots are sent to each individual listed on the central voter file (note that North Dakota does not

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<sup>47</sup> This is not a comprehensive list.

§16.1-11.1-01 et seq.)	require voter registration ahead of the election) and there must be one or more polling places in the county for voting in the usual manner.
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### (3) Some Elections Conducted by Mail

<b>State</b>	<b>Measure</b>
<b>Alaska</b> (Alaska Stat. §15.20.800)	Elections that are not held on the same day as a general, party primary or municipal election may be conducted by mail.
<b>Arizona</b> (Ariz. Rev. Stat. Ann. §16-409, §16-558)	A city, town, school district or special district may conduct elections by mail.
<b>Florida</b> (Fla. Stat. §101.6102)	Referendum elections at the county, city, school district or special district level may be conducted by mail.
<b>Kansas</b> (Kan. Stat. Ann. §25-432)	Nonpartisan elections at which no candidate is elected, retained or recalled and which is not held on the same date as another election may be conducted by mail.
<b>Maryland</b> (Md. Election Code §9-501)	Special elections not held concurrently with a regularly scheduled primary or general election may be conducted by mail.
<b>Missouri</b> (Mo. Rev. Stat. §115.652 et seq.)	Nonpartisan issue elections at which no candidate is elected, retained or recalled and in which all qualified voters of one political subdivision are the only voters eligible to vote may be conducted by mail.
<b>Montana</b> (MCA 13-19-101 et seq.)	Elections that may be conducted by mail are: any election other than a regularly scheduled federal, state, or county election; a special federal or state election, unless authorized by the legislature; or a regularly scheduled or special election when another election in the political subdivision is taking place at the polls on the same day.
<b>Wyoming</b> (Wyo. Stat. 22-29-115)	Counties may decide to conduct special elections not held in conjunction with a primary, general or statewide special election entirely by mail.

**(4) Allow Jurisdictions/Portions of Jurisdictions to be Designated All-Mail Based on Population**

<b>State</b>	<b>Measure</b>
<b>Idaho</b> (Idaho Code §34-308)	A precinct which contains no more than 140 registered electors at the last general election may be designated by the Board of County Commissioners as a mail ballot precinct no later than April 1 in an even-numbered year.
<b>Minnesota</b> (Minn. Stat. §204B.45)	Elections conducted by a municipality having fewer than 400 registered voters on June 1 of an election year and not located in a metropolitan county may conduct all-mail elections.
<b>Nevada</b> (Nev. Rev. Stat. §293.213)	Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, that precinct may conduct all-mail elections.
<b>New Jersey</b> (NJRS §19.62-1)	A municipality with a population of 500 or fewer persons, according to the latest federal decennial census, may conduct all elections by mail.
<b>New Mexico</b> (N. M. Stat. Ann. § 1-6-22.1)	A county may designate a precinct as a mail ballot election precinct if it has fewer than 100 voters and the nearest polling place for an adjoining precinct is more than 20 miles driving distance from the precinct boundary in question.

**MODEL CURE PERIOD STATUTES**

Minnesota law provides that if a vote by mail is rejected within five days of the election, “the official in charge of the ballot board must contact the voter by telephone or e-mail to notify the voter that the voter’s ballot has been rejected. The official must document the attempts made to contact the voter.” “If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot.”

**Mn. State. 203B.121(subd. 2)**

**Duties of ballot board; absentee ballots.**

(a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision.

Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

(b) The members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that:

- (1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;
- (2) the voter signed the certification on the envelope;
- (3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as a number on the voter's absentee ballot application or voter record. If the number does not match, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted;
- (4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope;
- (5) the certificate has been completed as prescribed in the directions for casting an absentee ballot; and
- (6) the voter has not already voted at that election, either in person or, if it is after the close of business on the seventh day before the election, by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

(c)(1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has otherwise cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission provided by this chapter, the notice must be provided between six to ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information:

- (1) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received;
  - (2) the reason for rejection; and
  - (3) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information.
- (e) An absentee ballot return envelope marked "Rejected" may not be opened or subject to further review except in an election contest filed pursuant to chapter 209.

In Oregon, county clerks must notify voters by mail if their ballots are missing a signature or there are signature discrepancies. Voters have until the 14th day after the election to return a completed certified statement for their ballots to count.

**Ore. Rev. Stat. § 254.431 (2015)**

**Special Procedure for Ballots Challenged Due to Failure to Sign Return Envelope or Nonmatching Signature; Public Record Limitation**

- (1) If a ballot is challenged because it is returned in an unsigned return identification envelope or because the signature of an elector on a return identification envelope does not match the signature in the voter registration record for the elector, the county clerk shall mail to the elector a notice that describes the nature of the challenge. The Secretary of State shall design a standard form to be used in all notifications sent by county clerks under this subsection.
- (2)(a) In order for the vote of the elector to be counted, the elector must provide evidence sufficient to disprove the challenge not later than the 14th calendar day after the date of the election.
  - (b) If the elector does not provide evidence sufficient to disprove a challenge alleging that the signature of the elector on a return identification envelope does not match the signature in the voter registration record for the elector by the 14th calendar day after the date of the election, the registration of the elector shall be considered inactive.
- (3)(a) The filing officer may not release as a public record any information that could be used to identify an elector whose ballot has been challenged under this section until the eighth calendar day after the date of an election.
  - (b) Following the seventh calendar day after the date of an election, the filing officer may disclose as a public record under ORS 192.410 to 192.505 the following information about each elector whose ballot was challenged under this section:
    - (A) The name of the elector;
    - (B) The residence addresses of the elector; and
    - (C) The reason the elector's ballot is being challenged.
  - (4) As used in this section, "filing officer" means:
    - (a) The Secretary of State, for federal or statewide elections and for elections to the office of state Senator or Representative; or
    - (b) The county clerk, for county, city or district elections.

Under Washington state law, voters whose ballots were rejected due to missing or mismatching signature statements will be notified and allowed to sign and return a curing statement 21 days after Election Day. Further, county auditors are required to contact by phone any voters with outstanding ballots awaiting to be cured.

### **WAC 434-261-050**

#### **Unsigned Ballot Declaration or Mismatched Signatures**

(1) If a voter neglects to sign a ballot declaration, signs with a mark and fails to have two witnesses attest to the signature, or signs but the signature on the ballot declaration does not match the signature on the voter registration record, the county auditor shall notify the voter by first class mail of the correct procedures for curing the signature. If the ballot is received during the last three business days before the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by the last three business days before the final meeting of the canvassing board, the county auditor must attempt to notify the voter by telephone using information in the voter registration record.

(2) If the voter neglects to sign, or signs with a mark and fails to have two witnesses attest to the signature, the voter must either:

(a) Appear in person and sign the declaration no later than the day before certification of the primary or election; or

(b) Sign a copy of the declaration, or mark the declaration in front of two witnesses, and return it to the county auditor no later than the day before certification of the primary or election.

(3) If the signature on the declaration does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the registration form becomes the signature in the voter registration record for the current election and future elections; or

(b) Sign a signature update form that includes both the ballot declaration required by WAC 434-230-015 and the voter registration oath required by RCW 29A.08.230, and return it to the county auditor no later than the day before certification of the primary or election. The signature on the signature update form must match the signature on the returned ballot declaration. The signature provided on the signature update form becomes the signature in the voter registration record for the current election and future elections.

(4)(a) If the signature on the declaration does not match the signature on the registration record because the last name is different, the ballot may be counted as long as the first name and handwriting are clearly the same. If it appears that the voter has changed his or her name, and the information required under RCW 29A.08.440 to complete a name change is not provided or is illegible, the county auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(b) If the signature on the ballot declaration does not match the signature on the registration record because the voter signed with a middle name, nickname, or initials, the ballot may be counted as long as the last name and handwriting are clearly the same.

(5) If the name on the signature does not match the printed name, and the signature on the ballot declaration does not match the signature on the voter registration record, because the ballot was signed by another registered voter, the ballot may be counted for the registered voter who actually signed the ballot declaration if:

- (a) The voter who signed the declaration can be identified;
- (b) The signature on the declaration matches the signature on the voter registration record; and
- (c) The voter who signed the declaration has not returned another ballot.

The county auditor may only count the races and measures for which the voter who signed the declaration is eligible to vote.

(6) Disposition of other ballot signature circumstances:

(a) Ballot signed by a voter's signature stamp. The county auditor shall accept the signature stamp if it is accompanied by the signatures of two witnesses. Without the witness signatures, the county auditor shall process the ballot in the same manner as an unsigned ballot.

(b) Ballot declaration signed by a different voter and that voter has already submitted a ballot. If the county auditor receives a ballot where the ballot declaration is signed with the signature of a person who has previously submitted a ballot, the county auditor shall refer the ballot to the canvassing board for rejection. If the ballot was identified by staff on or before election day, the county auditor must attempt to contact the voter to whom the ballot was issued by phone, email, or if time allows, by mail and provide the voter a replacement ballot.

(7) If it is determined that the signature on a ballot declaration does not match the signature on the registration record and, prior to 8:00 p.m. on election day, the registered voter asserts that the signature on the ballot declaration is not his or her signature, the voter may be provided the opportunity to vote a replacement ballot.

(8) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(9) A record must be kept 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 subsequently submitted a signature to cure the missing or mismatched signature. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.