

WAC 434-324-107 Felony screening process—Contesting cancellation or canceling. (1) If a person sent a notification by the secretary under the processes set forth in WAC 434-324-1065 fails to contact the auditor within 30 days of the date of the letter, that person's voter registration must be canceled. If an election in which the person would otherwise be eligible to vote is scheduled to occur during the 30 days, the person must be allowed to vote a provisional ballot. Any unreturned ballot issuances for the voter must be suspended and, if returned, held until the question of the person's eligibility can be resolved.

(2) The question of the person's eligibility to vote may be resolved and the pending status reversed if:

(a) The person provides verifiable information that the person is not serving a sentence of total confinement;

(b) The person's voting rights have been restored;

(c) The conviction is not a felony;

(d) The person convicted is not the registered voter;

(e) The person is no longer incarcerated due to a felony conviction in another state or federal court; or

(f) The person is otherwise eligible to vote.

(3) If a ballot is received from a voter whose status was changed to "pending" in accordance with WAC 434-324-106 after ballots were issued, the ballot must be held until the question of the person's eligibility can be resolved.

The disposition of the ballot can be decided in the following ways:

(a) If the question of the voter's eligibility is resolved as stated in subsection (2) of this section, the ballot should be counted if otherwise valid.

(b) If the voter is verified as serving a sentence of total confinement under the jurisdiction of the department of corrections for a felony conviction or is currently incarcerated due to a felony conviction in a state other than Washington state or federal court, then the ballot should not be counted.

(c) If the voter's eligibility has not been resolved, then the canvassing board, prosecuting attorney, or their designees should attempt to acquire documentation and/or contact the department of corrections or other institution to verify whether the individual is serving a sentence of total confinement under the jurisdiction of the department of corrections for a felony conviction or is incarcerated due to a felony conviction in a state other than Washington state or federal court.

(d) If the voter's status cannot be verified, then the ballot should be counted if otherwise valid.

(4) The auditor must notify the voter and the secretary of state when their pending status is removed. The secretary must flag the voter registration record to prevent future cancellation on the same basis.

[Statutory Authority: RCW 29A.04.611. WSR 21-24-052, § 434-324-107, filed 11/24/21, effective 12/25/21; WSR 20-13-043, § 434-324-107, filed 6/10/20, effective 7/11/20.]