

**8290.1300 VOTING BY PROGRAM PARTICIPANT.**

Subpart 1. **Internal procedures.** The secretary of state shall establish internal procedures designed to facilitate voting by program participants that minimize the number of persons with access to program participant data while maintaining the integrity of the election process.

Subp. 2. **Permanent absentee voter status.** A program participant who is eligible to vote may register to vote with the secretary of state as a permanent absentee voter pursuant to Minnesota Statutes, section 5B.06. The secretary of state shall maintain a record of each program participant registering to vote as a permanent absentee voter pursuant to Minnesota Statutes, section 5B.06. If a program participant withdraws or is canceled from the program, the individual loses eligibility to vote through Safe at Home. In order to comply with the Help America Vote Act when registering to vote, the program participant must provide a copy of a photo identification with the combined voter registration and permanent absentee ballot request form pursuant to Minnesota Statutes, section 5B.06, if:

- A. it was not submitted with the application;
- B. the statewide voter registration system indicates that the program participant voter has not previously voted in a federal election in Minnesota;
- C. the application states that the participant possesses photo identification; and
- D. the program participant voter has not already provided the secretary of state with a photocopy of photo identification.

Subp. 2a. **Review and removal from voter registration system.** Upon certification of an application, the secretary of state must suppress any record for a program participant found in the system. When a program participant withdraws or is canceled from the program, the secretary of state must unsuppress any voter record for the program participant in the statewide voter registration system.

Subp. 2b. **Challenging voter records.**

A. If a program participant or applicant provides information to the secretary of state that indicates that a program participant voter is not eligible to vote, or if the secretary of state is able to determine from information provided by the commissioner of corrections, the court administrator, or the Department of Public Safety that the program participant voter is not eligible to vote, then the secretary of state must mark the voter's record as challenged.

B. If the secretary of state is able to determine from information provided by any of the sources in item A that a program participant whose voter record was challenged has become eligible to vote, the secretary of state must remove the challenge from the program participant's voter record.

Subp. 2c. **Updates to voter records.** If a program participant or applicant submits notification in accordance with part 8290.0700 that the program participant voter has moved or the voter's name has changed, the secretary of state must update the program participant's voter record.

Subp. 3. **Identification of program participant voters.** Whenever the secretary of state is notified that an election will be taking place, the secretary of state must, at least 60 days before the election, or in the case of a special election, within two business days after it is scheduled, identify all program participant voters who live in the jurisdiction.

Subp. 4. [Repealed, 39 SR 392]

Subp. 5. **Requesting or preparing absentee ballots.**

A. Pursuant to the timelines and procedures in this subpart, the secretary of state must communicate to the county auditor the number of ballots necessary for each jurisdiction to provide ballots to program participant voters whose records are not challenged. Notwithstanding part 8210.0200, the county auditor must provide the appropriate ballots for that election to the secretary of state. The secretary of state also has authority under Minnesota Statutes, section 5B.06, to prepare and mail ballots to program participants.

B. If a program participant registers to vote as a permanent absentee ballot voter under Minnesota Statutes, section 5B.06, more than 14 days before an election, the secretary of state must either request a ballot from the county auditor for the program participant or prepare and mail a ballot to the participant as authorized in Minnesota Statutes, section 5B.06.

C. If a program participant registers to vote as a permanent absentee ballot voter under Minnesota Statutes, section 5B.06, less than 14 but more than five days before an election, the secretary of state must prepare and mail a ballot to the participant as authorized in Minnesota Statutes, section 5B.06.

D. If a program participant registers to vote as a permanent absentee ballot voter under Minnesota Statutes, section 5B.06, within five days of an election, the secretary of state must attempt to contact the program participant by telephone to discuss the participant's options for voting in the election.

Subp. 6. **Ballot distribution.** The secretary of state must forward ballots to each program participant whose voter record is not challenged by first class mail, accompanied by a notice of the criteria for being eligible to vote in Minnesota, absentee ballot instructions, a ballot envelope, a signature envelope, and a return envelope addressed to the secretary of state.

Subp. 6a. **Notice to challenged voters.** The secretary of state must send a notice to program participants whose voter records are challenged to explain the basis of the challenge and that the program participant will not be provided with a ballot unless the program participant returns a signed statement swearing or affirming that the program participant is eligible to vote. If the program participant returns the signed statement, the secretary of state must remove the challenge from the program participant's voter record, request a ballot for the program participant, and forward it to the program participant by first class mail.

Subp. 7. **Return of unvoted ballots.** The secretary of state must return unvoted absentee ballots to the appropriate county auditor in cases in which:

A. they are returned by the United States Postal Service; or

B. the program participant is canceled or withdraws from the program after the ballots were requested, but before they were mailed; or

C. the program participant's residential address is updated on the program participant's voting record in accordance with subpart 2c after the ballots were requested, but before they were mailed; or

D. the program participant's voter eligibility is challenged in accordance with subpart 2b after the ballots were requested, but before they were mailed; or

E. the program participant dies after the ballots were requested, but before they were mailed.

**Subp. 8. Ballot handling.**

A. Notwithstanding part 8210.0500, program participants must submit their return envelopes to the secretary of state.

B. If the program participant submits a signature envelope, the secretary of state must review the signature envelope and the program participant voter's record to determine whether the secretary of state is satisfied that:

- (1) the individual has not withdrawn or been canceled from Safe at Home;
- (2) the program participant's voter record is not challenged;
- (3) the program participant's name and identification number or signature on the signature envelope appear substantially the same as on the form described in subpart 2; and
- (4) the certificate on the signature envelope is properly executed.

C. The secretary of state must remove the ballot envelope from the signature envelope received from the program participant and transfer the ballot envelope to an envelope with the verification certificate printed on it. The secretary of state must complete and sign the verification certificate. The verification certificate includes the county, municipality, ward, and precinct/school district combination and states that the ballot is provided for a Safe at Home participant, and whether or not all of the following are true:

- (1) the individual is an active program participant;
- (2) the program participant's voter record is not challenged;
- (3) the secretary of state is satisfied that the program participant's name and identification number or signature on the signature envelope appear in substantially the same form as on the permanent absentee ballot request form described in subpart 2; and
- (4) whether the certificate on the signature envelope is properly executed. The secretary of state must then forward these materials to the county auditor by first class mail.

**Subp. 9. County auditor to forward ballot.** The county auditor shall forward the envelope bearing the verification certificate to the appropriate absentee ballot board.

Subp. 10. **Receipt and counting of ballots.** The absentee ballot board must review the verification certificate. The absentee ballot board must reject the absentee ballot if the verification certificate indicates that the secretary of state was not satisfied that the program participant met the requirements of this part or if the secretary has subsequently notified the county auditor that the ballot should be rejected, in accordance with subpart 10e. The absentee ballot board must accept the absentee ballot if the verification certificate indicates that the secretary of state was satisfied that the program participant met the requirements of this part. An accepted ballot is counted as any other registered absentee ballot for statistical purposes.

Subp. 10a. **Replacement ballots.**

A. If the secretary of state forwards a certification envelope to a county auditor more than 14 days before the election that indicates that the ballot should be rejected because of reasons identified in subpart 8, item C, subitem (3) or (4), the secretary of state must either request a replacement ballot from the county auditor for the program participant or prepare and mail a replacement ballot to the participant as authorized in Minnesota Statutes, section 5B.06. The county auditor must promptly fulfill all requests under this subpart and the secretary of state must forward the replacement ballot to the program participant by first class mail.

B. If the secretary of state forwards a certification envelope to a county auditor less than 14 but more than five days before the election that indicates that the ballot should be rejected because of reasons identified in subpart 8, item C, subitem (3) or (4), the secretary of state must prepare and mail a replacement ballot to the participant as authorized in Minnesota Statutes, section 5B.06.

Subp. 10b. **Notice of rejected ballot.** If within five days before the election the secretary of state forwards a certification envelope to a county auditor that indicates that the ballot should be rejected because of reasons identified in subpart 8, item C, subitem (3) or (4), the secretary of state must attempt to contact the program participant by telephone to notify the program participant that the ballot will be rejected.

Subp. 10c. **Notice to canceled or withdrawn program participants who were sent ballots.** If, after a ballot was sent to a program participant for an upcoming election, the program participant withdraws or is canceled from the program, the secretary of state must inform the former program participant that the former program participant is no longer eligible to vote through Safe at Home. If the program participant was canceled from the program due to mail returned as undeliverable, the secretary of state is exempt from the requirement to provide the former program participant with the written notice required by this subpart or any other written notice required by this part.

Subp. 10d. **Challenges after ballots were sent.**

A. If, after a ballot was sent to a program participant for an upcoming election, the program participant's voter record is challenged in accordance with subpart 2b, the secretary of state must notify the program participant in writing that the ballot will not be counted unless the program participant returns a signed statement swearing or affirming that the program participant is eligible to vote.

B. If the challenged program participant returns the signed statement swearing or affirming that the program participant is eligible to vote, the secretary of state must remove the challenge from the program participant's voter record and process any returned ballot in accordance with subpart 8.

C. If the secretary of state has already forwarded the challenged program participant's ballot to the county auditor when the secretary of state receives a signed statement swearing or affirming that the program participant is eligible to vote and the verification certificate indicates that the ballot should be rejected, the secretary of state must provide the county auditor with a replacement verification certificate. The absentee ballot board must review the replacement verification certificate to determine whether the program participant's ballot should be accepted.

Subp. 10e. **Participant moved after ballots were sent.** If, prior to the time frame for processing ballots in accordance with Minnesota Statutes, section 203B.121, subdivision 4, a program participant's residential address is updated on the program participant's voting record in accordance with subpart 2c, then the secretary of state must mark the voter's record of the ballot as "spoiled."

If the secretary of state has not received the voted ballot from the program participant, the secretary of state must notify the program participant that the program participant should destroy the ballot and dispose of the other ballot materials and that the ballot will not be counted if it is returned.

If the program participant's ballot was forwarded to the county auditor and otherwise would have been accepted, then the secretary of state must promptly notify the county auditor that the ballot board should reject the ballot.

The secretary of state must request a replacement ballot for the voter from the appropriate county auditor. Before sending the new ballot to the participant, the secretary of state must print the words "Replacement Ballot" on the signature envelope.

Subp. 10f. **Ineligibility after ballot is forwarded to county.** If, after a ballot was forwarded to the county auditor that otherwise would have been accepted,

- A. a program participant withdraws or is canceled from the program; or
- B. the program participant's voter record is challenged in accordance with subpart 2b; or
- C. the program participant dies,

then the secretary of state must promptly notify the county auditor that the ballot board should reject the ballot if the ballot board has not already processed the ballot in accordance with Minnesota Statutes, section 203B.121, subdivision 4.

Subp. 10g. **Notice of ballot disposition.** Within six to ten weeks after the election, the secretary of state must send a notice to a program participant if the absentee ballot board was instructed to reject the program participant's ballot.

Subp. 11. **Review and determination by secretary of state.** By March 31 of each year, the secretary of state must determine whether any program participants who cast ballots in the preceding

calendar year are recorded in the statewide voter registration system as having both a record of casting a ballot under this part and also voting in the same election. If it is found that a program participant voter casting a ballot under this part also has a voting history record for the same election in the statewide voter registration system, the secretary of state shall notify the appropriate county attorney of that fact.

Subp. 12. **Cessation of permanent absentee voter status.** The secretary of state must revoke the program participant's permanent absentee voter status under this part and Minnesota Statutes, section 5B.06, until the county attorney confirms that the issue has been resolved in favor of the program participant if voting records under this part and voting history records in the statewide voter registration system show that the program participant has not only cast a ballot under this part but also voted in the same election by other means.

Subp. 13. **Record keeping.** The secretary of state must maintain a record for each election with the number of ballots requested by precinct/school district combinations, blank ballots received from each county auditor, number of ballots prepared and mailed pursuant to Minnesota Statutes, section 5B.06, assembled ballots sent to program participants, unvoted ballots returned to the county auditors, ballot envelopes returned by program participants to the secretary of state, and certification envelopes forwarded to county auditors.

Subp. 14. **Biennial report.** By April 30 of each odd-numbered year, the secretary of state shall issue a report on the activities of program participants during the period of two calendar years ending on December 31 preceding the report date.

**Statutory Authority:** *MS s 5B.08*

**History:** *34 SR 819; 39 SR 392; 39 SR 1378; 50 SR 271*

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