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Absentee Ballots

Question: Can an absentee ballot be requested even if a mail-in election is not being held?

Answer: Yes. [WAC 135-110-520](#) requires absentee ballots to be provided upon request.

The longer answer involves many other WACs. [WAC 135-110-240](#) is where to start. Elections can be by physical poll sites (in-person), or by remote methods (mail-in, electronic), or both. Any choice or combination is fine, except that it must still assure “*fair treatment of candidates and voters, provides privacy in voting, and complies with all other parts of this rule.*” [WAC 135-110-250](#) says that elections must be accessible to all (and see also [WAC 135-110-500\(1\)](#) and [WAC 135-110-515](#)). There may be some voters who cannot physically get to the polls, so districts must provide alternative means to get them a ballot. One way would be to request an absentee ballot. Also, [WAC 135-110-410](#) requires a district to set a deadline to request a mail-in ballot.

However, always keep in mind that if a district is eligible to use and decides to use [WAC 135-110-370](#) to automatically re-elect an incumbent, then no election activities (mail-in or in-person) would be held and no ballot sent out.

Absentee Ballots and Notice

Question: Can a public notice be placed in a local paper letting the public know that absentee ballots are available upon request by registered voters residing within conservation district boundaries even though the election does not include a mail-in election?

Answer: Yes, that is not prohibited. But, be aware that a district must still comply with the due notice requirements of [WAC 135-110-220](#) (“*due notice containing all election information in the resolution must be published.*”).

[WAC 135-110-410](#) requires a district to set a deadline to request a mail-in ballot. [WAC 135-110-520](#) requires absentee ballots to be provided upon request. So, absentee ballot information should be included in your resolution as required in [WAC 135-110-210](#) in accordance with the due notice requirements of [WAC 135-110-220](#) and the definition of due

notice in [WAC 135-110-110](#). In other words, the information related to absentee ballots should be published at the same time the information about the election resolution is published.

Absentee Ballots and Voter Verification

Question: WAC 135-110-520 says that absentee ballots must be sent to "eligible voters upon request." I am assuming this means a registered voter residing within conservation district boundaries. My question is whether this must be determined before the ballot is sent or whether it can be determined on election day by the polling officers using the outer envelope information. If it has to be determined before the ballot is sent to the voter, it could require the election supervisor to either go to the County Auditor's Office fairly often or call the County Auditor's Office about each request. I am guessing that the County Auditor's Office might object to a lot of calls and use of their staff time for an election they are not overseeing.

Answer: No, eligibility to vote does not need to be determined before an absentee ballot is sent out under [WAC 135-110-520](#). Voter eligibility can be determined using the information on the outer envelope of the ballot under [WAC 135-110-560](#). Further, [WAC 135-110-610](#) requires that every voter must be determined to be a qualified district elector before his or her vote is counted (not before the ballot is sent out). A qualified district elector is defined in [WAC 135-110-110](#) as *"Qualified district elector" means a registered voter in the county where the district is located and who resides within the conservation district boundary. Qualified district elector means an individual residing within the boundary of the conservation district and registered to vote in a county where the conservation district is located.* See also [WAC 135-110-700\(2\)](#).

Also, [WAC 135-110-520](#) should be read in conjunction with [WAC 135-110-515](#). [WAC 135-110-515\(1\)](#) says that *"The conservation district must provide a ballot to any person who requests a ballot."* The definition of an absentee ballot is set out in [WAC 135-110-110](#): *"Absentee ballot" or "mail-in ballot" means a ballot issued to a voter before election day that can be delivered to the conservation district or designated election supervisor on or before the day of the election.*" There is no mention in the definition of eligibility to vote. [WAC 135-110-240\(3\)](#) requires that mail-in or absentee ballots be returned by election day. [WAC 135-110-550\(4\)](#) requires that the name and address of a person who submits a mail-in or absentee ballots

must be recorded and a determination of if that person is eligible to vote ([WAC 135-110-550\(1\)](#)) must be made. [WAC 135-110-560](#) stipulates how ballots are to use the double-envelope system. [WAC 135-110-570](#) requires the election supervisor to retain custody of all mail-in and absentee ballots.

Ceasing to be a Farmer or Landowner

Question: What happens if one of the supervisors retires from farming or is no longer a landowner and as a result two of the three supervisors are no longer landowners/farmers on the Board of Supervisors?

Answer: [RCW 89.08.190](#) gives the Commission the ability to establish procedures for elections. In the event that the Board of Supervisors does not meet the requirements set out in [RCW 89.08.160](#) which requires two of the three elected supervisors to be landowners or operators of a farm, [WAC 135-110-310](#) says that “*if the election of a candidate would cause a conservation district board of supervisors to contain fewer than two elected supervisors who are landowners or farm operators, the candidate is not eligible to be elected.*” The election supervisor must determine candidate eligibility under [WAC 135-110-355](#). In the event that a sitting supervisor retires from farming or is no longer a landowner such that it causes two of the three supervisors to no longer be landowners/farmers, then that supervisor is no longer eligible to serve according to [WAC 135-110-910](#) and the office is deemed vacant and the procedures set out in [WAC 135-110-900](#) and [RCW 89.08.200](#) must be followed.

Due Notice

Question: Our conservation district set our election date prior to the direction from the manual. We listed it on our agenda for November’s meeting and emailed it to those that have requested our minutes and posted on our website. But we did not do two newspaper ads. This just seems to be adding another expense to the election. Does the due notice have to be two ads under the rule? I see it in the new manual as direction, but the rule just says to provide due notice.

Answer: The short answer is [RCW 89.08.190](#) requires that “*Each year after the creation of the first board of supervisors, the board shall by resolution and by giving due notice, set a*

date during the first quarter of each calendar year at which time it shall conduct an election..." Due notice is defined in [RCW 89.08.020](#) in exactly the same way as [WAC 135-110-110](#). So, [WAC 135-110-220](#) and the definition of due notice in [WAC 135-110-110](#) and [RCW 89.08.190](#) require publication twice, at least a week apart, in a publication of general circulation within the affected area. The notice can be posted at a reasonable number of public places within the area where it is customary to post notices concerning county and municipal affairs. This could be a web page. So, it must be published twice with at least seven days apart, but not necessarily as a traditional advertisement.

In addition, to make use of [WAC 135-110-370](#) to automatically re-election an incumbent, a district must also comply with [WAC 135-110-220's](#) "due notice" requirement. Due notice is defined in [WAC 135-110-110](#) - meaning notice published at least twice, seven days prior to the meeting or hearing. Due notice must be provided, according to [WAC 135-110-220](#), for notice of the adoption of the election resolution so the general public knows that a meeting will be held by the Board of Supervisors to consider and set the parameters of the election. Due notice must also be provided, according to [WAC 135-110-220](#), for the election resolution after it has been adopted so that voters know what those election parameters are (i.e. date, time, place of the election, etc.). The Due Notice flow chart explain this, and also the election calculator should tell you exactly when all this need to happen (based on the date selected for your election).

Due Notice of the Intent to Adopt the Election Resolution

Question: We need to file the due notice of intent to adopt a resolution right away. Is there some template for what must be included? It's clear that after the resolution is adopted, it will be necessary to include time, place, names, etc., but prior to the resolution being adopted, what does the notice need to include?

Answer: You won't need to file the notice to adopt the resolution - just make sure you publish notice of the intent to adopt the resolution at least twice, a week apart, the first time being at least one week before the meeting at which you adopt the resolution. If you do that, you will be in compliance with [WAC 135-110-220\(1\)](#).

The notice of the intent to adopt the election resolution can be very brief. For example:

“The Ledgerwood Conservation District Board of Supervisors will hold a meeting at [time] on [month] [day], [year] at [address] location to adopt a resolution setting the date, time, and location of an election to fill a Conservation District Supervisor’s expiring term.”

Remember to document your publication of the notice of the intent to adopt the election resolution on Form #5 (verification of due notice compliance).

Due Notice of the Election and the Election Resolution

Question: We adopted our election resolution at a meeting last night. Now, we need to publish the notice of the election, as required in WAC 135-110-220. Is there some template for what must be included?

Answer: To comply with [WAC 135-110-220\(2\)](#), after you adopt the election resolution in accordance with [WAC 135-110-220\(1\)](#), you need to publish the information in the resolution at least twice, a week apart, the first time being at least one week before the candidate filing deadline. The candidate filing deadline is 4 weeks before election day, as defined in [WAC 135-110-330](#). Sample language is below:

“An election for a board seat on the Ledgerwood Conservation District will be held on [month] [day], [year] at [address] location. Polls will open at [time] and close at [time]. Registered voters who reside within the Conservation District boundary are eligible to vote. Candidates must registered voters residing in the conservation district, and may be required to own land or operate a farm. Elections procedures are available at the district office. Absentee ballots are available upon request for eligible voters, but must be requested on or before [time] on [month] [day], [year]. Please contact the District office at [phone] or at the District office at [address] for absentee ballots or if you have any questions.”

Remember to document your publication of the notice of the intent to adopt the election resolution on Form #5 (verification of due notice compliance).

Emailing of Election Documents

Question: Must I email election documents to the Commission, or can the documents be sent by regular mail?

Answer: The Commission urges districts, whenever possible, to use the electronic transfer of election documents, when possible, rather than the regular mailing of election documents to the Commission. Documents can be emailed directly or electronically scanned and then emailed to elections@scc.wa.gov. For those districts that cannot send documents electronically, the Commission will accept those documents by regular mail. Documents sent by regular mail should be sent to the Commission at POB 47721, Olympia, WA 98504-7721. However, please keep in mind that the processing of documents sent by regular mail may be delayed.

Nominating Signatures - Incumbent to have His or Her Name Pre-Printed on the Ballot

Question: Does a district supervisor incumbent need to collect 25 signatures on a nomination form under the new rules?

Answer: The short answer is no. If the incumbent files Form #2 (the candidate information) by the candidate filing deadline, the incumbent will be eligible to be re-elected. However, under [WAC 135-110-340](#), unless the incumbent obtains the 25 valid nominating signatures, the incumbent's name will not appear on the ballot.

In order for the incumbent's name to appear on the election ballot, the incumbent must file both Form #2 and Form #3 (the nominating petition) by the candidate filing deadline, and Form #3 must have at least 25 valid nominating signatures. Only after an incumbent correctly files both Form #2 and Form #3 with the District will the District place the incumbent's name on the official ballot.

Nominating Signatures - Incumbent Duty to Collect 25 Valid Nominating Signatures in Order for the Incumbent to be Automatically Re-Elected

Question: Does a district supervisor incumbent need to collect 25 signatures on a nomination form under the new rules in order for the District to comply with WAC 135-110-370 and therefore be automatically re-elected?

Answer: The short answer is yes. In order for a district to use [WAC 135-110-370](#) to automatically re-elect the incumbent, the incumbent must have previously correctly filed both Form #2 and Form #3 by the candidate filing deadline (and, of course, all other provisions of [WAC 135-110-370](#) must also have been met).

No One Files by the Candidate Filing Deadline Except the Incumbent

Question: I have heard that if no one other than the incumbent files by the candidate filing deadline, we don't have to have an election and the incumbent is automatically re-elected. Is this true?

Answer: Correct. [WAC 135-110-370](#) sets out the requirements and procedures to follow:

- (1) The incumbent is automatically reelected to another three-year term if:
 - (a) Due notice of the election resolution and the election have been duly published by the conservation district;*
 - (b) The only person filing by the filing deadline is the incumbent;*
 - (c) The conservation district verifies the continued eligibility of the incumbent to serve another term of office; and*
 - (d) The incumbent has not resigned on or before the last date of election.**
- (2) When an incumbent is automatically reelected, no other election activities at physical poll sites or through remote election processes may be performed.*
- (3) Before election day, the conservation district must inform the voting public that the incumbent has been reelected by reason of being the only person filing for the position, and that no poll site, mail, or absentee balloting will be performed, and on election day, signs containing this information must be posted at poll sites.*

The Automatic Re-Election Checklist form must be used by any district that wishes to comply with [WAC 135-110-370](#). Also, when attempting to comply with [WAC 135-110-370](#), one of the most important things to remember is that notice that all the conditions of [WAC 135-110-370](#) have been met and therefore an election will not be held must

be provided before election day, and on election day, signs containing this information must be posted at poll sites.

NOTE: under [WAC 135-110-230](#), a District Board of Supervisors must appoint an Election Supervisor. That Election Supervisor is empowered by the Board, through [WAC 135-110-230](#), to conduct all operations of the election, including the determination and operation of automatically re-electing the incumbent (provided the terms of [WAC 135-110-370](#) are met). Therefore, it is up to each District to determine whether a formal resolution is needed or desired to automatically re-elect an incumbent, or if the appointed Election Supervisor will make that determination and proceed without formal input from the Board. Ultimately, as [WAC 135-110-230\(3\)](#) notes, the Board is responsible for the actions of the Election Supervisor.

Below are two different examples of the kind of notice required to be published before election day, in order for a district to comply with [WAC 135-110-370](#):

Example #1 (use this notice if your Board of Supervisors, at a regular or special meeting, issued a resolution regarding the automatic re-election of the incumbent):

“The XYZ Conservation District Board of Supervisors resolved on [day], [year] to proceed with informing the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. Therefore, no poll site, absentee balloting or mail balloting will be performed pursuant to WAC 135-110-370. For further information, please contact the District at [phone].”

Example #2 (use this notice if your Election Supervisor has chosen to proceed without a formal resolution from your Board of Supervisors regarding the automatic re-election of the incumbent):

“The XYZ Conservation District Board of Supervisors hereby informs the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. Therefore, no poll site, absentee balloting or mail balloting will be performed pursuant to WAC 135-110-370. For further information, please contact the District at [phone].”

Below are two different examples of signs to post on election day, in order for a district to comply with [WAC 135-110-370](#):

Example #1 (use this sign if your Board of Supervisors, at a regular or special meeting, issued a resolution regarding the automatic re-election of the incumbent):

“Pursuant to WAC 135-110-370, no poll site, absentee balloting or mail balloting will be performed. The XYZ Conservation District Board of Supervisors resolved on [day], [year] to proceed with informing the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. For further information, please contact the District at [phone].”

Example #2 (use this sign if your Election Supervisor has chosen to proceed without a formal resolution from your Board of Supervisors regarding the automatic re-election of the incumbent):

“Pursuant to WAC 135-110-370, no poll site, absentee balloting or mail balloting will be performed. The XYZ Conservation District Board of Supervisors hereby informs the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. For further information, please contact the District at [phone].”

Once a district has determined that it will use the procedure set out in [WAC 135-110-370](#) to automatically re-elect an incumbent, that district should contact the Commission’s Election Officer by email (elections@scc.wa.gov) to inform the Officer of the district’s choice.

Finally, within four weeks from the day of election, districts must provide to the Commission completed and valid Forms 1-5 and the Automatic Re-Election of the Incumbent Checklist (and supporting documentation for the Checklist) in order for a district to be found in compliance with the procedures set out in [WAC 135-110-370](#).

Old Election Forms

Question: I have some old election forms from past years; can I still use those forms?

Answer: No. The Commission has updated and made available new election forms in two different electronic forms on the Commission's web page: <http://www.scc.wa.gov/>. Please use the forms found on the Commission's web page. Any old forms sent in to the Commission will be returned to the district.

Poll Lists

Question: Mailing unrequested ballots - WAC 135-110-515 says that conservation districts "may send or provide ballots to all individuals who, in the three years preceding the election, have voted in a conservation district election or have participated in conservation district services or programs." These names would most likely come from poll lists provided by the election supervisor or an employee and/or a list of cooperators provided by employees or from our database. WAC 135-110-420 prohibits conservation districts from using "lists obtained from an individual conservation district supervisor or employee, nor from any candidate, nor from any trade, company, church, union, fraternal or other organization." I do not see how we can come up with a list of the individuals noted in WAC 135-110-515 without getting the names from an employee.

Answer: The employee can assist in the development of a list, or providing a list, consistent with [WAC 135-110-515](#). The intent of the WAC provision precluding obtaining lists from district employees is to avoid the use of some other list, such list being inconsistent with the list noted in the WAC referenced.

Polling Officers Present at Election Site

Question: Ledgerwood Conservation District and Ogden Conservation District always hold our elections together at our Annual Meeting. We have always provided two polling officers for EACH district but it is usually a struggle to find them. Reading the rule language, do we need to continue to provide two for EACH or since we have ONE polling place for both districts, can we just use two?

Answer: The desire to conserve resources is completely understandable, however, the intent of the rule, especially [WAC 135-110-620](#), is to have two polling officers for each conservation district at each polling site. Combining two district's elections into one team of polling officers puts an undue burden on those polling officers to keep track of ballots, perform other duties, and generally ensure that procedures are followed for each district, separately. The WAC already allows the election supervisor to serve as one of the polling officers ([WAC 135-110-620](#)), so efficiencies can be found there.

Polling Officers - Who is Disqualified?

Question: Can a relative or spouse of a district supervisor serve as a polling officer?

Answer: Yes. The rule that governs this is [WAC 135-110-440](#). Employees and municipal officers of conservation districts must not be polling officers. So, a conservation district supervisor, employee or municipal officer may not serve as a polling officer in the conservation district election, unless the person is the election supervisor appointed by the conservation district supervisors. There is no prohibition to a relative or spouse serving as a polling officer. However, that said, it is good to keep in mind [WAC 135-110-150](#) which says that conservation districts, employees and supervisors must remain impartial during an election.

Preventing So-Called "Stealth" Write-In Candidates

Question: I thought the new rule eliminated write-in candidates from appearing on the ballot at the last minute, but where is that in the new rule?

Answer: Last minute write-in candidates are only eligible to be elected if absolutely no other candidate files the candidate information form (Form #2) by the candidate filing deadline. [WAC 135-110-320](#), [WAC 135-110-355](#) and [WAC 135-110-360](#). If absolutely no one files the candidate information form (Form 2) by the candidate filing deadline, then only a write-in candidate can be elected - if they are eligible. To be eligible to be elected, the write-in candidate must file the candidate information form (Form #2) within 4 weeks of the day of election. The election supervisor must then find them to be eligible to be elected in order for the write-in candidate to be elected.

However, if a candidate(s) files Form #2 before or on the candidate filing deadline, and is found eligible to be elected, then only that candidate(s) who filed can be elected. [WAC 135-110-320](#). Voters can still write in candidate names, but [WAC 135-110-320](#) declares those write-in names to be in-eligible to be elected (because at least one candidate filed the candidate information (Form #2) on or before the candidate filing deadline).

In all cases, [RCW 89.08.190](#) requires a line on the ballot for write-in candidates, but under the WAC, a write-in would only be eligible to be elected if no one has filed by the candidate filing deadline.

So, encouraging prospective, eligible candidates to file Form 2 on or before the candidate filing deadline (and having at least one do so) would eliminate eligible write-in candidates (but not the line on the ballot) on election day.