

Proposed Election Rules of the Secretary of State

Rule 13. Rules Concerning Absentee Voting

- 13.3 The county clerk and recorder shall keep a list of all individuals who deliver more than five voted absentee ballots to the designated or coordinated election official's office or the designated drop site for absentee ballots, which shall include the individual's mailing address. 1-8-113
- 13.4 The county clerk and recorder shall notify each individual on the list by letter that they have violated C.R.S. 1-8-113 by delivering more than five absentee ballots to the designated election official.

Rule 25. Rules Concerning Military Voting

- 25.1 A member of the armed forces of the United States, who is stationed outside of the United States and who is otherwise qualified to apply for and vote by absentee ballot, may request an absentee ballot by facsimile transmission. 1-8-104
- 25.2 A county clerk and recorder may send and receive absentee ballot applications by facsimile transmission, send blank ballots and accept voted ballots from eligible electors by facsimile transmission who are members of the armed forces of the United States and who are otherwise qualified to vote by absentee ballot. 1-8-103.5
- 25.3 If a county clerk and recorder does not have a fax machine located in the office of the clerk and recorder or shares a fax machine with other offices, the clerk and recorder shall not be required to send or receive a ballot via facsimile.
- 25.4 An absentee ballot that is completed and returned by the voter via facsimile transmission must contain the voter's printed name, signature, date of birth and the following statement: "I am a member of the armed forces of the United States, who is stationed outside of the United States and am qualified to apply for and vote by absentee ballot. I also understand that by faxing my voted ballot, I am voluntarily waiving my right to a secret ballot."

- 25.5 Applications returned via facsimile transmission by the voter to the county clerk and recorder shall be received in the clerk and recorder's office no later than the close of business on the Friday immediately preceding the election.
- 25.5 Any ballot faxed to a voter shall contain a unique identification number for tracking and auditing purposes.
- 25.6 On the faxed application, the voter shall provide the fax number, as dialed from the United States, to which the ballot shall be sent.
- 25.7 A log shall be kept by the county clerk and recorder of each ballot sent to a voter via facsimile indicating the name of the voter, the fax number the ballot was sent to, and the unique identification number of the faxed ballot.
- 25.8 Instructions faxed to the voter with the blank ballot shall include the following information: 1-8-103.5(3)
- (a) The fax number to which the voted ballot shall be returned;
 - (b) The total number of pages being transmitted;
 - (c) The total number of ballot pages;
 - (d) A notice that the ballot shall not be duplicated for any other voter;
 - (e) A notice that once the ballot is returned by a voter, no other ballot will be accepted and counted from that voter;
 - (f) A notice that the voted ballot must be received by the clerk and recorder no later than 7:00 p.m. Mountain Standard Time on election day;
 - (g) A request for an e-mail address to which a confirmation notice of receipt of the ballot may be sent at the discretion of the county clerk and recorder; and
 - (h) Any other information deemed necessary by the secretary of state or the county clerk and recorder.

Rule 26. Rules Concerning Provisional Voting

- 26.1 Eligible electors who have moved within the State of Colorado 1-9-301

after the registration deadline may vote a provisional ballot at the proper polling place on election day or in the clerk and recorder's office or designated offices. Electors who have moved into the State of Colorado from outside of the State of Colorado, who are not registered in the State of Colorado by the registration deadline may not vote a provisional ballot.

- 26.2 Electors who have requested an absentee ballot, but did not return it, have the option of voting a provisional ballot at their proper polling place on election day. 1-9-304
- 26.3 If the elector votes a provisional ballot, the elector must complete a provisional ballot affidavit. The instructions for completing the provisional ballot affidavit and the provisional ballot shall be printed on the provisional ballot envelope. 1-9-301(3)

26.3.1 The provisional ballot affidavit shall read as follows: “I, _____, do solemnly affirm that I am a citizen of the United States, have attained the age of eighteen years, and shall have resided in the State of Colorado at least thirty days and in my present precinct at least thirty days before the election. I further affirm that the present address I listed herein is my sole legal place of residence, and I claim no other place as my legal residence. I state under penalty of perjury that I am an eligible elector; that I reside at the address indicated on my application for a provisional ballot; that I have not and will not cast any vote in this election except by the enclosed ballot, and that my ballot is enclosed under the provisions of the “Uniform Election Code of 1992.” WARNING: The information I have provided is true. I understand that if it is not true I can be convicted and fined up to \$5,000 and/or jailed for up to eighteen months.

Date

Signature of Elector

26.3.2 The signature and date on the provisional ballot affidavit envelope shall remain on the outside of the envelope.

- 26.4 Prior to voting a provisional ballot, the following information shall be completed by the elector on the provisional ballot envelope: 1-9-301(3)
- (a) The elector's name in full;
 - (b) The elector's date of birth;
 - (c) The elector's residence address;
 - (d) The elector's sex;
 - (e) The elector's party affiliation;
 - (f) The elector's previous address, including the county in which the elector was previously registered to vote;
 - (g) The elector's deliverable mailing address if different from the residence address;
 - (h) Whether the elector is native-born or a naturalized citizen of the United States;
 - (i) The agency where the elector registered to vote if registered at a designated agency pursuant to the National Voter Registration Act of 1993;
 - (j) The elector's social security number (optional);
 - (k) The elector's Colorado Driver's License Number (optional);
 - (l) The elector's Colorado Photo ID number (optional).
- 26.5 The provisional ballot affidavit envelope must be uniform in color and size as to differentiate it from other forms or affidavits.
- 26.6 The provisional ballot affidavit envelope shall be numbered to correspond to the number of the provisional elector's name in the poll book, and the word "provisional" shall be marked on the provisional ballot.
- 26.7 A board appointed by the county clerk and recorder shall verify all provisional ballots. The clerk and recorder shall also determine the time that preliminary processing begins. However, provisional ballots shall be verified after absentee ballots are returned, verified, and counted. 1-9-301
1-9-303
1-9-304

- 26.8 Verification of a provisional ballot shall follow the same procedures utilized for the verification of an emergency or absentee ballot.
- 26.9 If twenty-five or more provisional ballots have been cast and counted in the county, they shall be reported as one total. If less than twenty-five provisional ballots have been cast and counted, they shall be included with the absentee total.
- 26.10 The provisional ballot shall not be counted if any of the following are true:
- (a) The provisional ballot is not the correct ballot style for the elector; however, all races and issues for which the elector is qualified to vote on shall be counted;
 - (b) The elector failed to complete all required fields on the affidavit envelope;
 - (c) The elector was not registered by the deadline in the state of Colorado;
 - (d) An elector's absentee ballot is returned prior to the provisional ballot.
- 26.11 Votes cast by provisional ballot shall not be included in any unofficial results reported and may not be reported except as part of the official canvass.
- 26.12 Recount procedures for provisional ballots shall be the same as those recount procedures for absentee ballots as directed by the secretary of state.

Rule 27. Rules Concerning Uniform Ballot Counting Standards

27.1 Definitions

27.1.1 Blank Ballot. A blank ballot is one on which the voter has made no marks in any voting position, or has been marked with an unreadable marker, or is one which has been consistently marked outside of the "read" area of the scanner.

27.1.1 Chad. Chad is the small piece of paper or cardboard produced from a punch card ballot when a voter pierces a hole in a perforated, designated position on the ballot with a marking device to record the voter's candidate, question, or issue choice.

27.1.2 Damaged Ballot. A damaged ballot is one that has been torn, bent, or otherwise mutilated or unreadable, so that it cannot be processed by the optical scanner ballot reader.

27.1.3 Duplicated Ballot. A duplicated ballot is one for which a true copy is made in order to be properly processed and counted due to damage, improper marking or some other reason which would prevent a ballot tabulating machine from accurately counting the ballot.

27.1.4 Punch Card Ballot. A punch card ballot is a ballot card that contains small perforated designated positions that a marking device must pierce to form a hole that records a voter's candidate, question, or issue choice.

27.1.5 Overvote. An overvote is a race, question or issue which contains votes for more than the maximum number of candidates or responses for a ballot question or issue allowed.

27.1.6 Undervote. An undervote occurs when the voter does not vote for a candidate, question, or issue, or when more than one position in a race is available, the voter does not vote for the maximum number of candidates allowed.

27.1.7 Vote in Optical Scan Ballots. A correctly voted optical scan ballot occurs when a voter, using a readable marker, fills in or connects the minimum number of ovals/arrows per race, question, or issue, not to exceed the maximum allowable votes per race, question or issue, without extending the vote mark beyond the parameters of the instructions.

27.1.8 Write-in Vote. A vote on a ballot on which the voter physically writes in the name of a certified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the oval or connects the arrow on optical scan ballots according to the directions provided to the voter.

1-7-304

27.2 Uniform Counting Standards for Paper Ballots

27.2.1 Judges counting ballots on election day shall take into consideration the intent of the voter.

27.2.1 If a ballot contains markings for more than the maximum votes allowed in a candidate race or for a ballot issue or question, no vote shall count for that race, question, or issue. Judges shall take into consideration any notation by the voter that would clearly indicate the choice of the voter. 1-7-309

27.2.2 If an issue, question or candidate race contains no markings by the voter, no tally will be made for that race, question, or issue, but all other candidate races, issues, or questions properly marked by the voter on the ballot shall be counted.

27.2.3 A ballot which has no markings for any candidate races, issues or questions shall be tallied as a blank ballot, but the voter shall be given credit for voting.

27.2.4 If the intent of the voter is clear on a write-in vote, the write-in vote shall be counted.

27.3 Uniform Counting Standards for Optical Scan Ballots

1-7-503

27.3.1 Testing of Optical Scan Equipment

(a) Optical scan equipment must be set to consistent and uniform sensitivity standards for each system type.

(b) Pre-election testing should be performed by the designated election official in accordance with C.R.S. 1-7-506(1) and Rule 11.4.

(c) Election day count machine settings should sort blank ballots, overvotes, and write-in votes to the resolution board.

27.3.2 Precinct Optical Scan Procedures

(a) Voters whose ballots are rejected or sorted by the precinct counter as a blank or overvoted ballot shall be given the opportunity to correct their ballot.

(b) Ballots sorted to a write-in bin shall be tallied at the conclusion of the voting and delivered to the central counting center in a secure container.

27.3.3 Central Count Optical Scan Procedures

(a) A resolution board, consisting of a team(s) of one (1) Republican and one (1) Democrat for partisan elections or two (2) watchers for nonpartisan elections, shall resolve all ballots sorted by the central count optical scan equipment.

(1) The board shall be observed by two (2) witnesses, representatives of each major political party, who may not handle or process ballots.

(2) All persons engaged in the counting and processing of ballots shall be deputized and take an oath to faithfully perform their duties.

(3) The resolution board shall maintain a log for each step of verification, duplication, and counting according to Rule 11.5.8.

(b) Sequence of Resolution Procedures

(1) Testing of the optical scanner shall begin immediately prior to counting official ballots.

(2) A zero tape shall be run indicating no votes cast or counted before the counting begins

(3) Official ballots shall be processed through the optical scanner, with sorted overvotes, blank ballots, and write-in ballots viewed and resolved by the resolution board. If no official write-in candidates have filed an affidavit of intent by the deadline, the write-in sort option shall not be utilized. The number of each duplicated or clarified ballot shall be entered on the resolution board log sheet.

(4) All ballots which are sorted by the optical scanner and resolved by the resolution board either by duplication or clarification are to be indicated as such and

and kept separate from the standard run ballots for the precinct.

(5) The precinct judges' ballot return form is compared to the number of scanned ballots for the precinct.

(6) After the final precinct has been tallied, the total write-in votes shall be indicated on the final summary along with the seal numbers for each sealed box of scanned ballots.

(7) The optical scanner shall be tested again by tabulating the test deck at the conclusion of the count.

(c) Resolution of optical scan ballots

(1) Damaged or defective ballots shall be repaired, if possible, to be accepted by the optical scan equipment. If the ballot is damaged beyond repair, the ballot shall be duplicated utilizing the ballot duplication procedures.

(2) Blank ballots shall be examined by the resolution board to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable device. The resolution board may clarify a non-detectable mark in such a manner that the original voter mark is preserved, such as making a detectable line through the non-detectable mark, placing a removable label over the non-detectable mark and marking with the proper device, or placing cellophane tape over the mark and a marked removable label to properly reflect the voter's intent. Resolution board members must initial the clarification in a non-readable area on the ballot next to the clarification. The election official may also choose to make a true duplicate copy of the ballot utilizing the ballot duplication procedures. If a ballot is truly blank, it shall be sent back for the resolution pass through the scanner, and the ballot tabulated with no races, issues or questions voted.

(3) Overvoted ballots shall be inspected by the resolution board. Any marks that are clearly identified as unintentional but register an overvote on the scanner may be clarified by the resolution board by the placement of a removable adhesive sticker over the unintentional mark. The two members of the resolution board must initial next to the clarification in a non-readable portion of the ballot. The election official may also choose to make a true duplicate copy of the ballot utilizing the procedures for duplication of ballots.

(4) Write-in votes sorted by the optical scan equipment on election day shall be delivered to the assigned write-in board for hand counting. In order to be counted, the oval must be darkened or the arrow connected according to the appropriate voting instructions. Only votes for write-in candidates who have filed an affidavit of intent to run as a write-in candidate by the deadline shall be counted.

(5) The resolution board shall duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct #1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots shall be separated from the duplicate ballots and placed in an envelope clearly marked "ORIGINAL BALLOTS." The duplicate ballots shall be counted in lieu of the original ballots.

(b) Recount Procedures for Optical Scan

(1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested prior to the recount, and shall be programmed to sort undervotes for the individual race(s), issue(s) or question(s) being recounted.

(2) Recounts will include a visual inspection of all ballots cast for write-in candidates in the contested

race(s) to determine voter intent.

27.4 Uniform Counting Standards – Punch Card Voting Systems

1-7-503

27.4.1 Inspection of Ballots. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel, consisting of one member from each major political party, shall inspect the ballots for loose chad, ballot damage, including holes that are too large, a ballot that is torn in the mail, etc., written instructions and corrections, and write-in votes. The purpose of the inspection shall be to insure that all ballots are machine-readable and that the voter's intent will be recorded correctly and accurately. In some instances, duplication of the ballot may be necessary in order to count the ballot.

(a) All loose chad shall be removed to insure that all of the voter's choices on the ballot are correctly and accurately reflected in the count.

(1) A chad that is unattached on two or more corners represents a vote and shall be removed.

(2) If a chad is attached to a punch card ballot by three or four corners, no vote shall be recorded for that candidate, issue or question choice at that particular ballot position, and the chad shall not be removed.

(b) Dimpled mark or puncture on the attached chad.

(1) If a ballot has been punched according to instructions, but there exists a random dimpled mark or puncture located wholly on the non-removed chad, that mark or puncture shall be considered a random mark or puncture.

(2) If the ballot has nowhere been punched according to instructions, but consists of a series of dimpled marks or punctures located wholly on the attached chad, those marks or punctures shall represent the voter's intent to vote for that designated position, and the ballot shall be duplicated accordingly.

(3) If a dimpled mark or puncture appears on the ballot anywhere other than completely on the chad, voter intent cannot be determined, and the ballot shall be duplicated without the dimpled mark or puncture.

(c) Damaged ballots. If the ballot has damage or defects that would cause problems in tallying, such as a ballot being torn in the mail, the ballot shall be duplicated to the extent possible, evidencing the voter's intent. If the voter's intent cannot be determined for a specific office, issue or questions on the damaged ballot, that position shall be left blank on the duplicate ballot.

(d) Voter instructions. If other material is included with the ballot or is attached to the secrecy envelope, the material shall be inspected to determine if it has a bearing on the voter's intent. If the material has a bearing on the voter's intent, the original ballot shall be duplicated as necessary and the original ballot, along with the material, shall be placed in an envelope marked "Duplicated Ballot." If the material has no bearing on the voter's intent, it shall be discarded.

(e) Write-In Votes.

(1) Write-in Votes shall be recorded on the secrecy envelope.

(2) Only votes cast for certified write-in candidates who have filed an affidavit of intent to run as a write-in candidate by the deadline shall be considered valid and counted. Any write-in votes for candidates other than those who have filed an affidavit of intent shall be disregarded and not counted.

(3) On the punch card secrecy envelope, the voter must indicate both the name of the candidate being written in and the office for which the candidate is running. If either the candidate's name or the office for which the candidate is running is left off of the secrecy envelope, then the intent of the voter cannot be determined and the vote shall not be counted. If the

write-in vote is disregarded, any vote for that office on the punch card ballot itself shall be tabulated and counted.

(4) If both the office name and the candidate's name are included in the write-in option on the secrecy envelope, the punch card ballot must be checked for any other votes for that office. If the write-in vote does not result in an overvote for that office, then all votes shall be tabulated and counted. If the write-in vote creates an overvote for that office, then neither vote shall be counted, and the punch card ballot shall be duplicated to reflect an overvote.

(5) If the write-in line contains a name that is the same as the one that is printed on the ballot for that office, regardless of whether the ballot position for that candidate is punched or not, then the write-in vote shall be disregarded, and the ballot shall be duplicated, if necessary, so that the tabulating machine will count the vote as a vote for the selected candidate.

27.4.2 Duplication of Ballots.

(a) Using the damaged ballot as the guide, a blank ballot shall be marked by a bi-partisan duplicating team, so that the votes recorded are identical to those indicated on the damaged ballot, and shall be proofed to insure that it is marked properly and accurately.

(b) A unique number shall be assigned to both the original and duplicated ballot. This will reference the two ballots together and provide an audit trail. (Example: the ballots may be marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers starting with the number one.)

(c) The duplicate ballot shall be placed with all other ballots to be counted.

(d) The damaged or unreadable original ballot shall be marked "DUPLICATED) to indicate that the ballot has been duplicated and the duplication is completed. All duplicated

original ballots for a precinct along with any applicable printed material shall be placed in an envelope and clearly marked “BALLOTS THAT HAVE BEEN DUPLICATED.”

Rule 28. Rules Concerning Election Judges

- 28.1 For purposes of training election judges, an “election cycle” shall mean all elections held during a calendar year beginning with January 1 and ending December 31. 1-6-101(6)