

# SECRETARY OF STATE

## ELECTION RULES

### [8 CCR 1505-1]

These rules were adopted October 22, 2004 and apply to the conduct of, and preparation for, elections occurring on or after such date.

#### **Rule 2. Rules Concerning Voter Registration**

2.4.1 Prior to the implementation of a statewide voter registration database, if a voter registering in person does not have a valid Colorado driver's license, a current and valid identification card issued by the department of revenue or a social security number, the election official shall assign the applicant a unique identifier that will serve to identify the applicant for voter registration purposes. Note that first time voters who register in person are not tagged; only first time voters who register by mail and do not provide any identification or one of the three numbers listed above in 2.3(B). See C.R.S. 1-2-204(2.5); Rule 30.3.1.

#### **Rule 8. Rules Concerning Watchers**

8.1.3. "Media Observer" shall mean an observer with valid and current media credentials from the media who shall adhere to the formal document "Guidelines for Members of the Media Who Observe Election Counts and Recounts" dated June 2004, as may be amended, which are incorporated herein by this reference for all proper purposes as set forth below:

Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of County Clerks to count ballots or doing anything to compromise the integrity of the election process.

1. If practical, please contact the election official's office prior to coming to observe the counting of ballots. If the election official knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.
2. At the discretion of the election official, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the election official may be able to make arrangements to accommodate your needs.

3. Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.
4. The Secretary of State's election rules state that if observers leave the area during a recount, they may not reenter without the consent of the election official. If you have occasion to leave the area, you may be denied readmittance.
5. Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standard will help us to meet all these goals.

## Rule 12. Rules Concerning Mail Ballot Elections

12.1.1.1 The secrecy sleeve shall be uniform within each type of absentee or mail ballot voting system used in the State of Colorado. Each secrecy sleeve or secrecy envelope used in the State of Colorado in any mail ballot or absentee ballot election shall contain the following required language, approved by the Secretary of State, regarding identification requirements of first time voters who have registered by mail:

### "First Time Voters Who Register By Mail

*If you registered to vote for the first time in your county by mail, and you have not previously voted in the county, a **copy** of one of the following forms of identification is required with your mail ballot or your absentee ballot if you did not provide the information with your registration application:*

- *A valid Colorado driver's license; or*
- *A valid identification card issued by the department of revenue; or*
- *A valid U.S. passport; or*
- *A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state; or*
- *A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States; or*
- *A valid U.S. Military identification card with photograph; or*
- *A copy of a current utility bill, bank statement, government check, paycheck, or other governmental document that shows the name and address of the elector (A*

*cable bill, a telephone bill, documentation from a public institution of higher education in Colorado containing at least the name, date of birth, and residence address of the student elector, or a paycheck from a government institution or private company are sufficient forms of ID); or*

- *A valid Medicare or Medicaid card; or*
- *A certified copy of a U.S. birth certificate; or*
- *Certified documentation of naturalization.*

**IF YOU DID *NOT* SUBMIT PROOF OF IDENTIFICATION WITH YOUR MAIL-IN REGISTRATION FORM, YOU WILL BE REQUIRED TO PROVIDE PROOF OF IDENTIFICATION USING THE TYPES OF IDENTIFICATION DESCRIBED ABOVE WITH YOUR VOTED MAIL OR ABSENTEE BALLOT."**

Failure to provide ID will result in your ballot being treated as a provisional ballot. Provisional ballots are counted when registration is verified. C.R.S. 1-7.5-107(3.5)(d)."

## **Rule 13. Rules Concerning Absentee Voting**

13.6.2.7 If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within three days after the election, send to the eligible elector at the address indicated in the registration records a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder.

13.11 Voters who appear in person at their correct polling place, but who requested absentee ballots, will nevertheless be permitted to cast provisional ballots upon their declaration that they have not and will not cast any vote in the election other than by that provisional ballot. The provisional ballot is then to be counted, once election officials determine that the voter did not cast the absentee ballot.

## **Rule 14. Rules Concerning Recount**

14.7.1 All optical scan tabulation machines to be used in the recount must be tested prior to the recount, utilizing the procedures set forth in this section. Prior to the recount, the canvass board shall choose a precinct at random to be utilized as a test deck for purposes of section 1-10.5-102. The purpose of a test deck is to assure the tabulation machines are counting properly. The precinct chosen shall contain at least 50 ballots. A hand tally shall be conducted of the selected precinct or of a minimum of fifty ballots contained within the selected precinct. A blank prom cartridge, rom cartridge, or memory card shall be utilized for the test deck. The ballots from the selected precinct test deck shall be processed through all scan tabulation machines that will be utilized for the recount. The totals of the recounted contest obtained from the test precinct shall be compared to the hand-tallied total.

## Rule 21. Rules Concerning Ballot Issue Elections

21.1.1 For statewide elections, the Secretary of State shall be responsible for determining whether the proposed initiative concerns state matters arising under Section 20 of Article X of the State Constitution and as thus is eligible to appear on the ballot at an odd-year election.

## Rule 26. Rules Concerning Provisional Voting

26.2.5 Voters who appear in person at their correct polling place, but who requested absentee ballots, will nevertheless be permitted to cast provisional ballots upon their declaration that they have not and will not cast any vote in the election other than by that provisional ballot. The provisional ballot is then to be counted, once election officials determine that the voter did not cast the absentee ballot.

26.4.1 Verification of Information in Provisional Ballot Affidavits. The Designated Election Official shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26.9(a), (b), and (c). If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain that the elector is registered, the provisional ballot shall count.

26.7.2 The election judge shall ask the voter the following questions and shall write the voter's answers to these questions on the outside of the provisional ballot envelope:

1. If you attempted to register through a voter registration drive or an independent organization, what was the name of the organization that attempted to register you to vote?
2. What was the approximate date you attempted to register to vote?
3. What was the location at which you attempted to register to vote?

26.7.3 Any voter who claims to have registered to vote through a voter registration drive or independent organization and who wishes to vote by means of emergency registration and provisional ballot pursuant to this Rule 26.7, shall be required to show ID as defined in C.R.S. 1-1-104(19.5) pursuant to C.R.S. 1-2-217.5(1)(b) in order for the ballot to be counted.

26.13 Grounds for Not Counting Provisional Ballot. The provisional ballot shall not be counted if any of the following is true:

- (a) Individual was convicted of a felony and is either incarcerated or on parole by the State of Colorado.
- (b) If the designated election official receives a provisional ballot from a voter who registered to vote by mail and who did not supply the required identification at the time of registration, at any time prior to voting, or at the time of voting, the provisional ballot shall not be counted.
- (c) The elector was not registered by the deadlines in the State of Colorado for regular or emergency registration;
- (d) The provisional ballot affidavit was not signed after notification of the voter pursuant to Rule 26.4.3.
- (e) Unable to verify voter registration pursuant to Rule 26.9.

26.13.1 When verifying provisional ballots, the designated election official must check the county voter registration database to see whether the elector voted and returned an absentee ballot. If the elector returned an absentee ballot, the provisional ballot shall not be counted.

26.16 The reason for accepting or rejecting a provisional ballot shall be designated on the provisional ballot envelope and on the log by one of the following codes:

Acceptance Codes:

- OK Reviewed and countable; all criteria met and ballot will be counted.
- UV Updated elector who went to the new, correct precinct to vote. Address change will be made to voter record and ballot will be counted.
- DUP Election official is knowledgeable that the elector was erroneously sent to the wrong precinct or erroneously given the wrong ballot style in the elector's correct precinct. Voted ballot will be duplicated so that all races and issues for which the elector is qualified to vote shall be counted.
- EJ Election judge who was appointed after close of early and absentee voting and is working outside his/her precinct; judge shall vote on a ballot in the precinct he/she is working at; voted ballot will be duplicated so that all races and issues for which the elector is qualified to vote shall be counted.
- VRD Voter registered through a voter registration drive or independent organization but the registration, through no fault of the voter was not given to the county clerk & recorder.
- ABS Voter appeared in person and made declaration that they applied for an absentee ballot but they have not and will not cast that absentee ballot and, after a Rule 26.9 database check, the election official confirms that the voter did not previously cast an absentee ballot for that election.

Rejection Codes:

- ANS Provisional Ballot Affidavit not signed.
- INC Required information is incomplete, meaning that the voter provided insufficient information for the Designated Election Official to determine that the voter is registered.
- NR Voter did not register by the deadline or by emergency registration; there is no Colorado voter registration record.
- EE Provisional ballot envelope is empty.
- WP Voter in wrong precinct but nonetheless wishes to vote and understands their vote will not count except for the presidential and vice-presidential race.
- IPP Incorrect Party in Primary Election.
- NE Not eligible. Individual was convicted of a felony and is either incarcerated or on parole in the State of Colorado. See Election Rule 39.

## **Rule 27. Rules Concerning Uniform Ballot Counting Standards**

### **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) qualified election judges 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, who in any partisan election shall be 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 or 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 there are no legally qualified write-in candidates, the write-in sort option shall not be utilized. The number of each duplicated 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 by duplication are to be indicated as such and kept separate from the standard run ballots for the precinct.

(5) The precinct judge's 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 duplicated utilizing the ballot duplication procedures as provided in Rule 27.3.3(c)(5).

(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 mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures as set forth in Rule 27.3.3(c)(5). 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. Ballots that reflect marks that are clearly identified as unintentional but register an overvote on the scanner must be duplicated by the resolution board 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 legally qualified write-in candidates 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.

(6) The resolution board shall maintain an official audit log setting forth the original ballot number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.

(d) 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.

## **Rule 30. Rules Concerning Voter Identification**

### 30.13.1 Voting in Person. (Including early voting, polling place voting).

(A) The acceptable forms of ID for voting in person are:

- A valid Colorado driver's license;
- A valid identification card issued by the department of revenue;
- A valid U.S. passport;
- A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;
- A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;
- A valid U.S. military identification card with a photograph;
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector (*A cable bill, a telephone bill, documentation from a public institution of higher education in Colorado containing at least the name, date of birth, and residence address of the*

*student elector, or a paycheck from a government institution or private company are sufficient forms of ID);*

- A valid Medicare or Medicaid card;
- A certified copy of a U.S. birth certificate; or
- Certified documentation of naturalization.

(B) A Social Security Number (or last four digits) is **NOT** a legal form of ID for voting in person.

Authority: C.R.S. 1-7-201; C.R.S. 1-1-104(19.5)

30.13.2 When the elector shows ID pursuant to 1-1-104(19.5), the election judge shall check to ensure that the name matches, and that the address, if one is listed, is in the State of Colorado.

#### 30.14.1 Voting By Mail (Including Absentee)

(a) The acceptable forms of ID for voting by mail for first time voters are:

- A valid Colorado driver's license;
- A valid identification card issued by the department of revenue;
- A valid U.S. passport;
- A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;
- A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;
- A valid U.S. military identification card with a photograph;
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector (*A cable bill, a telephone bill, documentation from a public institution of higher education in Colorado containing at least the name, date of birth, and residence address of the student elector, or a paycheck from a government institution or private company are sufficient forms of ID);*
- A valid Medicare or Medicaid card;
- A certified copy of a U.S. birth certificate; or
- Certified documentation of naturalization.

(b) A Social Security Number (or last four digits) is NOT a legal form of ID for voting by mail.



- 30.16 If a tagged voter requests an absentee ballot, the local election official shall send such ballot with written instructions advising the voter of the requisite forms of identification needed to be provided with the absentee ballot consistent with Rule 30.14.1. The local election official shall send the absentee ballot by the deadline set forth in C.R.S. 1-8-104(3). If an absentee ballot is returned without ID as defined in Rule 2.0, then the ballot shall be treated as a provisional ballot and verified pursuant to Rule 26.9.

### **Rule 39. Tagging of Election Records of Individuals Incarcerated or on Parole as Evidenced by Corrections Database**

- 39.8 Challenge by Election Judges of Tagged Individuals Attempting to Vote by Early Voting or at the Polling Place. In the event that any elector with a unique tag (as defined herein) appears at the polling place and attempts to cast a ballot, an election judge, pursuant to Section 1-9-201(2), CRS, may challenge the elector intending to vote as a "Challenge of the Elector's Qualifications as an Eligible Elector." (See Section 1-9-203(6).) Such challenge shall be made by written oath according to Article 9, Title 1, CRS.

- 39.17 Election Judges to Review Department of Corrections Database for Provisional Ballots Pursuant to Rule 26.9.

39.17.1 In the event the election judges or designated election officials in reviewing the four databases pursuant to Rule 26.9 herein determine that the name, date of birth, social security number and any other identifying information of any voter of the provisional ballot cast is found on the Department of Corrections Felon Database provided to the Secretary of State (DOC Felon Database), the election judges or designated election officials shall reject the provisional ballot and shall designate on the provisional ballot envelope and on the log the rejection code "NE" as defined in rule 26.15.

39.17.2 In the event the election judges or designated election officials in reviewing the four databases pursuant to Rule 26.9 herein determine that the name, date of birth, social security number and any other identifying information of any voter of the provisional ballot cast is not found on the DOC Felon Database, the election judges or designated election officials shall then check the remaining three databases to verify the eligibility of the voter to cast the provisional ballot.