

# SECRETARY OF STATE

## ELECTION RULES

### [8 CCR 1505-1]

Proposed Rules for Rule-Making Hearing on January 4, 2005.

Changes are indicated with stricken type and small capitol letters.

#### Rule 1. Definitions

- 1.1 As used in these Rules and the “Uniform Election Code of 1992” unless the context otherwise requires, the following terms shall have the meanings indicated:

“District office of state concern” means any of the following offices: Member of the State Board of Education, Member of the Board of Regents of the University of Colorado, and Member of the Board of Directors of the Regional Transportation District.

#### Rule 2. Rules Concerning Voter Registration

- 2.1 All requests for lists, printouts, disks, tapes, and other media shall be made in writing.
- 2.2 After a receipt of request, the cost of providing the information shall be determined. The cost must be paid prior to the request being filled.
- 2.3 First Time Voter Who Registers by Mail. Prior to the implementation of the statewide voter registration database, when a first time voter registers to vote by mail, the voter shall provide a copy of one of the ~~following~~ forms of identification LISTED IN (A) or PROVIDE one of the numbers listed in (b):

(a) THE VOTER MAY PROVIDE A COPY OF ONE OF THE FOLLOWING FORMS OF IDENTIFICATION:

- A valid Colorado driver's license;
- A valid identification card issued by the ~~e~~D~~e~~partment of ~~r~~R~~e~~venue;
- 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) Or the voter may provide one of the following numbers (without providing a physical copy of the number):

- At least the last four digits of the person's social security number;
- The person's VALID Colorado ~~d~~Driver's ~~l~~License number; or
- The person's VALID DEPARTMENT OF REVENUE ID NUMBER ISSUED BY THE DEPARTMENT OF REVENUE. Colorado ID number.

Authority: C.R.S. ~~1-2-501(2)(a)(i)~~1-2-501(2)(B); C.R.S. 1-1-104(19.5)

2.4 First Time Voter Who Registers in Person. Prior to the implementation of the statewide voter database, when a first time voter registers in person, the voter shall be requested to provide the number of one of the following forms of identification:

- Valid Colorado Driver's License number; or
- Valid Department of Revenue Identification number; or
- At least the four last digits of the ~~elector's~~PERSON'S social security number.

Authority: C.R.S. 1-2-204(2)(f.5)

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.~~

2.5 Confidentiality of Agency in Voter Registration. For Voter Registration Applications Completed pursuant to Part 5 of Article 2 of Title 1, C.R.S., at an agency designated by the National Voter Registration Act of 1993, no information regarding the name and location of the designated voter registration agency shall be provided to the public, and such information shall remain confidential.

2.6 Emergency Registration Application. Prior to the implementation of the statewide voter registration database, when an elector completes an emergency registration application pursuant to C.R.S. 1-2-217.5 (1)(b), the elector shall be required to present one of the following forms of identification:

- A valid Colorado driver's license;
- A valid identification card issued by the ~~e~~D~~e~~partment of ~~r~~R~~e~~venue;
- 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.

~~If the elector fails to provide the required identification, the elector may vote by provisional ballot.~~

### Rule 3. Rules Concerning Qualified Political Organizations

3. Qualified Political Organization as identified by order of the 10<sup>th</sup> Circuit Court of Appeals (Baer v. Meyer, 728 F2d 471, 10<sup>th</sup> Cir. 1984).

3.1 A qualified political organization is one which has placed a candidate for a congressional district or state office on the ballot at a congressional vacancy or general election and whose officers have filed the required proof of organization with the Secretary of State and continues to meet the requirements of 3.3 and 3.4.

3.2 The required proof of organization, which may be filed at any time after organization, shall include, but shall not be limited to:

a. By-laws of the Colorado political organization which shall include the method for selecting officers, selecting delegates to county, state, and national conventions, and selecting candidates planning to petition onto the state's general election ballot using the name of the Colorado political organization;

b. The names, addresses, and telephone numbers of the elected Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the by-laws.

3.3 Qualified political organizations shall meet once a year.

3.3.1 The meeting in the odd-numbered year shall be held for the purpose of electing a chairperson, vice-chairperson, secretary and other officers or committees as shall be provided for in the by-laws on file with the Secretary of State.

(a) For new political organizations, this meeting must take place prior to placing a candidate on the ballot. Therefore, this meeting may occur in an even-numbered year.

3.3.2 The chairperson and the secretary shall file a full and complete list, under oath, of the persons elected or appointed pursuant to Rule 3.2, together with any amendments to the by-laws adopted at the meeting.

3.3.3 The meeting in the even-numbered year shall be held for the purpose of selecting candidates who wish to use the name of the political organization on petitions for the next general election.

(a) A political organization which has not yet been qualified may select its candidate at the same meeting where the officers of the organization are named.

3.4 A qualified political organization shall place a candidate or candidates on the general election ballot every two years.

3.4.1 Candidates wishing to represent a qualified political organization on the general election ballot shall be placed in nomination by nominating petition pursuant to C.R.S. 1-4-802.

3.4.2 Each petition shall contain the name of one candidate and shall have attached an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form shall be approved by the Secretary of State and will include the date of the meetings required in Rule 3.3.

3.4.3 For a candidate to qualify for the ballot, the candidate must have been affiliated with the qualified political organization for one year, or if the political organization has not previously been qualified, the candidate must have been registered as unaffiliated for one year.

3.4.4 Having the name of a candidate from the qualified political organization appear on the ballot by the use of the write-in candidacy process shall not be considered as, nor meeting the requirements of, placing a qualified candidate on the general election ballot.

3.5 A political organization shall be qualified as soon as it:

- a. Files proof of organization with the Secretary of State;
- b. Meets to name a candidate to the general election ballot; and
- c. Certifies a candidate to the general election ballot.

3.6 Once a political organization becomes a qualified political organization, eligible electors shall be able to register as affiliated with the political organization.

3.6.1 When an individual appears at any office or location for the purpose of voter registration, the questions asked and the information recorded shall be amended to reflect "political organization" affiliation.

3.6.2 When asking the specific questions listed in C.R.S 1-2-204, question (2)(j) shall be expanded to read:

- a. The elector's party affiliation, if any, if the eligible elector desires to affiliate with any political party or political organization;
- b. If neither a political party affiliation or political organization affiliation is declared, the elector shall be registered as "unaffiliated."

3.6.3 The opportunity to declare or change a political affiliation shall be provided exactly as the law provides for political parties in C.R.S. 1-2-204(2)(j) and C.R.S. 1-2-219.

3.6.4 At any time a declaration or change in affiliation is requested, the same procedure shall be used for declaring a political party or political organization affiliation.

3.6.5 In recording the information on the voter registration page, or affidavit, the affiliation with a political organization shall be listed by the name entry of the organization followed by (Pol.O.).

3.6.6 In converting information on the voter registration page to lists, submissions for data entry, the Secretary of State's master voter registration list, etc., standard abbreviations shall be used and will be furnished to the county clerk and recorders by the Secretary of State.

3.6.7 When an individual requests affiliation with a political organization which has not met the requirements of Rule 3.1, the entry on the voter registration page shall be placed under "remarks".

- 3.7 Political organizations shall lose their status as qualified political organizations by failing to do any one of the following:
- a. Meet in odd-numbered years and file their list of officers with the Secretary of State, unless excused under Rule 3.3.1(a);
  - b. Meet in even-numbered years and select a candidate or candidates who wish to appear on the ballot at the next general election;
  - c. Place a candidate on a general election ballot through a nominating petition, meeting the requirements of Rule 3.4.
- 3.8 The Secretary of State will notify the county clerk and recorders by June 1 of each odd-numbered year of the loss of qualified status of a political organization. Upon receiving notification, the county clerk and recorders shall indicate on every affected voter registration record "Political Organization not qualified as of (date)."
- 3.9 Print-outs, lists, tapes, etc. of voter registration records shall be furnished to qualified political organizations at the same rate or cost as charged to political parties. The only exception to this provision shall be the list furnished to the major political parties prior to the statutory precinct caucus day.
- 3.10 On all summary reports of voter registration by political party, a supplemental report shall be provided which separates the "unaffiliated" category into unaffiliated and those registered with a qualified political organization on file with the Secretary of State and certified to the county clerk and recorders.
- 3.11 Electors, whose voter registration record shows affiliation with a qualified political organization and who appear to vote at a primary election, shall complete a Declaration of Party Affiliation, thus losing affiliation with the qualified political organization.

## **Rule 4. Rules Concerning Circulation of Candidate Petitions**

- 4.1 No petition for candidacy for any non-partisan office shall be circulated prior to 90 days before the election.

## **Rule 5. Rules Concerning Non-Partisan Elections not Coordinated by the County Clerk**

- 5.1 For elections conducted on days other than described in section 1-7-116 (1), nothing shall preclude the designated election official from mailing the notice required by Article X, Section 20 of the Colorado Constitution to persons who are not eligible electors, if such mailing is done at the "least cost" possible.
- 5.2 If there are no appropriate polling place locations within the political subdivision conducting the election, a polling place may be designated outside of the political subdivision in a location that is convenient for the eligible electors of such political subdivision.

- 5.3 For elections not conducted in November and not coordinated with the county clerk and recorder, the ballot issue or question shall be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a number in the case of initiatives or by a letter in the case of referred measures.
- 5.4 Elections authorized under Part 1, Article 45 of Title 37, C.R.S. (Water Conservancy Act), shall be conducted in accordance with Articles 1 through 13 of Title 1, C.R.S., where applicable, unless otherwise ordered by the district court having jurisdiction over the water conservancy district, pursuant to section 37-45-103 (3), C.R.S. ("Court").
- 5.4.1 The form and verification of any petition requesting an election conducted by a water conservancy district pursuant to section 37-45-114 (2), C.R.S. ("Petition"), shall conform with the requirements of sections 1-40-113 and 1-40-116, C.R.S. and the sections cited therein, and Rule 22 of these rules; except that no prior approval of the form of such election petition needs to be provided by the Secretary of State, the petition shall be filed with the Court and the verification process shall be directed by the water conservancy district named in the petition rather than the Secretary of State, and the "warning" language appearing on the petition shall be applicable to the election requested to be conducted.
- 5.4.2 The procedures for issuing the statement of sufficiency or insufficiency of the petition shall conform with the requirements of Section 1-40-117, C.R.S and Rule 22.4 of these rules; except that such statement shall be issued by the water conservancy district named in the petition, unless otherwise ordered by the Court.
- 5.4.3 The procedures for cure of a petition deemed insufficient shall conform with the requirements of Section 1-40-117, C.R.S. and Rule 19 of these rules; except any addendum to the petition shall be filed with both the Court and the water conservancy district named in the petition, unless otherwise ordered by the Court.
- 5.4.4 The procedures for protesting the determination that a petition is insufficient shall conform with the requirements of sections 1-40-118, C.R.S. and Rule 20 hereof, unless otherwise ordered by the Court.
- 5.4.5 Upon final determination of the sufficiency of a petition, the court shall order, regardless of the actual expiration date of the term of the office subject to the court-ordered election, the holding of the election to be conducted no more than 100 days nor less than 60 days from the date of such Court order, unless the water conservancy district has notified the Court that such election is to be conducted as a coordinated election pursuant to Section 1-7-116, C.R.S.
- 5.4.6 The form and procedures for filing candidate nomination forms and call for nominations of persons desiring to be a candidate for the office to be voted upon at the Court-ordered election described in Rule 5.4.5 of these rules, shall be in conformance with the form and procedures required for special districts under Article 1, Title 32, C.R.S., unless otherwise ordered by the Court.
- 5.5
- 5.5.1 For polling place elections being conducted in accordance with Article 1, Title 32, C.R.S., upon execution of the self-affirming oath or affirmation pursuant to Section 32-1-806(2), C.R.S., the eligible elector desiring to vote shall show his or her identification as defined in Section 1-1-104(19.5), C.R.S. to one of the election judges. (1-7-110[1])
- 5.5.2 If the eligible elector has executed the self-affirming oath or affirmation and provided his or her identification, such eligible elector may be allowed to vote, if such vote is not challenged. (1-7-110[2] and 32-1-806[4])

5.5.3 The election supplies provided to the supply judge of each polling place shall include an adequate number of provisional ballot envelopes that have printed on the outside the provisional ballot affidavit as provided in Section 1-9-304.5, C.R.S.

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

5.5.5 The provisional ballot affidavit envelope must be uniform in color and size as to differentiate it from other forms or affidavits.

5.5.6 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 ballot.

5.5.7 Verification of Information in Provisional Ballot Affidavit. The Designated Election Official shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26. If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain the registration of the elector, the provisional ballot shall count. If the information cannot be verified, the ballot shall be rejected. See C.R.S. 1-9-303.

5.5.8 The verification and counting of all provisional ballots shall be completed prior to the certification of the official abstract of votes cast in the election by the canvass board, pursuant to Section 1-10-203(1), C.R.S.

5.5.9 Canvassing Board's Count of Provisional Ballots. If, after the expiration of twelve days following an election, the election judges cannot complete the count of the provisional ballots cast, the canvassing board appointed pursuant to Section 1-10-201(1.5), C.R.S. shall complete the count of such provisional ballots.

5.5.10 If 25 or more provisional ballots have been cast and counted, the results shall be reported as one total. If less than 25 provisional ballots have been cast and counted, the results shall be included in the results of the absentee ballots counted in the election.

5.5.11 The provisional ballot shall not be counted if the elector failed to complete the affidavit on the envelope or the elector was not registered by the deadline in the State of Colorado.

5.5.12 A copy of the provisional ballot affidavit shall be provided to the County Clerk and Recorder of the county of the elector's residence, and shall constitute a voter registration for future elections. ~~1-9-301(5)~~, C.R.S.

## **Rule 6. Rules Concerning Coordinated Elections**

6.1 Participation in coordinated elections.

6.1.1 For elections where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.

6.1.2 The affected political subdivision shall enter into intergovernmental agreements which delineate which tasks shall be the responsibility of the designated election official of the political subdivision and which shall be the responsibility of the coordinated election official.



6.2 Form of election for November coordinated elections.

6.2.1 The county clerk and recorder is the election official for coordinated elections which are held in November of each year.

(a) The county clerk and recorder shall be responsible for mailing the Article X, Section 20 Ballot Issue notice.

(b) The county clerk and recorder shall not be required to conduct more than one form of election unless he or she so chooses.

6.2.2 If the county clerk and recorder, after consultation with the other political subdivisions, elects to conduct a mail ballot election, upon application to and approval by the Secretary of State showing why a separate mail ballot election is needed and why it will benefit the electorate, a political subdivision may conduct its own mail ballot election.

6.2.3 School districts that have the opportunity to participate in a coordinated election may not elect to hold separate mail ballot elections but must participate in the form of election chosen by the county clerk and recorder.

6.3 Form of coordinated elections held other than in November.

6.3.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in Section 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of such overlapping jurisdictions must name a coordinated election official who is responsible for assuring that the Article X, Section 20 notice is given.

6.3.2 The political subdivisions may contract with the appropriate county clerk and recorder to be the coordinated election official.

6.4 Determination of ballot issues and texts.

6.4.1 Each political subdivision shall prepare the list of candidates and the ballot title and text for ballot issues and ballot questions, as required by law.

(a) The coordinated election official shall assure that the ballot title is on each ballot as required by law.

(b) Political subdivisions may only require the coordinated election official to print the entire text of a ballot issue or ballot question on the ballot if they pay for any additional cost associated with printing and if sufficient space is on the voting equipment to print the entire text given the other issues, questions, and candidates on the ballot. The coordinated election official shall tell the political subdivision how much space is available for text for each position on the ballot. If the required ballot title and text is too long for the voting equipment, the coordinated election official may choose to conduct the election with a different form of ballot.

(c) For counties where ballot election material must be printed in languages other than English, the political subdivisions are responsible for assuring proper translation of all election materials related to that political subdivision and must pay their pro-rata share of increased printing costs unless otherwise provided by the intergovernmental agreement.

(d) For counties where election material is not required to be printed in languages other than English, the political subdivisions are not required to provide translation of all election materials nor pay a pro-rata share of the printing costs unless they so agree.

6.4.2 Each political subdivision shall determine the order of the ballot issues for their political subdivision in accordance with the requirements of COLORADO CONSTITUTION Article X, Section 20 and Title 1.

(a) Initiatives shall be designated by a number, referred measures shall be designated by a letter or by a number and a letter.

(b) For each grouping of ballot issues and ballot questions by a political subdivision, all initiatives shall precede all referred measures.

(c) For each grouping of ballot issues and ballot questions, the order shall be as follows:

1. Initiatives to increase taxes;
2. Initiatives to increase debt;
3. Other citizen petitions;
4. Referred measures to increase taxes;
5. Referred measures to increase debt;
6. Other referred measures.

(d) For statewide measures, initiatives shall be numbered in the order in which the statements of sufficiency are issued. The numbers one through five shall be reserved for initiatives to increase taxes; the numbers six through ten shall be reserved for initiatives to increase debt; all other citizen petitions shall be numbered consecutively beginning with eleven.

(e) Ballot issues from the various political subdivisions shall be ordered on the ballot as provided in C.R.S. 1-5-407 (5):

1. Each category of initiated ballot issues and questions shall be numbered in the following series:

- |         |  |
|---------|--|
| 01-99   | State Issues   |
| 100-199 | County Issues  |
| 200-299 | Municipal Issues   |
| 300-399 | School District Issues   |
| 400-499 | Ballot issues and questions for other political subdivisions greater than a county.            |
| 500-599 | Ballot issues and questions for other political subdivisions which are wholly within a county. |

2. Each category of referred ballot issues and questions shall be designated by a letter or a number and a letter in the following series:

- |       |               |
|-------|---------------|
| A-Z   | State Issues  |
| 1A-1Z | County Issues |

- 2A-2Z            Municipal Issues
- 3A-3Z            School District Issues
- 4A-4Z            Ballot issues and questions for other political subdivisions greater than a county.
- 5A-5Z            Ballot issues and questions for other political subdivisions which are wholly within a county.
  
- 6A-6Z            Other Issues and Questions

3. Ballot questions and issues are numbered or lettered in the order in which the measures are certified to the ballot by the designated election official after the protest period has ended, or if a protest was filed after the protest has been completed.

4. For other than state issues, if a county has multiple cities and/or multiple discrete school districts and other political subdivisions, the designated election official may either further subdivide the series and assign each political subdivision a specific series of numbers, or when the ballot is certified the designated election official may assign the final numbers/letters, making sure that all measures for each political subdivision are grouped together.

5. For other than state issues and questions, if the same ballot issue or question will be on the ballot in more than one county, the county clerks shall confer with one another and shall give the same ballot number or letter to the ballot issue or questions.

6. Each ballot question or issue shall contain the name of the political subdivision at the beginning of the ballot questions or issue. If the designated election official chooses, the name of the political subdivision may appear before the grouping of questions, such as State Ballot Questions, Arapahoe County Ballot Questions, City of Aurora Ballot Questions, etc.

#### 6.4.3 General Provisions

(a) The coordinated or designated election official may include the following statement with the ballot issue notice: “This notice is mailed to each address with one or more active, registered electors. You may not be eligible to vote on all issues presented in this notice.”

(b) The coordinated or designated election official may include the following statement on the ballot issue notice: “The following is a summary of comments filed in favor of, or opposed to, the ballot issue.”

#### 6.5 COLORADO CONSTITUTION Article X, Section 20 notice requirements.

6.5.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and distribution of the notice required by Article X, Section 20. Any or all of the responsibilities may be delegated to the coordinated election official in the intergovernmental agreement.

6.5.2 The notice shall be mailed to “All Registered Voters” at the mailing addresses of active registered electors in the county, as indicated on the voting record.

(a) Nothing shall preclude the coordinated or designated election official from sending notice of various elections to persons who are not eligible electors if the notice sent is part of the coordinated notice and if the sending arises from the official's efforts to mail the notice at "least cost".

(b) Nothing shall preclude the coordinated or designated election official from sending notice to each household in the county or political subdivision whether or not registered electors reside at that household as long as notice is sent which assures that all active registered electors are included on the mailing list.

(c) Nothing shall preclude the coordinated or designated election official from sending notice to each registered elector in a particular political subdivision.

6.5.3 The coordinated election official must include information in the package sent with the notice which tells electors whether the election is a mail ballot election, a polling place election, a vote center election, or a combination of election forms.

(a) If the election is a polling place election or a vote center election, the notice of the location of the polling place or vote center may be included in the consolidated mailing.

(b) If a separate mail ballot election is being held by a political subdivision in the county at the same time as a polling place election or a vote center election, the notice shall include that information.

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6.5.4 If state statute allows the ballot issue notice and the ballot to be mailed at the same time, the ballot for the mail ballot election may be included with the notice.

6.5.5 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified.

6.5.6 The coordinated election official shall not be responsible for failure to meet the Article X, Section 20 constraints if the notice and summaries are not submitted by the political subdivision within the deadline and in the form required by the coordinated election official.

(a) The summaries of comments for and against ballot issues shall not include language of a generally recognized profane, indecent, immoral, offensive, scandalous or libelous character. No names of persons or private groups shall be included in any summary.

(b) For purposes of counting words and to verify the five hundred constitutional limit for each "pro" and each "con" summary, a hyphenated word, unless it is divided by a continuation hyphen at the end of a line, counts as two or more words. A number counts as one word, regardless of dollar signs, commas, or periods within the number.

6.6 If there is no candidate on the ballot for any particular office, the ballot shall read, "No Candidate For This Office."

6.7 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

## **Rule 7. Rules Concerning Polling Places**

- 7.1 Minimum standards for polling places.
- 7.2 The physical arrangement of materials in the polling place shall conform, whenever possible, to the following general order:
- a. Entrance
  - b. Voting demonstrations display
  - c. Signature card table
  - d. Registration records or list
  - e. Poll book or completed signature cards
  - f. Voting booth
  - g. Ballot box if provided
- 7.3 For coordinated elections, polling places do not have to be within the political subdivisions which are participating in the election.
- 7.3.1 For polling places which are within multi-use buildings such as a shopping mall or county office building, the entire building shall not be considered as the building in which the polling place is located. The building in which a polling place is located shall be defined as the room in which the balloting takes place, any waiting room or hall where electors wait to vote, as well as primary corridor where electors walk to an interior polling place and the designated exterior door to the building in which the polling place is located where the sign is posted pursuant to C.R.S. 1-5-106.
- 7.4 Polling places for partisan elections must be established no less than ninety days prior to an election and may only be changed pursuant to 1-5-108 pursuant to an emergency or an error in precincting.
- 7.5 In the event the polling place is to be in a temporary structure that is not present at the time, a polling place notice is to be posted pursuant to 1-5-106, C.R.S., the future location of the polling place shall nonetheless be posted at the required time, and notice shall continuously remain posted until 48 hours after the polling place is closed.

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

- 8.1 Definitions:

8.1.1. "Official Observer" means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process, but are subject to rules and regulations as prescribed by the Secretary of State, and perform duties as may be assigned by the Secretary of State.

8.1.2. "Watcher" shall mean an eligible elector other than a candidate on the ballot who has been selected by a political party chairperson ON BEHALF OF THE POLITICAL PARTY, by a party candidate at a primary election, by an unaffiliated candidate at a general, congressional vacancy, or nonpartisan election, or by a person designated by EITHER the opponents/proponents in the case of a ballot issue OR BALLOT QUESTION. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder. See C.R.S. 1-1-104(51).

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.~~

- 8.2 Qualification of Watchers. Watchers shall certify they are qualified pursuant to C.R.S. 1-1-104(51), 1-7-105, 1-7-106, 1-7-107 and 1-7-108(2). Watchers shall take an oath as provided in 1-7-108(1) and shall, upon first entering the precinct place or location, surrender to the election official or election judges a certificate of appointment at each precinct polling place or location where the watcher has been designated to act.
- 8.3 List of Eligible Electors. To assist Watchers in performing their tasks, the election official or election judge shall provide a list, log, check-in card or other similar information of voters who have appeared in the precinct polling place to vote. The information or documents shall not be removed from the polling place or voting location. Watchers may maintain a list of eligible electors who have voted by utilizing only that information provided by the election official or election judge, except that they may bring with them into the polling place or location a list of electors previously maintained by the watcher. C.R.S. 1-7-108(3).
- 8.4 Watchers shall be subject to the provisions of C.R.S. 1-5-503.
- 8.5 What Watchers May Observe. Duly appointed Watchers may observe polling place voting, early voting, and the processing and counting of precinct, provisional, mail, and absentee ballots. For mail ballot elections, or absentee processing, watchers may be present at each stage of the election including the receiving and bundling of the ballots received by the designated election official.
- 8.6 Limitations of Watchers. Duly appointed Watchers may observe election judges but may not interrupt or disrupt the processing, verification, and counting of any ballots, or any other stage of the election. Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, but may not write down any ballot numbers or any other identifying information about the electors. Watchers may not handle the poll books, official signature cards, ballots, mail ballot envelopes, absentee ballot envelopes or provisional ballot envelopes, voting or counting machines or machine components. Watchers shall not interfere with the orderly process and conduct of any election, including ballot issuance, receiving of ballots, voting or counting of the ballots. Watchers may not be allowed to interact with election officials or election judges, except that each designated election official shall name at least one individual in each precinct polling place or election location to whom watchers may direct questions or from whom watchers may seek requested information.
- 8.7 Parties May Appoint Watchers. Major and minor political parties with candidates on the ballot may appoint one Watcher each to be present to observe polling place voting, early voting, and the processing and counting of regular, provisional, mail, and absentee ballots. C.R.S. 1-7-105; 1-7-106.
- 8.8 Official Observers Appointed by the Federal Government. Official Observers appointed by the federal government shall be approved by the Secretary of State and shall be subject to Colorado law and these rules as they apply to Watchers; however, they need not be eligible electors in the jurisdiction in which they act as Watchers. This Rule shall not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State shall be subject to the rules and regulations as prescribed by the Secretary of State. Official Observers shall obtain from the Secretary of State, or his or her designee, duly

executed letters of authority. The Official Observers shall surrender such letter of authority to the designated election official in the jurisdiction in which they act as Watchers.

8.9 Watchers, Official Observers and Media Observers at a Recount. Watchers, Official Observers and Media Observers may be present at a recount. Watchers, Official Observers and Media Observers must be qualified and sworn for a recount in the same manner as provided in Rule 8.2 and are subject to all other provisions related to the recount process. Any political party, candidate involved in the recount, or proponents or opponents of an issue or question involved in the recount may appoint one watcher to be present at any time during the recount. The candidate who is subject to a recount may appoint him or her self, or a member of the candidate's family by blood or marriage, as a watcher at a recount. C.R.S. 1-7-105; 1-7-106.

8.10 Media Observers. Media Observers with valid and current media credentials may be present to witness early voting, election day voting, and the processing and counting of provisional, mail, and absentee ballots. However, at the discretion of the County Clerk and Recorder, Media Observers may be required to appoint one member of the media as a pool reporter, and one member as a pool photographer to represent all media observers in accordance with the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Associations and the Secretary of State as set forth herein:

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 Recordors, 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.

- 8.11 Watchers at Vote Centers. To assist Watchers in performing their tasks when a vote center election is held, the designated election official shall provide a list of all voters who have appeared in the vote centers to vote. This list shall be made available at the designated election official's main office. Such list may be made available to a requesting Watcher(s) in the form of data files, paper, or reports, and furnished to all interested parties via email, paper reports, or faxed copies as may be available to the designated election official.

## Rule 9. Rules Concerning Assistance to Disabled Voters

9.1 A sign providing substantially as follows shall be posted at the polling place/vote center:

NOTICE  
VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

Colorado law provides that a voter has a legal right to assistance in voting if assistance is needed because of blindness or other physical disability or inability to read or write. The following procedures apply:

1. The voter must inform one of the election judges that he or she needs assistance.
2. The voter may be assisted by any election judge or by any eligible elector selected by the voter.
3. The person selected must complete a 'voter assistance/disabled voter self-affirmation form' if all of the following apply:
  - The person selected is not an election judge; and
  - The person selected is not the spouse, parent, grandparent, sibling, or child, eighteen years of age or older, of the voter requesting assistance; and
  - The person selected has ~~previously~~ assisted any other voter at the same election in the same precinct. [1-7-111\(1\)\(b\) C.R.S.](#)

The self-affirmation form states, 'I, ....., certify that I am the individual chosen by the disabled elector to assist the disabled elector in casting a ballot.'

4. The person selected may provide any assistance needed by the voter, including entering the voting booth and preparing the ballot or operating the voting machine.
  5. The person providing assistance shall not seek to persuade or induce the voter to vote in a particular manner.
  6. The election judges shall record the name of each eligible elector assisted and the name of each person assisting by making an entry in the pollbook or list of eligible electors (or by making an entry on the signature card when preprinted signature cards are used in the place of a pollbook and list of eligible electors).
- 9.2 When a voter has spoiled two ballots and requests a third ballot, an election judge shall offer assistance in voting procedures and casting the ballot.

~~9.3 At least one judge and one watcher, if a watcher is available, shall be present whenever a disabled elector casts a ballot outside of the polling place.~~

## **Rule 10. Rules Concerning Ballots and Election Supplies**

- 10.1 The text of all ballot issues that are subject to Article X, Section 20 shall be printed in all capital letters. The names of all candidates and all other ballot issues and questions shall be printed in upper and lower case.
- 10.2 If a ballot has been printed in error, the designated election official shall consult, as soon as the error is discovered, with the Secretary of State and follow the direction of the Secretary of State on the appropriate method of correction.

## **Rule 11. Rules Concerning Electronic Voting Systems**

### 11.1 Definitions:

11.1.1 An electronic ballot shall be designated to ensure that the content of the ballot is secret after the elector has voted, and the following are considered electronic ballots:

- a. A card or cards containing a series of numbers to be punched when inserted in a punching device containing the printed ballot pages.
- b. A card or cards containing the printed ballot which are inserted in a punching device.
- c. A mark sensor card or cards on which the ballot is printed and is voted by making a mark to fill in a designated space or to make an "X" to indicate choices.

11.1.2 An electronic voting machine shall be defined as a voting device capable of displaying an entire ballot on one voting surface, shall incorporate an electronic ballot imaged audit trail, shall electronically increment vote totals, shall provide at least sixteen hours worth of built in stand by power so as to maintain all voting functions in the event of a power failure, shall incorporate a real time clock for time and date stamping of an event log and other significant events such as the opening and closing of the polls, shall electronically record write-in votes, shall use a redundant storage device such as a removable prom or rom cartridge for transportation/transmission of vote totals to one or more accumulation centers, and shall be easily adjustable in height or angle to more easily accommodate disabled voters.

### 11.2 Printing and distribution of ballots

11.2.1 All electronic ballots are to be placed in one or more ballot containers which have been sealed with the number of the seal recorded on the receipt given by the supply judge to the county clerk and recorder or the designated election official.

11.2.2 All sample ballots, test ballots, and demonstration ballots shall be designated in such a way that both voters and election officials can distinguish them from official ballots.

11.2.3 Mark sensor ballots shall be marked by pen or approved pencil by filling in the appropriate oval, square, or other appropriate area next to the candidate or issue selected by the voter.

11.3 Preparation for the election and voting at the polling place.

11.3.1 The county clerk and recorder shall not program or operate electronic vote counting equipment.

11.3.2 The program manual and program deck, program prom, tape or other program and election program shall be stored by the county clerk and recorder under security with access limited to the person or persons so authorized in writing by the clerk and recorder.

11.3.3 Employees of the county clerk and recorder who are authorized by the county clerk and recorder to prepare, maintain, repair, and/or use the electronic ballot program systems and/or election program shall be deputized for this specific purpose and so sworn.

11.3.4 If an individual cleared pursuant to the provisions of 11.3.3 who is assigned to preparation or use the program system and/or election program is unable to serve, thereby creating an emergency, a replacement shall be deputized, sworn and reported immediately to the Secretary of State.

11.3.5 Employees of the county who are authorized by the county clerk and recorder to prepare and/or use of the electronic ballot program system and/or election program shall also have filed with the county clerk and recorder a written clearance document from the Colorado Bureau of Investigation.

11.3.6 Software service bureaus under contract to one or more counties for computer services which include staffing the counting center shall provide the services by written contract and shall post a performance bond for those contracts with the Secretary of State in an amount of not less than \$10,000 for each county in which the vendor provides services. The specific individuals who staff the counting center shall be deputized for that purpose one time only and shall be so sworn. Prior to the election, each individual to be sworn shall file a written clearance document from the Colorado Bureau of Investigation with the Secretary of State.

11.3.7 Vendors of electronic vote counting equipment which provide the electronic ballot program system and election programs shall provide the services by written contract and shall post a performance bond with the Secretary of State in an amount of not less than \$10,000 for each county in which the vendor provides services.

11.3.8 No employee of any vendor shall operate any counting equipment unless deputized and sworn by the county clerk and recorder and unless a clearance document from the Colorado Bureau of Investigation is on file with the county clerk and recorder.

11.3.9 A voted ballot shall be examined and duplicated only in the county counting center by personnel authorized and sworn for this purpose under the direct supervision of the county clerk and recorder.

11.3.10 Spoiled ballots referred to C.R.S. 1-7-504 shall be clearly marked and not counted but shall be preserved and reconciled with the appropriate precinct.

11.3.11 The term "secure" in C.R.S. 1-7-505 shall be construed to mean any method of preventing the use of the voting equipment after all legal votes have been cast.

11.4 Testing of equipment and counting center procedures.

11.4.1 A clear audit trail shall be maintained and provided to the Secretary of State when election results are to be transmitted by the telephone, microwave, or any other type of electronic communication to the electronic ballot counting equipment.

11.4.2 Computer room access shall be limited to authorized personnel only, and the delivery of ballots between the preparation room and computer room shall be performed by messengers or runners wearing distinguishing identification.

11.4.3 All program decks and materials shall be considered part of the electronic ballot counting equipment.

11.4.4 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk and recorder shall be on file with the county clerk and recorder.

11.4.5 The test procedure for counting equipment shall be conducted as follows:

a. The county clerk and recorder shall prepare a test deck and shall test the election program at the counting center as soon as it is received for program errors. The errors shall be corrected and the test deck re-run until the election program exactly reflects the certified ballot of candidates, offices, issues and questions.

b. Just prior to the election, vote-counting equipment shall be tested by voting test decks of ballots at the counting center if central counters are being utilized.

c. Before and after the count, the equipment shall be tested by voting test desks at the counting center on the equipment used to count the ballots if central counters are being utilized.

d. Counting equipment for mark sensor ballots shall be tested on election day by judges running one zero tape before the polls open and by running two tapes after the polls are closed and returning one tape with the voted ballots in the transfer cases or by using the test deck procedures at the counting center. The second closing tape shall be posted at the precinct.

11.4.6 Each test deck shall include over-votes, under-votes, no votes, and all ballot types for the county.

11.4.7 Verification and duplicating boards shall consist of registered electors recommended to the county clerk and recorder by the two political parties and may include regular employees of the county clerk who are so recommended. The members of the board shall be assigned in teams of one Democrat and one Republican, if available.

11.4.8 Verification and duplication procedures.

(a) No voted ballot shall be altered or changed by the verification or duplication boards.

(b) Voted ballots cards which cannot be processed because of over-votes, folds or bends, or are too light to be read shall be duplicated.

(c) Any mark sensor ballot card showing the intent of the elector on an office, issue, or question, which is outside the field read by the computer and is not over-voted shall be duplicated and the vote counted.

11.4.9 The two watchers in the counting center shall be representatives of each major political party. Witnesses shall not handle or process ballots.

11.5 Audit trail counting procedures.

11.5.1 The electronic ballot secrecy envelopes containing the voted ballot cards shall be counted by the election judges to determine the number of ballots voted, or if permanent secrecy envelopes are used, the voted ballot cards shall be counted by the election judges to determine the number of ballots voted.

11.5.2 The total number of voted ballots shall be reconciled to be the same as the number of voters listed in the poll book.

11.5.3 The total number of secrecy envelopes, or voted ballot cards or sets of voted ballot cards, plus spoiled ballots and ballots not issued to voters, shall be reconciled to be the same as the total number of ballots for the precinct issued to the supply judge.

11.5.4 The election judges shall complete and return to the county clerk and recorder the following report(s):

- a. Ballot return form from each precinct as required in C.R.S. 1-7-505;
- b. Ballot return forms from each vote center as set forth in C.R.S. 1-5-102.7;
- c. Test tapes from mark sensor ballot precincts, if applicable.

11.5.5 All electronic counting equipment used in Colorado shall provide a count of the total ballot cards read.

11.5.6 A precinct printout listing produced in a counting center shall include: the total votes for each candidate and each issue on the ballot, together with the total write-in votes for each candidate, the total number of ballots counted, the total number of ballots rejected, the total number of over-votes, no votes, and under-votes.

11.5.7 The verification/duplication board shall report the number of ballot cards duplicated and shall provide a printout or listing of any vote to be added to the precinct total as a result of verification and/or duplication, or duplicated ballot cards added to the transfer case.

11.5.8 A log for each step of verification, duplication and counting, listing the function, the time, name of persons performing each function and the seal number used at each step shall be kept and provided to the canvass board.

11.6 Security and emergency procedures

11.6.1 At least one week before any ballots are counted electronically, the county clerks shall file contingency plans for their electronic vote-counting facility with the Secretary of State. The contingency plans shall specify:

- a. Procedures for the protection of the ballots in the event of fire, civil commotion, or bomb threat;
- b. Response to a failure in the data processing system including provisions for back-up equipment, type, location, pre-testing and ballot transfer.

11.7 The count made election night is the only time ballots are handled unless a recount is ordered. Ballot boxes and/or transfer cases are sealed following the election night count.

11.8 Record of seal and serial numbers.

11.8.1 In precincts in which voting equipment is used, the persons recording the votes recounted shall also record the serial number of the equipment, together with the protective seal number, the protective counter reading and the public counter reading, where applicable.

## Rule 12. Rules Concerning Mail Ballot Elections

12.1 Definitions.

12.1.1 A secrecy sleeve shall be sealed or closed on at least two sides, one of which shall be the bottom of the sleeve.

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 ~~e~~D~~e~~partment of ~~r~~R~~e~~venue; 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).

12.1.2 A separate mail ballot plan is not required from a political subdivision if a county clerk and recorder submits a mail ballot plan for a coordinated election which includes the political subdivision.

## 12.2 Election Judges.

12.2.1 The designated election official for the election may appoint an appropriate number of judges to receive the ballots after they are mailed, to handle “walk-in” balloting and absentee ballots at the sites designated for “walk-in” balloting, to check registrations, to inspect, verify, and duplicate ballots when necessary, and to count the ballots and certify results.

## 12.3 Notice of elections.

### 12.3.1 Call and notice.

(a) Notice of the election is to be sent to the clerk and recorder of the county in which the election is to be held. The notice is to include the date by which the list of registered electors is to be submitted to the political subdivision.

(b) For multi-county political subdivisions, the notice sent to each clerk and recorder shall also include the names of all other counties in which the election will be held.

12.3.2 As soon as possible, but no later than 55 days prior to an election, a written plan must be submitted to the Secretary of State which includes the following:

- a. Date of the election;
- b. Type and name of jurisdiction involved in the election;
- c. Description of the type of election to be conducted;
- d. Citation of the statute or home rule charter provisions authorizing the election;
- e. Estimated number of eligible electors;
- f. Name of the designated election official who will be responsible for all aspects of the election;
- g. Indication of whether the county clerk and recorder will assist in the election for the entity other than by providing a list of registered electors and other information required by statute;



- h. Total number of “places of deposit”. For security reasons, unmonitored freestanding places of deposit located outside will not be allowed.
- i. Written timetable for the conduct of the election in accordance with the statute.
- j. Indication of how postage will be handled for ballot packets returned as undeliverable (e.g. “return postage guaranteed”);
- k. Indication of procedures to be followed to ensure compliance with statutes and rules, including persons responsible for each stage;
- l. Description of procedures to be used to ensure ballot security at all stages of the process;
- m. Description of procedures to be used for signature verification;
- n. Description of procedures to ensure privacy by use of a secrecy sleeve or secrecy envelope so receiving judges cannot tell how the elector voted.
- o. Description of procedures to be used to reconcile ballots issued, ballots received, defective ballots and substitute ballots.
- p. An actual sample of the secrecy sleeve or secrecy envelope to be used in the mail ballot election.

#### 12.3.3 Written timetable specifications:

- a. The designated election official shall prepare a written timetable for conducting the mail ballot election with specific dates or range of dates when each activity is to be completed.;
- b. The timetable shall include the following dates:
  - 1. Copy of written plan to governing body;
  - 2. Date of approval of election by governing body;
  - 3. Date of submission of written plan to Secretary of State’s office;
  - 4. Anticipated date of approval by Secretary of State;
  - 5. Date of publication of notice of election;
  - 6. Date of notice of election to the county clerk;
  - 7. Date of notice of election to the county assessor, if property owners are eligible to vote in the election;
  - 8. Date of close of registration;
  - 9. Date by which the county clerk and recorder must submit the list of eligible electors to the political subdivision and, if property owners are eligible to vote in the election, the date by which the county assessor must submit the list of property owners;
  - 10. Date ballots will be mailed;

11. Date verification and counting of ballots will begin;

12. Date of the election.

## 12.5 Ballots.

12.5.1 For elections where multiple ballots will be included in the same packet or will be sent in separate packets, the ballots and return envelopes shall include distinctive markings or colors to identify political subdivisions when the colors or distinctive markings will aid in the distribution and tabulation of the ballots.

12.5.2 The designated election official for each political subdivision for whom one or more county clerk and recorders are conducting the election shall assure that a complete list of eligible electors in their political subdivision is sent to each appropriate county clerk and recorder, unless otherwise provided in the intergovernmental agreement. The political subdivision shall list each elector only once to assure that each elector receives one and only one ballot unless otherwise authorized.

12.5.3 For coordinated mail ballot elections, each county clerk and recorder may compare the lists submitted by the various political subdivisions to assure that each elector receives the appropriate ballot or ballots for the election.

12.5.4 For all coordinated elections where more than one mail ballot is being mailed or polling place elections are being held as well as the mail ballot election, the outgoing envelope as well as the instructions or other notice shall have the following notice: "This may not be your only ballot. Other elections may be held by other political subdivisions by mail or by polling place."

12.5.5 If the ballot is returned to the election official as undeliverable, the official shall not be required to re-mail the ballot packet.

12.5.6 The Designated Election Official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S. and did not provide the required ID upon registration.

12.5.7 The County Clerk and Recorder shall indicate on the list of registered voters requested by the Designated Election Official those registered voters required to be identified in Rule 12.5.6, unless such registered voter either:

- a. Submitted as part of the registration by mail a copy of the elector's identification as defined in Section 1-1-104(19.5), C.R.S.; or
- b. Votes pursuant to Section 1-7-111(2), C.R.S.; or
- c. Is otherwise entitled to vote under any federal law.

12.5.8 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope.

12.5.9 If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked "provisional". For non-partisan elections, the provisional ballot shall be verified and counted in accordance with Rules 26.9 through 26.4620, with the exception of ~~Rule 26.9(d)42(d)20. (1-7.5-107(3.5))(d) C.R.S. and (5)(b))~~.

12.6 Absentee and early voting.

12.6.1 Absentee voting occurs in a mail ballot election when a registered, eligible elector requests that the ballot be mailed to a place other than the address of record.

12.6.2 A request for an absentee ballot may be filed any time after January 1 of the year of the election but not later than the close of business on the Friday prior to the election.

12.6.3 Upon receipt of a request for an absentee ballot, the designated election official shall mail the original ballot or a replacement ballot to that elector.

12.6.4 A record shall be made on the registration rolls that a request for an absentee ballot was received, a ballot was mailed to the alternate address and the ballot number shall be recorded.

12.6.5 For mail ballot elections, the notation "Absentee Ballot No. A.V.\_\_\_\_" shall not be required on the absentee ballots.

12.6.6 Establishment of polling place for early voting shall not be required for a mail ballot election, however the location for walk-in balloting shall be maintained.

12.7 Receipt of Ballots

12.7.1 One or more judges shall be appointed for the site to which ballots are to be mailed to receive the ballots as mailed.

12.7.2 Each day when ballots come in, a judge shall count the ballots, batch them and record the number of ballots received.

12.7.3 The ballots shall be date-stamped when received. If any ballot is received after the time set for the closing of the elections, the ballot shall be date-stamped but the ballot shall not be counted.

12.7.4 Records shall also be kept of the number of ballot packets returned as undeliverable.

12.7.5 Ballot packets shall then be placed in a safe, secure place until the counting of the ballots.

12.8 Ballots delivered in person.

12.8.1 If political subdivision desires to establish a site for walk- in voting outside of the county, municipality or district, permission must be obtained from the Secretary of State.

12.8.2 Any eligible elector may deliver in person to the designated or coordinated election official's office no more than 5 voted mail ballots from members of his or her household.

12.9 Replacement Ballots for Purpose of Mail Ballot Elections.

12.9.1 Requests for replacement ballots may be made in writing, by mail, by fax, or by telephone.

12.9.2 An elector requesting a replacement ballot shall complete a sworn statement, as required by section 1-7.5-107(3) (d) (l), on a form provided by the designated election official.

12.9.3 The sworn statement shall include space in which the elector shall specify the reason for requesting a replacement ballot. The sworn statement shall also contain a statement in bold that

the original ballot may not be cast and that, if both the original and the replacement ballot are cast, neither ballot will be counted. If the elector requested that the replacement ballot be mailed, the sworn statement may be included in the ballot packet mailed to the eligible elector.

12.9.4 The election judge issuing a replacement ballot shall indicate on the outside of the return-verification envelope whether a sworn statement must be returned with the voted ballot. No replacement ballot shall be counted until it has been determined that a sworn statement has been completed by the voter.

#### 12.10 Verification of replacement ballots

12.10.1 Upon issuance of replacement ballot, the original ballot shall be voided. If the original ballot is voted and returned, it shall not be counted, regardless of whether the replacement ballot is voted and returned.

12.10.2 If a return verification envelope is submitted which contains a replacement ballot it shall be set aside until 7:00 p.m. on election day. If it can be determined that the replacement ballot is the only ballot issued to the elector or that all prior ballots issued to the elector have been voided, it may be processed in the same manner as the original ballot.

12.10.3 The information on the return verification envelope may be checked prior to 7:00 p.m. on election day, but the ballot may not be removed until the polls close.

12.10.4 When all voted ballots have been received and the polls closed, the replacement ballots shall be checked to ensure that the elector only voted with the replacement ballot. If it appears that the elector only voted the replacement ballot and if all the information is complete on the return verification envelope, the ballot may be removed and counted as the other ballots.

#### 12.11 Judges Duties.

12.11.1 The judges shall record the results of the election on the judges' certificate and statement.

12.11.2 The judges shall deliver the results of the election to the designated election official along with all election materials.

12.11.3 The judges shall deliver all election materials bound separately as follows:

- a. Ballots which were counted;
- b. Ballots which were defective, as defined in 1-7-309(4);
- c. Ballots/verification envelopes which may be challenged;
- d. Verification envelopes with ballots removed;
- e. Defective verification envelopes with ballots inside;
- f. Ballot packets which were returned as undeliverable.

#### 12.12 Canvass of votes/certificates of election.

12.12.1 Elections can be challenged as provided in the enabling statute of the entity calling the election.

12.12.2 A failure of an elector to receive a ballot will not by itself be sufficient grounds for the challenge of an election, so long as the designated election official acted in substantial compliance with Title 1, Article 7.5, C.R.S. or the rules promulgated thereunder by the Secretary of State.

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

- 13.1 All election materials prepared by the designated election official, including the Article X, Section 20 notice, may be included in the absentee ballot mailing.
- 13.2 The county clerk and recorder shall keep a list, to the extent possible, 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.
- 13.3 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.
- 13.4 The Designated Election Official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope if the eligible elector registered to vote by mail pursuant to Part 5, Article 2, Title 1, C.R.S. and failed to include the copy with the original registration.
- 13.5 The County Clerk and Recorder shall indicate on the list of registered voters requested by the Designated Election Official those registered voters required to be identified in Rule 13.5.
- 13.6 If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. The elector shall also be provided with specific instructions on the requirement to provide such identification.
- 13.7 If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked "provisional". The provisional ballot shall be verified and counted in accordance with Rules 5.5.~~87~~ through ~~5.5.135.5.12~~.
- 13.9 Absentee Ballot Signatures – Missing or Non-Matching
- 13.9.1 Missing Signature on Absentee Ballot Envelope
- 13.9.1.1 When the election judge reviews the absentee ballot return envelopes pursuant to 1-8-114.5 C.R.S., and notices that the return envelope lacks a signature, the election judge shall contact the eligible elector in writing no later than three calendar days after election day. A copy of the written notification shall be kept in an official file, which shall become part of the official election record. Nothing in this rule shall be construed to prohibit the designated election official from calling the elector; however, a phone call shall not substitute for a notification to the elector in writing.
- 13.9.1.2 The letter shall inform the eligible elector that they must come to the office of the county clerk and recorder to sign the absentee ballot envelope no later than ten (10) calendar days after election day.

13.9.1.3 The letter sent by the election official shall not constitute a violation of 1-13-801 C.R.S.

13.9.1.4 The letter shall include the following language:

“Any person who knowingly violates any of the provisions of Article 8 of the Election Code relative to the casting of absentee voters’ ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast by an absentee voter shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment. 1-13-803 C.R.S.”

### 13.9.2 Non-Matching Signature on Absentee Ballot Envelope

13.9.2.1 In accordance with 1-8-114.5 C.R.S., the election judge shall compare the signature on the absentee ballot envelope with the signature on file with the county clerk and recorder or election official. Signatures shall require further research if any of the following differences are discovered:

Code 1 – An obvious change in the slant of the signature

Code 2 – A printed signature on one document and a cursive signature on the other document

Code 3 – Differences in the size or scale of the signature

Code 4 – Differences in the individual characteristics of the signatures, such as how the “t’s” are crossed, “l’s” are dotted, loops are made on “Y’s” or “J’s”

Code 5 – Differences in the voter’s signature style, such as how the letters are connected at the top and bottom

13.9.2.2 If further research is necessary, the election judge shall check the county clerk’s or election official’s file for at least two additional documents signed by the voter, if available. Additional information, written by the voter on the “Return Envelope”, such as the voter’s address and date of signing may be compared for similarities. Any similarities noted when comparing this other information may be used as part of the signature verification decision process.

13.9.2.3 Whenever a signature is disputed, the election judge shall document the discrepancy by completing a log. The log shall provide a record of the research steps taken to resolve the issue. The log will identify the voter using a unique tracking number. This tracking number shall not contain the voter’s social security number, Colorado issued driver’s license number, or the identification number issued by the Department of Revenue. C.R.S. 1-8-107; 1-8-108.

13.9.2.4 The log shall be approved by the Secretary of State pursuant to 1-1-109, C.R.S.

13.9.2.5 There shall be no document containing the voter’s signature attached to the research log.

13.9.2.6 If the election judges agree that the signatures do not match, a letter shall be sent to the voter in accordance with 1-8-114.5(2)(a).

13.9.2.7 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.

13.9.2.8 The letter sent by the election official shall not constitute a violation of 1-13-801 C.R.S.

13.9.2.9 The letter shall include the following language:

“Any person who knowingly violates any of the provisions of Article 8 of the Election Code relative to the casting of absentee voters’ ballots or who aids or abets fraud in connection with any vote cast, or to be cast, or attempted to be cast by an absentee voter shall be punished by a fine of not more than five thousand dollars or by imprisonment in the county jail for not more than eighteen months, or by both such fine and imprisonment. 1-13-803 C.R.S.”

13.9.2.10 The final signature verification resolution and ballot disposition shall be noted on the research log.

- 13.10 The designated election official's duties under C.R.S. 1-8-112 are triggered if the U.S. mail is delivered collectively to the residential facility. If the U.S. mail is delivered to individuals or individual mailboxes, the requirements of C.R.S. 1-8-112 shall not be applicable.
- 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 in fact cast the absentee ballot.

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

- 14.1 Each designated election official who conducts a recount shall follow the specific procedures outlined by the Secretary of State for the equipment used for the election.
- 14.2 The Secretary of State shall prepare a letter which specifies the procedures to be used for the recount which shall be sent to the designated election official upon receipt of the notice of a recount.
- 14.3 The purpose of a recount is to review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible during the recount, including an examination of the ballots.
- 14.4 General Provisions
  - 14.4.1 The Secretary of State may have an official observer at every recount location.
  - 14.4.2 Any candidate who is subject to the recount may be present and observe the recount at any recount location or designate one Watcher to observe the recount at any recount location.

Watchers must provide the election official with a certificate signed by the candidate, except that an officer of the county party may be accepted as a candidate's watcher without a certificate if no other person is designated by the candidate for that location.

14.4.3 Each candidate, his or her watcher, members of the media, and official observers as defined in Rule 8.1.1, may be present in the room when a recount is conducted. During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.

14.4.4 The recount board, as defined by the Secretary of State, candidates, watchers, members of the media, and official observers will take an oath.

14.4.5 Candidates, watchers, members of the media, and official observers who enter the recount room after the recount begins must stay until the recount is complete. Anyone who must leave the recount room will not be allowed to re-enter the recount room without the specific consent or authorization of the designated election official.

14.4.6 All votes for all candidates in any race subject to a recount shall be counted.

#### 14.5 Counting of Paper Ballots - Recount

14.5.1 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:

- a. Sum total of votes cast for each candidate, under-votes, and over-votes for all precincts;
- b. Sum total of votes cast for each candidate, under-votes, and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or locations, unless the voting system so allows.);
- c. Sum total of votes cast for each candidate, under-votes, and over-votes for all early voting precincts (a combined total, not totaled by individual precinct or locations, unless the voting system so allows.);
- d. Determine grand total of ballots cast by early voting, absentee voting, and precinct voting.

14.5.2 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.

14.5.3 Ballot boxes or containers shall be opened one at a time.

14.5.4 Ballots shall be counted into groups of 25 to ensure that the number of ballots recounted matches the number originally counted.

14.5.5 Votes shall be counted by individual hash marks in 25-count sections by two different judges.

#### 14.6 Counting of punch-card ballots-Recount

14.6.1 Prior to the recount, the canvass board shall choose a precinct at random to be utilized as a test deck for purposes of section C.R.S. 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. The ballots from the selected precinct test deck shall be



processed through all 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.

14.6.2 If the test deck precinct totals differ from the hand count totals, all ballots containing the recounted contest shall be tallied by hand following procedures for paper ballot recounts. If the test deck precinct totals are exactly the same, the recount tabulation shall be conducted by machines.

14.6.3 A clear audit trail shall be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes as defined in section 1-7-505, C.R.S., and the corresponding numbered seal used as a replacement, upon completing the recount of ballots within that transfer case.

14.6.4 The number of ballots counted by precinct according to the election night report shall be available during the recount for comparison purposes.

14.6.5 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:

- a. Sum total of votes cast for each candidate, under-votes, and over-votes for all precincts;
- b. Sum total of votes cast for each candidate, under-votes, and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or locations, unless the voting system allows);
- c. Sum total of votes cast for each candidate, under-votes, and over-votes for all early voting precincts (a combined total, not totaled by individual precincts or locations, unless the voting system so allows);
- d. Determine the grand total of ballots cast in early, absentee, and precinct voting.

14.6.6 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.

14.6.7 Ballots shall ~~not~~ be reviewed for voter intent, unless directed otherwise by the Secretary of State..

14.6.8 Utilizing a cleared reader, all precinct ballots shall be counted within all precincts. Precincts shall be counted in numeric order. After the individual precinct is counted, the ballots shall be returned to the ballot container and sealed.

14.6.9 Utilizing a cleared reader, all early voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

14.6.10 Utilizing a cleared reader, all absentee voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

## 14.7 Counting of Optical Scan Ballots - 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.

14.7.2 If the test deck precinct totals differ from the hand count totals, all ballots containing the recounted contest shall be tallied by hand following procedures for paper ballot recounts. If the test deck precinct totals are exactly the same, the recount tabulation shall be conducted by machines.

14.7.3 A clear audit trail shall be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes as defined 1-7-505, C.R.S., and the corresponding numbered seal used as a replacement, upon completing the recount of ballots within that transfer case.

14.7.4 The number of ballots counted by a precinct according to the election night report shall be available during the recount for comparison purposes.

14.7.5 Totals of recounted ballots shall be processed, counted, and reported in summary form as follows:

- a. Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes, and over-votes for all precincts;
- b. Sum total of votes cast for each candidate, ballot issue or ballot question subject to the recount, under-votes and over-votes for all absentee ballots (a combined total, not totaled by individual precincts or location, unless your system allows);
- c. Sum total of votes cast for each candidate, ballot issue or ballot question, subject to the recount, under-votes, and over-votes for all early voting locations (a combined total, not totaled by individual precinct or locations, unless the voting system so allows);
- d. Determine the grand total of ballots cast in early, absentee, and precinct voting.

14.7.6 If absentee ballots were originally counted with early voting ballots, then the recount will be of a combined total of early and absentee ballots.

~~14.7.7 Ballots shall not be reviewed for voter intent, except where required by law.~~

~~14.7.7~~14.7.8 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all precinct ballots shall be counted within all precincts. After the individual precinct is counted, the ballots shall be returned to the ballot container and sealed.

~~14.7.8~~14.7.9 Utilizing one or more blank prom cartridge, rom cartridges, or memory card, all early voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

~~14.7.9~~14.7.10 Utilizing one or more blank prom cartridges, rom cartridges, or memory card, all absentee voting ballots shall be counted. After an individual ballot container is counted, the ballots shall be returned to the ballot container and sealed.

## 14.8 Counting of Ballots using the "Ballot Now" Voting System

14.8.1 In the case of a recount, the designated election official shall identify all precincts with the contest(s) designated for a recount using the following procedures:

- a. Using the Ballot Now Scanned Ballots by Precinct report from the original election database, locate the batches containing any ballot type (Election, Absentee, and Provisional) for the recount.
- b. Remove ballots from each batch and label them as "Recount".

14.8.2 Required scanner testing shall be performed using a test deck from a randomly chosen precinct with at least 50 ballots as prescribed by statute, following testing procedures outlined in the State of Colorado Procedures for the use of the Ballot Now Voting System. A Recount Test spreadsheet shall be created based on the chosen precinct in the same fashion as the ballot options test spreadsheet.

14.8.3 Ballots for the recount shall be processed following the State of Colorado Procedures for the use of the Ballot Now Voting System in conjunction with the following procedures:

- a. Open Ballot Now with an unused MBB (Mobile Ballot Box) from the election and create a Ballot Now recount database;
- b. Scan and resolve all recount ballots following original election procedures, including the examination of ballots (Rule 14.3; C.R.S. 1-10.5-108). Use the Audit Trail Report and original Scan Batch Reports with notes to ensure resolution action follows original resolution.
- c. Save all recount CVRs (Cast Vote Records) to the MBB (Mobile Ballot Box) after verifying that the number of ballots processed matches the number of ballots cast in the recount contest(s).
- d. Open a new recount election in "Tally" and process the recount MBB following the tabulation procedures above.
- e. Compare recount results to original results and document any differences.
- f. Backup the test database and the official recount database following the "Archive" procedures.

## **Rule 15. Rules Concerning Preparation and Filing of Statewide Initiative Petitions**

15.1 Each petition section shall have on it a consecutive four-digit number. The number may be printed by a printer, hand-stamped with a manual stamp, or handwritten.

15.2 The lines on the petition section shall be consecutively numbered.

15.2.1 The block of information which consists of the printed last name, first name, middle initial, county, signing date, street address, city and signature is considered a line.

15.3 No petition shall be accepted which lists proponents other than the two identified as petition representatives pursuant to C.R.S. 1-40-104.

- 15.4 Proponents may begin circulating a petition for signatures at any time after the final decision of the title board, including disposition of any motion for rehearing or the expiration of the time for filing a motion for rehearing, and after the Secretary of State has approved the format of the petition as provided in section 1-40-113 (1), C.R.S., whether or not an appeal is filed with the Supreme Court pursuant to section 1-40-107 (2). The six-month period specified in section 1-40-108 (1) shall begin on the date that the first signature is affixed to the petition or, in the case of an appeal to the Supreme Court, on the date that the decision of the Supreme Court becomes final, whichever date occurs first. Signatures shall be counted only if affixed to the petition during the period provided in this rule.
- 15.5 Only one filing of a petition or an addendum is allowed. After a petition or an addendum is filed, the petition or the addendum may not be supplemented with additional signatures. If additional signatures are submitted after the original filing, such signatures shall not be counted, even if such signatures are submitted within the time permitted by law for the filing of the original petition or addendum.

## **Rule 16. Rules Concerning Verification by Random Sample of Statewide Initiative Petitions**

- 16.1 Preliminary count and generation of random numbers.
- 16.1.1 When the petitions are received, each section shall be consecutively numbered.
- 16.1.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page, and the total entries for the section shall be written on the face of the petition section.
- (a) A line which has no writing or marks on it shall not be considered an entry.
- (b) A line which has writing on it but is completely crossed out shall not be considered an entry.
- (c) A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.
- 16.1.3 After the entries have been counted for each petition section, a data entry clerk shall enter the following data into the computer; the petition identification number, the petition section number, the page number and the number of entries on the page.
- 16.1.4 The computer shall then create a record for each entry which record shall contain the petition identification number, petition section number, page number and the entry number. The total number of entries submitted for the petition shall be tallied.
- 16.1.5 If the number of entries is less than the total number of signatures required to certify the measure to the ballot, a statement of insufficiency shall be issued.
- 16.1.6 A series of random numbers shall be generated by the computer which is the greater of four thousand signatures or five percent of the total number of entries.
- 16.2 Verification of selected entries.

16.2.1 The random numbers selected shall be matched with the appropriate petition section, page number and entry number.

16.2.2 Each entry generated shall be checked for validity in accordance with Rules 22.3.3 and 22.3.4:

- a. Evidence of disassembly of the petition;
- b. The circulator's affidavit does not meet the requirements of statute or rule;
- c. The individual entry does not meet the requirements of statute or rule.

16.2.3 Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry which is accepted.

16.3 Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, the entry shall be rejected.

16.4 Checking the circulator's affidavit.

16.4.1 The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, the entry shall be rejected.

16.4.2 The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, the entry shall be rejected.

16.4.3 The name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. If the circulator was not a registered elector, the entry shall be rejected.

16.4.4 If the information on the current voter registration file does not match the information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the entry was signed.

16.5 Checking individual signatures.

16.5.1 Each individual entry shall be checked against the master voter registration files.

16.5.2 If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.

16.5.3 Name of registered elector: to be accepted, the name on the entry must be found in form similar to that found on the voter registration record. Signatures which are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, the entry shall be rejected.

16.5.4 Middle initial and additional terms.

(a) If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.

(b) If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.

(c) If an indicator such as Jr., Sr. or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.

#### 16.5.5 Address of registered elector.

(a) If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.

(b) If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as "E" for east, "SW" for southwest, etc., the entry shall be accepted.

(c) If the signer has a post office box for the address, the entry shall be rejected.

16.5.6 Incomplete information: if the line on the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.

#### 16.5.7 Date of signing.

(a) If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.

(b) If the signer is placed on the petition after the date on the circulator's affidavit, the entry shall be rejected.

16.5.8 Assistance to signer: if assistance appears to have been given to the signer and no statement of assistance accompanies the signature or mark explaining the variance in the script, the entry shall be rejected.

16.5.9 Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.

16.5.10 Duplicate signature: if the elector had previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.

### 16.6 Computation of total accepted signatures.

16.6.1 A tally shall be made of the number of accepted signatures and the number of rejected signatures.

16.6.2 The Secretary of State shall determine the range of signatures by multiplying the constitutionally required number of signatures by 0.90 to compute 90% of the required signatures and by 1.10 to compute 110% of the required signatures. This number shall be calculated once every four years after the general election at which the Secretary of State was elected.

16.6.3 After completing a petition, the number of signatures checked shall then be divided into the number of accepted signatures. This number will be the percentage of accepted signatures which were submitted.

16.6.4 The percentage calculated in Rule 16.6.3 shall then be multiplied by the total number of entries which were previously tallied. This number will be the number of presumed valid signatures which were submitted.

16.6.5 If the number generated is 90% or less of the constitutionally required number of signatures as calculated in Rule 16.6.2, then the Secretary of State shall issue a statement of insufficiency. If the number generated is 110% or more of the constitutionally required number, then the Secretary of State shall issue a statement of sufficiency.

16.6.6 If the number generated is more than 90% but less than 110% of the required number, the Secretary of State shall order that each signature on the petition be verified to determine whether the issue or question should be certified to the ballot.

## **Rule 17. Rules Concerning Verification of All Signatures**

17.1 Rules concerning verification of statewide initiative petitions when all signatures are counted.

17.2 The process for checking all signatures shall be the same as for random sample of checking, with the following exceptions.

17.3 Each petition section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all signatures on the petition section shall be rejected.

17.4 Checking the circulator's affidavit.

17.4.1 Each petition section shall be checked for the completed circulator's affidavit. If the affidavit is not attached and completed, all signatures on the section of the petition shall be rejected.

17.4.2 Each petition section shall be checked to assure that the notary clause at the end of the affidavit is completed. If any information is missing or if the date in the notary clause is not the same date as the circulator signed the affidavit, all signatures on the section of the petition shall be rejected.

17.4.3 Except in the case of initiative petitions, the name of each circulator shall be checked to assure that the circulator was a registered elector at the time that the signatures were gathered. Any signatures gathered while the circulator was not a registered elector shall be rejected.

17.5 Each individual entry shall be verified using the same criteria as found in Rule 16.5.

17.6 Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency issued.

## **Rule 18. Rules Concerning Statement of Sufficiency**

- 18.1 Within the time required by statute, the Secretary of State shall issue a statement of sufficiency or insufficiency.
- 18.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.
- 18.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.
- 18.4 The statement shall indicate whether an insufficient number of entries was submitted, the number of presumed valid signatures if a random sample was conducted, and the number of valid signatures counted if every entry was counted.
- 18.5 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.

## **Rule 19. Rules Concerning Cure**

- 19.1 Cure of petitions deemed insufficient.
- 19.2 If the proponents submit additional signatures within the permitted time, all signatures submitted in the addendum shall be checked using the process delineated in Rule 16 and Rule 17.
- 19.3 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals 110% or more of the required signatures, a statement of sufficiency shall be issued.
- 19.4 If the number of valid signatures in the addendum when added to the number of valid signatures given in the statement of insufficiency equals more than 90% but less than 110% of the required signatures and the initial check was by random sample, all of the previously submitted entries shall be checked. The total of valid signatures in the original petition shall then be added to the number of valid signatures submitted in the addendum.
- 19.5 If the initial check was of every entry, then the total of valid signatures shall be added to the number of valid signatures submitted in the addendum.
- 19.6 The designated election official shall then issue a new statement of insufficiency or sufficiency which reports the total number of valid signatures submitted.



## **Rule 20. Rules Concerning Protests**

20.1 Protests of statewide initiative petitions.

20.2 Protest of random sampling process.

20.2.1 Proponents and opponents may protest the process by which the numbers used in the calculations were generated.

20.2.2 Proponents and opponents may protest that the process used for determining entries and generating the random sample did not meet the requirements established by statute or rule.

20.2.3 Proponents and opponents may protest that entries were improperly accepted or rejected in that the requirements established by statute or rule were improperly applied.

(a) If the protest alleges that individual entries were improperly accepted or rejected, each individual entry must be listed and the reason for challenge must be given.

(b) The reason for challenge must state which of the requirements established by statute or rule were improperly applied.

20.2.4 Individual entries which were not checked by the Secretary of State may not be challenged as sufficient or insufficient.

20.3 Protest of petitions when all signatures are checked.

20.3.1 Proponents and opponents protesting the checking of petitions when each signature was checked must list each individual entry being protested and the reason for challenge.

20.3.2 The reason for challenge must state which of the requirements established by statute or rule were improperly applied.

20.3.3 The protest shall be deemed insufficient for each entry or class of entries challenged where the individual entry is not listed or the reason for the challenge is not given.

## **Rule 21. Rules Concerning Ballot Issue Elections**

21.1 Placing measures on the ballot for coordinated odd-year 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.

21.1.2 For elections concerning counties or other political subdivisions, if the election is held as a coordinated election, each political subdivision shall determine whether the proposed initiative

or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.

21.2 Written comments concerning ballot issues submitted to the designated election official for the political subdivision shall not be withdrawn after the end of the business day on the last Friday immediately preceding the forty-fifth day before the election.

## **Rule 22. Rules Concerning Checking Candidate and Issue Petitions.**

22.1 Applicability. This rule shall apply to candidate and issue petitions authorized by law except as to municipal candidate or issue petitions.

22.2 Procedures for preparing petitions for circulation.

22.2.1 Each petition section shall have on it a consecutive four- digit number. The number may be printed by a printer, hand stamped with a manual stamp or handwritten. A petition section shall be either an individual sheet for signatures or multiple sheets which are stapled together.

22.2.2 The lines on the petition section shall be consecutively numbered.

(a) The block of information which consists of the printed last name, first name, middle initial, county, signing date, resident street address, city and signature is considered a line.

22.2.3 No petition shall be accepted which lists proponents other than those authorized by statute.

22.3 Procedures concerning count of signatures and verification of petition.

22.3.1 When the petitions are received, each section shall be date-stamped and consecutively numbered.

22.3.2 Each line with writing shall be counted on each petition and shall be considered an entry. The number of entries for each page of the section shall be written on the page and the total entries for the section shall be written on the face of the petition section.

(a) A line which has no writing or marks on it shall not be considered an entry.

(b) A line which has writing on it but is completely crossed out shall not be considered an entry.

(c) A line which has writing on it but is incomplete or on its face contains an invalid signature or which is partially crossed out shall be considered an entry to be included in this count.

22.3.3 Verification of petitions.

(a) Each reason for rejection of an entry shall be recorded by separate code and a master record of the rejected entries shall be maintained. A master record shall also be maintained of each entry which is accepted.

(b) Each section shall be checked for evidence of disassembly. If it appears that the section was disassembled, all entries in the section shall be rejected.

(c) The circulator's affidavit shall be checked for each entry. If the affidavit is not attached and completed, all entries in the section shall be rejected.

(d) The notary clause at the end of the affidavit shall be checked for each entry. If any information is missing or if the date on the notary clause is not the same date as the circulator signed the affidavit, all entries in the section shall be rejected.

(e) Except for initiative petitions, the name of each circulator shall be checked to assure that the circulator was an eligible elector in the political subdivision for which the petition is being circulated at the time that the signatures were gathered. If the circulator was not an eligible elector, all entries in the section shall be rejected.

(f) If the information on the current voter registration file does not match the information on the entry, the circulator's voter registration history shall be checked to determine if the information on the affidavit matches the voter registration file at the time the affidavit was signed. If the information does not match, all entries in the section shall be rejected.

(g) In accordance with the decision of the United States Supreme Court in *Buckley v. American Constitutional Law Foundation*, 520 U.S. 182 (1999), circulators of statewide initiative petitions are not required to be registered electors, but such circulators must still be "electors", which means that they must be (1) residents of the State of Colorado, (2) citizens of the United States, and (3) at least 18 years of age. If there is sufficient evidence to conclude that the circulator was not an elector at the time any signature was gathered, all entries in the section shall be rejected.

#### 22.3.4 Checking individual signatures.

(a) Each individual entry shall be checked against the master voter registration files to assure that the elector was an eligible elector in the political subdivision at the time the petition was signed.

(b) If the information on the current voter registration file does not match the information on the entry, the elector's voter registration history shall be checked to determine if the information on the entry matches the voter registration file at the time the entry was signed.

(c) Name of eligible elector: to be accepted, the name on the entry must be in a form similar to that found on the voter registration record. Signatures which are common variants of the name found on the voter record shall be counted. If the signer of the petition is not found on the voter registration file, or if applicable the county assessors' list, the entry shall be rejected.

(d) Middle initial and additional terms.

(I) If the middle initial or middle name is not part of either the signature line or the voter record but is included on the other document, if the first and last name are the same on both documents, the entry shall be accepted.

(II) If the middle initial or middle name on the signature line is different than the middle initial or middle name on the voter record, the entry shall be rejected.

(III) If an indicator such as Jr., Sr., or II is present or omitted from the petition or the voter record, the entry shall be accepted. If two persons with the same name reside

at the same address as found on the master voter list, the entry shall be rejected, unless the identity of the signer can be conclusively determined.

(e) Address of eligible elector.

(I) If the address written on the line does not match the address on the voter record or on the voter history for the date when the signature was taken, the entry shall be rejected.

(II) If the address on the petition either includes or omits a letter or number identifying an apartment or the directional location of a street, such as "E" for east, "SW" for southwest, etc., the entry shall be accepted.

(III) If the signer gave a post office box for the address, the entry shall be rejected.

(f) Incomplete information: if the line of the petition is incomplete, with at least one piece of information omitted, the entry shall be rejected.

(g) Date of signing.

(I) If a signature is placed on the petition prior to the final approval of the petition format by the designated election official, the entry shall be rejected.

(II) If the signer was not an eligible elector in the political subdivision at the time of signing, the entry shall be rejected.

(III) If a signature is placed on the petition after the date on the circulator's affidavit, the entry shall be rejected.

(h) Assistance to signer: if assistance appears to have been given to the signer and a statement of assistance does not accompany the signature or mark explaining the variance in the script, the entry shall be rejected.

(i) Illegible signature: if the signature and printed name are illegible so that the voter record cannot be verified, the entry shall be rejected.

(j) Duplicate signature: if the elector has previously signed the same petition, the first valid entry shall be counted and all other entries shall be rejected.

(I) Where an elector may sign more than one petition, the first signature(s) filed up to the maximum allowed, shall be the ones that are counted.

22.3.5 Final Tally: After all of the sections have been checked, a final tally of all valid signatures shall be prepared and the statement of sufficiency or insufficiency issued.

#### 22.4 Statement of sufficiency or insufficiency.

22.4.1 Within the time required by statute, the designated election official shall issue a statement of sufficiency or insufficiency.

22.4.2 The statement shall contain the name of the petition, the proponents, and the date the petition was submitted for verification.

22.4.3 The statement shall indicate the total number of entries, the total number of entries accepted, and the total number of entries rejected.

22.4.4 Records: The designated election official shall assure that a record of all signatures rejected and the reasons for each rejection be maintained as public records.

**Rule 23. Rules Concerning Referendum Petitions. 1-40-132 C.R.S.; 1-1-107(2)(a) C.R.S.**

23.1 Applicability. This Rule 23 applies to statewide referendum petitions pursuant to Article V, Section 1 (3) of the Colorado Constitution.

23.2 Relationship to statutory and constitutional provisions.

23.2.1 The purpose of this Rule 23 is to administer and interpret, but not supersede, the provisions of Article V, Section 1, Colorado Constitution, and Article 40 of Title 1, Colorado Revised Statutes, that apply to referendum petitions.

23.2.2 Where there is an irreconcilable conflict between this Rule 23 and any such statutory or constitutional provision, then such statutory or constitutional provision prevails.

23.3 Applicability of initiative statutes.

23.3.1 Except where this Rule 23 otherwise provides, or where the context otherwise requires, any statutory or constitutional provision that applies specifically to initiative petitions shall also apply to referendum petitions.

23.3.2 The following procedural steps that apply to initiative petitions do not apply to referendum petitions:

a. Review and comment by legislative staff on the text of proposed initiated constitutional amendments and initiated laws, pursuant to Article V, Section 1 (5), Colorado Constitution, and Section 1-40-105, C.R.S.

b. Title-setting by the title setting review board established in Section 1-40-106, C.R.S.

23.4 Approval of referendum petition form.

23.4.1 No referendum petition shall be printed, published, or otherwise circulated unless the form and the master original to be used for printing or reproduction have been approved by the Secretary of State. 1-40-113(1) C.R.S.

23.4.2 A referendum petition may be submitted to the Secretary of State for approval at any time after the bill has been presented to the governor for approval or disapproval. The Secretary of State shall not issue final approval of the referendum petition form until the bill has become law pursuant to Article IV, Section 11 of the Colorado Constitution.

23.4.3 Each referendum petition section shall consist of the following, in the order listed: 1-40-113(1) C.R.S.; 1-40-102(6) C.R.S.

a. The warning as specified in Section 1-40-110, C.R.S.

b. The heading "Referendum Petition", followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:

"To: The Honorable Donetta Davidson, Secretary of State of the State of Colorado

We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that

Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled "Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation", passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002,

shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5<sup>th</sup> day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:"

c. The name and mailing address of two persons who are designated to represent the signers thereof in all matters affecting the same.

d. The ballot title and submission clause in the form required by this Rule 23.

e. The text of the Act, or the item(s), section(s), or part(s) of the Act, on which the referendum is demanded. 1-40-110; 1-40-102(6)

f. Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for electors' signatures.

g. A final page that contains the circulator's affidavit required by section 1-40-111 (2), C.R.S., except that, instead of a statement that the circulator is a registered elector, the affidavit shall include a statement that the circulator is a resident of the State of Colorado, a citizen of the United States, and at least 18 years of age. Rule 22.3.3(g)

23.4.4 Each referendum petition section shall include only the matters required by Article 40, Title 1, C.R.S., and this Rule 23, and no extraneous material. ~~\_\_\_\_\_~~ 1-40-113(1) C.R.S.

23.5 Ballot title and submission clause.

23.5.1 The ballot title shall consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

"An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010."

23.5.2 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause shall consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

"Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved?" The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.

- 23.6 Election. If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it shall be voted upon at the next general election that occurs at least three months after the referendum petition is filed with the Secretary of State.

## **Rule 24. Rules concerning Congressional Term Limits Declaration**

- 24.1 The Secretary of State shall make available to every candidate for United States House of Representatives or the United States Senate the Congressional Term Limits Declaration provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to every such candidate when the candidate files his or her candidate affidavit with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate shall have no effect on such candidate's candidacy.
- 24.2 Part A of the Term Limits Declaration shall be accepted by the Secretary of State if Part B of the Term Limits Declaration has not been duly executed and submitted. Art. XVIII, sec. 12a (7)
- 24.3 In the case of a candidate who has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One, the Secretary of State shall not place the words, "Signed declaration to limit service to [3 terms] [2 terms]" after the candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.

## **Rule 25. Rules Concerning Uniformed and Overseas Citizens' Absentee Voting Act ("UOCAVA")**

- 25.1 U.S citizens who are members of the Uniformed Services as defined as the U.S. Armed Forces (Army, Navy, Marines, Air Force and Coast Guard), merchant marine, and their spouses or dependants, resident overseas electors, or nonresident overseas electors who are otherwise qualified to apply for and vote by absentee ballot, (otherwise known as "UOCAVA citizens"), may request an absentee ballot by facsimile transmission.
- 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 UOCAVA citizens and who are otherwise qualified to vote by absentee ballot.

- 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 be required to send a ballot by facsimile with instructions for the return of the ballot, but the Secretary of State shall receive the faxed ballot voted by the elector.
- 25.3.1 If the clerk and recorder has a dedicated fax machine, they will be required to receive faxed ballots. If the county clerk does not have a dedicated fax machine, the voter must then fax the voted ballot to the office of the Secretary of State. The Secretary of State shall send the ballot via overnight mail to the appropriate county.
- 25.3.2 No later than January 1, 2006, the office of each County Clerk and Recorder shall have a dedicated fax machine in order to send and receive faxed ballots from UOCAVA citizens in accordance with the Help America Vote Act of 2002 and this Rule 25 of the Secretary of State Election Rules.
- 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 Uniformed Services, a member of the Merchant Marine, Spouse/Dependant of a Uniformed Services member or Merchant Marine, Resident Overseas Elector or a Nonresident Overseas Elector 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 or the Secretary of State shall be received in the clerk and recorder's office or the Secretary of State's office no later than the close of business on the Friday immediately preceding the election.
- 25.5.1 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:
- (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 the voter;
  - (f) A notice that the voted ballot must be received by the clerk and recorder or Secretary of State 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.
  - (i) If a county is notified by the Secretary of State by 7 p.m. on election day that an absentee ballot has been received by the office of the Secretary of State, the Clerk and Recorder shall hold a minimum of ten (10) voted ballots, which shall be counted with the ballots received by the Secretary of State to ensure voter secrecy.
- 25.9 The County Clerk and Recorder shall report to the Secretary of State's office no later than 60 days from the date of the election:
- a. Combined number of absentee ballots transmitted (faxed and mailed);
  - b. Combined number of absentee ballots that were returned (faxed and mailed);
  - c. Total number of absentee ballots that were counted (faxed and mailed).
- 25.10 The information gathered by the county clerk and recorder pursuant to Rule 25.9 shall be transmitted to the office of the Secretary of State no later than 45 days following each election.
- 25.11 Any voted ballot by a uniformed services elector or an overseas elector received by the office of the Secretary of State by 7:00 p.m. Mountain Standard Time on election day shall be forwarded to the appropriate county clerk and recorder by overnight mail, fax, or courier no later than the next business day; the office of the Secretary of State shall immediately notify the appropriate county clerk and recorder of the receipt and forwarding of the ballot.

## **Rule 26. Rules Concerning Provisional Voting**

- 26.1 Eligible electors who have moved within the State of Colorado before 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.
- 26.2 Prior to voting a provisional ballot, the elector must complete and sign a provisional ballot affidavit. The instructions for completing the provisional ballot affidavit and the provisional ballot shall be printed on the provisional ballot envelope.
- 26.2.1 Provisional Ballot Affidavit. Provisional ballots shall contain an affidavit which complies with C.R.S. 1-9-304.5.
- 26.2.2 If the elector's address does not appear on the signature line, but is provided in the body of the affidavit, that address shall be considered the residence address and the provisional ballot shall not be rejected for that reason.
- 26.2.3 All voters wishing to cast a ballot but who lack ID or are unable to produce an acceptable ID shall be offered a provisional ballot.
- 26.2.4 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 in fact cast the absentee ballot.

26.3 Requirements for Registration by Provisional Ballot Affidavit. Prior to voting a provisional ballot and pursuant to 1-2-204(2)(f.5), the following information shall be completed by the elector on the provisional ballot envelope so that the designated election official may register the elector in the county in which the elector desires to vote. Even if the elector does not provide a social security number or a driver's license number or a department of revenue number, the elector may still vote a provisional ballot.

- (a) The elector's name in full;
- (b) The elector's previous name, if applicable;
- (c) The elector's date of birth;
- (d) The elector's residence address, (not a P.O. Box);
- (e) The elector's gender;
- (f) The elector's party affiliation if the elector desires to affiliate with any political party or political organization. If this question is not answered, the elector shall be registered as "unaffiliated".
- (g) The elector's deliverable mailing address if different from the residence address;
- (h) If the elector is a citizen of the United States;
- (i)(1) The last four (4) digits of the elector's social security number; or  
(2) The elector's entire social security number, if the elector chooses to provide it; or
- (j) The elector's Colorado Driver's License Number or Colorado Department of Revenue ID number; and
- (k) The elector's signature.

26.4 Requirements for Verification of Provisional Ballots. Prior to voting a provisional ballot, and pursuant to C.R.S. 1-9-301(6), the following information shall be completed by the elector on the provisional ballot envelope so that the designated election official may verify the information and count the provisional ballot. If the elector does not have a social security number or a Colorado Driver's license Number or a Colorado Department of Revenue ID number, the elector may still vote a provisional ballot.

- (a) The elector's name in full; however, if the elector provides a legible signature on the affidavit referred to in subsection (i) of this rule, that signature shall suffice for the requirements of this subsection (a);
- (b) The elector's previous name, if applicable;
- (c) The elector's date of birth;
- (d) The elector's residence address (NOT A P.O. BOX);
- (e) If the elector is a citizen of the United States;
- (f) The elector's party affiliation if the elector desires to vote in a primary election;

- (g)(1) The last 4 digits of the elector's social security number or;
- (2) The elector's entire social security number, if the elector chooses to provide it; or
- (h) The elector's Colorado Driver's License Number or Colorado Department of Revenue ID Number; and
- (i) The elector's signature on the affidavit.

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. 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.

26.4.2 Failure to Sign Provisional Ballot Affidavit. The elector's failure to sign the provisional ballot affidavit requires rejection of the provisional ballot.

26.4.3 Designated election officials must check to be sure the provisional ballot affidavit envelope has been signed, and if it isn't, advise the voter that their failure to sign the affidavit will result in the vote not counting.

26.5 The provisional ballot affidavit envelope must be uniform in content and size, as prescribed by the Secretary of State.

26.6 The word "provisional" shall be marked on the provisional ballot and on the pollbook or signature card next to the elector's name.

26.7 Voters at the Polling Place Who Claim to have Registered to Vote through a Voter Registration Drive or Through an Independent Organization. If a voter comes to the precinct polling place to vote, but is not found on the pollbook and claims he or she previously registered to vote by means of a voter registration drive or independent organization, the voter shall be given a provisional ballot.

26.7.1 In issuing a provisional ballot, the election judge shall mark in the top-right corner of the provisional ballot envelope with the letters "VRD", indicating the voter registered through an independent organization or voter registration drive. Such mark may be made by hand, or by affixing a stamp or sticker with the letters "VRD" on it.

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.

26.8 A board appointed by the designated election official shall verify all provisional ballots. The designated election official shall also determine the time that provisional processing begins. The

designated election official or designee shall complete preliminary verification without opening the ballots. A board appointed by the designated election official and recorder shall open all approved provisional ballot envelopes and proceed with the counting process utilizing verification information provided by the designated election official. However, all approved provisional ballots shall not be counted until after all absentee ballots have been counted. All rejected provisional ballots shall be preserved for 25 months without opening the envelopes. C.R.S. 1-9-303.

- 26.9 Review of Databases to Determine Whether Provisional Voter is Registered. Verification of an elector's eligibility to have their provisional ballot counted shall be limited to the following databases to determine proof of voter registration:
- (a) The local election office voter registration database; and
  - (b) The Secretary of State's voter registration database; and
  - (c) The Department of Motor Vehicles Motor/Voter database; and
  - (d) The Department of Corrections felon database.
- 26.10 Provisional ballots must be segregated, counted separately, and kept separated from all other ballots.
- 26.11 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.
- 26.12 Votes cast by provisional ballot shall not be included in any unofficial results reported except as part of the official canvass.
- 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.
- 26.14 Recount procedures for provisional ballots shall be the same as those recount procedures for absentee ballots as directed by the Secretary of State.

- 26.15 A log must be kept for audit purposes of each provisional ballot voted, each provisional ballot counted, and each provisional ballot rejected.
- 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, 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.

- 26.17 Challenged Voter Shall Be Offered Provisional Ballot. Any elector whose qualification to vote has been validly challenged pursuant to C.R.S. 1-9-201 and 1-9-202 and who refused to answer or sign the challenged voter affidavit form required by C.R.S. 1-9-203 shall be offered and have the opportunity to cast a provisional ballot.
- 26.18 When the designated election official reviews the provisional ballot affidavit envelope pursuant to 1-9-303 and notices that the envelope lacks a signature, the designated election official shall notify the voter at the earliest possible time but in any event no later than three days after election day. The election official may contact the voter by telephone, but must also write a letter to the voter informing them that they have failed to sign their provisional ballot. A copy of the written notification shall be kept in an official file, which shall become part of the official election record.
- 26.19 The letter shall inform the voter that they must come to the office of the county clerk and recorder to sign the provisional ballot envelope no later than ten days after election day, and that the voter's failure to sign the provisional ballot will result in the ballot not being counted.

## 26.20 Provisional Voting for Absentee Ballots Voted by Tagged Individuals Pursuant to Rule 39.

26.20.1 Any individual who is tagged pursuant to Rule 39 and who casts an absentee ballot that is challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, C.R.S.

26.20.1 Any individual who is tagged pursuant to Rule 39 and who casts an absentee ballot that is not challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, C.R.S.

## **RRule 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 rendered 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 design 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 person in a race is available, the voter does not vote for the maximum number of votes 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 legally qualified 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.

## 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.

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 for a legally qualified candidate.

## 27.3 [Uniform Counting Standards for Optical Scan Ballots](#)

### 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 for 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 county 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) 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.

27.4 Uniform Counting Standards – Punch Card Voting Systems

27.4.1 Inspection of Ballots. Prior to the counting of the ballots by automatic tabulating equipment, at least one team of election personnel, which except in non-partisan elections shall consist of one member from each 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 ensure 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 that dimple 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 question 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 legally qualified write-in candidates shall be considered valid and counted. Any write-in votes for candidates who are not legally qualified 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 the office for which the candidate is running. If either candidate's name or the office for which the candidate is running is left off 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 out 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 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.

## **Rule 29. Rules Concerning Procedures for the Verification of Signatures on Mail Ballots.**

- 29.1 In accordance with 1-7.5-107.3 for every mail ballot election that is a November Coordinated Election held in 2005 or any subsequent election, the signature on the self-affirmation “Return Envelope” of each mail ballot shall be compared with the signature on file with the county clerk and recorder or election official. Signatures shall require further research if any of the following differences are discovered:
- Code 1 – An obvious change in the slant of the signature
  - Code 2 – A printed signature on one document and a cursive signature on the other document
  - Code 3 – Differences in the size or scale of the signature
  - Code 4 – Differences in the individual characteristics of the signatures, such as how the “t’s” are crossed, “l’s” are dotted, loops are made on “Y’s” or “J’s”
  - Code 5 – Differences in the voter’s signature style, such as how the letters are connected at the top and bottom
- 29.2 If further research is necessary, the election judge shall check the county clerk’s or election official’s file for at least two additional documents signed by the voter, if available. Additional information, written by the voter on the “Return Envelope”, such as the voter’s address and date of signing may be compared for similarities. Any similarities noted when comparing this other information may be used as part of the signature verification decision process.
- 29.3 Whenever a signature is disputed, the election judge shall document the discrepancy by completing a log. The log shall provide a record of the research steps taken to resolve the issue. The log will identify the voter using a unique tracking number. This tracking number shall not contain the voter’s social security number, Colorado issued driver’s license number, or the identification number issued by the Department of Revenue.
- 29.4 The log shall be approved by the Secretary of State pursuant to 1-1-109, C.R.S.
- 29.5 There shall be no document containing the voter’s signature attached to the research log.
- 29.6 If the election judges agree that the signatures do not match, a letter shall be sent to the voter in accordance with 1-7.5-107.3 (2)(a). The form of the letter shall be approved by the Secretary of State pursuant to 1-1-109, C.R.S.
- 29.7 The final signature verification resolution and ballot disposition shall be noted on the research log.

~~29.8 For purposes of 1-7.5-107.3(1)(b), the term “database” refers to the captured, cropped signature residing on the voter registration system.~~

## Rule 30. Rules Concerning Voter Identification

### 30.1 Definitions

30.1.1 “Registration in person” means any registration personally completed by the voter at any clerk’s main or branch office or personally delivered by the voter to any clerk’s main or branch office, driver’s license office, or other voter registration agency.

30.1.2 “Mail Registration” or “Registration by mail” includes any registration not personally delivered by the voter to any clerk’s main or branch office, voter registration agency, driver’s license office, or other human services agency. These registrations include, but are not limited to, postmarked registration forms and voter registration drives.

30.1.3 As referenced in these rules, “tagging a voter” for ID before voting means identifying a voter in the voter registration database as one who registered by mail and did not supply required identification. Tagged voters require a copy of the required identification to be enclosed with an absentee or mail ballot.

30.1.4 A tagged voter may present the required voter ID to the County Clerk and Recorder at any time prior to returning a voted mail or absentee ballot to satisfy the provisions of Rule 30.1.3.

30.1.5 “SSN” as used in these rules shall mean either the entire Social Security Number or the last four (4) digits of the Social Security Number.

30.1.6 “ID” as used in these rules shall mean identification as defined in Rules 30.3, 30.4, 30.13 and 30.14 in compliance with C.R.S. 1-1-104(19.5).

30.2 Requirements for providing an ID or ID # and verifying an ID # shall be effective January 1, 2003.

30.3 Voter registration in person.

30.3.1 Registering in Person. The elector must provide:

- A valid Colorado Driver’s License number; or
- A valid Department of Revenue Identification number; or
- At least the four last digits of the elector’s social security number.

Authority: C.R.S. 1-2-204(2)(f.5)

30.3.2 A voter is not required to show or present his current and valid Colorado driver’s license or ID. It is sufficient for the voter to provide the ID number.

30.3.3 In the event the registrant has but refuses to give a CO Driver's License, ID number, and SSN, or the registrant provides only one of these numbers, the registrar shall nevertheless register the voter.

30.3.4 Prior to the creation of the statewide voter registration database, if an applicant for voter registration refuses to provide or has not been issued a current and valid Colorado driver's license, or a current and valid identification card issued by the Department of Revenue, or a social security number, the election official shall nevertheless register the voter. The election official shall assign the applicant a unique identification number that will serve to identify the applicant for voter registration purposes. C.R.S. 1-2-204 (2.5).

## 30.4 Voter Registration by Mail

30.4.1 Registering by Mail. (Including Voter Registration Drives).

(a) The elector must provide a copy of one of the following forms of identification:

- 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, or a paycheck from a government institution or private company or 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 are sufficient forms of ID.); or
- A valid Medicare or Medicaid card;
- A certified copy of a U.S. birth certificate; or
- Certified documentation of naturalization;

(b) Or the elector must provide one of the following identification numbers:

At least the last four digits of the person's social security number; or

The person's Colorado driver's license number; or

The NUMBER OF AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF REVENUE ~~person's Colorado ID number.~~

Authority: C.R.S. ~~4-2-504~~1-2-501(2)(b); C.R.S. 1-1-104(19.5)

30.4.2 For any Colorado driver's license, NUMBER OF AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT OF REVENUE, Colorado ID#, or SSN-SOCIAL SECURITY NUMBER listed on a registration by mail where a copy of the Colorado driver's license, or THE IDENTIFICATION CARD Colorado ID# is not enclosed with the application, the ID shall be verified against the DEPARTMENT OF MOTOR VEHICLE MOTOR/VOTER DATABASE Driver's License and the Secretary of State voter REGISTRATION database. When access to the Social Security database becomes available, that database shall also be utilized.

30.4.3 If, for a registration by mail, a copy of the ID is enclosed per 1-1-104(19.5) C.R.S., no further verification against the Department of Motor Vehicle Motor/Voter Database, Driver's License, the Secretary of State voter registration database ~~or~~ AND THE Social Security database is required. The elector is allowed to vote by mail or absentee ballot without additional identification requirements. Upon creation of the statewide voter registration system, the check will be performed automatically.

30.4.4 Verification shall include a match of name, date of birth and ID number on an existing state identification record. A match of only one or two of these items shall not be considered verification. During verification, names given which are similar common variants or nicknames of the name shall be acceptable.

30.4.5 Subject to SOS Election Rules 30.5.10, if the identification number supplied does not match the identification number on the database record for the name and date of birth, the registration by mail shall not be considered verified. However, if the voter has made a minor error, the Clerk and Recorder may use good judgment and correct the error, and consider the voter verified. Minor errors include, but are not limited to, a transposition of two numbers, or accidentally adding or omitting a number.

30.5 Verification of Identification:

30.5.1 Prior to the creation of the statewide voter registration database, for any ID shown or ID # given for registration in person, the ID is not required to be verified against the Driver's License or SS database.

30.5.2 Prior to the implementation of the statewide voter registration database, where a voter lists on a registration by mail a Colorado driver's license number, Colorado ID# number, or the last four digits of a Social Security Number but the voter did not enclose a copy of the Colorado driver's license, or Colorado ID number with the application, the ID shall be verified against the Driver's License and the Secretary of State voter database.

30.5.3 Prior to the implementation of the statewide voter registration database, if, for a registration by mail, a copy of the ID is enclosed per 1-1-104(19.5), no further verification pursuant to Rule 26 against the Motor Vehicle Motor/Voter Database, the Secretary of State's voter database or Social Security database is required. The elector is allowed to vote by mail or absentee without additional identification requirements.

30.5.4 Verification shall include a match of name, date of birth and ID number on an existing state identification record. A match of only one or two of these items shall not be considered verification.

30.5.5 If the identification number supplied does not match the identification number on the database record for the name and date of birth, the registration by mail shall not be considered verified and the registration record shall be ID tagged.

30.5.6 The tag status for a voter shall be removed if the voter votes in person showing an acceptable ID or votes by mail or absentee and encloses a valid ID.

30.5.7 The tag status for a voter shall be removed if such voter votes a provisional ballot, and upon verification of the voter's identification, the provisional ballot has been counted.

30.5.8 The tag status for a voter shall not be removed if such voter votes a provisional ballot, and that provisional ballot is not counted.

30.5.9 If the identification number supplied is discovered as incorrect upon verification, the clerk and recorder may enter the correct number, but the voter shall be tagged.

### 30.6 Tagging a voter:

30.6.1 Only a voter who has registered by mail may be tagged; a person who registers in person shall not be tagged.

30.6.2 A voter who registers by mail and provides a copy of an acceptable ID as provided in 1-1-104(19.5) shall not be tagged. A SSN card is not listed as ID in 1-1-104(19.5).

30.6.3 If a voter registers by mail and supplies a Colorado driver's license or Colorado Department of Revenue ID number (but not a copy of either) and/or the SSN, and if at least one of the numbers can be verified with an existing state identification record bearing the same number, name and date of birth, the voter shall not be tagged.

30.6.4 A voter, who does not supply a copy of an acceptable ID as provided in 1-1-104(19.5) or does not list his/her SSN#, the number of his/her Colorado driver's license or Colorado Department of Revenue ID#, shall be tagged.

30.6.5 If a voter registers by mail and supplies either a Colorado driver's license number or Colorado Department of Revenue ID# (but not a copy of either) and/or SSN, but no number can be verified with an existing state identification record bearing the same number, name and date of birth against the Driver's License database, Secretary of State voter database or Social Security database once access to the Social Security database becomes available, the voter shall be tagged.

30.6.6 The tag status for a voter shall be removed if the voter votes in person showing an acceptable ID or votes by mail or absentee and encloses a valid ID.

30.6.7 The tag status for a voter shall be removed if such voter votes a provisional ballot, and upon verification of the voter's identification, the provisional ballot has been counted.

30.6.8 The tag status for a voter shall not be removed if such voter votes a provisional ballot, and that provisional ballot is not counted.

30.6.9 If the identification number supplied is discovered as incorrect upon verification, the clerk and recorder may enter the correct number, but the voter shall be tagged.

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30.7 If an elector registering by mail does not provide a Colorado Driver's License Number or a Department of Revenue ID# or the last four digits of the elector's SSN on the voter registration application, and the county clerk and recorder discovers such identification number, the clerk and recorder may enter the applicable identification number on the elector's permanent voter registration record. Any number entered on the elector's permanent voter registration record by the clerk and recorder does not remove the tag status of a voter. Such voter is still required to provide valid identification prior to voting.

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30.8 Addresses on identification

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30.8.1 If ID presented lists only a box number or Post Office box number instead of a residence address, the registrar shall accept the voter's affirmation, as long as the city is in Colorado.

30.8.2 Some forms of identification may not contain an address. If the address appears on the identification, the address must be in Colorado.

30.8.3 Utility bills, bank statements, government checks, paychecks or other government documents must show a name and Colorado address.

30.8.4 Provisional Ballot IDs. Whereas voter IDs generally require a Colorado address, provisional ballots require that the Colorado driver's license or Department-of-Revenue-issued ID show an address for the voter within the county in which the voter seeks to vote.

30.9 A suspended license is considered current and valid. A revoked or expired license is not considered current and valid and is not acceptable.

30.10 As used in 1-1-104(19.5)(a)(VII) "current" refers to current utility bill, current bank statement, and current government check, paycheck, or other government document that shows the name and address of the elector. Current means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.

30.11 The Colorado Driver's License or Department of Revenue issued ID referred to in 1-2-217.5(1)(b)(I) and (II) or elsewhere in statute, where not specifically stated, must be current and valid.

30.12 Pursuant to 1-1-104(19.5)(a), if the ID that requires a photograph does not contain a photograph, it is not an acceptable ID for registration by mail or voting purposes.

30.13 Identification for Voting in Person

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 ~~e~~D~~e~~partment of ~~r~~R~~e~~venue;



- 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 Identification for Voting by Mail

##### 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.

30.15 Identification presented by the elector when registering to vote by mail, or presented by the elector when returning the voted mail ballot or absentee ballot, is not required to be scanned or imaged into the permanent voter registration database, but shall be retained by the designated election official for a period of 25 months after the date of the election.

~~30.16—Voter Identification for Primary Consistant With SB04-213. The types of acceptable voter identification enumerated in Section 1 of SB 04-213 shall also be acceptable forms of voter identification in the August 10, 2004 primary due to the fact that the primary is a nomination event and not an actual election. The acceptable forms of identification include "a valid pilot's license issued by the federal aviation administration or other authorized agency of the United States, a valid Medicare or Medicaid card issued by the United States Health Care Financing Administration, a certified copy of a birth certificate for the elector issued in the United States, or certified documentation of naturalization."~~

~~30.16-30.17~~ 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 26.989.

## Rule 31. Rules Concerning Help America Vote Act, Title III: Administrative Complaint Procedures

31.1 The HAVA Title III complaint may be received by the Secretary of State's office or the designated election official's office. The HAVA Complaint procedure shall be uniform and nondiscriminatory. The Complaint procedure shall conform to 1-1.5-105(2)(a) C.R.S. as follows:

- (a) A uniform and nondiscriminatory complaint procedure;
- (b) Authorization for any person who has either been personally aggrieved by or has personally witnessed a violation of title III of HAVA that has occurred, is occurring, or that is about to occur, as applicable, to file a complaint;
- (c) A description by the complainant in his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;
- (d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;
- (e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;
- (f) Authorization for the secretary to consolidate two or more complaints;
- (g) At the request of the complainant, a hearing on the record;
- (h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated, ~~or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated;~~
- (i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;
- (j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this section if the secretary fails to satisfy the applicable deadline specified in 1-1.5-105(2)(i) C.R.S., and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;
- (k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and
- (l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to 1-1.5-105(2)(i), is found on the basis of clear and convincing evidence to be frivolous, groundless, or vexatious.

- 31.2 The complaint must be in writing and may be submitted on a form designated by the Secretary of State or in a letter written by the complainant. The letter shall contain the following:
- (a) The complainant's name;
  - (b) The complainant's full residence address, including county, and mailing address (if different from residence);
  - (c) A description of the alleged violation with particularity and a reference to the section of Title III of HAVA alleged to have been violated;
  - (d) A completed, notarized oath signed by the complainant where he or she states that the facts of the complaint are true and correct to the best of his or her knowledge and belief.
- 31.3 Whenever possible, any completed complaints mailed to the Secretary of State or the designated election official shall be sent in a unique, distinguishable envelope as approved by the Secretary of State. This unique envelope shall be given to the complainant at the same time as the complaint form and instructions.
- 31.4 Upon receipt of the HAVA complaint, the Secretary of State or designated election official shall note the date received and unique tracking number on the complaint form. The Secretary of State's office shall establish a unique tracking number for its use, and the designated election official shall use the Secretary of State's county ID number for that county, the last two digits of the present year, and a sequence number according to the amount of complaints already received by the county, placing hyphens between groupings of numbers. (For example, the first one received would be the two digit county number-last two digits of the year-03 with 01, 02, 03, etc. numbering any sequential complaints).
- 31.5 If the complaint is received by the Secretary of State's office, the unique tracking number shall be added to the form and the form shall be faxed to the designated election official in the county where the alleged violation occurred. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included.
- 31.6 If the complaint is received by the designated election official, the county tracking number shall be added to the form and the form shall be faxed to the Secretary of State's office within one business day. The complainant shall receive a copy of the submitted complaint with all check-in notations and tracking numbers included. The original complaint form shall be hand delivered or mailed to the Secretary of State's office, and a copy shall be retained by the designated election official.
- 31.7 Any original mailed complaints sent by the designated election official and received by the Secretary of State's office shall be sent in a unique, distinguishable mailing envelope as approved by the Secretary of State. This unique envelope will ensure that the complaint is easily recognizable and will be processed in a timely manner.
- 31.8 If the complaint is received by the designated election official and the original sent to the Secretary of State's office, the Secretary of State's office shall notify the designated election official, either by fax or letter, of the office's unique tracking number when the form is received at the Secretary of State's office. This official notification may be used for documentation purposes.
- 31.9 The designated election official shall not make any determination as to the validity of the alleged complaint during the submission process, but shall forward all information to the Secretary of State's office. The county may, however, begin researching the alleged violation on the local level once the complaint is received.
- 31.10 Any information gathered by the designated election official shall be documented with specific details, including the date, and shall be used for reference purposes.

## **Rule 32. Rules Concerning Recall**

- 32.1 In any recall election of a partisan office, the successor nominee's party affiliation shall be listed with his or her name on the ballot.
- 32.2 Petition sufficiency occurs when upon review, it is established that the petition contains the required number of valid signatures.
- 32.3 When a protest is filed, petition sufficiency is sustained upon conclusion of the protest when the designated election official or the district judge maintains that there are sufficient valid signatures.

## **Rule 33. Rules Concerning Voters Who Vote After the Polls Close Pursuant to a Court Order**

- 33.1 Any individual who votes in an election for federal office as a result of a federal or state court order or any other order that is in effect 10 days before that election and which extends the time established for closing the polls by state law may only vote in that election by casting a provisional ballot pursuant to state law and the rules and regulations prescribed by the Secretary of State.
  - 33.1.1 Any such provisional ballot cast under this rule shall be separated and held apart from other provisional ballots cast by those voters not affected by the court order.

## **Rule 34. Rules Concerning the Adoption of Accessible Voting Systems under The Help America Vote Act of 2002.**

- 34.1 The requirements of §301(a)(3) of The Help America Vote Act of 2002 ("HAVA") to implement voting systems that: (1) are accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters and (2) provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) are triggered when a political subdivision acquires a new voting system by lease or purchase using HAVA §301(a)(3) funds after January 1, 2003.
- 34.2 No political subdivision shall purchase or lease direct recording electronic (DRE) voting systems or other voting systems equipped for individuals with disabilities at each polling place unless such voting system(s) are fully certified pursuant to standards and guidelines recommended by the

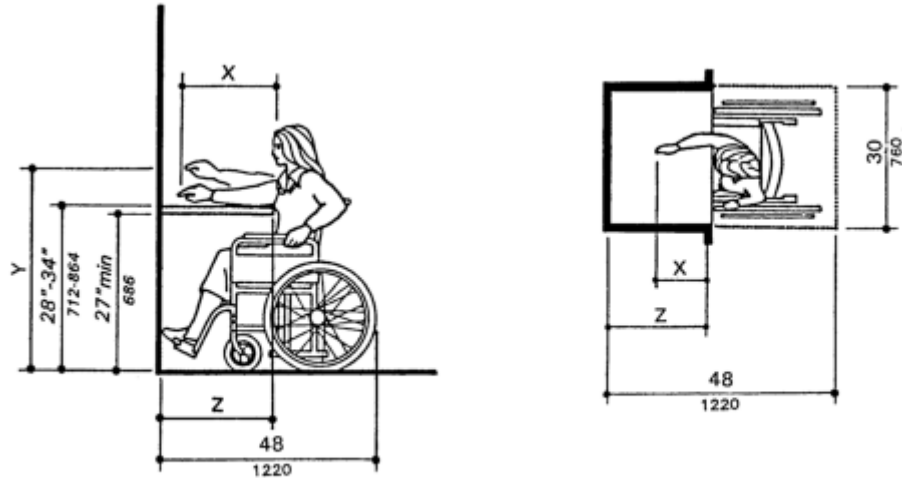
National Institute of Standards and Testing (NIST) and adopted by the U.S. Election Assistance Commission (EAC).

- 34.3 The Secretary of State, as custodian of §301(a)(3) of HAVA funds, will not distribute such funds to any political subdivision to pay for accessible voting systems that have not been fully certified by the EAC and the Secretary of State.
- 34.4 Only the acquisition of a new voting system (or substantial modification of an existing voting system) that will change voters' interaction with the ballot at the polling sites triggers §301(a)(3) of HAVA.
- 34.5 If a political subdivision acquires a new voting system, the system must be accessible to persons with physical, cultural/educational, mental/cognitive disabilities and provide the voter in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- 34.6 The Help America Vote Act requires that a newly acquired voting system be placed in every early voting and Election Day polling site by January 1, 2006.

## **Rule 35. Rules Concerning Requirements for Voting System Accessibility**

- 35.1 (A) A voting system shall be accessible to voters with physical disabilities including no vision, low vision (visual acuity between 20/70 and 20/200, and/or 30 degree or greater visual-field loss), no hearing, low hearing, limited manual dexterity, limited reach, limited strength, no mobility, low mobility, or any combination of the foregoing by providing voters with physical disabilities with a practical and effective means to cast an independent and secret ballot in accordance with each of the following, assessed independently and collectively:
  - (1) The voting system shall provide a tactile-input or speech-input device, or both; and
  - (2) The voting system shall provide a method by which voters can confirm any tactile or audio input by having the capability of audio output using synthetic or recorded human speech, which is reasonably phonetically accurate; and
  - (3) The voting system shall provide a means for a voter to change the voter's selection prior to the voter casting the ballot; and
  - (4) Any operable controls on the input device that are needed for voters without vision shall be discernable tactilely without actuating the keys. As a result, all the buttons on the device do not have to be discernable tactilely, only those buttons that are actually required for the individual to use the "operation without vision" mode; and
  - (5) Any audio and non-audio access approaches shall be able to work both separately and simultaneously; and
  - (6) If a non-audio access approach is provided, the system shall not require color perception; the system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the office of the Secretary of State approves other high-contrast color combinations that do not require color perception; and

- (7) Any voting system that requires any visual perception shall offer the election official who programs the system, prior to its being sent to the polling place, the capability to set the font size to a level that can be read by voters with low vision. While there is no standard font size for this situation, a san-serif font of 18 points as printed on a standard 8.5" x 11" piece of paper will allow the most universal access; and
- (8) The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode (e.g., by handset or headset) in enhanced auditory fashion (i.e., increased amplification), and shall provide incremental volume control with output amplification up to a level of at least 97 decibels Sound Pressure Level ("dB SPL"), with at least one intermediate step of 89 dB SPL; and
- (9) For transmitted voice signals, the voting system shall provide a gain adjustable up to a minimum of 20 decibels ("dB") with at least one intermediate step of 12 dB of gain; and
- (10) For the safety of others, if the voting system has the possibility of exceeding 120 dB SPL, then a mechanism shall be included to reset the volume automatically to a safe level after every use (e.g., when handset is replaced) but not before; and
- (11) If sound cues and audible information, such as "beeps" are used, there shall be simultaneous corresponding visual cues and information; and
- (12) If a non-audio approach is used in conjunction with an audio counterpart, any spoken text shall also be presented on screen. A graphic representation of a ballot with a check, "X," etc. beside a candidate or proposition is allowed; and
- (13) All controls and operable mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist; and
- (14) The force required to operate or activate the controls shall be no greater than 5 pounds per square foot ("lb./sq.ft."); and
- (15) If a forward approach by a person in a wheelchair to a voting system is necessary, the maximum high-forward reach allowed shall be 48 inches (1220 mm) and the minimum low-forward reach shall be 15 inches (380 mm). If the high-forward reach is over an obstruction, reach and clearances shall be as shown in the **Figure 1.**, or otherwise in accordance with the [Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities \("ADAAG"\)](#), as written at the time the system is certified for use in the state of Colorado; and

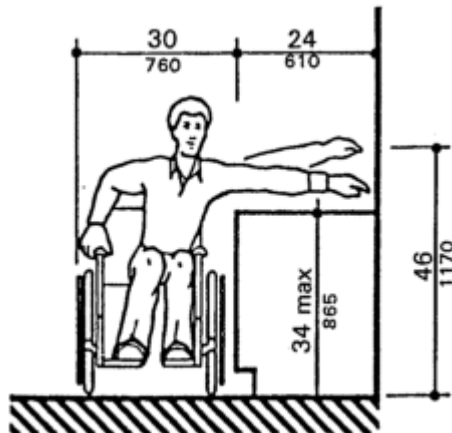


NOTE: x shall be  $\leq 25$  in(635 mm); z shall be  $\geq x$ . When x < 20 in(510 mm), then y shall be 48 in(1220 mm) maximum. When x is 20 to 25 in(510 to 635 mm), then y shall be 44 in(1120 mm) maximum.

Figure 1.

- (16) If a side or parallel approach by a person in a wheelchair to a voting system is necessary, the maximum side reach allowed shall be 54 inches (1370 mm) and the low side reach shall be no less than 9 inches (230 mm) above the floor. If the side reach is over an obstruction, reach and clearances shall be as shown in the **Figure 2.**, or otherwise in accordance with the ADAAG, as written at the time the system is certified for use in the state of Colorado; and

Figure 2.



- (17) The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges outlined in paragraphs (15) and (16) of this subsection.



## **Rule 36. Rules Concerning Notice of Voting System Malfunction Required; Submission of Explanatory Report by Vendor Required Upon Request of Secretary of State**

- 36.1 A vendor (or the political subdivision, if no private vendor supports their system) must give notice to the Secretary of State within 24 hours of a malfunction of its voting registration or voting/election system (including, but not limited to, software, firmware, hardware, or other equipment) in preparation for and on an election held in this state. The notice may be verbal, but must also be in writing.
- 36.2 Following the notice, the Secretary of State shall determine whether further information on the malfunction is required. At the request of the Secretary of State, a vendor (or the political subdivision, if no private vendor supports their system) must submit a report to the Secretary of State's office detailing the reprogramming (or any other actions) necessary to redress a voting system malfunction in preparation for and on an election held using the vendor's system. The report shall address whether permanent changes are necessary to prevent similar malfunctions in the future.
- 36.3 The report shall be submitted within 30 days after the date of the request by the Secretary of State. Notwithstanding the foregoing, if an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report. The request may be, but must also be in writing.
- 36.4 Failure to submit a report within the required period shall be grounds to decertify the system.
- 36.5 The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
- 36.6 A copy of this report will be attached to the system's most recent certification on file in the Secretary of State's office.
- 36.7 The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

## **Rule 37. Rules Concerning The Acquisition, Purchase or Lease of Direct Recording Electronic Voting Systems (DREs) And Adoption of the April 30, 2002 Voting Systems Standards Promulgated By The Federal Election Commission.**

- 37.1 Declaration of Intent.

37.1.1 The federal Help America Vote Act of 2002 ("HAVA") (Public Law 107-252) passed overwhelmingly by the United States Congress and signed into law by President George W. Bush established uniform voting systems standards used in elections for federal office. The legal requirements of HAVA as they apply to the state of Colorado are indicated herein below.

37.1.2 Voting systems (including optical scanning voting systems or direct recording electronic systems) certified by the secretary of state and acquired, purchased or leased by counties pursuant to state law shall:

- (a) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;
- (b) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and
- (c) if the voter selects votes for more than one candidate for a single office:
  - (i) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;
  - (ii) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
  - (iii) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

37.1.3 Counties of the State of Colorado that use a paper ballot voting system or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of paragraph ~~30.4.4~~37.1.1 by:

- (a) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and
- (b) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any errors).

37.1.4 Voting systems described in paragraph ~~30.4.2~~37.1.2 shall ensure that any notification required under this paragraph preserves the privacy of the vote and the confidentiality of the ballot.

37.1.5 The voting systems described in the foregoing paragraphs shall produce a record with an audit capacity for such system.

- (a) The voting system shall produce a permanent paper record with a manual audit capacity for such system.
- (b) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.
- (c) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

37.1.6 The voting system shall:

- (a) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;
- (b) satisfy the requirements of paragraph ~~30.1.5(A)~~37.1.5(a) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and
- (c) shall be installed in each polling place in the state by January 1, 2006.

37.1.7 The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965.

37.2 Prohibition of lease, purchase, or acquisition of direct recording electronic voting systems pending action by the Election Assistance Commission (EAC).

37.2.1 No direct recording electronic voting system may be leased, purchased, or acquired by any county or political subdivision of this state until the EAC has promulgated voting systems standards that address these concerns. This rule shall not apply to direct recording electronic voting systems that have been certified by the Secretary of State and purchased by the political subdivisions pursuant to state law prior to the effective date of this emergency rule.

37.3 Adoption of April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for non-direct recording electronic voting systems.

37.3.1 The Secretary of State hereby adopts the April 30, 2002 Voting Systems Standards promulgated by the Federal Election Commission for non-direct recording electronic voting systems. Therefore, non-direct recording electronic voting systems, including, but not limited to, optical scan voting systems, purchased by the political subdivisions of the state of Colorado are required to meet the qualifications of the Voting Systems Standards promulgated by the Federal Election Commission on April 30, 2002 and be certified by an independent testing authority certified by the National Association of Election Directors until such time, and subsequently thereto, at each time, as the Election Assistance Commission promulgates new Voting Systems Standards.

37.3.2 Upon any revision or new release of Voting Systems Standards by the Election Assistance Commission, the Secretary of State hereby automatically adopts such standards as may be promulgated, and any vendor seeking state certification shall follow such adopted voting systems standards and the processes mandated by state law in order to be certified by the Secretary of State.

## **Rule 38. Minimum Security Procedures for Transmission of Election Records by Secure, Dedicated Teleprocessing Lines Employed by Vote Centers. See C.R.S. 1-5-102.7.**

38.1 Definitions.

- 38.1.1 "Vote Center" means a polling place at which any registered elector in the political subdivision holding the election may vote, regardless of the precinct in which the elector resides.
- 38.1.2 "Teleprocessing Lines" means secure, dedicated communication transmission facilities used for the purpose of transferring Elector Data between Vote Centers and a centralized computerized pollbook maintained by the County Clerk and Recorder, to ensure the security and integrity of voting information so that no deviation can go undetected.
- 38.1.3 "Elector Data" means voting information, including but not limited to, voter registration, voting history, and voting tabulations.
- 38.1.4 "Electronic Pollbook" is a list of eligible electors in electronic format who are permitted to vote at a polling place in an election conducted under the Election Code, which shall be processed by a computer at a Vote Center to be immediately accessible to all other computers at all Vote Centers in the county.
- 38.2 This Rule applies to each designated election official who transmits election records via Teleprocessing Lines to a centralized Electronic Pollbook maintained by the county clerk and recorder for the purpose of running an election and compiling complete returns.
- 38.3 The designated election official shall establish written minimum security procedures covering the transference of Vote Center teleprocessing information. Such procedures shall include security covering the transmission of Elector Data processed through the Electronic Pollbook and reconciliation of the registration and history of voters casting ballots at a Vote Center.
- 38.4 Such procedures shall be submitted in writing to the Secretary of State and received by that Office for approval no later than sixty (60) days before the election date. The Secretary of State shall either approve the procedures submitted or notify the designated election official of recommended changes.
- 38.5 If the Secretary of State rejects or approves the written procedures, the Secretary of State shall provide written notice of such rejection/approval, including specifics of non-compliance with this Rule, within fifteen (15) days of receiving the written procedures.
- 38.6 The designated election official shall submit a revised procedure within fifteen (15) days thereafter.
- 38.7 The Secretary of State shall permit the filing of the revised procedures at a later date if it is determined that compliance with the fifteen day requirement is impossible.
- 38.8 All reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. The certification of reconciliation shall be filed with the Secretary of State at the time the canvassing board certification of official election results is filed.
- 38.9 Where the Elector Data is transmitted via Teleprocessing Lines for the purpose of combining with other such tabulations to produce complete returns, the designated election official shall establish procedures to reconcile received transmitted tabulations so that no deviation can go undetected.
- 38.10 Prior to January 1, 2006, election judges shall make one certificate for each Vote Center in the form required by C.R.S. 1-7-601.
- 38.11 (a) In addition to the statutory form required by C.R.S. 1-7-601, the election judges for each Voter Center shall submit a certification of reconciliation in substantially the following form:

During the \_\_\_\_ Election held in \_\_\_\_\_ County on \_\_\_\_\_ 20\_\_\_\_, Elector Data was transmitted using dedicated Teleprocessing Lines. The canvassing board hereby certifies that the reconciliation procedures required by Rule 38.8, Minimum Security Procedures for Transmission of Election Records by Dedicated Teleprocessing Lines in Vote Centers- HAS BEEN COMPLIED WITH.

(b) The Certification of Reconciliation must be signed and dated by the designated election official.

- 38.12 After January 1, 2006, reconciliation shall consist of race-by-race comparison by precinct of the received tabulation to a tabulation report produced from the original tabulations sent from the precinct to those received at the Vote Center. All tabulation reconciliations must be accomplished prior to canvassing board certification of final results and shall be certified by the canvassing board. This certification of reconciliation shall be filed with the Secretary of State at the time of the canvassing board certification of official election results is filed.

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

- 39.1 The Secretary of State will receive a complete roster list (DOC list) from the Colorado Department of Corrections (DOC) of individuals convicted of a felony and either incarcerated or on parole by the state of Colorado. The Colorado Department of Corrections will provide a weekly update to the Secretary of State.
- 39.2 The DOC list (and all weekly supplementals) will include fields reflecting the following information:
- (1) The DOC identification number assigned to each individual,
  - (2) Last name, first name, middle name or initial (if provided) of each individual,
  - (3) Date of birth,
  - (4) Status (fugitive, incarcerated or on parole),
  - (5) Gender,
  - (6) Social security number (if provided), and
  - (7) Location of incarceration or parole.
- 39.3 The Secretary of State will compare the DOC list (and all weekly supplementals) with the Secretary of State's voter registration database for purposes of matching voter registration information with the individuals listed on the DOC list using the following criteria:
- (1) Last name, first name, middle name or initial of each individual,
  - (2) Date of birth,
  - (3) Physical Address;
  - (4) Social security number (if provided by the elector); and

- (5) Any other information available in such database that may assist in the verification of identification of the individual.
- 39.4 For any confirmed matches for incarcerated felons found pursuant to ~~paragraph (C)~~RULE 39.3 hereof, such matches will be sent to the County Clerk and Recorder of the county of residence of the individual ~~prior to the date of conviction/incarceration as evidenced by~~AS RECORDED IN the Secretary of State voter registration database, ~~and the County Clerk and Recorder of the county where the individual is currently incarcerated.~~
- 39.5 For any confirmed matches for felons on parole found pursuant to RULE 39.3~~paragraph (C) hereof~~, such matches will be sent to the County Clerk and Recorder of the county of residence of the individual ~~prior to the date of conviction/incarceration and the County Clerk and Recorder of the county of residence designated by the parole records provided by the DOC list.~~AS RECORDED IN THE SECRETARY OF STATE VOTER REGISTRATION DATABASE.
- 39.6
- ~~39.6.1~~ In the event a County Clerk and Recorder is notified by the Secretary of State of a match found by comparison of the two lists, the receiving County Clerk and Recorder shall place a unique tag on the voter record, pollbook, signature card, or other election record as defined in Section 1-1-104(~~(11)~~), C.R.S. opposite the name of the individual for whom the match was found.
- 39.6.21 For purposes hereof, a “unique tag” shall be a designation that is totally distinguishable from that of an individual who is tagged pursuant to Rule 30.6 herein.
- 39.6.32 The County Clerk and Recorders shall work with their respective providers of voter registration services in order to institute this rule.
- 39.7 Local Election Official to Instruct Elections Judges to Check Election Records Prior to the Casting of Any Vote. The County Clerks and Recorders shall instruct election judges to closely review the pollbook, signature cards, or other election records prior to the casting of any ballot to determine whether any voter is uniquely tagged pursuant to this rule.
- 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), C.R.S., 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, CRSC.R.S.
- 39.9 Challenge by Registered Elector of Tagged Individuals Attempting to Vote by Early Voting or at the Polling Place. In the event that an elector with a unique tag (as defined herein) appears at the polling place and attempts to cast a ballot, pursuant to Section 1-9-101, CRSC.R.S., any registered elector may challenge the elector intending to vote as a “Challenge of the Elector’s Qualifications as an Eligible Elector.”
- 39.10 Action Taken by Challenged Elector to Cure at Early Voting and Polling Place. Any elector challenged pursuant to this rule shall be entitled to take an oath pursuant to Section 1-9-205, CRSC.R.S.
- 39.10.1 In the event a challenged elector refuses to answer fully any questions asked and refuses to sign, as provided in Section 1-9-203, CRSC.R.S., or if the person refuses to the oath or affirmation as required by Section 1-9-204, CRSC.R.S., the challenged elector shall be entitled to vote a provisional ballot.

- 39.11 Provisional Voting for Early Voting and Polling Place. In the event that the challenged elector answers fully the questions and takes the oath or affirmation as required by Section 1-9-204, CRSC.R.S., an election judge shall write “sworn” on the pollbooks at the end of the person’s name and the challenged elector shall be entitled to vote a provisional ballot.
- 39.12 Challenge by Election Judges of Tagged Individuals Attempting to Vote by Absentee Ballot. In the event that any elector with a unique tag (as defined herein) casts an absentee ballot, an election judge, pursuant to Section 1-9-206, CRSC.R.S., shall challenge the elector intending to vote by absentee as a “Challenge of the Elector’s Qualifications as an Eligible Elector.”
- 39.13 Challenge by Registered Elector of Tagged Individuals Attempting to Vote by Absentee Ballot. In the event that any elector with a unique tag (as defined herein) casts an absentee ballot, any registered elector may challenge the elector intending to vote as a “Challenge of the Elector’s Qualifications as an Eligible Elector.”
- 39.14 Challenge To Be Made Pursuant to Article 9, Title 1, CRSC.R.S.
- 39.14.1 Any challenge filed by either any election judge or any registered elector pursuant to this rule shall conform to the requirements set forth in Article 9, Title 1, CRSC.R.S.
- 39.14.2 Any challenge made pursuant to Article 9, Title 1, CRSC.R.S., shall be processed in conformance with the requirements set forth in Article 9, Title 1, CRSC.R.S.
- 39.14.3 The local election official shall ensure adequate supplies to effectuate challenges at all polling locations.

~~39.15 Provisional Voting for Absentee Ballots Voted by Tagged Individuals Pursuant to this Rule.~~

~~39.15.1 Any individual who is tagged pursuant to this rule and who casts an absentee ballot that is challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, CRS.~~

~~39.15.2 Any individual who is tagged pursuant to this rule and who casts an absentee ballot that is not challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, CRS.~~

~~39.16 Provisional Voting for Absentee Ballots Voted by Tagged Individuals Pursuant to this Rule~~

~~39.16.1 Any individual who is tagged pursuant to this rule and who casts an absentee ballot that is challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, CRS.~~

~~39.16.2 Any individual who is tagged pursuant to this rule and who casts an absentee ballot that is not challenged shall have the absentee ballot treated as a provisional ballot in accordance with the requirements of part 3, article 9, Title 1, CRS.~~

~~39.17~~ 39.15 Election Judges to Review Department of Corrections Database for Provisional Ballots Pursuant to Rule 26.9.

~~39.15.139.17.1~~ 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.

39.15.2~~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.

39.16 ~~39.18~~ Local Election Official or Designated Election Official to Deliver Challenges and Oaths or Affirmations to District Attorney. The county clerk and recorder or designated election official shall forthwith deliver all challenges and all oaths or affirmations to the district attorney for investigation and action.