



NOTICE OF ADOPTION

Office of the Secretary of State
Address Confidentiality Program Rules
8 CCR 1505-13

October 20, 2008

Pursuant to the Colorado Administrative Procedure Act, §24-4-103, C.R.S., "Rulemaking procedure," and pursuant to the specific rule-making authority granted to the Secretary of State by the Address Confidentiality Act at §24-21-213, C.R.S. (2007), I, Mike Coffman, Colorado Secretary of State, do hereby adopt and give NOTICE of the permanent rule adoption this 20th day of October, 2008, of the Secretary of State Rules Concerning the Address Confidentiality Program (8 CCR 1505-13) as follows.

1.0 INTRODUCTION

1.1 AUTHORITY

THESE REGULATIONS ARE ADOPTED PURSUANT TO THE AUTHORITY IN §24-21-201, ET SEQ., C.R.S., (THE "ADDRESS CONFIDENTIALITY PROGRAM ACT") AND ARE INTENDED TO BE CONSISTENT WITH THE REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT, §24-4-101, ET SEQ. (THE "APA").

1.2 SCOPE AND PURPOSE

THESE RULES ARE INTENDED TO CLARIFY AND CARRY OUT THE PROVISIONS OF THE ADDRESS CONFIDENTIALITY PROGRAM ACT [§24-21-201, ET SEQ.].

1.3 SPECIFIC AUTHORITY

SPECIFIC AUTHORITY FOR RULE-MAKING IS PROVIDED BY §24-21-213, C.R.S.

2.0 DEFINITIONS

- 2.1 "OTHER FAMILY MEMBER" AS USED IN § 24-21-205(3)(J), "OTHER FAMILY MEMBER" MEANS A PERSON WHO RESIDES WITH THE VICTIM AND DEFINES HIMSELF OR HERSELF AS A FAMILY MEMBER REGARDLESS OF ANY BLOOD OR MARITAL RELATIONSHIP.**

3.0 APPLICATION ASSISTANT DESIGNATION

- 3.1 THE APPLICATION ASSISTANT TRAINING AND REGISTRATION PROCESS CONSISTS OF:**

- A) ATTENDING AN IN-PERSON TRAINING CONDUCTED BY OR ON BEHALF OF THE ADDRESS CONFIDENTIALITY PROGRAM OR COMPLETING THE ONLINE TRAINING PROVIDED ON THE ADDRESS CONFIDENTIALITY PROGRAM WEBSITE AND;
- B) SUBMITTING A SIGNED AND COMPLETED APPLICATION ASSISTANT AGREEMENT.

3.2 THE APPLICATION ASSISTANT DESIGNATION IS VALID FOR A TWO-YEAR PERIOD, AND MAY BE RENEWED BY SUBMITTING A NEW APPLICATION ASSISTANT AGREEMENT PRIOR TO THE END OF THE TWO-YEAR TERM.

3.3 APPLICATION ASSISTANTS MUST PROVIDE THE ADDRESS CONFIDENTIALITY PROGRAM WITH CURRENT EMPLOYER AND CONTACT INFORMATION.

3.4 APPLICATION ASSISTANTS WHO CHANGE EMPLOYMENT MAY RETAIN THEIR DESIGNATION AS LONG AS THEY CONTINUE TO MEET THE STATUTORY CRITERIA FOR AN APPLICATION ASSISTANT.

3.5 THE ADDRESS CONFIDENTIALITY PROGRAM WILL NOTIFY APPLICATION ASSISTANTS IN WRITING PRIOR TO THE EXPIRATION OF THEIR DESIGNATION USING THE EMPLOYMENT CONTACT INFORMATION ON RECORD WITH THE PROGRAM.

3.6 AN APPLICATION ASSISTANT DESIGNATION WILL EXPIRE IF THE NOTICE TO RENEW THE DESIGNATION IS RETURNED AS UNDELIVERABLE.

3.7 AN APPLICATION ASSISTANT MAY CANCEL HIS OR HER DESIGNATION AT ANY TIME BY SUBMITTING A NOTICE OF RESIGNATION, IN WRITING, TO THE ADDRESS CONFIDENTIALITY PROGRAM.

4.0. PARTICIPANT TELEPHONE NUMBER AND ADDRESS CHANGES

4.1 PARTICIPANTS MUST NOTIFY THE ADDRESS CONFIDENTIALITY PROGRAM OF ANY CHANGES IN ADDRESS OR TELEPHONE NUMBER IN WRITING. PARTICIPANTS MAY USE THE "CHANGE OF INFORMATION FORM" PROVIDED BY THE PROGRAM OR ANY OTHER WRITTEN FORMAT, SO LONG AS THE NOTIFICATION CONTAINS THE SIGNATURE OF THE PARTICIPANT (OR THE PARENT OR GUARDIAN OF THE PARTICIPANT) REQUESTING THE CHANGE.

5.0 EXPEDITED RELEASE OF PARTICIPANT INFORMATION TO CRIMINAL JUSTICE OFFICIALS OR AGENCIES

5.1 EXPEDITED RELEASE OF PARTICIPANT INFORMATION SHALL BE GRANTED IN RESPONSE TO A WRITTEN REQUEST SETTING FORTH THE REASON(S) REQUIRING THE EXPEDITED RELEASE OF INFORMATION TO THE CRIMINAL JUSTICE AGENCY. THE REQUEST MUST BE ON AGENCY LETTERHEAD AND SIGNED BY THE EMPLOYEE OF THE CRIMINAL JUSTICE AGENCY REQUESTING SUCH INFORMATION AND HIS OR HER DIRECT SUPERVISOR, OR ACTING SUPERVISOR IF THE EMPLOYEE'S DIRECT SUPERVISOR IS UNAVAILABLE.

5.2 IN ACCORDANCE WITH §24-21-210(12), C.R.S., THE REQUEST MUST BE ACCOMPANIED BY A NOTARIZED STATEMENT CERTIFYING THAT THE INFORMATION REQUESTED IS REQUIRED

PURSUANT TO A CRIMINAL JUSTICE TRIAL, HEARING, PROCEEDING, OR INVESTIGATION INVOLVING A PROGRAM PARTICIPANT, AND DESCRIBING HOW THE PARTICIPANT'S ACTUAL ADDRESS WILL BE PROTECTED FROM THE PUBLIC AND PERSONNEL WHO ARE NOT INVOLVED IN THE TRIAL, HEARING, PROCEEDING OR INVESTIGATION. IN LIEU OF THE STATEMENT, A CRIMINAL JUSTICE AGENCY OR OFFICIAL MAY SUBMIT A NOTARIZED "EMERGENCY DISCLOSURE OF INFORMATION" FORM AVAILABLE ON THE ADDRESS CONFIDENTIALITY PROGRAM WEBSITE.

6.0 PUBLIC SCHOOL ENROLLMENT AND RECORD TRANSFERS

- 6.1 AT THE REQUEST OF AN ENROLLING SCHOOL, THE ADDRESS CONFIDENTIALITY PROGRAM WILL DETERMINE THE STUDENT/PARTICIPANT'S SCHOOL DISTRICT AND ELIGIBLE SCHOOLS BASED ON THE RESIDENTIAL ADDRESS ON RECORD WITH THE PROGRAM.
- 6.2 THE ADDRESS CONFIDENTIALITY PROGRAM WILL NOTIFY THE ENROLLING SCHOOL OF ITS FINDINGS IN WRITING.
- 6.3 THE ADDRESS CONFIDENTIALITY PROGRAM WILL REQUEST A STUDENT'S RECORDS FOR THE PURPOSE OF TRANSFERRING SUCH RECORDS FROM ONE SCHOOL TO ANOTHER UPON RECEIVING THE WRITTEN REQUEST AND AUTHORIZATION FROM THE STUDENT'S PARENT OR LEGAL GUARDIAN.

These new rules shall take effect twenty (20) days after publication in the Colorado Register in accordance with the State Administrative Procedures Act.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

Dated this 20th day of October, 2008



William A. Hobbs
Deputy Secretary of State

For

Mike Coffman
Colorado Secretary of State



Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Rules Concerning the Address Confidentiality Program 8 CCR 1505-13

October 20, 2008

1. Basis and Purpose

This statement pertains to the new rules regarding the administration of the Address Confidentiality Program (also referenced as "ACP" or "the program").

The adoption of the new rules is necessary for the administration and implementation of the Address Confidentiality Program Act as set forth in §24-21-201 et. seq., C.R.S. The new rules are also necessary for clarifying some provisions of House Bill 08-1274, which amended the Act. Specific authorization for rule-making is provided by §24-21-213, C.R.S.

The specific purposes for the adoption of the individual rules are as follows:

- New Rules 1.0, 1.1, 1.2 and 1.3 provide an introduction to the proposed rules, which contains the basis of authority, scope and purpose of the rules.
- New Rule 2.0 provides a "Definition" category for new Rule 2.1 and any future definitions needed.
- New Rule 2.1 clarifies and defines the term, "Other family member." HB 08-1274 amended §24-21-205(3)(j), C.R.S., by expanding the scope of who may enroll in the Address Confidentiality Program by adding the term "other family member" to the existing terms of "parent, spouse and child." An administrative definition will avoid disparate program participation based on subjective definitions and individual perceptions.
- New Rule 3.0 provides a category for "Application Assistant Designation" rules.
- New Rules 3.1, 3.1(A), 3.1(B), 3.2, 3.3, 3.4, 3.5, 3.6, and 3.7 provide clarification of, and a process for, the training and registration of Application Assistants as required by the recent amendments to §24-21-203(5) and §24-21-204(5) and (5)(b), C.R.S.
- New Rule 4.0 provides a category for any rules regarding "Participant Telephone Number and Address Changes."

- New Rule 4.1 clarifies that the notice requirement provided in §24-21-206 (2) be in writing and accompanied by a signature. This rule is intended to prevent abusers from fraudulently changing participant contact information for the purpose of locating participants or intercepting participant mail.
- New Rule 5.0 provides a category for rules pertaining to the “Expedited Release of Participant Information to Criminal Justice Officials or Agencies.”
- New Rules 5.1 and 5.2, and provide compliance with the requirement of §24-21-210 (12), C.R.S., which states in part, “...the secretary of state shall establish an expedited process for disclosure to be used by a criminal justice official or agency for situations where disclosure is requested pursuant to a criminal justice trial, hearing proceeding, or investigation involving a program participant...”
- New Rule 6.0 provides a category for rules pertaining to “Public School Enrollment and Record Transfers.”
- New Rules 6.1, 6.2, and 6.3 provide clarification of, and a process for complying with the new provisions of §24-21-208(9), C.R.S., which require the Address Confidentiality Program to verify a participant/student’s public school enrollment eligibility and facilitate the transfer of student records.

Specific Statutory Authority

These rules are promulgated in accordance with the Colorado Administrative Procedure Act, §24-4-103, C.R.S., “Rule-making procedure,” and pursuant to the specific rule-making authority granted to the secretary of state by the Address Confidentiality Act at §24-21-213, C.R.S.