



## Notice of Temporary Adoption

Office of the Secretary of State  
Election Rules  
8 CCR 1505-1

May 1, 2012

### I. Adopted Rule Amendments

As authorized by Colorado Elections Law<sup>1</sup> and the State Administrative Procedure Act<sup>2</sup>, the Colorado Secretary of State gives notice that the following amendments to the Election Rules<sup>3</sup> are adopted on a temporary basis and immediately effective.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

New Rule 10.6 is adopted as follows:

#### 10.6 PRINTING PRIMARY ELECTION BALLOTS.

10.6.1 IF ANY MAJOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104(22.5), C.R.S., HAS NOMINATED MORE THAN ONE CANDIDATE FOR ANY OFFICE, WHETHER BY ASSEMBLY OR PETITION, THE PRIMARY ELECTION MUST BE CONDUCTED FOR ALL MAJOR POLITICAL PARTIES.

(A) THE COUNTY CLERK MUST PRINT THE BALLOT TO INCLUDE ALL OFFICES TO WHICH CANDIDATES MAY BE NOMINATED IN THE PRIMARY ELECTION.

(B) IF THERE ARE NO CANDIDATES ON THE BALLOT FOR ANY PARTICULAR OFFICE, THE COUNTY CLERK MUST PRINT "THERE ARE NO CANDIDATES FOR THIS OFFICE".

[SECTIONS 1-4-101 AND 1-4-104.5, C.R.S.; ELECTION RULE 10.3]

10.6.2 IF ANY MINOR POLITICAL PARTY AS DEFINED IN SECTION 1-1-104(23), C.R.S., HAS NOMINATED MORE THAN ONE CANDIDATE FOR ANY OFFICE, WHETHER BY ASSEMBLY OR PETITION, THE PRIMARY ELECTION MUST BE CONDUCTED FOR THAT PARTY ONLY.

<sup>1</sup> Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2011).

<sup>2</sup> Section 24-4-103, C.R.S. (2011).

<sup>3</sup> 8 CCR 1505-1.

- (A) THE COUNTY CLERK MUST PRINT THE BALLOT TO INCLUDE ONLY THE RACES FOR WHICH THERE IS MORE THAN ONE CANDIDATE NOMINATED.
- (B) IF THERE IS NOT MORE THAN ONE MINOR PARTY CANDIDATE NOMINATED FOR ANY RACE, THE CANDIDATE IS CERTIFIED TO THE GENERAL ELECTION BALLOT.

[SECTIONS 1-4-101, 1-4-104.5(3), AND 1-4-1304, C.R.S.]

**II. Basis, Purpose, and Specific Statutory Authority**

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

**III. Statement of Justification and Reasons for Adoption of Temporary Rules**

A statement of the Secretary of State's findings to justify the immediate adoption of these new rules on a temporary basis follows this notice and is incorporated by reference.<sup>4</sup>

**IV. Effective Date of Adopted Rules**

These new rules are immediately effective on a temporary basis.

Dated this 1<sup>st</sup> day of May, 2012,



Suzanne Staiert  
Deputy Secretary of State

For

Scott Gessler  
Colorado Secretary of State

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<sup>4</sup> Section 24-4-103(6), C.R.S. (2011).



## **Statement of Basis, Purpose, and Specific Statutory Authority**

### **Office of the Secretary of State Election Rules 8 CCR 1505-1**

**May 1, 2012**

#### **I. Basis and Purpose**

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.<sup>1</sup> The revisions are also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.

This rule explains the requirements for conducting primary elections as outlined in sections 1-4-101 and 1-4-104.5, C.R.S. The rule is necessary to ensure all counties conduct the primary election uniformly and consistently. Specifically, the revisions clarify the requirement that counties must conduct primaries (and send out primary ballots) for all major parties, as long as there is at least one contested race for any major party nomination. A county may cancel the primary election for a major party only when there are no contested races on the ballot for any major party.

When any major party nominates more than one candidate for any office, the major party primary election ballots must list every office contested in the general election, starting with United States senator and ending with county offices. If a political party has not nominated any candidates for a specific office, the ballot should simply read "There are no candidates for this office."

If any minor party nominates more than one candidate for any office, the county must conduct a primary only for the minor party with a contested race. The county is not required to list every office contested in the general election on the minor party primary election ballots; rather, they must only list those races which are contested.

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<sup>1</sup> Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

## **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2011), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1.5-104(1)(e), C.R.S., (2011), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545].”



## **Statement of Justification and Reasons for Adoption of Temporary Rules**

**Office of the Secretary of State**  
**Election Rules**  
**8 CCR 1505-1**

**May 1, 2011**

### New Rule 10.6

In accordance with Colorado election law,<sup>1</sup> the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws during the 2012 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

These rules are adopted in accordance with recommendations made by the Secretary of State, Elections Division staff, County Clerk and Recorders, and interested parties throughout the State of Colorado. The Secretary of State anticipates commencement of formal rulemaking in accordance with the State Administrative Procedure Act<sup>2</sup> in the near future to consider adoption of these amended and new rules on a permanent basis. Adoption of the rules on a temporary basis, however, is necessary to provide clear guidance to county clerks given the close proximity of the June 2012 Primary Election.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.<sup>3</sup>

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<sup>1</sup> Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2011). The Secretary of State has the power “[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws” and “...[the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545]...”

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2011).

<sup>3</sup> Section 24-4-103(3)(6), C.R.S. (2011).