



## Notice of Adoption

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

November 14, 2013

#### 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 permanent basis.

The Secretary of State considered the amendments and recodification at the October 1, 2013 rulemaking hearing in accordance with the State Administrative Procedure Act<sup>4</sup>. On October 9, 2013, the Secretary of State adopted the rule recodification on a temporary basis. Temporary adoption was necessary to comply with law and to preserve the public welfare given the close proximity of the 2013 Coordinated Election. A copy of the Notice of Temporary Adoption is available online at: [http://www.sos.state.co.us/pubs/rule\\_making/files/2013/20131009-Election-NoticeTempAdoption.pdf](http://www.sos.state.co.us/pubs/rule_making/files/2013/20131009-Election-NoticeTempAdoption.pdf). For more information, including copies of the redline and clean versions of the temporary rules, please see the eDocket details page for CCR tracking number 2013-01079 at: <http://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2013-01079>.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>[Italic blue font text]</i>	Annotations
Shading	Revisions to the temporary rules adopted on 10/9/13

*[Current 8 CCR 1505-1 is stricken in its entirety and re-codified as follows:]*

#### Rule 1. Definitions

1.1 As used in these ~~rules~~ RULES, unless stated otherwise:

<sup>1</sup> Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2013).

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2013).

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

<sup>4</sup> Section 24-4-103(3)(a), C.R.S. (2013).

- 1.1.1 “Ballot measure” means a ballot issue or ballot question as defined in sections 1-1-104(2.3) and (2.7), C.R.S.
- 1.1.2 “Blank ballot” means a ballot on which the voter has made no marks in any voting position, has marked with an unreadable marker, or has consistently marked outside of the “read” area of the scanner.
- 1.1.3 “Canvass workers” means workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.
- 1.1.4 “Central count” means the county’s principal ballot counting and processing location.
- 1.1.5 “Chain-of-custody log” means a written record ~~that shows~~ SHOWING that a voting system component or data, election record or other ~~items~~ ITEM is secured and in the documented and uninterrupted possession and control of an election official through the entire time of a jurisdiction’s ownership, use or retention.
- 1.1.6 “Damaged ballot” means a ballot that is torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the optical scanner ballot reader. DAMAGED BALLOTS INCLUDE:
- (a) ~~Damaged ballots include all~~ ALL ballots that contain a foreign substance that could interfere with the optical scan machine (e.g. food, drink, etc.).
  - (b) ~~Damaged ballots include ballots~~ Ballots that are marked in a medium or manner other than indicated in the ballot instructions.
  - (c) ~~Damaged ballots may also include ballots~~ Ballots that the elector marked in a way that would disclose his or her identity.
- 1.1.7 “Data entry county” means a county using an election management system that exports a file to be directly uploaded to the Election Night Results system.
- 1.1.8 “Designated election official” includes the designated election official’s sworn, deputized designee.
- 1.1.9 “Direct Recording Electronic voting device” (DRE) means a voting device that visually displays or audibly presents a ballot and records an elector’s votes directly into electronic storage media.
- 1.1.10 “Duplicated ballot” means a ballot for which a true copy must be made for the ballot to be properly processed and counted because of damage, improper marking, or any issue that would prevent a ballot tabulating machine from accurately counting the ballot.
- 1.1.11 “Election complaint” means a complaint filed with the Secretary of State under Articles 1 through 13 of Title 1, C.R.S.
- 1.1.12 “Election setup records” means the electronic records, often in the form of a database or a set of databases, generated by election software to create and define ballots, tabulation instruction, and other functions related to the election.

- 1.1.13 “Election software” means the software for election equipment or computers that controls election setup vote recording, vote tabulation, and reporting.
- 1.1.14 “Electronic ballot” means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter’s choices must be:
- (a) Marked and printed on a paper ballot for subsequent counting by a paper ballot scanning device; or
  - (b) Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Recording Electronic (DRE) device.
- 1.1.15 “Electronic Transmission” means:
- (a) For the purpose of sending an unvoted ballot:
    - (1) To a military or overseas elector under Article 8.3 of Title 1, C.R.S., by fax, email, or online ballot delivery.
    - (2) To an elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S., by fax or email.
    - (3) To an affected elector requesting a ballot because of a disaster emergency under Rule ~~7.4.8-7.4.7~~.
  - (b) For the purpose of returning a voted ballot to the county clerk fax or email.
- 1.1.16 “Firmware” means computer programs, stored on read-only memory devices or other electronic circuitry in voting devices that control the basic operation and function of those devices.
- 1.1.17 “Help America Vote Act complaint” or “HAVA complaint” means a complaint filed with the Secretary of State under Title III of the Help America Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.
- 1.1.18 “Immediate voting area” means the area that is within six feet of the voting equipment, voting booths, and the ballot box.
- 1.1.19 “Manual entry county” means a county that does not use an election management system to export data to the Election Night Results system.
- 1.1.20 “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 ~~AND PERFORM DUTIES AS MAY BE ASSIGNED BY THE SECRETARY OF STATE~~, but are subject to ~~rules~~ ~~RULES~~ and regulations as prescribed by the Secretary of State ~~and perform duties as may be assigned by the Secretary of State~~.
- 1.1.21 “Overvote” means an instance where the ~~voter-ELECTOR~~ marked votes for more than the maximum number of candidates or responses for a ballot measure.

- 1.1.22 “Qualified political organization” means an organization that has placed a candidate for congressional or state office on the ballot in a congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and that continues to meet the requirements of Rules 3.3 and 3.4. [*Baer v. Meyer*, 728 F.2d 47 (10th Cir. 1984)]
- 1.1.23 “Related to the second degree” means spouse, civil union partner, parents, children, brothers and sisters, grandparents, and grandchildren.
- 1.1.24 “Removable card or cartridge” means a programming card or cartridge, except a voter activation card, that stores firmware, software, or data.
- 1.1.25 “SCORE” means the centralized statewide registration system and the computerized statewide voter registration list described in Part 3 of Article 2 of Title 1.
- 1.1.26 “Seal” means a serial-numbered tamper-evident device that, if broken or missing, indicates that the chain-of-custody is broken and a device is not secure.
- 1.1.27 “Statement of Ballots Form” means the form used at the polling location that accounts for all ballots at that location and includes all information required by Rule 10.
- 1.1.28 “Target area” means the square, oval, incomplete line, or incomplete arrow corresponding to the candidate’s name or ballot response (examples: “Yes”, “No”, “For” or “Against”) on a paper ballot.
- 1.1.29 “Teleprocessing lines” means secure, dedicated communication transmission facilities used for the purpose of accessing SCORE, ~~to ensure~~ AND ENSURING the security and integrity of voting information so that no deviation can go undetected.
- 1.1.30 “Trusted build” means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain of evidence to the building of the disk(s), which is then used to establish or re-establish the chain-of-custody of any component of a voting system that contains firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.
- 1.1.31 “Undervote” means an instance where the voter marked votes for fewer than the maximum number of candidates or responses for a ballot measure.
- 1.1.32 “Video security surveillance recording” means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.
- 1.1.33 “Voting system” as defined in SECTION 1-1-104(50.8), C.R.S., means:
- (a) The total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to:
    - (1) Define ballots;

- (2) Cast and count votes;
- (3) Report or display election results; and
- (4) Maintain and produce any audit trail information; ~~and~~
- (b) The practices and associated documentation used to:
  - (1) Identify system components and versions of such components;
  - (2) Test the system during its development and maintenance;
  - (3) Maintain records of system errors and defects;
  - (4) Determine specific system changes to be made to a system after the initial qualification of the system; and
  - (5) Make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
- (c) “Voting system” does not include any other component of election administration, such as voter registration applications or systems, electronic pollbooks, ballot delivery and retrieval systems, signature verification and ballot sorting devices, ballot on demand printers, election night reporting and other election reporting systems, and other components used throughout the election process that do not capture and tabulate votes.

1.1.34 “VVPAT” has the same meaning as in section 1-1-104(50.6), C.R.S.

1.1.35 “Watcher” has the same meaning as in section 1-1-104(51), C.R.S.

- (a) A watcher may be appointed for a recall election in the same manner as in a primary election.
- (b) For the purpose of appointing a watcher, the proponent or opponent of a ballot measure means a registered issue committee supporting or opposing the ballot measure.
- (c) A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado.

1.1.36 “Write-in vote” means a vote where the voter physically writes in the name of a qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the target area according to voter instructions.

1.1.37 “Zero tape” means a printout of the internal data registers in electronic vote-tabulating equipment indicating a zero value before any ballots are tabulated on that machine.

## **Rule 2. Voter Registration**

### **2.1 Submission of voter registration forms**

- 2.1.1 An applicant may submit a properly executed voter registration form to the county clerk in person, by mail, by fax, by online voter registration, or as an email attachment.
- 2.1.2 All applications submitted by mail, fax, or as an email attachment are mail registrations. [Section 1-2-501, C.R.S.]
- 2.1.3 If any portion of a mail application is illegible, the county clerk must notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.
- 2.1.4 For submitting applications by fax, email, or online voter registration, close of business is 11:59 p.m. MT.
- 2.1.5 Under section 1-2-508, C.R.S., the effective date of a voter registration application received by the Secretary of State is the ~~earlier of the date the application is received or the date of the legible postmark, IF LEGIBLE. IF THERE IS NO LEGIBLE POSTMARK, THE EFFECTIVE DATE IS THE DATE THE APPLICATION IS RECEIVED.~~
- 2.1.6 If a county clerk receives a paper voter registration application other than in-person between 21 and 7 days before election day, the county clerk must send the applicant notification by regular mail, or email if provided, within one business day stating that the application is received but the applicant will not receive a ballot by mail. The notice must state that, if the applicant wishes to vote in the upcoming election, the applicant must register:
- (a) Through the online voter registration system on or before the eighth day before election day, or
  - (b) In-person at the county clerk's office or ~~at~~ a voter service and polling center through election day.
- 2.1.7 In accordance with section 1-2-204(1)(a), C.R.S., and the ~~affidavit on the~~ Colorado voter registration form ~~AFFIDAVIT~~, an elector may not register to vote in a new district or county unless he or she has already moved and established his or her primary residence in the new district or county. Intent to move to a new district or county, in and of itself, is not enough to establish residency.
- 2.2 For purposes of precinct caucus lists and registration lists for municipal, special district, or school district director elections, the elector's length of residency is based upon the date ~~THE ELECTOR MOVED TO HIS OR HER CURRENT RESIDENCE ADDRESS, AS~~ provided by the elector ~~on~~ IN his or her application.
- 2.2.1 ~~The EFFECTIVE JANUARY 1, 2014, THE~~ county clerk must enter the date provided by the elector in the registration record maintained in SCORE. [Sections 1-3-101, 31-10-201, and 32-1-103(5), C.R.S.]
- 2.2.2 If the elector submits an application and does not include the date he or she moved, the county clerk must ~~USE enter~~ the date the application is received or postmarked, whichever is earlier, as the date moved. If the elector submits the application during the 22 days before ~~an election~~ ELECTION DAY and does not provide the date he or she moved, the county clerk must ~~USE AS enter~~ the date moved ~~as~~ the ~~22nd~~ TWENTY-SECOND day before ~~the election~~ ELECTION DAY based upon the affidavit.

- 2.2.3 In accordance with section 1-2-104, C.R.S., if a municipality, special district, or school district coordinates with a county clerk to conduct an election, the county clerk must apply the residency requirements of the municipality, special district, or school district. Nothing in these ~~rules~~ RULES supersedes any durational-residency or other requirements in local charters, ~~or~~ ordinances, or ~~in~~ titles 22, 31, or 32, as applicable.
- 2.3 When an elector registers to vote, the elector must provide a verifiable driver's license or state identification card number, or last four digits of his or her social security number. If the elector states that he or she does not have a driver's license, state identification card number, or social security number, the county clerk must register the elector and mark the registration record "ID required".
- 2.3.1 As used in section 1-1-104(19.5), C.R.S., government document means a document issued by a city, county, state or federal government.
- (a) A government document includes:
- (1) A Certificate of Degree of Indian or Alaskan Native Blood;
  - (2) A letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in SCORE; ~~or~~ AND
  - (3) A division of youth corrections identification card issued by Department of Human Services.
- (b) A government document does not include any document produced by the SCORE system or using an address label produced by SCORE.
- [Sections 1-1-104(18.5), (19.5)(c), and (19.5)(d), C.R.S.]
- 2.3.3 As used in section 1-1-104(19.5)(a)(VII), C.R.S., 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.
- 2.4 Treatment of applications where the elector fails to provide required information
- 2.4.1 If an applicant fails to check the box answering the question, "Are you a citizen of the United States?", the county clerk must accept and process the application as complete so long as it is otherwise complete and the affirmation at the bottom of the form is signed.
- 2.4.2 If an applicant fails to complete the required identification portion of the form in accordance with ~~section~~ SECTIONS 1-2-204(2)(f.5) and (3)(c), C.R.S., the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or identification card, the county clerk must enter the ID number from the card into the applicant's record and process the application as complete.
- 2.4.3 If an applicant fails to provide a date of birth, the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or other approved form of ID that includes the date of birth, the county clerk must enter that information into the applicant's record and process the application as complete.

2.5 Changes to an ~~Elector's Voter Registration Record~~ ELECTOR'S VOTER REGISTRATION RECORD

- 2.5.1 If an elector submits a change to his or her voter registration record and fails to include the information required by sections 1-2-216 or 1-2-219, C.R.S., the county clerk must not make the requested change, unless the county clerk can confidently identify the voter. The county clerk must notify the voter of the additional information that is required to process the request.
- 2.5.2 If an elector submits a change to his or her voter registration record and writes or selects a name of an organization that is not a qualified political party or qualified political organization, or writes "none", the elector's affiliation must be recorded as "Unaffiliated".
- 2.5.3 If an elector submits a change to his or her voter registration record and leaves the affiliation section blank, the county clerk must make no change to the voter's affiliation in the registration record.
- 2.5.4 When the county clerk provides a list of eligible electors to a municipality or special district for an election not coordinated with the county, the county clerk must request the designated election official of the municipality or special district provide the vote history information following the election. As soon as feasible after receiving the information, the county clerk must remove the ID Required flag in SCORE from the record of each person who voted, as provided in section 1-2-605(4)(b), C.R.S.

2.6 Changes to an elector's voter registration status:

- 2.6.1 An elector may update his or her inactive registration status to active status by submitting:
  - (a) A signed written request, by mail, fax, or an email attachment;
  - (b) An online voter registration application; or
  - (c) An in-person request.

[Section 1-2-605(4)(a), C.R.S.]
- 2.6.2 If an elector is unable to sign, another person must witness the elector's mark. An elector may use a signature stamp because of age, disability, or other need. The stamp is treated as a signature and does not require a witness.

2.7 Minimum matching criteria

- 2.7.1 Except as provided in section 1-2-302.5, C.R.S., the county clerk must not transfer, consolidate, or cancel a voter registration record unless the minimum matching criteria as set forth in sections 1-2-603 and 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county clerk must send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.
- 2.7.2 A match of the name means a match of the full name, except that the following are sufficient to establish a match:



- (a) Common variations and nicknames in the first or middle name, e.g., Michael and Mike;
- (b) Explainable and documented change of name, including last name, e.g., maiden name and married name; and
- (c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records is not considered a variation. Examples of suffix variations that must be explained include junior in one record and III in another.

2.7.3 A match of the prior address means a match of the residential street address.

2.7.4 The county clerk may use the DMV Motor Voter database to verify prior name or residence address history for the purpose of meeting the minimum matching criteria. The county clerk must scan and retain the information in the elector's record to document how the criteria were met.

## 2.8 Registration of electors who have no fixed permanent home

2.8.1 For the purpose of voter registration residence, an elector who has no fixed permanent home must identify a specific location within a precinct that the applicant considers his or her home base.

- (a) A home base is a location the applicant returns to regularly and intends to remain, and a place where he or she can receive messages and be contacted.
- (b) A home base may include a homeless shelter, a homeless provider, a park, a campground, a vacant lot, a business address, or any other physical location.
- (c) For an elector whose home is in foreclosure, the elector may register to vote or remain registered to vote at the foreclosed address until the elector establishes a new permanent residence.

2.8.2 If the home base does not include a mailing address, the applicant must provide a mailing address in accordance with section 1-2-204(2)(f), C.R.S.

2.8.3 A post office box or general delivery at a post office is not a home base.

2.9 A county clerk may cancel a registration record based upon information from a local law enforcement agency only if:

2.9.1 The information states that the individual is currently serving a sentence of incarceration or parole for a felony conviction; and

2.9.2 Minimum matching criteria outlined in Rule 2.7 are met.

2.10 An elector who has received notice that his or her application for registration may not be processed or whose registration was cancelled because his or her name was matched with a record bearing the same name, date of birth, and social security number in the databases provided by Colorado Department of Corrections or Colorado Department of Public Health and Environment, and who believes that the match was erroneous, may request that his or her application be processed or registration be reinstated if he or she:

- 2.10.1 Appears in person at the office of the county clerk and presents identification; or
  - 2.10.2 Submits a statement to the county clerk affirming that the applicant believes the match was in error. The applicant must include his or her printed name, residential address, and date of birth on the signed and dated statement.
- 2.11 20-day applicants under section 1-2-509(3), C.R.S.
- 2.11.1 When a county clerk deems an applicant “not registered” upon receipt of an undeliverable new voter notification in accordance with section 1-2-509(3), C.R.S., the county clerk must mail a confirmation card. The confirmation card must meet the requirements of section 1-1-104(2.8), C.R.S.
  - 2.11.2 If the applicant returns the signed confirmation card within 90 days the county clerk must register the applicant using the date of the original application.
  - 2.11.3 During the 22 days before an election, the county clerk must defer processing undeliverable 20-day notifications. After the election is closed, the clerk must deem an applicant “not registered” under section 1-2-509(3), C.R.S., only if the applicant did not vote in the election.
- 2.12 Voter registration confidentiality
- 2.12.1 Information about ~~the AN AGENCY’S~~ name and location ~~of an agency~~ for an application completed at a voter registration agency or driver’s license office is confidential. [42 USC §§ 1973gg-3(c)(2)(D)(iii)]
  - 2.12.2 An elector may request his or her voter registration address be confidential under section 24-72-204(3.5), C.R.S., in person.
    - (a) The elector must use the application provided by the Secretary of State and include his or her name, address, and birth date on the application.
    - (b) The county clerk must not charge an additional processing fee if the elector changes his or her address.
  - 2.12.3 Registration of Address Confidentiality Program (ACP) ~~Elector~~ **ELECTORS**
    - (a) When an ACP participant registers to vote by mail, the ~~elector~~ **PARTICIPANT** must provide a copy of his/her ACP Authorization Card.
    - (b) The county clerk must:
      - (1) Use the actual residence address of the ACP elector for precinct designation.
      - (2) Use the substitute address, as defined in section 24-30-2103(14), C.R.S., for all correspondence and mailings placed in the United States mail.
      - (3) Keep the participant’s address, county, ~~and~~ voting precinct, and split number confidential from the public.

- (c) A state or local government agency may request access to an ACP participant's voter registration record using the process in section 24-30-2110, C.R.S.
- (d) Except as specifically provided by Part 21 of Article 30 of Title 24, C.R.S., a program participant's actual address and telephone number is not a public record under Part 2 of Article 72 of Title 24, C.R.S.

2.13 List Maintenance under section 8 of the National Voter Registration Act of 1993

2.13.1 When the United States Postal Service returns a new voter notification or confirmation card to the county clerk as undeliverable, or provides the clerk with a postcard notice of mail forwarding, the county clerk must mark the voter's record "Inactive – returned mail" and mail a confirmation card. Where a confirmation card sent under this ~~rule~~ **RULE** is returned as undeliverable, the county is not required to mail another card.

2.13.2 The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each month.

- (a) The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.

(1) THE COUNTY MAY NOT CHANGE A RESIDENTIAL ADDRESS TO A NON-RESIDENTIAL ADDRESS, LIKE A POST OFFICE BOX, BASED ON THE INFORMATION IN THE NCOA DATA.

(2) The county is not required to automatically update a voter registration record during the 60 days before a coordinated election.

(3) If the county clerk has previously mailed a confirmation card to an elector whose record is marked inactive, the county clerk is not required to mail another confirmation card to the elector at the same address.

- (b) When the county updates a voter registration record using NCOA data, the county must use the NCOA transaction source.

2.13.3 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the county clerk in each county must cancel the registrations of electors who have met the following requirements:

- (a) Whose records have been marked "Inactive – returned mail", "Inactive – undeliverable ballot", or "Inactive – NCOA";
- (b) Who have been mailed a confirmation card; and
- (c) Who have since failed to vote in two consecutive General elections.

2.13.4 An elector whose registration record was cancelled during the previous six years under section 1-2-605(7), C.R.S., and Rule 2.13.3, may request reinstatement of the record. The elector must affirm that he or she has continuously resided at the address shown on the registration record since the record was cancelled.

- 2.13.5 No county may consolidate or cancel duplicate records in accordance with section 1-2-604, C.R.S., within the period beginning 90 days before a Primary or General Election.
- 2.14 Voter registration at a voter service and polling center
- 2.14.1 A person registering voters or updating voter registration information in a voter service and polling center must:
- (a) Be a permanent or temporary county employee, state employee, or temporary staff hired by the county clerk;
  - (b) Successfully pass the criminal background check described in Rule ~~6.4~~ 6.5. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities; and
  - (c) Effective January 1, 2014, successfully complete a training course provided by the Secretary of State.
- 2.14.2 For the purpose of providing information to watchers, the person registering voters or updating voter registration information in a voter service and polling center must maintain a log that includes the name and residential address of each elector who registers or updates his or her registration record, or verbally confirm each elector's name and residential address.
- 2.15 Voter registration records and data
- 2.15.1 Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the county clerk may destroy paper voter registration records as soon as they have been digitally recorded in SCORE. The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with Title 1, C.R.S. and this ~~rule~~ RULE.
- 2.15.2 Under section 24-21-104(3), C.R.S., the Secretary of State must charge a fee for voter information reports and related services. A request for elections data must be submitted using the Elections Data Request Form. The Secretary of State will provide the requested data after payment of the fee as outlined in the fee schedule on the Secretary's website.
- 2.15.3 The county clerk of each county may charge fees for county voter information reports and related services, such as ~~the printing of labels~~ LABEL PRINTING provided by the centralized statewide registration system. But in accordance with federal requirements governing the use of federal funds, fees must not exceed county direct and indirect costs for providing such reports and services.
- 2.15.4 Custodianship of Voter Registration Information
- (a) The Secretary of State is the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.
  - (b) Each county clerk is the official custodian of the voter registration information only for electors within his or her county.

## 2.16 SCORE username and password administration

- 2.16.1 The state user administrator assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk must submit a request for county user administrator privilege to the state user administrator in writing. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.
- 2.16.2 Each county is limited to two county user administrators. But a county clerk may apply to the Secretary of State for an additional county user administrator.
- (a) The application must be submitted by the county clerk in writing to the state user administrator and must state the **FULL** name of the county employee for which county user administrator privilege is being sought. The application must also state the specific reasons the county clerk is requesting the additional user administrator.
  - (b) The state user administrator will notify the county clerk in writing whether the request is approved within five business days after receiving the application.
- 2.16.3 The county user administrator is responsible for security administration and must assign all access privileges, as well as usernames and passwords for county employees and temporary election workers.
- (a) For county employees, the county user administrator must assign a unique username in accordance with the naming conventions provided by the Secretary of State.
  - (b) Passwords must be assigned by the county user administrator upon initial authorization and must be changed by users and maintained confidentially.
- 2.16.4 If a county employee or temporary election worker is no longer employed by the county, the county user administrator must immediately inactivate the username.

## 2.17 SCORE network security requirements

- 2.17.1 The county clerk must use only county-controlled access to networks with proper network security controls in place to access SCORE. The county may never use an open or shared public-use network to access SCORE.
- (a) All wireless networks must meet the following minimum requirements:
    - (1) WPA2 or above security must be enabled;
    - (2) Shared wireless passwords or secrets must be changed every three months, at a minimum; AND
    - (3) Wireless keys must be a minimum of 14 characters in length and must include at least one number and mixed case letters.
  - (b) All networks must employ proper security controls to ensure malicious users cannot connect to the network, intercept SCORE communications, or otherwise

attack the SCORE system. These controls must include, at a minimum, network firewalls and securely configured network equipment to prevent common attack mechanisms.

- 2.17.2 All ~~election officials~~ INDIVIDUALS who access the SCORE system must sign a SCORE Acceptable Use Policy (AUP) before the county provides a SCORE username.
- (a) The county clerk, county SCORE user-administrator, and county elections IT manager, if applicable, must submit their signed AUP to the Secretary of State.
  - (b) The county clerk must retain the AUP for each individual who is assigned a SCORE username.
    - (1) The Secretary of State will audit the county AUP records for each county selected for annual inspection of its voting system maintenance records under Rule 20.8.5.
    - (2) The Secretary will suspend access to SCORE for any individual whose AUP is not on file with the county clerk.

### **Rule 3. Rules Concerning Qualified Political Organizations**

- 3.1 A qualified political organization, as defined in Rule 1.1, must file proof of organization with the Secretary of State. The proof must include, but is not limited to:
- 3.1.1 The organization's bylaws, which must include the method for selecting officers, delegates to county, state, and national conventions, and candidates planning to petition onto the state's general election ballot; and
  - 3.1.2 The names, addresses, and telephone numbers of the organization's 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 bylaws.
- 3.2 A qualified political organization must meet at least once each calendar year.
- 3.2.1 During the meeting in ~~the~~ odd-numbered ~~year~~-YEARS, the organization must elect a chairperson, vice-chairperson, secretary, and other officers or committees required by the organization's bylaws. ~~(a) ———~~ If the political organization is a new organization, the organization must hold this meeting before placing a candidate on the ballot. In this instance, the organization may hold this meeting in an even-numbered year and may select candidates as described in Rule 3.3.3.
  - 3.2.2 The organization's chairperson and secretary must file with the Secretary of State a full and complete list, under oath, of the persons elected or appointed under this Rule 3.2, together with any amendments to the bylaws adopted at the meeting.
  - 3.2.3 During the meeting in ~~the~~ even-numbered ~~year~~-YEARS, the organization must select candidates who will attempt to petition ~~on to~~-ONTO the ballot for the next general election.

- 3.3 To remain in good standing, a qualified political organization must place a candidate on the general election ballot every two years. A write-in candidate alone is not sufficient to meet this requirement.
  - 3.3.1 Organization candidates must be nominated in accordance with section 1-4-802, C.R.S.
  - 3.3.2 Each petition must contain the name of one candidate and an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form must be approved by the Secretary of State.
  - 3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political organization for one year or, if the organization has not been qualified for one year, the candidate must have been registered as unaffiliated for one year.
- 3.4 The Secretary of State will qualify a political organization if the organization:
  - 3.4.1 Files proof of organization with the Secretary of State;
  - 3.4.2 Meets and names a candidate to the general election ballot; and
  - 3.4.3 Certifies a candidate to the general election ballot.
- 3.5 Once qualified, eligible electors may affiliate with the political organization.
- 3.6 The Secretary of State will revoke the qualified status of a political organization if the organization does not fully comply with Rules 3.3 and 3.4.
- 3.7 If the Secretary of State revokes the qualified status of a political organization, the Secretary will notify county clerks by June 1 of each odd-numbered year. Upon receipt, the county clerk must mark registration records as “unaffiliated”, where applicable.
- 3.8 Except for the precinct caucus list furnished to major political parties, a qualified political organization may obtain print-outs, lists, and tapes, of voter registration records at the same rate as political parties.
- 3.9 A voter registration summary report must include major political parties, minor political parties, qualified political organizations, and unaffiliated categories.

#### **Rule 4. Coordinated Elections**

- 4.1 Participation in coordinated elections:
  - 4.1.1 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.
  - 4.1.2 A coordinating political subdivision must enter into an intergovernmental agreement with the county clerk that delineates which tasks are the responsibility of the designated election official of the political subdivision and which are the responsibility of the county clerk.

4.2 Procedures for ~~Coordinated Elections Involving Jurisdictions Shared by Multiple Counties~~  
COORDINATED ELECTIONS INVOLVING JURISDICTIONS SHARED BY MULTIPLE COUNTIES.

- 4.2.1 For each jurisdiction that is shared by multiple counties, a controlling county must be designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and questions in coordinated elections.
- 4.2.2 The controlling county is the county where the administrative office of the political subdivision is maintained at the time that the controlling county is designated.
  - (a) If the administrative office is not maintained within the boundaries of the political subdivision, the controlling county must be the county where the largest number of active registered electors within the jurisdiction reside at the time that the controlling county is designated.
  - (b) Once designated, the controlling county will not change unless approved by the Secretary of State upon request of any of the affected counties.
- 4.2.3 The controlling county must coordinate with each county that shares the jurisdiction to assign the ballot number/letter in accordance with Rule 4.5 no later than the date of ballot certification. All counties within the shared jurisdiction must ensure that the shared races, issues, and questions are printed on the ballot as certified by the Secretary of State or designated election official, and in the order assigned by the controlling county.
- 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance with this Rule, any of the other counties in the shared jurisdiction may make a written request to the Secretary of State to temporarily assume the duties of the controlling county. The Secretary of State may act on behalf of the controlling county or to temporarily designate another county to act as the controlling county to implement this Rule.

4.3 November coordinated elections.

- 4.3.1 The county clerk is the coordinated election official for coordinated elections held in November of each year and is responsible for coordinating the Article X, Section 20 Ballot Issue notice mailing.
- 4.3.2 Placing measures on the ballot for coordinated odd-year elections.
  - (a) For a statewide ballot measure, the Secretary of State must determine whether a proposed initiative is eligible to appear on an odd-year election ballot and whether it concerns state matters arising under Section 20 of Article X of the State Constitution.
  - (b) For all other ballot measures, the political subdivision certifying the ballot content to the coordinated election official must determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.

4.4 Form of coordinated elections held other than in November.

- 4.4.1 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 the overlapping jurisdictions must identify the election official responsible for assuring that the Article X, Section 20 notice is given.

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

#### 4.5 Determination of ballot issues and texts

4.5.1 Each political subdivision must 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 must print the ballot title 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 the political subdivision pays 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 must 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.

4.5.2 Each political subdivision must 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) Referred measures must be designated by a letter or by a number and a letter; initiatives must be designated by a number.

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

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

(1) Referred measures to increase taxes;

(2) Referred measures to retain excess revenues;

- (3) Referred measures to increase debt;
  - (4) Other referred measures;
  - (5) Initiatives to increase taxes;
  - (6) Initiatives to retain excess revenues;
  - (7) Initiatives to increase debt;
  - (8) Other citizen petitions.
- (d) For statewide measures, initiatives must be numbered in the order in which the statements of sufficiency are issued. The numbers one through five must be reserved for initiatives to increase taxes; the numbers six through ten must be reserved for initiatives to retain excess revenues; the numbers eleven through fifteen must be reserved for initiatives to increase debt; all other citizen petitions must be numbered consecutively beginning with sixteen.
- (e) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every proposed change to the Colorado Constitution must be called an “amendment” and every proposed change to the Colorado Revised Statutes must be called a “proposition”
- (f) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:
- (1) Each category of referred and initiated state amendments and propositions must be numbered and listed on the ballot in the following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

If a referred or initiated measure contains both a proposed constitutional and statutory change, the measure must be ordered on the ballot as a constitutional amendment.

- (2) Each category of initiated local ballot issues and questions must be numbered in the following series:

200-299	County Issues
300-399	Municipal Issues
400-499	School District Issues
500-599	Ballot Issues and Questions for other political subdivisions greater than a county;
600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county;

- (3) Each category of local referred ballot issues and questions must be designated by a letter or a number and a letter in the following series:

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

- (4) 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.
- (5) For other than state issues, if a county has multiple cities 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 or letters, making sure that all measures for each political subdivision are grouped together.
- (6) 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 must confer with one another and must give the same ballot number or letter to the ballot issue or questions.
- (7) Each ballot question or issue must 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.

#### 4.6 Candidate audio recordings

- 4.6.1 A candidate for statewide office, the general assembly, congressional office, regent, or district attorney must provide an audio recording of his or her name to the Secretary of State. The candidate must record his or her name exactly as it appears on the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable, and the candidate must provide the recording to the secretary of state no later than the deadline to file the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable.
- 4.6.2 A candidate for a county, municipal, school district, or special district office in an election coordinated by the county clerk must provide an audio recording of his or her name to the county clerk. The candidate must record his or her name exactly as it appears

on the statement of intent, and must provide the recording to the county clerk no later than the deadline to file the statement of intent.

#### 4.7 Congressional term limits declaration

- 4.7.1 The Secretary of State must make the Congressional Term Limits Declaration available to every candidate for United States House of Representatives or the United States Senate, provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to these candidates when the candidate files a candidate affidavit with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate will have no effect on the candidate's candidacy.
- 4.7.2 The Secretary of State must accept Part A of the Term Limits Declaration if Part B of the Term Limits Declaration was not duly executed and submitted. (~~Art.~~ ARTICLE XVIII, ~~see-~~ SECTION 12a(7) of the Colorado Constitution)
- 4.7.3 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 may 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.

#### 4.8 Ballot format and printing

- 4.8.1 The county clerk must print the candidate names and the text of ballot issues and ballot questions in upper and lower case, except that the clerk must print the text of ballot issues subject to Article X, Section 20 of the Colorado Constitution in all uppercase text.
- 4.8.2 If there is no candidate for an office, the ballot must state, "There are no candidates for this office."
- 4.8.3 Printing primary election ballots:
- (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk must conduct the primary election for all major political parties.
- (1) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.
- (2) If there are no candidates for any particular office, the county clerk must print on the ballot "There are no candidates for this office".
- [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.3]
- (b) If a minor political party, as defined in section 1-1-104(23), C.R.S., nominates more than one candidate for any office, the county clerk may conduct the primary election for that party only.
- (1) The county clerk must include on the ballot only the offices for which there is more than one candidate designated.

- (2) If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.

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

#### 4.8.4 Use of unique numbers on ballots:

- (a) Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.
  - (1) A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.
  - (2) Nothing in this ~~rule~~ **RULE** prohibits a county from printing a unique number or barcode on the removable stub.
- (b) After an election official dissociates a voted ballot from its envelope and removes the stub, the county may write or print unique numbers on the voted ballot for auditing and accounting purposes, including duplication of damaged ballots and risk limiting audits.
- (c) For ballots printed before the adoption of this ~~rule~~ **RULE** that are in a county's possession, the county must redact unique numbers, or barcodes containing unique numbers, before providing ballots in response to a request for inspection under the Colorado Open Records Act (Section 24-72-205.5(4)(b)(II), C.R.S.).

- 4.8.5 If the designated election official discovers a ballot layout, printing, or programming error, he or she must immediately report the issue to the Secretary of State's office and work in conjunction to correct the error.

#### 4.9 Colorado Constitution Article X, Section 20 notice requirements:

- 4.9.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and ~~distribution of the notice~~ **DISTRIBUTING NOTICES** required by Article X, Section 20. These responsibilities may be delegated to the coordinated election official in the intergovernmental agreement.

#### 4.9.2 Mailing ballot issue notices:

- (a) Nothing precludes 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 precludes 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 ensures that all active registered electors are included on the mailing list.
- (c) Nothing precludes the coordinated or designated election official from sending

notice to each registered elector in a particular political subdivision.

- (d) 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.”

4.9.3 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.

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

4.9.5 The coordinated election official is not responsible for failure to meet the Article X, Section 20 constraints if the political subdivision fails to submit the notice and summaries within the deadline and in the form required by the coordinated election official.

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

- (b) For COUNTING AND VERIFICATION purposes ~~of counting words and to verify the five hundred 500-WORD~~ 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.

4.9.6 No person may withdraw written **BALLOT ISSUE** comments ~~concerning ballot issues~~ submitted to the designated election official after the last Friday immediately preceding the forty-fifth day before the election.

## **Rule 5. Nonpartisan Elections not Coordinated by the County Clerk**

### 5.1 Election Notice

5.1.1 The designated election official must send notice of the election to the clerk of the county in which the election will be held. The notice must include the date by which the list of registered electors must be submitted to the political subdivision.

5.1.2 For multi-county political subdivisions, the notice sent to each clerk must also include the names of all other counties in which the election will be held.

### 5.2 Mail ballot elections

5.2.1 If a political subdivision coordinates with the county clerk, the designated election official is not required to submit a separate mail ballot plan for the election.

5.2.2 If a local governing board determines an election will be conducted by mail ballot, the designated election official must submit a mail ballot plan to the Secretary of State no later than 55 days before the election. The designated election official must use the approved mail ballot plan template.

- (a) The designated election official must include an actual sample of the secrecy sleeve or ~~secrecy~~ envelope that the designated election official plans to use in the election.
- (b) A home rule municipality must check the appropriate box on the plan indicating whether there are locally adopted election procedures different from those set forth in Title 1, C.R.S. The Secretary of State will not review ~~the ANY HOME RULE MUNICIPALITY'S mail ballot plan of any home rule municipality~~ that fails to include this information.

### 5.2.3 Ballots and ballot packets

- ~~(a) In any election where a multiple page printed ballot is used, a voter must return all pages of the ballot at the same time. Any voter who returns at least one page of a multiple page printed ballot has voted.~~
- ~~(b-A)~~ For non-partisan elections where multiple ballots will be included in the same packet or will be sent in separate packets, the ballots and return envelopes must 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.
- ~~(e-B)~~ The designated election official for each political subdivision for whom one or more county clerks are conducting the election must provide a complete list of eligible electors in their political subdivision to each appropriate county clerk, unless otherwise provided in the intergovernmental agreement. The political subdivision must list each elector only once to ensure that each elector receives one and only one ballot unless otherwise authorized.
- ~~(d-C)~~ All election materials prepared by the designated election official, including the Article X, Section 20 notice, may be included in the mail ballot packet.

### 5.2.4 Receipt of Ballots

- (a) The designated election official must appoint sufficient election officials to process ballots.
- (b) Each day when ballots come in, an election official must count the ballot envelopes, batch them and record the number received.
- (c) An election official must date-stamp the envelopes upon receipt. If any ballot is received after the time set for the closing of the elections, the envelope must be date-stamped but the ballot must not be counted.
- (d) Election officials must record the number of ballot packets returned as undeliverable.
- (e) The designated election official must seal and store ballots in a safe, secure place until the counting of the ballots.

5.2.5 Recall elections. The designated election official must submit a written plan to the Secretary of State within five days after the designated election official sets the date of

the election. The Secretary of State will approve or disapprove the plan within five days from the date it is received. [Section 1-12-111.5, C.R.S.]

- 5.3 If a designated election official conducts an election on a day other than described in section 1-7-116(1), C.R.S., the designated election official may mail the notice required by Article X, Section 20 of the Colorado Constitution to people who are not eligible electors if the mailing is done at the “least cost” possible.
- 5.4 If the designated election official for the political subdivision is unable to establish a polling location within the political subdivision, the designated election official may designate a polling location outside of the political subdivision if the location is convenient for the electors.
- 5.5 For elections not conducted in November and not coordinated with the county clerk, the ballot issue or question must 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.
- 5.6 Elections authorized by Part 1, Article 45 of Title 37, C.R.S., must 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, under section 37-45-103 (3), C.R.S. (“Court”).
  - 5.6.1 The form and verification of any petition requesting an election conducted by a water conservancy district under sections 37-45-114 (2) and 37-45-136(3.5), C.R.S., (“Petition”), must conform with sections 1-40-113 and 1-40-116, C.R.S., and Rule 15; except that petitioners need not seek petition format approval from the Secretary of State. Petitioners must file the petition with the court and the water conservancy district must verify the signatures on the petition.
  - 5.6.2 The procedures for issuing the statement of sufficiency or insufficiency of the petition must conform with section 1-40-117, C.R.S., and Rule 15; except that the statement must be issued by the water conservancy district named in the petition, unless otherwise ordered by the court.
  - 5.6.3 The procedures for cure of a petition deemed insufficient must conform with section 1-40-117, C.R.S., and Rule 15; except any addendum to the petition must be filed with both the court and the water conservancy district named in the petition, unless otherwise ordered by the court.
  - 5.6.4 The procedures for protesting the determination that a petition is insufficient must conform with section 1-40-118, C.R.S., and Rule 15, unless otherwise ordered by the court.
  - 5.6.5 The designated election official must conduct any election under section 37-45-114(2), C.R.S., after the sixtieth but before the one hundredth day after the date of the court order, regardless of the actual expiration date of the term of the office, unless the Court order establishes an alternate date or the water conservancy district has notified the court that the election must be coordinated and conducted in accordance with section 1-7-116, C.R.S.
  - 5.6.6 The form and procedures for filing candidate nomination forms and call for candidate nominations for the office to be voted upon at the court-ordered election described in this



Rule, must be conducted under Article 1, Title 32, C.R.S., unless otherwise ordered by the court.

- 5.7 Non-Partisan Elections: Polling location ~~Procedures.~~ PROCEDURES
- 5.7.1 For polling place elections conducted in accordance with Article 1, Title 32, C.R.S., upon execution of the self-affirming oath or affirmation under section 32-1-806(2), C.R.S., an eligible elector must show identification as defined in section 1-1-104(19.5), C.R.S.
- 5.7.2 The designated election official must ensure that each polling location has an adequate number of provisional ballots and affidavits.
- 5.7.3 The designated election official must follow the provisional ballot procedures contained in ~~articles~~ ARTICLES 1 through 13 of ~~title~~ TITLE 1, C.R.S., and Rule 17.
- 5.8 The ~~county~~ clerk for a county that contains any portion of a political subdivision within its borders must provide election day registration for the political subdivision.
- 5.8.1 The county clerk must provide voter registration through the 22-day period before the election during normal business hours, Monday through Friday, and 7:00 a.m. to 7:00 p.m. on election day.
- 5.8.2 The county clerk must provide daily registration updates ~~BEGINNING~~ 22 days ~~BEFORE~~ ELECTION DAY through the day before election day, to the designated election official by secure transmission as outlined in Rule 20.
- 5.8.3 On election day, the county clerk must provide a certificate of registration to any elector who registers to vote or updates his or her registration.

## Rule 6. Election Judges

- 6.1 Appointment of election judges under section 1-6-104, C.R.S.
- 6.1.1 The county clerk must request an updated list of election judges from each major party before each election the clerk conducts.
- 6.1.2 The county clerk may assign election judges to positions based upon appropriate skill level and interest.
- 6.1.3 The county clerk must reasonably attempt to exhaust the list provided by the major parties before supplementing with minor party or unaffiliated judges, or staff.
- 6.2 For purposes of training election judges, an “election cycle” means all elections held during a calendar year beginning January 1 and ending December 31.
- 6.3 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each ~~person~~ ~~appointed to serve as a~~ student election judge must take a self-affirming oath or affirmation before serving ~~as a student election judge~~, in substantially the following form:

*“I, \_\_\_\_\_ do solemnly swear (or affirm) that I am a citizen of the United States and state of Colorado; that I am at least 16 years of age and a High School Junior or Senior; that I will perform the duties of an election judge according to law and to the best of my ability; that I*

*will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as a student election judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed.”*

6.4 A supervisor judge in a voter service and polling center must:

6.4.1 Successfully pass the criminal background check described in Rule ~~6.4~~ 6.5. Any person who has been convicted of an election offense or ~~AN OFFENSE WITH AN ELEMENT OF~~ fraud is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities.

6.4.2 Effective January 1, 2014, successfully complete a training course provided by the Secretary of State.

6.5 The county clerk must arrange for a criminal background check on a supervisor judge and each staff member conducting voter registration activities. The criminal background check must be conducted by or through the Colorado Bureau of Investigation in the Department of Public Safety or by the County Sheriff’s department for the county in which the county clerk’s office is located.

## **Rule 7. Elections Conducted by the County Clerk and Recorder**

7.1 Mail ballot plans

7.1.1 ~~the~~ ~~THE~~ county clerk must submit a mail ballot plan to the Secretary of State by email no later than 90 days before every election.

(a) For recall elections, the county clerk must submit a mail ballot plan to the Secretary of State by email within five days after the appropriate official sets the election ~~DATE~~. ~~Within five days after receiving the recall election plan, the~~ ~~THE~~ Secretary of State will approve or disapprove ~~THE PLAN WITHIN FIVE DAYS AFTER RECEIPT~~.

(b) The county clerk must submit with the mail ballot plan the secrecy sleeve or envelope that the clerk intends to use in the election.

7.1.2 Approval of mail ballot plans and submission of amendments

(a) If the Secretary of State requests modifications to a plan prior to approval, the county clerk must submit the modified plan within ten days from the request. The Secretary of State will approve or disapprove the modified plan within 15 days from the date it is received.

(b) A county clerk may amend a timely submitted mail ballot plan by submitting a written statement outlining the amendment. The amendment must state the specific section of the plan amended and the reason for the amendment. The Secretary of State will approve or disapprove the amendment within 15 days from the date it is received. If the amendment is received within 30 days before the election, the Secretary of State will approve or disapprove the amendment

within two business days.

7.1.3 The county clerk must submit a security plan under Rule 20 in addition to the mail ballot plan submitted in accordance with this Rule.

## 7.2 Ballots and ballot packets

~~7.2.1 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who has returned at least one page of a multiple page printed ballot will be considered to have voted.~~

~~7.2.2-7.2.1~~ In accordance with section 1-7-116(1), C.R.S., for all coordinated elections, the outgoing envelope, ~~as well as the~~ instructions, or other notice must include a notice advising electors that they may receive a ballot from another political subdivision conducting a mail ballot election.

~~7.2.3-7.2.2~~ If the ballot is returned to the election official as undeliverable, the county clerk is not required to re-mail the ballot packet.

~~7.2.4-7.2.3~~ In accordance with section 1-7.5-107(3), C.R.S., the county clerk must mail ballots no later than 18 days before election day.

- (a) The county clerk must process all new registration applications and updates received by the 22-day deadline to mail applicants a ballot in accordance with section 1-7.5-107(3), C.R.S.
- (b) The county clerk must process new online and in-person registration applications and mail registration updates received by the eighth day before election day and mail a ballot within one business day after receipt.
- (c) In coordinated elections, the county clerk must mail ballots to all active eligible electors of each political subdivision. For special district elections, the designated election official of each district must certify to the county clerk the list of electors eligible to vote under section 32-1-806, C.R.S.

~~7.2.5-7.2.4~~ Voiding ballots due to timely changes in address or affiliation.

- (a) If an elector timely changes his or her address or affiliation after the county mails ballots or sends the voter file to the vendor, the county must void the first ballot and generate a second ballot.
  - (1) If the county processes the change to the elector's record after it sends the voter file to the vendor but before the vendor prints ballots, the county must provide the vendor a voided ballot file to prevent the vendor from printing and preparing voided ballots for mailing.
  - (2) If the county processes the change to the elector's record after the vendor has printed ballots but before the vendor mails ballots, the county must work with the vendor to make every reasonable effort to remove voided ballots before they enter the mail stream.
- (b) If the county mails its own ballots, the county clerk must remove all voided

ballots before mailing.

- (c) If the county processes the change to the elector's record after it mails ballots, the county must count the first ballot returned by the elector in accordance with section 1-7.5-107(6), C.R.S., except ~~as follows:~~

- ~~(1) — If the~~ WHERE AN elector changed his or her affiliation, the county must count the ballot issued for the elector's new party affiliation.

### 7.3 Absentee voting

7.3.1 An elector may request that the county clerk mail his or her ballot to an address other than the elector's address of record by submitting an application in accordance with section 1-7.5-116, C.R.S.

7.3.2 The county clerk must mail the ballot to the address provided until the elector indicates otherwise.

### 7.4 Emergency ballot transmission

7.4.1 The county clerk may deliver a replacement ballot on election day to an elector's authorized representative or to the elector by electronic transmission in the case of an emergency replacement ballot under section 1-7.5-115, C.R.S., UPON RECEIPT OF A COMPLETED APPLICATION BY THE ELECTOR.

- ~~(a) — The applicant must submit an application for emergency replacement ballot before the county clerk may send the ballot.~~

- ~~(b) —~~ If the county clerk delivers an emergency replacement ballot to an elector by electronic transmission, the elector may return the ballot by electronic transmission.

7.4.2 Ballots sent by electronic transmission must include all races, ballot issues, and questions for which the elector is eligible to vote. The ballot must be legible to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.

7.4.3 The electronic transmission must include:

- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (b) A notice that the ballot may not be duplicated for any other elector;
- (c) Instructions for completing and returning the ballot;
- (d) A notice regarding the ballot return deadline;
- (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk; ~~and~~
- (f) Any other information deemed necessary by the Secretary of State or the county

clerk; AND

- (g) The ballot packet must be in text format on 8 ½” x 11” white paper and must include:
  - (1) An electronic transmission coversheet to protect voter privacy;
  - (2) The unvoted ballot;
  - (3) The electronic transmission ballot instructions; and
  - (4) The self-affirmation required by section 1-7.5-107(3)(b.5), C.R.S.

7.4.4 The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must retain the log as part of the official election record along with any other electronic transmission records. The log must include:

- (a) The name of the voter;
- (b) The fax number or email address to which the ballot was transmitted (as applicable);
- (c) The date the ballot packet was transmitted and received; and
- (d) The initials of the employee transmitting and receiving the ballot.

7.4.5 If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.

7.4.6 Upon receipt of the ballot, a bipartisan team of election judges must verify the signature on the affidavit under Rule 7.7. After the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot.

7.4.7 Notwithstanding any other provision of law, the following procedures apply to delivery and return of ballots to electors affected by a disaster emergency.

(a) Definitions

- (1) “Affected elector” means an elector who is displaced from, or isolated in the elector’s residence, as a result of a disaster emergency.
- (2) “Affected county” means a county in which a disaster emergency exists.
- (3) “Disaster emergency” means a state of disaster emergency declared by an authorized public officer under applicable law.

(b) The county clerk of an affected county may issue an original or replacement ballot to an affected elector in-person at the county clerk’s office under section 1-7.5-107(2.7), C.R.S., or by mail at any time after official ballots are printed and in the possession of the county clerk under section 1-5-403(1), C.R.S.

- (c) Disaster Emergency mail ballots:
  - (1) An affected elector who is unable to obtain his or her ballot in-person or by mail because he or she is isolated in his or her residence may apply for a disaster emergency mail ballot on a form provided by the Secretary of State.
  - (2) A disaster emergency mail ballot may be issued to and returned by an affected elector by mail, fax, or email.
  - (3) The county clerk must record the issuance and receipt of disaster emergency mail ballots sent by electronic transmission on a log approved by the Secretary of State.
- (d) The county clerk of an affected county must submit to the Secretary of State an amendment to the county's contingency plan. The amendment, at a minimum, must include:
  - (1) A general description of the affected areas;
  - (2) A plan for notifying affected electors of procedures to obtain and return ballots;
  - (3) Procedures for delivery and return of ballots to and from affected electors; and
  - (4) Any procedures necessary to ensure the security of ballots delivered to or returned by affected electors.

## 7.5 Receipt and processing of ballots

- 7.5.1 All drop-off locations must be monitored by an election official or video security surveillance recording system, as defined in Rule 20.
  - (a) Freestanding drop-off locations must be monitored at all times.
  - (b) If the drop-off location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored at all times.
- 7.5.2 Each day when ballots come in, an election official must count the ballot envelopes, batch them and record the number of ballots received.
- 7.5.3 An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Except for ballots submitted by military or overseas electors, any ballot received after the close of polls must be date-stamped but not counted.
- 7.5.4 The county clerk must arrange for the collection of ballots by bipartisan teams of election judges from all drop-off locations and receive them into SCORE:
  - (a) At least once every 72 hours after ballots are mailed until the date that ~~Voter~~

~~Service and Polling Centers~~ VOTER SERVICE AND POLLING CENTERS must open;

- (b) At least once every 24 hours during the days that ~~Voter Service and Polling Centers~~ VOTER SERVICE AND POLLING CENTERS must be open; and
- (c) At least twice on election day, at approximately 1:00 p.m. and 7:00 p.m.
- (d) The county clerk may meet the requirements of this ~~rule~~ RULE by:
  - (1) Collecting and transporting the ballots to the central counting location for receipt into SCORE;
  - (2) Collecting and transporting the ballots to the nearest ~~Voter Service and Polling Center~~ VOTER SERVICE AND POLLING CENTER for receipt into SCORE; or
  - (3) Receiving the ballots into SCORE at the ballot drop-off location.

7.5.5 Election officials must record the number of ballot packets returned as undeliverable upon receipt.

7.5.6 The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.

7.5.7 ~~The county clerk must keep a list, to the extent possible, of the names and mailing addresses of all individuals who deliver more than 10 voted ballots to the county clerk's office, drop-off location, or voter service and polling center. IF THE COUNTY CLERK DISCOVERS A VIOLATION OF SECTION 1-7.5-107(4)(B), C.R.S., PROHIBITING ANY PERSON FROM DELIVERING MORE THAN 10 BALLOTS IN ADDITION TO HIS OR HER OWN IN ANY ELECTION, THE COUNTY CLERK MUST REFER THE INFORMATION TO THE DISTRICT ATTORNEY.~~

~~7.5.8 The county clerk must notify each individual on the list required by 7.5.7 by letter that they have violated section 1-7.5-107(4)(b), C.R.S., by delivering more than ten ballots to the county clerk.~~

~~7.5.9~~7.5.8 ~~Tracking ballot batches.~~ The county clerk must dissociate any batch number that could trace a ballot back to the specific voter who cast it from the counted ballots no later than the final certification of the abstract of votes cast.

## 7.6 Missing signature

7.6.1 If a mail or provisional ballot return envelope lacks a signature, the election official must contact the elector in writing no later than two calendar days after election day. The designated election official must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record. Nothing in this ~~rule~~ RULE prohibits the designated election official from calling the elector. ~~But,~~ BUT a phone call may not substitute for written contact. If the designated election official calls any elector he or she must call all electors whose affidavits are unsigned.

[Sections 1-7.5-107.3, ~~1-8-114.5~~, and 1-8.5-105(3)(a), C.R.S.]

- 7.6.2 The letter must inform the elector that the elector must sign the affidavit and return the form in person or by mail, fax, or email, and that the county must receive the form no later than eight calendar days after the election.
- 7.6.3 The election official must use the letter and the signature verification form approved by the Secretary of State. The letter and missing signature affidavit form does not violate section 1-13-801, C.R.S.

## 7.7 Signature verification procedures

- 7.7.1 The election judges must compare the signature on the self-affirmation on each return envelope with the signature in SCORE. The election judges must research the signature further if there is:
- (a) An obvious change in the SIGNATURE'S slant ~~of the signature~~.
  - (b) A printed signature on one document and a cursive signature on the other document.
  - (c) A difference in the SIGNATURE'S size or scale ~~of the signatures~~.
  - (d) A difference in the SIGNATURE'S individual characteristics ~~of the signatures~~, such as how the "t's" are crossed, "i's" are dotted, OR loops are made on "y's" or "j's".
  - (e) A difference in the voter's signature style, such as how the letters are connected at the top and bottom.
  - (f) Evidence that ballots or envelopes from the same household have been switched.
  - (g) Any other noticeable discrepancy such as misspelled names.
- 7.7.2 In conducting further research, the election judges must check SCORE for at least two additional documents signed by the voter, if available. The judges may compare additional information written by the voter on the return envelope, such as the voter's address and date of signing. Any similarities noted when comparing other information may be used as part of the signature verification decision process.
- ~~(a) — If it appears to the judges verifying the self-affirmation on the return envelopes that members of the same household have inadvertently switched envelopes or ballots, the ballot or ballots must be counted and no letter of advisement to the elector-ELECTORS is necessary.~~
- 7.7.3 If the election judges dispute the signature they must document the discrepancy and the research steps taken in a log. The election judges must identify the elector in the log using a unique tracking number. The tracking number may not contain the elector's social security number, Colorado driver's license number, or the identification number issued by the Department of Revenue. The log may not contain the elector's signature. The election judges must note the final resolution and ballot disposition on the research log.



- 7.7.4 The election official must use the letter and the signature verification form approved by the Secretary of State. (~~Sections~~ SECTION 1-7.5-107.3(2)(a) and 1-8-114.5(2)(a), C.R.S.) The letter and signature verification form does not violate section 1-13-801 C.R.S.
- 7.7.5 All uncounted ballots must remain sealed in the return envelope and stored as election records in accordance with section 1-7-802, C.R.S.
- 7.7.6 Use of ballot envelope sorters and signature capture devices. If the county uses a ballot sorting and signature capture device, the county clerk must test the device before using it in an election to ensure that it properly sorts envelopes, and accurately and clearly captures the signature on the envelope for comparison to the correct voter record.
- 7.7.7 Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.
- (a) If the county uses a signature verification device for automated signature verification on ballot envelopes, the county clerk must test the device before using it in an election.
- (1) The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.
  - (2) The county must pull and test a minimum of 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.
    - (A) A team of bipartisan election officials must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this ~~rule~~ RULE.
    - (B) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
- (b) In addition to the initial test, the county must conduct a regular audit of the device during its use.
- (1) The county must pull a random sampling of no fewer than one in every fifty machine-verified signatures daily.
  - (2) A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this ~~rule~~ RULE.
  - (3) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
  - (4) If the device fails the audit, the county must immediately cease use of automated signature verification and notify the Secretary of State. The

Secretary of State and the county must work in coordination to identify the issue and implement a solution.

- (c) The county must OPERATE ~~ensure that the device is operated~~ on a dedicated and secure network.
  - (1) The county may connect the device to the county network only for maintenance and support.
  - (2) The device must be secured by the county firewall.
  - (3) The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, AND the specific reason for access.

7.7.8 If a county uses a signature capture device to compare a ballot envelope signature to a signature maintained in SCORE, the system may display only one voter's signature at a time.

## 7.8 Voter service and polling centers

7.8.1 The county clerk must designate and open the minimum number of voter service and polling centers, ~~and the locations~~ THE CENTERS must be open during reasonable business hours for the minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

- (a) Reasonable business hours means at least eight hours per day Monday through Friday, and at least four hours on Saturday.
- (b) All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.
- (c) The county clerk must provide all services outlined in section 1-2-509, C.R.S., at every designated voter service and polling center.

7.8.2 ~~Voter Service and Polling Center~~ VOTER SERVICE AND POLLING CENTER materials include, sufficient computer stations for SCORE access, HAVA information, a voting demonstration display, a signature card table, signature cards, paper ballots, ~~and~~ voting booths or DREs, A provisional voting area, and a ballot box.

## 7.8.3 Voter check-in at the voter service and polling center

- (a) Each voter service and polling center must include ~~and AN~~ adequately ~~staff a~~ STAFFED designated voter check-in table or area.
- (b) The check-in judge must verify each elector's registration information, including address.
- (c) If an elector has moved or is not registered, the check-in judge must direct the elector to the registration area. If the elector is registered and has no updates, the check-in judge must direct the elector to the voting table.

- 7.8.4 Except for voters with disabilities, the maximum allowable time in a voting booth is 15 minutes if there are voters waiting. The ~~secretary of state~~ SECRETARY OF STATE may order additional time based on the length of the ballot. [Section 1-7-115, C.R.S.]
- 7.8.5 Any eligible elector may vote in-person at a voter service and polling center. An election judge must mark the elector’s mail ballot “surrendered” in SCORE before issuing an in-person ballot.
- 7.8.6 If a voter leaves the voting area without completing the voting process, two judges of different affiliation must, to the extent possible, cover the voter’s choices, and cast the ballot as the voter left it.
- 7.8.7 If an elector votes after the close of polls because a federal or state court issues an order extending the time established for closing the polls by state law, the elector must vote by provisional ballot. The county clerk must keep all provisional ballots cast under this ~~rule~~ RULE separate from provisional ballots not affected by the court order.
- 7.9 No later than 90 days before an election, the county clerk must designate drop-off locations and ~~Voter Service and Polling Centers~~ VOTER SERVICE AND POLLING CENTERS, and complete an accessibility survey for all drop-off and ~~Voter Service and Polling Center~~ VOTER SERVICE AND POLLING CENTER locations annually before designating a location for use.
- 7.9.1 For the first survey of a location, the county clerk must complete the full ADA Checklist for ~~Voter Service and Polling Centers~~ VOTER SERVICE AND POLLING CENTERS. The county clerk must complete the Annual Voter Service and Polling Center Accessibility Survey form for each election after the initial survey is completed. [Section ~~1-5-102-1-5-703~~, C.R.S.]
- 7.9.2 If a location fails to meet the minimum accessibility requirements outlined in the ADA Checklist, the county clerk must develop a barrier removal plan outlining the modifications that the county clerk will implement to bring the site into compliance. The county clerk must indicate on the survey whether the modifications are temporary or permanent.
- 7.9.3 The Secretary of State may deny an application for accessibility grant funds if a county clerk fails to assess locations, ~~and~~ timely file complete accessibility surveys, ~~and~~ OR develop and implement necessary barrier removal plans in accordance with this Rule. The Secretary will conduct site visits to assess compliance and identify accessibility barriers. The Secretary will seek injunctive action or other penalties under section 1-1-107(2)(d), C.R.S., as necessary to remedy violations of this Rule.
- 7.10 Voter service and polling center connectivity
- 7.10.1 The county must have real-time access to SCORE at every voter service and polling center designated by the county clerk.
- 7.10.2 At no time may an election official open both the SCORE voter registration screen and the voting module on a single workstation.
- 7.10.3 Every voter service and polling center designated by the county clerk must meet the minimum security procedures for transmitting voter registration data as outlined in section 1-5-102.9, C.R.S., and Rule ~~20~~ 2.17.

7.11 Assisting voters with disabilities in a voter service and polling center

7.11.1 The designated election official must post a sign at the voter service and polling center that states:

*NOTICE  
VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES*

*Colorado law protects a voter's legal right to assistance in voting if assistance is needed because of a disability.*

1. *If you require assistance, please inform an election judge.*
2. *Any person, including an election judge, may assist you.*
3. *If you select a person other than an election judge, he or she must complete a Voter Assistance Form, which includes an oath that states:  
  
I, ....., certify that I am the individual chosen by the elector to assist the elector in casting a ballot.'*
4. *The person you select may provide any assistance you need, including entering the voting booth, preparing the ballot, or operating the voting machine.*
5. *The person assisting you may not seek to persuade you or induce you to vote in a particular manner.*
6. *The election judge must record the name of each voter who receives assistance and the name of the person who provides assistance on the signature card.*

7.11.2 ~~If~~ **If** a voter has spoiled two ballots and requests a third ballot, an election official must offer assistance in voting procedures and casting the ballot.

7.12 Reimbursement to counties for state ballot measure elections. No later than 90 days after an election, the county must submit a completed request for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request using the form provided by the Secretary of State.

**Rule 8. Watchers**

8.1 Watchers must affirm that they are qualified under sections 1-1-104(51), 1-7-105, 1-7-106, 1-7-107, and 1-7-108(2), C.R.S., as applicable. Watchers must take the oath described in section 1-7-108(1), C.R.S. and, upon first entering the polling location, surrender the certificate of appointment to the supervisor judge at each location where the watcher is designated to observe.

8.1.1 If a watcher leaves a polling location but returns to the same location, another certificate of appointment is not necessary.

8.1.2 A new watcher who is replacing an original watcher must provide an original certificate of appointment for that polling location.

8.1.3 A certificate of appointment as a watcher is not transferable to another individual.

- 8.2 A political party attorney may not be in the polling location unless he or she is a duly appointed watcher ~~OR IS CASTING HIS OR HER BALLOT.~~
- 8.3 The supervisor judge must provide to each watcher on request a list, log, check-in card, or other similar information of voters appearing in the polling location to vote. The watcher may not remove the information or documents from the polling location. A watcher may maintain a list of eligible electors who have voted by using only information provided by the supervisor judge or a list of electors previously maintained by the watcher. [Section 1-7-108(3), C.R.S.]
- 8.4 Watchers are subject to the provisions of section 1-5-503, C.R.S.
- 8.4.1 The designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.
- 8.4.2 Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities, including recall elections. This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors. Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.
- (a) Election-related activities include all activities in a polling location and ballot processing and counting, ~~Such-SUCH~~ as:
- (1) Observing voter check-in and registration activities.
  - (2) Witnessing the signature verification of mail ballot envelopes at close enough distance to verify or challenge the signature.
  - (3) Witnessing ~~BALLOT the duplication of ballots to verify accuracy of duplication~~ according to voter intent.
  - (4) Observing the tabulation process or display screens of voting equipment at any time that ~~AN ELECTOR the voter~~ is not in the immediate voting area for purposes of voting or casting a ballot.
  - (5) Witnessing hand count tabulations as they are being conducted.
  - (6) ~~OBSERVING Visual access to~~ all documents and materials during the LAT and post-election audit.
- (b) Watchers must remain outside the immediate voting area while an elector is voting.
- (c) Watchers may be present at each stage of the conduct of the election, including the setup and breakdown of polling locations and ballot receipt and processing.
- (d) Watchers may be present during provisional ballot processing, signature verification, and UOCAVA ballot processing, but may not have access to confidential voter information.

- (e) The number of watchers permitted in any room at one time is subject to local safety codes.
- 8.4.3 A watcher may witness and verify activities described in ~~Article~~ TITLE 1, ~~Section 7~~ C.R.S., that are outside the immediate voting area, including ballot processing and counting. If election officials are conducting elections activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.
- 8.4.4 Watchers appointed under this Rule 8 may observe the canvass board while it performs its duties.
- 8.4.5 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13. A watcher may observe all activities in a polling location and the processing and counting of ballots. A watcher may be present at each stage of the election including the receiving and bundling of the ballots. ~~A watcher may be present during provisional ballot processing but may not have access to confidential voter information.~~
- 8.5 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:
  - 8.5.1 Attempt to determine how any elector voted or review confidential voter information;
  - 8.5.2 Disclose or record any confidential voter information that he or she may observe; or
  - 8.5.3 Disclose any results before the polls are closed.
- 8.6 A watcher may not:
  - 8.6.1 Interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election.
  - 8.6.2 Write down any ballot numbers or any other identifying information about the electors.
  - 8.6.3 Touch or handle the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.
  - 8.6.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.
  - 8.6.5 Interact with election judges except for the supervisor judge.
  - 8.6.6 Use a mobile phone ~~OR OTHER ELECTRONIC DEVICE~~ to make or receive a call in any polling location or other place election activities are conducted.
  - 8.6.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted.

- 8.7 The Secretary of State must approve Official Observers appointed by the federal government. Official observers are subject to Colorado law and these ~~rules~~ RULES as they apply to Watchers. But an Official Observer is not required to be an eligible elector in the jurisdiction. This Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers must obtain a letter of authority from the Secretary of State. ~~The Official Observers must~~ AND surrender the letter to the county clerk.
- 8.8 Watchers, Official Observers, and Media Observers may be present during a recount. Watchers, Official Observers, and Media Observers must be qualified and sworn in for a recount as described in Rule 8.1 and are subject to all other provisions related to the recount process. Any political party or candidate involved in the recount or proponents or opponents of an issue or question involved in the recount may appoint one or more watchers to be present at any time during the recount. A candidate who is subject to a recount may appoint himself or herself, or a member of the candidate's family ~~by blood, marriage, or civil union,~~ as a watcher at a recount. [Sections 1-7-105 and 1-7-106, C.R.S.]
- 8.9 Media Observers may witness all election activities. A county clerk may, in his or her discretion, require a media observer to appoint a pool reporter and a pool photographer to represent all media observers. All media observers are subject to the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Association and the Secretary of State as outlined 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 county clerk's office prior to coming to observe the counting of ballots. If the county clerk 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 county clerk, 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 county clerk 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~~ ELECTION RULES state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.*
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 standards will help us to meet all these goals.*

- 8.10 To assist Watchers in performing their tasks at a polling location, the county clerk must provide a list of all voters who have voted or returned a ballot in the county. The county clerk must make the list available at least daily at the clerk's main office or provide the list electronically.
- 8.11 The county clerk must accept the appointment of all eligible watchers duly certified by a political party, candidate or committee under sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.12 Removal of Watchers.
  - 8.12.1 A county clerk or his or her designee may remove a watcher upon finding that the watcher:
    - (a) Commits or encourages fraud in connection with his or her duties;
    - (b) Violates any of the limitations outlined in Rule 8.6;
    - (c) Violates his or her oath; or
    - (d) Is abusive or threatening toward election officials or voters.
  - 8.12.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.
  - 8.12.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.13 Watchers may be certified to observe more than one polling location. See section 1-7-106, C.R.S.
- 8.14 Watchers may be appointed to observe recall elections held under ~~article~~ ARTICLE 12, ~~title~~ TITLE I, C.R.S., and must be certified in accordance with sections 1-7-106 and 1-7-107, C.R.S.

## **Rule 9. Voting Challenges**

- 9.1 Under Section 1-9-201, C.R.S., an election official, ~~poll~~ watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged ~~WHILE VOTING IN-PERSON,~~ must be offered a regular ballot by an election judge if the person



satisfactorily answers the applicable challenge questions specified in section 1-9-203(3)(a)-(e), C.R.S., AND THIS RULE. ~~The following demonstrate satisfactory answers to the challenge questions.~~ If the person challenged provides unsatisfactory answers or refuses to answer the challenge questions, an election judge must offer the person a provisional ballot.

9.2 Citizenship. THE ELECTION JUDGE MUST ASK THE ELECTOR,

A. ~~“Are you a citizen of the United States?”~~

~~Satisfactory Answer: Yes.~~

~~If the person challenged answers yes, an election judge must offer the person a regular ballot.~~

~~Unsatisfactory Answer: No.~~

~~If the person challenged answers no, an election judge must offer the person a provisional ballot.~~

9.3 Residency. THE ELECTION JUDGE MUST ASK THE ELECTOR THE FOLLOWING QUESTIONS:

~~A. 9.3.1 “Will you have resided in Colorado for the 22 days before election day?”~~

~~9.3.2 “DO YOU RESIDE AT THE ADDRESS STATED IN YOUR VOTER REGISTRATION RECORD?”~~

~~9.3.3 “HAVE YOU BEEN ABSENT FROM COLORADO DURING THE PAST 22 DAYS?” IF THE ELECTOR RESPONDS THAT HE OR SHE WAS ABSENT DURING THE 22-DAY PERIOD, THE ELECTION JUDGE MUST ALSO ASK THE FOLLOWING QUESTIONS:~~

~~(A) “HAVE YOU BEEN ABSENT FOR A TEMPORARY PURPOSE WITH THE INTENT OF RETURNING, OR DID YOU INTEND TO REMAIN OUTSIDE COLORADO?”~~

~~(B) “WHILE YOU WERE ABSENT, DID YOU CONSIDER COLORADO TO BE YOUR HOME OR DID YOU MAINTAIN A HOME OR DOMICILE ELSEWHERE?”~~

~~(C) “WHILE YOU WERE ABSENT, DID YOU VOTE IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES?”~~

~~Satisfactory answer: Yes, the elector has resided in Colorado for the entire 22-day period before election day. In other words, his or her primary home or place of abode was in Colorado during the entire 22-day period in accordance with sections 1-1-104(43) and 1-2-102, C.R.S.~~

~~If the person challenged answers yes, continue to challenge question B.~~

~~Unsatisfactory answer: No, for some portion of the 22-day period before election day, the elector has not resided in Colorado.~~

~~If the person challenged answers no, continue to challenge question B.~~

~~B. Do you reside at the address stated in your voter registration record?~~

Satisfactory answer: Yes, the elector resides at the address on his or her registration record.

*If the person challenged answers yes, continue to challenge question C.*

Unsatisfactory answer: No, the elector does not reside at the address on his or her registration record.

*If the person challenged answers no, the election judge must offer the person a provisional ballot.*

C. — If you have been absent from Colorado during the past 22 days, did you maintain a home or domicile elsewhere?

Satisfactory answer: No, the elector either has not been absent from Colorado during the 22-day period immediately preceding this election or has been absent but has not maintained a home or domicile elsewhere.

*If the person challenged answers no, the election judge must offer the person a regular ballot.*

Unsatisfactory Answer: Yes, the elector has been absent from Colorado during the 22-day period immediately preceding this election, and has maintained a home or domicile elsewhere.

*If the person challenged answers yes, continue to challenge question D.*

D. — Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?

Satisfactory answer: Yes, when the elector left, it was for a temporary purpose with the intent of returning.

*If the person challenged answers yes, continue to challenge question E.*

Unsatisfactory answer: No, when the elector left, he or she did not intend to return.

*If the person challenged answers no, the election judge must offer the person a provisional ballot.*

E. — While you were absent, did you consider Colorado to be your home?

Satisfactory answer: Yes, while absent, the elector considered Colorado to be his or her home.

*If the person challenged answered yes, continue to challenge question F.*

Unsatisfactory answer: No, while absent, the elector did not consider Colorado to be his or her home.

*If the person challenged answers no, the election judge must offer the person a provisional ballot.*

~~F. While you were absent, did you vote in any other state or territory of the United States?~~

~~Satisfactory answer: No, while absent, the elector did not vote in any other state or territory of the United States.~~

~~*The election judge must offer the person a regular ballot.*~~

~~Unsatisfactory answer: Yes, while absent, the elector voted in another state or territory of the United States.~~

~~*The election judge must offer the person a provisional ballot.*~~

9.4 Age. THE ELECTION JUDGE MUST ASK THE ELECTOR,

~~A. “Will you be 18 years of age or older on election day?”~~

~~Satisfactory answer: Yes.~~

~~*If the person challenged answers yes, an election judge must offer the person a regular ballot.*~~

~~Unsatisfactory answer: No.~~

~~*If the person challenged answers no, an election judge must offer the person a provisional ballot.*~~

## Rule 10. Canvassing and Recount

### 10.1 Appointment to the Canvass Board

10.1.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.

10.1.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.

10.1.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.

10.1.4 A candidate for office and members of the candidate’s immediate family may not serve on the canvass board.

### 10.2 Duties of the Canvass Board

10.2.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.

10.2.2 The canvass board’s duties are TO:

(a) Conduct the canvass in accordance with section 1-10-101.5, C.R.S., including:

- (1) Account and balance the election and certify the official abstract of votes;
  - (2) Reconcile the number of ballots counted to the number of ballots cast; and
  - (3) Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed ballot logs and Statement of Ballots;
- (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule ~~11.4.3~~-11.3.3(k);
  - (c) In coordination with the county clerk, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and
  - (d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and this Rule. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.

10.2.3 If the board identifies a discrepancy in the Statement of Ballots, the ~~Board~~ BOARD may review the particular ballots at issue to identify, correct, and account for the error.

10.2.4 The canvass board may not perform duties typically reserved for election judges, including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility; and
- (c) Requesting new logs or reports that were not created to conduct the election.

### 10.3 Detailed Ballot Log.

~~10.3.1~~—The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

~~10.3.2~~—The designated election official must keep and reconcile ballot daily logs.

~~10.3.3~~—The designated election official must indicate in the detailed log the number of paper ballots that are sent to each polling location for use on election day.

~~10.3.4~~—The designated election official must keep required logs in either electronic or manual format.

### 10.4 Daily ~~Voter Service and Polling Center Ballot Accounting~~ VOTER SERVICE AND POLLING CENTER BALLOT ACCOUNTING.

10.4.1 The designated election official must supply each polling location with a Statement of Ballots Form. ~~election~~ ELECTION judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.4.2 After a polling location closes for the day election judges must complete the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total ~~of the~~ number of ballots cast.
- (d) ~~If there is a~~ PROVIDE A WRITTEN EXPLANATION OF ANY discrepancy in the numbers on the Statement of Ballots form, ~~the election judge must explain the discrepancy in writing~~ (for example, the voter signed in but left the polling location without voting, etc.).
- (e) Return the completed Statement of Ballots form and voted, unvoted, spoiled, and provisional ballots to one of the election offices designated in the mail ballot plan.

#### 10.5 Designated Election Official's ~~Disposition of Forms~~ DISPOSITION OF FORMS

10.5.1 The designated election official must review the Statement of Ballots form for completion and accuracy.

10.5.2 If the designated election official or the canvass board discovers a problem with the Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.

#### 10.6 Procedures for the ~~Day-DAY~~ of the Canvass

10.6.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;

- (c) The number of ballots cast, including the number of accepted and rejected mail ballots; and
- (d) The number of provisional ballots cast, including the number accepted and rejected.

10.6.2 Any written documentation regarding official numbers is included as part of the canvass.

## 10.7 Official Abstract and Reporting to the Secretary of State

### ~~10.7.1~~

~~10.7.2~~ 10.7.1 The canvass board must use the official abstract in a format approved by the Secretary of State.

~~10.7.3~~ 10.7.2 The official county abstract must include, by precinct or ballot style, where applicable:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue;
- (d) The total number of ballots cast in the election;
- (e) The number of mail ballots counted and the number rejected;
- (f) The number of in-person ballots counted;
- (g) The number of provisional ballots counted and the number rejected listed by each rejection code; and
- (h) The number of damaged and spoiled ballots.

~~10.7.4~~ 10.7.3 The state portion of the abstract, which the county must transmit to the Secretary of State, must include:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue;
- (d) The total number of ballots cast in the election; and
- (e) The Canvass ENR upload required under Rule ~~11.11.4~~ 11.10.4.

## 10.8 The County Abstract is the Official Permanent Record;

10.8.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

- 10.8.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.
- 10.9 Appointment of Canvass Workers.
- ~~10.9.1~~ The designated election official may appoint canvass workers to help prepare and conduct the canvass.
- 10.10 Voter ~~History.~~ HISTORY
- 10.10.1 After the canvass, the designated election official must give vote credit to each voter who voted in the election.
- 10.10.2 If the voter history records do not match the number of voters who voted at that election, the designated election official must ensure the following:
- (a) Each voter received credit for voting; and
  - (b) All signature cards are accounted for.
- 10.10.3 All research concerning discrepancies must be explained and documented.
- 10.11 Written Complaints:
- 10.11.1 The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.
- 10.11.2 If the complaint is resolved, the designated election official must provide the details of the resolution.
- 10.11.3 If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.
- 10.12 Role of Watchers. Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.
- 10.13 Role of the Secretary of State:
- 10.13.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.
- 10.13.2 The county clerk or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.
- 10.13.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.
- 10.13.4 Imperfect returns or failure to certify:
- (a) If the canvass board fails to certify or certifies imperfect returns that have no

reasonable potential to change the outcome of any race or ballot measure, the Secretary of State and county clerk must certify the election and order recounts, if any, in accordance with Part 1, Article 11 of Title 1, C.R.S.

- (b) If the canvass board fails to certify or certifies imperfect returns that have a reasonable potential to change the outcome of any race or ballot measure, the Secretary of State will conduct an investigation to identify the nature of, and advise the county clerk in correcting, the inaccuracy.

#### 10.14 Recount ~~Generally~~. **GENERALLY**

10.14.1 The purpose of a recount is to re-tabulate the ballots.

10.14.2 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.

#### 10.15 Recount cost estimates and reimbursements

10.15.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:

- (a) Mailings and notices;
- (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
- (c) Copies and other office expenses related to the recount.

#### 10.15.2 Requested recounts

- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.
- (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount. The county may not request reimbursement for normal overhead costs.
- (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.

10.16 In accordance with section 1-10.5-107, C.R.S., and Rule 10.2.2(d), the canvass board's role in conducting a recount includes selecting ballots for the test, observing the recounting of ballots, and certifying the results.

#### 10.17 Watchers and observers

10.17.1 The Secretary of State may appoint official observers in any recount.



10.17.2 Each candidate or the candidate's watcher, media observers, and official observers, may be present and witness the recount in accordance with Rule 8.

10.17.3 The recount board must take the canvass board oath, assisting election judges must take the election judge's oath, and any person observing the recount must take a watcher's oath.

10.17.4 Complaints. A watcher may submit a complaint in writing to the county clerk or designee. Written complaints during a recount will be addressed in accordance with Rule 13.

#### 10.18 Testing recount equipment

10.18.1 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S. To the extent feasible, the board must select equipment for testing that was not included in the post-election audit.

10.18.2 The county clerk must test all scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting properly.

(a) The test deck must include 50 ballots or 1% of the total number of ballots cast in the election, whichever is greater, except that the total number of ballots tested may not exceed the total number of ballots comprising the county's test deck for the Logic and Accuracy test before the election. The ballots must be marked to test every option for the race or measure that will be recounted.

(1) In a mandatory recount, the canvass board must select the ballots to be tested from the county's test deck for the Public Logic and Accuracy **TEST**.

(2) In a requested recount, the person requesting the recount may mark up to 25 ballots. Any other candidate in the race may also mark up to 25 ballots. The canvass board must randomly select ballots from the county's test deck for the Public Logic and Accuracy **TEST** to ensure the minimum number of test ballots required by this Rule.

(b) Sworn judges or staff must hand tally the test ballots for comparison to the tabulation results.

(c) The test is limited to the race or measure that is recounted.

10.18.3 The county clerk must test the VVPAT records from 1% of the DREs that had votes cast for the race or measure being recounted.

(a) Sworn judges or staff must manually verify the results on the machines selected for the test.

(b) The test is limited to the race or measure that is recounted.

#### 10.19 Counting ballots

10.19.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the

test under Rule 10.18, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. **IF THERE ARE UNRESOLVABLE DISCREPANCIES IN THE TEST, THE RECOUNT MUST BE CONDUCTED AS A HAND COUNT UNDER RULE 10.19.5.**

10.19.2 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.

10.19.3 Ballots must be reviewed for voter intent using the standards in Rule 18.

- (a) Every over-vote or under-vote in the race(s) or measure(s) subject to the recount must be reviewed for voter intent under Rule 18.
- (b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.

10.19.4 To recount ballots using “Ballot Now”:

- (a) Back up the official election database.
- (b) Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and create a Ballot Now recount database.
- (c) Scan and resolve all recount ballots according to this Rule 10.
- (d) Save all recount Cast Vote Records to the MBBs after verifying that the number of ballots processed matches the number of ballots cast in the recount contest.
- (e) Open a new recount election in “Tally” and process the recount MBBs following the tabulation procedures above.
- (f) Compare recount results to original results and document any differences.
- (g) Backup the test database and the official recount database.

10.19.5 To recount ballots by hand count.

- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.
- (b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

10.19.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.18.3, the county clerk must upload the memory cards.

10.19.7 Tabulation of ballots cast must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next

container begins.

10.19.8 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

## 10.20 Canvass and reporting results

10.20.1 Totals of recounted ballots must be reported in summary form as follows:

- (a) Sum total of votes cast for each race or measure recounted, under-votes, and over-votes for each location;
- (b) The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

10.20.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

## Rule 11. Voting Systems

### 11.1 Voting system access

11.1.1 The designated election official must securely store election setup records. ONLY PERSONS WITH THE CLERK'S WRITTEN AUTHORIZATION MAY ACCESS THE RECORDS. No person may access the records without the clerk's written authorization.

11.1.2 The county clerk must deputize employees who are authorized to prepare or maintain the voting system or election setup records before the election.

11.1.3 In accordance with section 24-72-305.6, C.R.S., all permanent and temporary county staff and all vendor staff who have access to the voting system or any voting or counting equipment must pass the criminal background check described in Rule 6.4 6.5.

### 11.2 Performance Bond

11.2.1 A voting system provider or service provider must:

- (a) File a copy of the contract, statement of work, purchase order, or similar document, with the county clerk and the Secretary of State.
- (b) Post a performance bond if the value of the work performed exceeds \$1,000, executed by a corporate surety licensed to transact business in the State of Colorado. The county under contractual obligation with the provider must be the named beneficiary. The bond amount must be the full amount of the contract, statement of work, or purchase order with the beneficiary county and the bond must be on file before work starts for the calendar year. If value of the work is unknown, the voting system provider must post a bond of at least \$10,000.
- (c) Provide proof of the performance bond to the Secretary of State and the county clerk.

11.2.3 The voting system provider must update all bond documents for each contract or election.

## ~~11.3~~11.2 Voting System Inventory

~~11.3.1~~ 11.2.1 The designated election official must maintain an inventory record for each electronic vote-tabulating device used in an election. The record must include the manufacturer, make, model, serial number, hardware/firmware/software version or release number, hash value documentation where applicable, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates the services were performed.

~~11.3.2~~ 11.2.2 If the inventory is in electronic format, it must be exportable to a comma separated (CSV), excel spreadsheet (XLS or XLSX), or quote or tab separated (TXT) file before delivery to the Secretary of State.

~~11.3.3~~ 11.2.3 The designated election official must file the inventory with the Secretary of State no later than ten days before the election for use in the Logic and Accuracy Test and the Post-Election Audit Test.

~~11.4~~ 11.3 The clerk must perform a hardware diagnostic test, a logic and accuracy test, and a post-election audit ~~test~~.

### ~~11.4.1~~ 11.3.1 Hardware Diagnostic Test

- (a) The designated election official must perform the Hardware Diagnostic Test before the election on each device that the ~~clerk~~ DESIGNATED ELECTION OFFICIAL will use in the election, including spare or back up devices. The test must include the following devices and provide the following information:
- (1) All input and output devices;
  - (2) Communications ports;
  - (3) System printers;
  - (4) System modems when applicable;
  - (5) System screen displays;
  - (6) Boot performance and initializations;
  - (7) Firmware loads;
  - (8) Software loads;
  - (9) Display of firmware or software hash value (MD5 or SHA-1) when possible;
  - (10) Confirmation that screen displays are functioning; and
  - (11) Date, time and calibration of systems.

- (b) The designated election official must seal each device upon the successful completion of the test and retain documentation of the seal information and all records in accordance with section 1-7-802, C.R.S.

~~11.4.2~~ 11.3.2 Logic and Accuracy Test;

- (a) ~~County Test Ballots.~~ The designated election official must prepare a sufficient number of test ballots that represent every ballot style and precinct, if applicable, allow for a sufficient number of ballots to mark every vote position for every candidate on every race including write-in candidates, allow for situations where a race may permit an elector to vote for two or more positions, where applicable, and include overvotes and undervotes for each race.
- (b) The designated election official must create a Testing Board of one registered elector from each of the major political parties, as defined in section 1-1-104(22), C.R.S., if appointed. Testing Board members must be registered to vote in the county.
- (c) The designated election official must conduct the public Logic and Accuracy Test before voting.
- (d) The designated election official must ensure that the Logic and Accuracy Test is open to the media and the public to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The designated election official may limit the number of representatives from each group because of space limitations.
- (e) ~~Testing Board Test Ballots.~~ The designated election official must provide at least 25 ~~clearly marked test~~ ballots ~~clearly marked test~~ THAT ARE CLEARLY MARKED AS TEST BALLOTS to each Testing Board member.
- (f) Testing Board members must secretly vote their ballots following the instructions printed on the ballots and retain a record of the tally. Of the 25 test ballots, two must be tested as audio ballots ~~where applicable~~.
- (g) The Testing Board must test the ballots on each type of voting device used in the election and each type of ballot including audio ballots.
- (h) Conducting the Test;
  - (1) The designated election official and Testing Board must observe the tabulation of all test ballots, ~~and~~ compare the tabulation with the previously retained records of the test vote count, and ~~must~~ correct any discrepancies before the device is used in the election.
  - (2) The designated election official must reset the public counter to zero on all devices, and present zero tapes to the Testing Board for verification. For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the Designated Election Official must verify and document the accuracy of the value for the device.

- (3) The designated election official must make an appropriate number of voting devices available and the Testing Board may witness the programming and/or downloading of memory devices necessary for the test.
- (4) The Testing Board and designated election official must count the test ballots as follows:
  - (A) Optical Scanners:
    - (i) The Testing Board must count test ballots on at least one, but not more than five, central count scanners and at least one scanner used at a ~~Voter Service and Polling Center~~ VOTER SERVICE AND POLLING CENTER, if applicable.
    - (ii) The Testing Board must randomly select the machines to test.
    - (iii) The Testing Board must count the board's and the county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.
  - (~~b~~-B) DREs:
    - (i) The Testing Board must count the test ballots on at least one, but not more than five, DREs.
    - (ii) The Testing Board must randomly select the machines to test.
    - (iii) The Testing Board must identify and test two ballots as audio ballots.
    - (iv) The Testing Board must count ~~AT LEAST 50 OF~~ the board's ballots and a random sampling of at least 25 of the county's test ballots separately and generate reports to verify that the machine count is identical to the predetermined tally. For DREs with VVPAT devices, the Testing Board must manually count the paper record to verify that the pre-determined totals of the Testing Board and county test ballot batches match the VVPAT total.
    - (v) The designated election official must keep all test materials, when not in use, in a durable, secure box. Each member of the ~~testing board~~ TESTING BOARD must verify the seals and initial the chain-of-custody log maintained by the designated election official. If the records are opened for inspection, at least two election

officials must verify the seals and initial the chain-of-custody log.

- (vi) After testing, the Testing Board must watch the designated election official reset and seal each voting device.
- (vii) The Testing Board and the designated election official must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.

### ~~11.4.3~~ 11.3.3 Post-Election Audit

- (a) No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official which voting devices and which race or races on the ballots will be audited based on the submitted hardware inventory list referred to in Rule ~~11.3~~ 11.2.
- (b) The Secretary of State will randomly select five percent of ballot scanners, and five percent of DRE voting devices.
  - (1) If the county used a scanner in ~~each Voter Service and Polling Center~~ ANY VOTER SERVICE AND POLLING CENTER, THE COUNTY MUST ALSO AUDIT at least one of the scanners ~~used must be included in the audit.~~
  - (2) If the Secretary of State receives a report of equipment malfunction, the Secretary may select additional equipment for inclusion in the audit.
- (c) In accordance with section 1-7-514, C.R.S., the Secretary of ~~state~~ STATE may only select devices used in the election.
- (d) The Secretary of State must randomly select at least two races per device for verification to ensure that each race or measure on the ballot is audited in accordance with section 1-7-514, C.R.S.
- (e) For optical scanners the designated election official must randomly select either of the following amounts based upon the total number of ballots counted:
  - (1) If fewer than 500 ballots were counted, then a minimum of 20 percent of the ballots counted on the device.
  - (2) If 500 or more ballots were counted, then a minimum of 100 ballots plus five percent of the difference between the number of ballots counted and 500, but not more than 500.
- (f) The designated election official must reset the public counter of the voting device selected for audit to zero and tabulate the ballots on that device.

- (g) The designated election official must manually verify the new report from the electronic count.
- (h) The designated election official must seal the ballots and a copy of the report in a separate container.
- (i) For DREs without a VVPAT, the designated election official must manually verify the image of all the ballots in the ballot log or ballot audit that the device counted along with the report generated for that device at the close of polls.
  - (1) For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.
- (j) For DREs with a VVPAT, the designated election official must manually verify the entire VVPAT record with the report generated for that specific device.
  - (1) For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.
- (k) At least two ~~Canvass Board~~ CANVASS BOARD members must observe the random audit. The designated election official may assist with the audit.
- (l) If there are discrepancies in the audit, the ~~Canvass Board~~ CANVASS BOARD or the designated election official must:
  - (1) Confirm that there is no discrepancy in the manual count;
  - (2) Take any steps necessary to check for voter error, which must include but is not limited to: overvotes, stray marks on the ballot, or other voter intent indicia; and
  - (3) Take any action necessary in accordance with the ~~Canvass Board's~~ CANVASS BOARD'S powers as described in ~~part~~ PART 1, of Article 10 of Title 1, ~~Colorado Revised Statutes~~ C.R.S.
- (m) After the audit, the designated election official must promptly report the results to the Secretary of State's Office by 5:00 ~~PM~~ P.M. on the last day to canvass. The report must contain:
  - (1) The make, model, and serial number of the voting devices audited;
  - (2) The number of ballots originally counted by each device or the number of ballots audited as identified in paragraph (4) of this section;
  - (3) The count of the specific races on the summary report printed at the close of polls or the report generated for the audit;
  - (4) The count of the specific races as manually verified;



- (5) Any other information required by section 1-7-514, C.R.S.; and
  - (6) The ~~Canvass Board~~ CANVASS BOARD members' and designated election official's signatures.
- (n) The designated election official may send the report by regular mail, ~~e-mail~~ EMAIL, or fax.

~~11.5~~ 11.4 The designated election official must submit election setup records by regular mail no later than 5:00 ~~PM~~ P.M. on the fifteenth day before election day.

~~11.5.1~~ 11.4.1 Jurisdictions that contract with either a software service bureau or an electronic vote counting equipment vendor may choose to have the vendor deliver the election setup records.

~~11.5.2~~ 11.4.2 Election setup records must be in an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats include tape, diskette, cartridge, CD-ROM, DVD-ROM, floppy, external hard drive, or flash media.

~~11.5.3~~ 11.4.3 The designated election official must include a point of contact and method of contact (phone, fax, ~~e-mail~~ EMAIL, etc.).

~~11.5.4~~ 11.4.4 Within 24 hours of receipt of the election setup records, the Secretary of State's office will contact the jurisdiction to confirm receipt.

~~11.5.5~~ 11.4.5 The Secretary of State's office will store the election setup records in a secured, fire proof, limited-access location.

~~11.5.6~~ 11.4.6 All parties must treat as confidential all escrowed materials and any other related information that comes into their possession, control, or custody.

~~11.6~~ 11.5 ~~the~~ THE designated election official must retain all testing records and documentation for 25 months.

~~11.7~~ 11.6 Methods of submission are:

~~11.7.1~~ 11.6.1 By regular mail to:  
Colorado Secretary of State

Attn: Voting Systems

1700 Broadway – Suite 200

Denver, CO 80290

~~11.7.2~~ 11.6.2 By email to:

voting.systems@sos.state.co.us

~~11.7.3~~ 11.6.3 By Fax to:

~~11.8~~ 11.7 Rules Concerning Accessible Voting Systems. A political subdivision may not purchase or lease voting systems for use by people with disabilities unless ~~they are~~ THE SYSTEM IS certified) in accordance with the 2002 Voting System Standards promulgated by the Federal Election Commission

~~11.9~~ 11.8 Rules Concerning Notice of Voting System Malfunction

11.8.1 THE VOTING SYSTEM PROVIDER MUST SUBMIT A SOFTWARE INCIDENT REPORT TO THE SECRETARY OF STATE NO LATER THAN 72 HOURS AFTER A SOFTWARE INCIDENT HAS OCCURRED.

~~11.9.1~~ 11.8.2 A vendor or designated election official must notify the Secretary of State within 24 hours of a reported or actual malfunction of its voting system. The notice must include a description, date, and the names of those who witnessed the malfunction, as well as the procedures followed before the malfunction, and any error messages displayed. The notice may be verbal, but a ~~writing~~ WRITTEN NOTICE must follow.

~~11.9.2~~ 11.8.3 If the Secretary of State requires additional information the vendor or the designated election official must submit a report to the Secretary of State's office detailing the reprogramming or any other actions necessary to correct a voting system malfunction.

- (a) The report must address whether permanent changes are necessary to prevent similar malfunctions in the future.
- (b) If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the designated election official must submit an updated election setup record to the Secretary of State's office as set forth in Rule ~~11.8~~ 11.4.
- (c) The report must be submitted within 30 days after the date of the request by the Secretary of State. 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.
- (d) Failure to submit a report within the required period is grounds to decertify the system.
- (~~EE~~) 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.
- (~~FF~~) A copy of this report will be on file in the Secretary of State's office.
- (~~GG~~) The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

~~11.10~~ 11.9 Purchases and Contracts

~~11.10.1~~ 11.9.1 In accordance with section 1-5-623(3), C.R.S., a political subdivision may not purchase, lease, transfer, or receive an electronic voting device or system or any related component of a device or system without approval from the Secretary of State.

~~11.10.2~~ 11.9.2 A political subdivision may only purchase or lease a certified voting system if:

- (a) The contract contains training and maintenance costs; and
- (b) The voting system components and accessories appear complete and capable of successfully conducting an election in Colorado.

~~11.10.3~~ 11.9.3 The Secretary of State will maintain a list of all components used and purchased. The list will include, at minimum, the name of the jurisdiction, the date of purchase, the serial number(s) of voting devices and name of the voting systems that were purchased.

~~11.11~~ 11.10 Election Night Reporting (ENR). The county must report election night results for all primary, general, coordinated and recall elections.

~~11.11.1~~ 11.10.1 A data entry county must program the election to support the exporting of election night results in accordance with the following ~~ENR vendor's data~~ upload requirements:

- (a) List contest names and candidate names exactly as provided on the certified list.
- (b) Provide contest names in all uppercase letters.
- (c) For counties that use the ES&S and Premier voting systems, arrange the contests in the order prescribed by section 1-5-403(5), C.R.S.
- (d) Capitalize candidate names (e.g., John A. Smith).
- (e) Present a precinct name as a ten-digit precinct number.
- (f) For counties that use the Hart voting systems, use the "Split\_name" field split precinct naming purposes.
- (g) Create a "Provisional" precinct.
- (h) Use only the party codes certified by the Secretary of State.
- (i) Do not include the party name or code in the candidate name field.

~~11.11.2~~ 11.10.2 No later than eight days before the election, a county must send the following information to the Secretary of State, at the address in Rule ~~11.8~~ 11.6:

- (a) A data entry county must email a sample or "zero" file.
- (b) A manual entry county must send a list of all ballot content.

~~11.11.3~~ 11.10.3 The county must export or produce election results and upload them to the ENR system a minimum of three times on election night:

- (a) After the close of polls but no later than 7:30 ~~PM~~P.M.
- (b) At or around 9:00 ~~PM~~P.M.
- (c) The county must indicate that reporting is complete in the ENR system for election day after the county uploads the last results on election night.

~~11.11.4~~ 11.10.4 After canvass the county must export or produce election results, and check the appropriate box in the ENR system to indicate that the canvass upload is complete.

## Rule 12. Recall

### ~~12.1~~ Signature requirements

~~12.1.1~~ For petitions to recall school district directors, the petition must be signed by the eligible electors of the director's district equal in number to at least 40% of the ballots cast in the district in the last preceding election at which the director to be recalled was elected as indicated by the pollbook or abstract for the election. See section 1-12-105, C.R.S.

~~12.1.2~~ When determining the number of required valid signatures for an elected office for which electors were allowed to vote for more than one candidate in a single race, the signature requirements is based on the number of ballots cast for that race as indicated by the abstract for the election.

12.1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DESIGNATED ELECTION OFFICIAL MUST COUNT AN ELECTOR'S VOTE FOR A SUCCESSOR CANDIDATE REGARDLESS OF WHETHER THE ELECTOR VOTED ON THE RECALL QUESTION. [IN RE: INTERROGATORY PROPOUNDED BY GOVERNOR JOHN HICKENLOOPER CONCERNING THE CONSTITUTIONALITY OF CERTAIN PROVISIONS OF ARTICLE XXI, § 3 OF THE CONSTITUTION OF THE STATE OF COLORADO, 2013 CO 62.]

## Rule 13. Election and HAVA Complaints

### 13.1 Election complaint procedures

13.1.1 Any ~~person~~ INDIVIDUAL who ~~has~~ personally ~~witnessed~~ WITNESSES a violation of Title 1, C.R.S. may file an election complaint.

13.1.2 An election complaint must include the approved Secretary of State's Election Complaint cover sheet.

#### 13.1.3 Processing and docketing election complaints

- (a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rule 13.1.2 and sufficiently alleges a violation.
  - (1) If the complaint does not meet the criteria, the Secretary's designee will notify the complainant of the discrepancy.
  - (2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.

- (b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

#### 13.1.4 Amending an election complaint

- (a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.
- (b) An amendment may not contain allegations of a new violation.

#### 13.1.5 Investigation

- (a) After the response period outlined in Rule 13.1.3, the Secretary's designee will investigate the complaint.
- (b) If the Secretary of State determines ~~immediate investigation is required~~ THAT THE COMPLAINT REQUIRES an immediate investigation is required, the Secretary's designee will begin investigating before the response period ~~has closed~~ CLOSES. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.
- (c) Depending on the violation alleged, the Secretary's designee may:
  - (1) Review documents;
  - (2) Visit the county;
  - (3) Conduct interviews;
  - (4) Test equipment; or
  - (5) Take other steps necessary.
- (d) ~~While an investigation is ongoing~~ DURING AN ONGOING INVESTIGATION, county clerks and staff must accommodate requests by the Secretary's designee in the timeframe requested by staff.

#### 13.1.6 Resolution of election complaints

- (a) After an investigation and hearing, if applicable, the Secretary's designee will:
  - (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or
  - (3) Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State, who will adopt, amend, or reject the recommendation.

#### 13.1.7 The Secretary of State's determination is a final agency action.

## 13.2 Help America Vote Act (HAVA) complaint procedures

13.2.1 Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, may file a HAVA complaint with the Secretary of State.

13.2.2 A HAVA complaint must include the approved Secretary of State's HAVA Complaint cover sheet.

### 13.2.3 Processing and docketing HAVA complaints

(a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rule ~~13.2.1~~ 13.2.2 and ~~sufficiently alleges a violation.~~

(1) If the complaint does not include a cover sheet the Secretary's designee will notify the complainant of the discrepancy.

(2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.

(b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

### 13.2.4 Amending a HAVA complaint

(a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.

(b) An amendment may not contain allegations of a new violation.

### 13.2.5 Investigation

(a) After the response period outlined in Rule 13.2.3, the Secretary's designee will investigate the complaint.

(b) If the Secretary of State determines an immediate investigation is required, the Secretary's designee will begin investigating before the response period has closed. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.

(c) Depending on the violation alleged, the Secretary's designee may:

(1) Review documents;

(2) Visit the county;

(3) Conduct interviews;

(4) Test equipment; or

- (5) Take other steps necessary.
- (d) While an investigation is ongoing, county clerks staff must accommodate requests by the Secretary's designee in the timeframe requested by staff.

#### 13.2.6 Hearing and Resolution of HAVA complaints

- (a) If the complainant requests, The Secretary of State or his or her designee will hold a hearing.
- (b) After the investigation and hearing, if any, the Secretary's designee will:
  - (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; OR
  - (3) Find a violation, recommend a resolution, forward the recommendation for resolution to the Secretary of State, who will adopt, amend, or reject the recommendation.

13.2.7 The Secretary of State's determination is a final agency action.

### **Rule 14. Voter Registration Drives**

#### 14.1 Statement of Intent

14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive ("VRD") must file a Statement of Intent and Training Acknowledgment Form with the Secretary of State to conduct a voter registration drive. The Statement of Intent and Training Acknowledgment Form must include the following information:

- (a) The name of the group conducting the VRD, and the name and contact information of the individual organizing the VRD;
- (b) The name of the agent (who is required to be a Colorado resident) and the contact information for that agent, if different from the person organizing the VRD;
- (c) A statement specifying that the VRD intends to operate within the State of Colorado;
- (d) A notice that the VRD number expires at the end of the calendar year; and
- (e) A signature line requiring the organizer's signature.

14.1.2 A VRD organizer must file amendments to the Statement of Intent and Training Acknowledgment Form with the Secretary of State no later than three business days after the change(s) occurs. Amendments may be made by fax, email, mail or in person.

14.1.3 The Secretary of State will immediately attempt to verify the information provided in the Statement of Intent and Training Acknowledgment Form before issuing a number to the

VRD organizer. The Secretary of State may deny a number to the VRD organizer if the information provided on the Statement of Intent cannot be verified.

## 14.2 Training

14.2.1 To receive a VRD number, the VRD organizer must successfully complete the online training and test provided by the Secretary of State, and submit a Statement of Intent and Training Acknowledgment form to the Secretary of State.

14.2.2 The mandatory training provided by the Secretary of State will include:

- (a) The use of the VRD Application;
- (b) Information on where to obtain the VRD Application;
- (c) Information on how to ensure that a VRD Application is filled out completely, including which fields are optional and which are required;
- (d) Notice of statutory deadlines relating to Voter Registration Applications and VRDs;
- (e) The requirements for delivering the completed Voter Registration Applications;
- (f) Penalties for violating statutory prohibitions including fraud, intimidation, mishandling Applications, failing to turn in Applications and other penalties relevant to VRDs;
- (g) The handling and treatment of confidential information on the Voter Registration Applications;
- (h) Notice that circulators cannot be paid per Voter Registration Application, but if compensated, they must be paid by the hour or day; and
- (i) A brief training video that the organizer must show to the circulators as part of the VRD's training program.

14.2.3 The training is provided online, but a VRD organizer or circulator may schedule a time to view the training at the Secretary of State's office.

14.2.4 After completing the training, the VRD organizer must complete the training test and answer the questions 100% correctly before the Secretary of State will issue a VRD number.

14.2.5 After completing the training and test, the VRD organizer must sign a Statement of Intent and Training Acknowledgment Form confirming that the training and test have been completed and that he or she was informed of rules, laws and penalties relating to voter registration drives.

14.2.6 A VRD organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.

## 14.3 Number Assigned



14.3.1 After successful completion of the required training and test, and submission of the Statement of Intent and Training Acknowledgment Form, the Secretary of State will assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State will:

- (a) Advise the VRD organizer of their unique number;
- (b) Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and
- (c) Post the agent and the name of the group conducting the drive on the Secretary of State website.

14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.

#### 14.4 Voter Registration Drive Voter Application Forms

14.4.1 The Secretary of State will approve a standard Colorado Voter Registration Drive Application Form. The VRD may also use the National Mail Voter Registration Form.

14.4.2 A VRD organizer can obtain Colorado Voter Registration Drive Application Forms from County Clerks and the Secretary of State.

14.4.3 The organizer is responsible for placing the VRD number on the application form.

14.4.4 The VRD organizer must receive a VRD number before he or she can receive the approved Colorado Voter Registration Drive Application Forms.

14.4.5 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk of the applicant's legal residence. No VRD may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk or the Secretary of State.

#### 14.5 Voter Registration Drive Complaints and fines

14.5.1 Any person, including the Secretary of State, who believes a VRD organizer or circulator has not complied with the requirements of ~~section 1-2-701 et seq.~~ PART 7, ARTICLE 2 OF TITLE 1, C.R.S., or this Rule 14 may file a written complaint with the Secretary of State.

14.5.2 A written complaint filed with the Secretary of State must contain the following information:

- (a) The complainant's name;
- (b) The complainant's full residence address and mailing address (if different from residence);

- (c) A description of the alleged violation, which may include a reference to the particular statute or rule;
  - (d) The name and assigned number of the VRD, if known;
  - (e) The date and location of the alleged violation, if known; and
  - (f) Other applicable or relevant information.
- 14.5.3 The Secretary of State will review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State will impose a fine in accordance with section 1-2-703, C.R.S., and notify the VRD organizer of:
- (a) The date and factual basis of each act with which the VRD organizer is being charged;
  - (b) The particular provision of the statute violated; and
  - (c) The amount of the fine imposed.
- 14.5.4 Notification of violation will be sent by certified or registered mail, return receipt requested, to the last known address of the VRD organizer.
- 14.5.5 The VRD organizer may appeal a fine and has 30 days following receipt of notification to submit a written response setting forth the reason(s) that the VRD organizer is appealing the fine. The VRD organizer may request, within the 30 days, a hearing with the Secretary of State to dispute the fine.
- 14.5.6 Within 30 days after receipt of the written response, or hearing procedures, the Secretary of State will issue an order affirming or dismissing the imposed fine.

## **Rule 15. Preparation, Filing, and Verification of Statewide Initiative Petitions**

- 15.1 Petition entity license, registration, filing, and circulation;
- 15.1.1 A petition entity that intends to pay petition circulators must obtain a petition entity license, pay a fee, and register with the Secretary of State before circulating petitions. The license application must include:
- (a) The petition entity's name, address, telephone number, and email address;
  - (b) The designated agent's name; and;
  - (c) An affirmation that the designated agent has read and understands ~~article~~ **ARTICLE 40** of ~~title-TITLE~~ 1, C.R.S., and has completed the Secretary of State's circulator training program.
- 15.1.2 Before compensating a circulator, the designated agent must register with the Secretary of State by submitting a signed form that includes a list of the proposed initiatives the petition entity will circulate.

- 15.1.3 If a petition entity fails to register a proposed initiative over any two-year period, the license expires. The Secretary of State will notify a petition entity that its license has expired within 30 days after the date of expiration.
- 15.1.4 A petition entity may renew an expired license without a fee by submitting a new license application.
- 15.2 Petition representatives
- 15.2.1 A petition section must list the names of the two proponents or the names of the two designated representatives, as defined in 1-40-104, C.R.S.
- 15.2.2 The term “person responsible,” as used in section 1-40-118(2.5)(a), C.R.S., means a person who circulates a petition, or causes a petition to be circulated, and who commits, authorizes, or knowingly permits fraud as defined in sections 1-40-111(3)(a) and 1-40-135(2)(c), C.R.S., that results in invalid signatures or petition sections.
- 15.3 Petition circulation
- 15.3.1 Petition circulation may begin after the title board’s final decision, including disposition of any rehearing motion, after the time for filing a rehearing motion, and after the Secretary of State has approved the petition format. If an appeal is filed with the Supreme Court, the six-month period specified in section 1-40-108(1), C.R.S., begins on the date the petition is first signed or on the date the Supreme Court’s decision becomes final, whichever is first. Signatures gathered outside of this period are invalid.
- 15.3.2 The petition circulator must provide a permanent residence address on the circulator affidavit. If the circulator is not a permanent Colorado resident, the circulator must also provide the ~~COLORADO address in Colorado~~ where he or she is temporarily living LIVES.
- (a) For purposes of Article 40 of Title 1, C.R.S., and this ~~rule~~ RULE, a circulator's permanent “residence” or “domicile” means his or her principal or primary home or place of abode in which a circulator's habitation is fixed and to which the circulator, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A permanent “residence” or “domicile” is a permanent building or part of a building and may include a house, condominium, apartment, room in house, or mobile home. Except as provided in paragraph (b) of this ~~rule~~ RULE, a vacant lot, business address, or post office box is not a permanent “residence” or “domicile”. (Sections 1-2-102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)
- (b) A homeless circulator must provide the address or location where he or she is living the date the affidavit is signed. The circulator must provide a physical location; a post office box may not be provided.
- (c) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator’s permanent residence address that does not comply with this Rule 15.3.2 is a “false address”.
- 15.4 Proponents may file a petition or addendum only once, and may not supplement additional signatures after filing the petition or addendum, even if the additional signatures are offered before the deadline to submit the original petition or addendum.

15.5 Petition receipt by Secretary of State;

15.5.1 Except as specified in Rule 15.2.1, the Secretary of State will not accept a petition that lists proponents other than those authorized by law.

15.5.2 Upon receipt of a petition, Secretary of State staff will consecutively number petition sections.

15.5.3 Staff will inspect each petition section for evidence of disassembly. If it appears that the section was disassembled, the Secretary of State will reject all signatures in the section.

15.5.4 Staff will consecutively number each line on each petition section. For purposes of this Rule, “line” means the block of information that contains the last name, first name, middle initial, county, signing date, street address, city, and signature of a petition signer.

15.5.5 If the number of lines is less than the number of signatures required to certify the measure to the ballot, the Secretary of State will issue a statement of insufficiency.

15.5.6 Staff will count each line with writing on each petition section. For purposes of this Rule, an “entry” means a counted line with writing. At the bottom of each page, staff will write the number of entries on that page and, on the face of each petition section, staff will write the total number entries for that section.

(a) Staff will not count blank or completely crossed-out lines.

(b) Staff will count a line with incomplete writing, a partial cross out, or with what appears on its face to be an invalid signature as an entry.

15.5.7 The Secretary of State will not accept or count additional signatures after proponents file the original petition or addendum.

15.6 Circulator affidavit;

15.6.1 If a petition section does not have a completed circulator affidavit, the Secretary of State will reject the entire section.

15.6.2 If a petition section does not have a completed notary clause, or if the date of the notary clause differs from the date the circulator signed the affidavit, the Secretary of State will reject the entire section.

~~15.6.3~~

15.7 Petition verification;

15.7.1 Verification by random sample.

15.7.2 Preliminary count and random number generation.

(a) After counting the entries on each petition section, Secretary of State staff will enter the petition identification number, the petition section number, the page number, and the number of entries on the page into the database.

- (b) Staff will then create a record for each entry that contains the petition identification number, petition section number, page number, and the entry number. Staff will tally the total number of entries.
- (c) If the number of entries is less than the total number of signatures required to certify the measure to the ballot, the Secretary of State will issue a statement of insufficiency.

15.7.3 Random sample. The database will generate a series of random numbers equal to 4,000 signatures or five percent of the total number of signatures, whichever is greater. Staff will check the validity of the random signatures in accordance with this ~~rule~~ **RULE**. Staff will maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

15.8 ~~verifying~~ **VERIFYING** individual signatures:

15.8.1 Staff will check each individual entry against the information contained in SCORE.

15.8.2 Staff will create and maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

15.8.3 If an entry does not match the signor's current information in SCORE, staff must check the signor's information in SCORE as of the date the signor signed the petition.

15.8.4 Secretary of State staff will reject the entry if:

- (a) The name on the entry is not in SCORE;
- (b) The middle initial or middle name on the entry does not match the middle initial or middle name in SCORE;
- (c) The address on the entry does not match the address in SCORE;
- (d) The address on the entry is a post office box;
- (e) The entry is incomplete;
- (f) The signer completed the entry before the designated election official approved the petition format;
- (g) The signer was not an eligible elector at the time he or she completed the entry;
- (h) The signer completed the entry after the date on the circulator affidavit;
- (i) Evidence exists that some other person assisted the signer in completing the entry but no statement of assistance accompanies the entry;
- (j) The name and signature on the entry is illegible and cannot be verified in SCORE;
- (k) The entry is a duplicate of a previously accepted entry on the same petition; or

- (l) For a candidate petition where an elector may sign only one petition for the same office, the entry is a duplicate of a previously accepted entry on another petition for the same office.

15.8.6 Secretary of State staff will accept the entry if:

- (a) The name on an entry matches or is substantially similar to the information in SCORE, or if the signature on an entry is a common variant of the name;
- (b) A middle initial or middle name is present on the entry but not in SCORE, or present in SCORE but not on the entry;
- (c) A suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry; or
- (d) The address on the entry is missing an apartment letter or number or a street direction.

15.9 Curing insufficient petitions:

15.9.1 If petition proponents submit additional signatures within the permitted time, Secretary of ~~state~~ STATE staff will verify the additional signatures in accordance with this Rule 15.

15.9.2 If the Secretary of State found the original submission insufficient based on the random sample verification, staff will add the number of additional valid signatures to the number of projected valid signatures in the original submission.

- (a) If the new projected number of valid signatures equals 110% or more of the required signatures, the Secretary of State will issue a statement of sufficiency.
- (b) If the new projected number of valid signatures equals more than 90% but less than 110% of the required signatures, staff will verify all previously submitted signatures. Staff will add the total number of valid signatures in the original petition to the number of additional valid signatures submitted in the addendum in order to determine sufficiency.

15.9.3 If the initial verification was of every signature, staff will add the number of additional valid signatures to the number of valid signatures in the original submission in order to determine sufficiency.

15.9.4 Staff will issue a new statement of insufficiency or sufficiency that reports the total number of valid signatures submitted.

15.10 Petition protests:

15.10.1 A petition protest must specifically state the reasons for challenging the determination of sufficiency or insufficiency.

- (a) A protest alleging the violation of a specific statute or rule must cite the statute or rule and specifically state the violation.
- (b) A protest alleging the improper acceptance or rejection of individual entries must

cite the entry and petition section number and specifically state why the entry should be accepted or rejected, as applicable.

15.11 Referendum petitions:

15.11.1 This Rule applies to statewide referendum petitions under ~~article~~ ARTICLE V, ~~section~~ SECTION 1 (3) of the Colorado Constitution.

15.11.2 Except where this Rule states otherwise, any statutory or constitutional provision that applies specifically to initiative petitions also applies to referendum petitions.

15.11.3 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~~ UNDER 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.

15.11.4 Proponents may submit a referendum petition to the Secretary of State for approval at any time after the General Assembly has passed the bill. The Secretary of State will not issue final approval of the referendum petition form until the bill has become law ~~pursuant to~~ UNDER ~~article~~ ARTICLE IV, ~~section~~ SECTION 11 of the Colorado Constitution.

15.11.5 Each referendum petition section must consist of the following, in the order listed:

- (a) The warning as specified in ~~Section~~ 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 \_\_\_\_\_, 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 5th 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.
- (d) The ballot title and submission clause.
- (e) The text of the Act, or the item, section, or part of the Act, on which the referendum is demanded.
- (f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for signatures.
- (g) A final page that contains the circulator’s affidavit required by section 1-40-111(2), C.R.S.

15.11.6 A referendum petition section must include only the matters required by Article 40, Title 1, C.R.S., and this Rule, and no extraneous material.

15.11.7 The ballot title must 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.”

15.11.8 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause must 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.

15.11.9 If a referendum petition is timely filed with the Secretary of State with a sufficient number of valid signatures, it will appear on the ballot at the next general election that occurs at least three months after the referendum petition is filed with the Secretary of State.

## **Rule 16. Military and Overseas Voters (UOCAVA)**

16.1 General ~~rules~~ **RULES** concerning voting by military and overseas electors;

16.1.1 For the purposes of this Rule 16, elector means a covered voter as defined in section 1-8.3-102(2), C.R.S.

16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each county



clerk's office must have a dedicated fax machine for the purpose of fax ballot transmission.

- 16.1.3 In accordance with section 1-8.3-109, C.R.S., a ballot application submitted by an elector is effective through the next regularly scheduled General Election, unless the elector specifies otherwise.
- 16.1.4 Notwithstanding any other provision of law, an elector may submit an application for registration and ballot request with his or her voted ballot as long as the ballot is timely submitted and received under sections 1-8.3-111 and 1-8.3-113, C.R.S.
- 16.1.5 Use of a Federal Write-in Absentee Ballot (FWAB) as an application for registration or ballot request. Notwithstanding any other provision of law, if an unregistered elector submits a FWAB by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the FWAB is a timely application for registration and ballot request.
- 16.1.6 In accordance with sections ~~1-8.3-110~~ 1-8.3-111 and 1-8.3-113, C.R.S., all ballots cast must be voted and mailed or electronically transmitted no later than 7:00 p.m. MT on election day, and received by the county clerk ~~and recorder~~ or the Secretary of State no later than the close of business on the eighth day after election day.
- 16.1.7 Ballots received by the Secretary of State
  - (a) If the Secretary of State timely receives a ballot under section 1-8.3-113, C.R.S., and Rule 16, the Secretary of State will immediately notify the appropriate county clerk and forward the ballot by ~~by~~ the most efficient means available no later than the next business day.
  - (b) To ensure voter secrecy, any county notified that the Secretary of State has received a ballot, must retain a minimum of ten voted ballots to be counted with the ballot received by the State.
- 16.1.8 The county clerk must send a minimum of one correspondence no later than 60 days before the Primary Election to each elector whose record is marked "Inactive" The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:
  - (a) The status of the elector's record and ballot request;
  - (b) The upcoming federal elections;
  - (c) How to update the elector's mailing information and request a ballot; and
  - (d) Any other information the county clerk deems appropriate.
- 16.1.9 No later than 45 days before an election, the county clerk must report to the Secretary of State the number ballots transmitted to military and overseas electors by the 45-day deadline.
- 16.1.10 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-110, C.R.S.
  - (a) If a county fails to meet the 45-day ballot transmission deadline provided for any

state or federal election, the county clerk must immediately report the failure and reason for the failure to the Secretary of State.

- (b) The county clerk must provide a plan to the Secretary of State for complying with the deadline in the next state or federal election.
  - (1) The county must submit the plan to the Secretary of State no later than 60 days before the transmission deadline.
  - (2) The county must provide a weekly progress report on implementing the plan to the Secretary of State beginning 50 days before the transmission deadline.
  - (3) The county clerk must provide a daily progress report to the Secretary of State beginning five days before the transmission deadline.

## 16.2 Electronic transmission

16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

- (a) An elector who requests fax transmission must provide a fax number, including the international country code and local area, province, or city code, if applicable, where the ballot is to be faxed.
- (b) An elector who requests email transmission must provide a complete email address where the ballot is to be transmitted. In accordance with section 1-8.3-115, C.R.S., no election official may disclose the email address to the public.
- (c) An elector who chooses to receive his or her unvoted ballot by online ballot delivery may return his or her ballot by fax or email.
- (d) To return a voted ballot and self-affirmation by email, the elector must scan and return the documents as an email attachment.

16.2.2 The electronic transmission must include:

- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (b) A notice that the ballot may not be duplicated for any other elector;
- (c) Instructions for completing and returning the ballot;
- (d) A notice regarding the ballot return deadline;
- (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk; and
- (f) Any other information deemed necessary by the Secretary of State or the county clerk.

- (g) The ballot packet, which must be in text format on 8 ½” x 11” white paper and must include:
- (1) An electronic transmission coversheet to protect voter privacy;
  - (2) The unvoted ballot;
  - (3) The electronic transmission ballot instructions; and
  - (4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule 16.2.3.

16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7) and 1(a)(5)), the elector’s name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot. (Section 1-8.3-114, C.R.S.)

~~16.2.4 Any ballot transmitted to an elector by electronic transmission must contain a unique identification number for tracking and auditing purposes.~~

~~16.2.5~~ 16.2.4 If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.

~~16.2.6~~ 16.2.5 The county clerk ~~and recorder~~ must maintain a log of each ballot sent by electronic transmission. The county clerk must maintain the log as an election record along with any other email or fax records. The log must include:

- (a) The name of the elector;
- (b) The fax number or email address to which the ballot packet was transmitted (as applicable);
- ~~(c) The unique identification number of the ballot;~~
- ~~(d-C)~~ The date the ballot packet was transmitted; and
- ~~(e-D)~~ The initials of the election official transmitting the ballot.

~~16.2.7~~ 16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must verify the elector’s signature in accordance with Rule 7.7. After the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.

~~16.2.8~~ 16.2.7 A military or overseas elector whose registration record is inactive may download an application and ballot using the electronic ballot delivery system.

- (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.
- (b) Every county must use the approved electronic delivery system to implement this

~~rule~~ **RULE**, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:

- (1) Number of military or overseas electors registered to vote in the county;
- (2) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and
- (3) Staff or other resource limitations.

## **Rule 17. Provisional Voting**

### 17.1 Provisional voting in the voter service and polling center

17.1.1 The county clerk must use the approved provisional ballot affidavit form.

17.1.2 If a voter service and polling center loses connectivity to SCORE, the judges must issue provisional ballots until the county restores connectivity unless the election officials are able to contact the elections office to issue vote credit in SCORE immediately.

17.1.3 The word “provisional” must be marked on the provisional ballot and on the signature card, if applicable, next to the elector’s name.

### 17.2 Verification of Provisional Ballots

17.2.1 The county clerk must process and tabulate all mail and in-person ballots before processing provisional ballots.

17.2.2 The county must process all mail ballots and signature cards in SCORE before processing provisional ballots.

17.2.3 Verification of an elector’s eligibility to have his or her provisional ballot counted is limited to the following sources:

- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;
- (b) SCORE; and
- (c) The information provided on the provisional ballot envelope, including the affidavit.

17.2.4 When verifying provisional ballots, the designated election official must check SCORE to determine whether the elector has already voted in the election.

17.2.5 If during verification it appears that the elector’s record was cancelled or consolidated as a duplicate in error, the ballot must be counted so long as the elector has not cast a ballot in the election, the affidavit is complete, and the elector is otherwise eligible. The county clerk must reinstate or unconsolidate the elector’s record and update the elector’s record before marking the elector’s provisional ballot as accepted or rejected in SCORE and before linking it to the elector’s record.

17.2.6 When the county clerk receives both a mail ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned mail ballot envelope and the elector's signature stored in SCORE, the discrepancy must be resolved. Before the county clerk may verify the provisional ballot affidavit, the elector must affirm that the signature on the mail ballot envelope is not his or her signature. Sections 1-8.5-105(4) and (5), C.R.S.

17.2.7 If an elector whose voter registration record is tagged ID required casts a provisional ballot without providing valid identification, the county clerk must verify and count the provisional ballot as follows:

- (a) The county clerk must send the elector a letter within three days after the ballot is cast, and no later than two days after election day, explaining that he or she must provide the required identification. Nothing in this ~~rule~~ RULE prohibits the county clerk from calling the elector; however, a phone call does not substitute for notification to the elector in writing. If the county clerk calls any elector he or she must call all electors who failed to provide required identification.
- (b) If the elector provides a copy of valid identification within eight days after election day, the county clerk must count the ballot so long as the elector has not cast another ballot in the election, the affidavit is complete, and the elector is otherwise eligible.

17.2.8 If the information contained in the provisional ballot affidavit provides adequate criteria so that the county clerk is able to confirm that the elector is eligible to cast a ballot, the provisional ballot must count.

17.2.9 Acceptance Codes (The county clerk must count all races.)

AOK Reviewed and confirmed voter's eligibility.

ADB Election official issued the elector the wrong ballot style. The voted ballot will be duplicated and only races and issues for which the elector is qualified to vote may be counted.

ALC Elector voted a provisional ballot because the ~~Voter Service and Polling Center~~ VOTER SERVICE AND POLLING CENTER lost connectivity. Elector's eligibility is confirmed.

17.2.10 Rejection Codes (The county clerk must not count a ballot given a rejection code):

RNS (Rejection not signed) Provisional Ballot Affidavit not signed.

RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.

REE (Rejection envelope empty) Provisional ballot envelope is empty.

RAB (Rejection voter voted mail ballot) Designated election official has confirmed that voter voted a mail ballot.

- RED (Rejection based upon ballot cast in person) Voter voted in a Voter Service Center or Polling Center.
- RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- RFE (Rejection felon not eligible to vote) Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole.
- RWC (Rejection elector not a resident of the district, county, or the State of Colorado) The individual does not reside within the district, county, or state, as applicable, and is not eligible to vote in the county where the provisional ballot was voted.
- RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter is tagged ID deficient, and did not provide ID at the time of voting.

- 17.3 The provisional ballot log required by section 1-8.5-110(4), C.R.S., may be prepared by the county clerk in handwritten or computer-generated form.
- 17.4 Recount procedures for provisional ballots are the same as the recount procedures for other ballots as directed by the Secretary of State.
- 17.5 Processing provisional ballot affidavits in the SCORE. Before closing an election, the county clerk must:
  - 17.5.1 Enter all provisional ballot affidavits into the SCORE provisional module.
  - 17.5.2 Process all voter registration updates.
  - 17.5.3 Link all provisional ballot affidavits to the appropriate elector's record.
- 17.6 Public access to provisional ballot information
  - 17.6.1 The list of voters who cast a provisional ballot and the accept/reject code for the ballot is available for public inspection.
  - 17.6.2 In accordance with section 24-72-204(8), C.R.S., the county clerk must not release an original or copy of the elector's:
    - (a) Month and day of date of birth;
    - (b) Driver's license or Department of Revenue identification number;
    - (c) Social security number;
    - (d) Email address; or
    - (e) Signature.
  - 17.6.3 If a voter has requested confidentiality under section 24-72-204(3.5), C.R.S., the county clerk must not release the elector's address or telephone number.

17.6.4 If a voter has requested confidentiality under section 24-30-2101, C.R.S., the county clerk must not release the provisional ballot affidavit.

17.7 Voter Access to Provisional Ballot Information

17.7.1 The Secretary of State will provide a provisional ballot lookup on the Secretary's website ~~DURING THE 45 DAYS FOLLOWING ELECTION DAY.~~

17.7.2 The county clerk must number the provisional ballot envelope or affidavit stock using the standard numbering convention approved by the Secretary of State.

~~17.7.3 An elector may access the system during the 45 days following the election.~~

[Section 1-8.5-111, C.R.S.]

**Rule 18. Uniform Ballot Counting Standards**

18.1 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who returns at least one page of a multiple page printed ballot will be considered to have voted and the county clerk ~~OR DESIGNATED ELECTION OFFICIAL~~ must count the votes on the submitted pages. The county clerk must not count votes on additional pages returned at a later time. The county clerk must appropriately mark, set aside, and preserve the ballots as election records in accordance with section 1-7-802, C.R.S.

18.2 Uniform Counting Standards for hand-counted Paper Ballots

18.2.1 In accordance with section 1-7-309, C.R.S., and Rule 18.6, judges counting ballots on election day must consider the intent of the voter.

18.2.2 If a race or ballot measure is overvoted, the judges must not count any vote for that race or ballot measure.

18.2.3 If a race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure. But all other candidate races or ballot measures properly marked by the voter on the ballot must be counted.

18.2.4 A ballot which has no markings for any candidate races or ballot measures must be tallied as a blank ballot, ~~but the voter must be given credit for voting.~~

18.3 Uniform Counting Standards for Optical Scan Ballots

18.3.1 Optical Scan Procedures at a ~~Voter Service and Polling Center~~ ~~VOTER SERVICE AND POLLING CENTER~~

(a) Voters whose ballots are rejected or sorted by a ~~Voter Service and Polling Center~~ ~~VOTER SERVICE AND POLLING CENTER~~ scanner as a blank or overvoted ballot must be given the opportunity to correct their ballot.

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

18.3.2 Central Count Optical Scan Procedures

- (a) Judges may complete a visual inspection of every ballot for the limited purpose of separating damaged ballots into a unique batch.
- (b) Judges must resolve, and where applicable, duplicate, every damaged ballot and all ballots sorted by the optical scan machine in accordance with this ~~rule~~ RULE.
- (c) A resolution board, consisting of a bipartisan team of two election judges for partisan elections or two qualified election judges for nonpartisan elections, must resolve all ballots sorted by the central count optical scan equipment.
  - (1) The board must be observed by two additional election judges, who in any partisan election must be representatives of each major political party.
  - (2) The resolution board must maintain a log for each step of verification, duplication, and counting.
- (d) Sequence of Resolution Procedures
  - (1) The resolution board must run a zero tape, or similar report, indicating no votes cast or counted before the counting begins.
  - (2) The board must review all ballots with overvotes, blank ballots, and write-in ballots sorted by the optical scanner. Ballots sorted by the optical scan equipment are subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option must not be utilized.
  - (3) A voter's intent must be reviewed for every ballot that requires resolution.
  - (4) All ballots sorted by the optical scanner and resolved by the resolution board by duplication must be marked as duplicated.
  - (5) The resolution board must maintain an official audit log for all ballots resolved setting forth the duplicate ballot number where applicable, specific reason that the ballot was resolved, date of resolution, and the initials of the members of the duplication board responsible for resolving the ballot.
  - ~~(6) The judge's ballot reconciliation form must log compared to the number of scanned ballots.~~
  - ~~(7-6)~~ The total write-in votes must be indicated on the final summary along with the seal numbers for each sealed box of scanned ballots.
- (e) Resolution of damaged ballots
  - (1) The resolution board must duplicate damaged or defective ballots utilizing the ballot duplication procedures in Rule 18.5.



- (2) The resolution board must examine blank ballots 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 in Rule 18.5. If a ballot is truly blank, the board must rescan the ballot and tabulate it with no races or ballot measures voted.
  - (3) The resolution board must inspect and resolve overvoted ballots in accordance with Rule 18.6.
  - (4) Write-in votes sorted by the optical scan equipment must be delivered to the assigned write-in board for hand counting.
    - (iA) During the initial ballot count, the oval must be darkened or the arrow connected according to the appropriate voting instructions. The county may count only votes for legally qualified write-in candidates.
    - (iB) If, following the initial count, the number of undervotes in that race could change the outcome or force the election into a mandatory recount if attributed to a legally qualified write-in candidate, the county must count votes for that candidate whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.
  - (5) The resolution board must 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 must be separated from the duplicate ballots and placed in a sealable container clearly marked “ORIGINAL BALLOTS.” The duplicate ballots must be counted in lieu of the original ballots.
  - (6) The resolution board must maintain an official audit log setting forth the precinct 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.
- (f) Recount Procedures for Optical Scan
- (1) Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested before the recount, and must be programmed to sort undervotes for the individual race(s) or ballot measure(s) being recounted.
  - (2) The county will conduct a recount of a race with a write-in candidate as outlined in Rule 18.6.4.

18.4 Uniform Counting Standards for DREs. A vote that is properly recorded, as specified by the voting instructions, on the voting device for an office or ballot measure must be counted.

18.5 Duplication of Ballots

~~(a)~~ 18.5.1 Using the damaged ballot as the guide, the duplicating team must mark a blank ballot so that the votes recorded are identical to those indicated on the damaged ballot. The duplication must be proofed to ensure it is marked properly and accurately.

~~(b)~~ 18.5.2 Every duplicated ballot must be subject to the process for determining voter intent outlined in Rule 18.6.

~~(c)~~ 18.5.3 A unique number must 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.)

~~(d)~~ 18.5.4 The duplicated ballots must be counted in the same manner as all other ballots to be counted.

~~(e)~~ 18.5.5 The damaged or unreadable original ballot must 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 must be placed in a sealable container and clearly marked “ORIGINAL BALLOTS.”

18.6 Determination of Voter Intent

18.6.1 If a voter uses a consistent alternate ballot marking method that deviates from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate’s name or ballot response) and does not place an “X”, check or other appropriate mark in the target area, the voter will be considered to have voted for the appropriate candidates and or ballot responses and the ballot must be duplicated. But if a voter marks any of his or her choices by placing an “X”, check or other appropriate mark in any target area on the voter’s ballot, only those choices where the target area is marked may be counted.

18.6.2 A ballot that has a mark correctly in the target area that partially extends into another target area must be counted as a vote for the candidate or ballot response so marked.

18.6.3 When resolving an overvoted race, marks indicating the voter’s intent include, circling the candidate’s name and strike-outs or corrections of choices.

18.6.4 Write-in votes

(a) If a voter designates a vote for a named candidate on the ballot and writes in the name of the same candidate in the write-in area, the vote must be counted.

(b) If a voter designates a named candidate on the ballot and writes in the name of a different candidate in the write-in area, it must be considered an overvote for that office if the number of chosen candidates exceeds the number permitted to be voted for in that office and no vote may be counted.

- (c) During any recount of votes, if the number of undervotes in that race could change the outcome if attributed to a legally qualified write-in candidate, votes for that candidate must be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

**Rule 19. Certification and Education of Designated Election Officials**

19.1 Purpose and Definitions

19.1.1 The Secretary of State recognizes that the oversight of elections is a profession that requires thorough knowledge of complex state and federal election law and election procedures. Considering the complexity of state and federal law, voting equipment, and election procedures, extensive training is necessary. The certification program standardizes election procedures and education. The program also promotes Colorado voters' confidence in their election officials and the election process.

19.1.2 "Local election official" means a county clerk. (Section 1-1-301(1), C.R.S.)

19.1.3 "Persons required to complete certification" means:

- (a) The county clerk; and
- (b) Employees in the county clerk's office who are directly responsible for overseeing election activities, including but not limited to: voter registration, candidate qualifications and ballot certification, poll worker training, ballot design and setup, ballot counting, and canvassing.

(Section 1-1-302, C.R.S.)

19.2 Advisory Board

19.2.1 The advisory board must meet at least twice each calendar year to approve the curriculum and make necessary changes. The advisory board must also review evaluations and recommend changes to the certification program.

19.2.2 The advisory board must review individual applications for certification and must approve applications that are accurate and complete. The advisory board may take into account special circumstances in reviewing and approving applications.

19.2.3 The Secretary of State will appoint the following as board members:

- (a) Four county clerks or designated staff members;
- (b) Two Secretary of State Office representatives; and
- (c) Any individual(s) whom the Secretary of State believes could make a valuable contribution to the ~~Board~~ BOARD.

19.2.4 Board members serve at least a two-year term.

19.2.5 The Secretary of State may terminate board members without cause. Failure to attend

meetings or meaningfully contribute may result in termination.

### 19.3 Curriculum

19.3.1 The Secretary of State will develop the core and elective curriculum offered for certification and continuing elections education. The Secretary will post curriculum information on the Secretary of State's website.

19.3.2 The Secretary of State will develop and administer all training outlined in this Rule 19.

19.3.3 To obtain Colorado certification, a person must complete the following minimum curriculum prescribed by the Secretary of State:

- (a) Seven basic core courses;
- (b) One core course relevant to primary job duty; and
- (c) Six electives.

19.3.4 To maintain Colorado certification, a person must complete at least five Continuing Elections Education courses by July 31 of every even year.

### 19.4 Training Format

19.4.1 Web-based training may be conducted live or by reviewing material previously presented by the Secretary of State. In either case, participants must achieve a satisfactory score on assessments before receiving credit for the course.

19.4.2 The Secretary of State will provide classroom training. For certification, a person must complete at least one course in-class.

### 19.5 Credit

19.5.1 Individuals applying for certification must successfully complete the curriculum prescribed by the Secretary of State. If an applicant submits duplicate coursework, the advisory board may reject the application for certification.

#### 19.5.2 Training assessment

- (a) To receive certification credit for any course presented by the Secretary of State under this ~~rule~~ RULE, a participant must successfully complete a training assessment with a minimum score of 85%.
- (b) A participant who fails to achieve a score of at least 85% may retake the assessment.
- (c) The Secretary of State may administer either paper or electronic assessments.

19.5.3 Credit for Teaching Classes. A person who teaches or substantially assists with preparation of a class offered for certification is excused from the assessment requirement outlined in Rule 19.5.2 and will receive credit for the course.

- 19.5.4 No election official may receive credit toward his or her Colorado certification for training offered by other agencies or organizations.
- 19.6 Application Review, Certification, and Maintenance of Records:
- 19.6.1 Once a person completes the required coursework, he or she must promptly submit an application for certification or continuing certification to the Secretary of State's office on the form approved by the Secretary of State.
- 19.6.2 The Secretary of State must review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State must forward it to the advisory board for its review and approval. Upon approval by the advisory board, the Secretary of State must issue a certificate that the person is a Certified Colorado Election Official.
- 19.6.3 The Secretary of State must track attendance at all classes and keep records of attendance, continuing elections education, and records of those persons who are certified and persons who are in the certification process.
- 19.7 Decertification. A person who fails to satisfy continuing education requirements will lose certification.

## **Rule 20. County Security Procedures**

- 20.1 ~~In THE COUNTY CLERK MUST SUBMIT ITS ANNUAL SECURITY PLAN ON THE FORM PRESCRIBED BY THE SECRETARY OF STATE IN accordance with section 1-5-616(5), C.R.S., and using the form prescribed by the Secretary of State, a county must annually submit a security plan to the Secretary of State no later than 60 days before the first election in which the county will implement the security plan procedures.~~
- 20.2 General requirements concerning chain-of-custody:
- 20.2.1 The county must maintain on file all documentation of seals, chain-of-custody, and other documents related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State.
- 20.2.2 The county must maintain and document the chain-of-custody for each voting device throughout the county's ownership or leasing of the device.
- 20.2.3 Only election officials or canvass board members sworn under oath are allowed to handle ballots, which include VVPAT records.
- 20.2.4 The county may install additional or modified software developed by the vendor on any component of the voting system only if the software is specifically listed on the Secretary of State's certificate and verified against the state trusted build. Nothing in this ~~rule~~ **RULE** precludes the use of commercial off-the-shelf software, provided that the software is included in the certified list of services and executables for the certified voting systems.
- 20.2.5 Any form or log containing "date" means to note the month, calendar day, year, hour, minute, and whether the time is a.m. or p.m.

20.2.6 The county must submit sample copies of all referenced forms, schedules, logs, and checklists with the security plan.

20.3 Physical locking mechanisms and seals. The county must record the serial number of every seal on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.

20.3.1 DREs and ballot marking devices:

- (a) The county must place a seal over a removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.
- (b) The county must place a seal over any removable card slot or cartridge slot when no card or cartridge is inserted into the unit.
- (c) If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the DRE case. To detect unauthorized access, the county must use seals at either the seams of the case or at key entry points such as screw access points.
- (d) If the voting device contains one or more slots for a flash memory card, the county must affix a seal over each flash card slot, door, or access panel.
- (e) These same procedures also apply to the Judge's Booth Controller (JBC) unit for the Hart InterCivic System.

~~(f) Two election officials must verify, and indicate by signing and dating the chain-of-custody log, that all seal serial numbers match the logged serial numbers.~~

20.3.2 Before attaching a VVPAT to a specific voting device, the county must seal the unit after verifying that no votes were cast. At least two election officials must verify that seals are intact before the start of voting, and at the close of voting. VVPAT records must either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule ~~20.12~~ 20.11.

20.3.3 Optical scanners:

- (a) The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge.
- (b) The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.
- (c) Before the start of voting and after the close of voting, two election officials must visually confirm that all seals are intact and that the seal ~~serial~~ numbers match those logged in the chain-of-custody log.

20.3.4 Memory cards or cartridges:

- (a) The county must assign and securely affix a permanent serial number to each removable card or cartridge. The county may use the manufacturer assigned serial number for this purpose.
- (b) The county must handle removable memory cards and cartridges in a secure manner at all times. The county must transfer and store any removable card or cartridge that is not sealed in a voting machine in a secure container with at least one seal. Upon delivery and receipt, election judges or county personnel must verify, and indicate by signing and dating the chain-of custody log, that all seal ~~serial~~ numbers match those listed in the log.
- (c) The county must maintain a written or electronic log to record card or cartridge seal ~~serial~~ numbers and track seals for each voting unit.

#### 20.4 Individuals with access to keys, door codes, and vault combinations.

20.4.1 For employees with access to areas addressed in Rule 20.4.3, the county must state in the security plan each employee's title and the date of the ~~ICHC~~ THE CRIMINAL BACKGROUND CHECK. [Section 24-72-305.6, C.R.S.]

20.4.2 The county must change all keypad door codes or locks, vault combinations, computer and server passwords, encryption key codes, and administrator passwords at least once per calendar year prior to the first election of the year.

20.4.3 Employee access. The county may grant employees access to the codes, combinations, passwords, and encryption keys described in this Rule ~~20.5~~ in accordance with the following limitations:

- (a) Access to the code, combination, password, or encryption key for the voting equipment, ballot storage areas, counting room, or tabulation workstations is restricted to employees who have successfully passed THE criminal background check described in Rule ~~6.4~~ 6.5. Any person who has been convicted of an election offense or AN OFFENSE WITH AN ELEMENT OF fraud is prohibited from having access to a code, combination, password, or encryption key for the voting equipment, ballot storage areas, counting room, or tabulation workstations.
- (b) Except for emergency personnel, no other individuals may be present in these locations unless supervised by one or more employees. Each individual who has access to the central election management system or central tabulator must have their own unique username and password. No individual may use any other individual's username or password. Shared accounts are prohibited.
- (c) In extreme circumstance, the county may request and the Secretary of State may grant exemption from the requirements outlined in THIS Rule ~~20.5.3~~.

20.4.5 Access to where election management software is used is limited to authorized election officials and watchers only. Messengers or runners delivering ballots between the preparation room and computer room must wear distinguishing identification.

#### 20.5 Internal Controls for the Voting System

20.5.1 The county must enable, create, and use passwords.

20.5.2 In addition to the access controls discussed in Rule ~~20.5~~ 20.4, the county must change all passwords and limit access to the following areas:

- (a) Software. The county must change all software passwords once per calendar year prior to the first election. This includes any boot or startup passwords in use, as well as any administrator and user passwords and remote device passwords.
- (b) Hardware. The county must change all hardware passwords once per calendar year prior to the first election. This includes any encryption keys, key card tools, supervisor codes, poll worker passwords on smart cards, USB keys, tokens, and voting devices themselves as it applies to the specific system.
- (c) Password Management. The county must limit access to the administrative passwords to the election management software to two employees. The county must limit access to passwords for all components of the election software and hardware to two employees. The county may provide an additional ten employees with access to the administrative passwords for the software components, and an additional ten employees with access to the administrative passwords for the hardware components of the voting system. The voting system provider may not have an administrative or application user/operator account, or administrative account access to the accounts.
- (d) Internet Access. The county must never connect or allow a connection of any voting system component to the Internet.
- (e) Modem Transmission. The county must never connect any component of the voting system to another device by modem except for the vote tally software.
- (f) Remote voter service and polling centers. At remote voter service and polling centers, the county may use modem functions of optical scanners and DREs only for the purpose of transmitting unofficial results.
- (g) Authorized Employees. The county must include in its security plan each employee's title and the date of background checks for employees with access to any of the areas or equipment set forth in this Rule. Each county must maintain a storage facility access log that details employee name, date, and time of access to the storage facility in which the software, hardware, or components of any voting system are maintained. If access to the storage facility is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log must meet the requirements of this ~~rule~~ RULE. [Section 24-72-305.6, C.R.S.]

20.6 Temperature-controlled storage. The county must maintain all components of the voting system and ballots in a temperature-controlled storage environment. The county must attest to the temperature-control settings used with the following components of a voting system. Information submitted to the Secretary of State must indicate the specifics for each type of component, as well as the specific environment used, which may include, but is not limited to controlled offices, controlled vaults, and controlled warehouses. The county must maintain the following required temperature settings:

20.6.1 Servers and workstations. The county must maintain the temperature so that the maximum temperature at no time exceeds 90 degrees Fahrenheit.



- 20.6.2 DREs and optical scanners. The county must maintain the temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit.
- 20.6.3 VVPAT records, paper ballots, and video data records. In addition to the requirements set forth in Rule 11, the county must maintain a dry environment and a temperature at a minimum of 50 degrees Fahrenheit and a maximum of 90 degrees Fahrenheit, with storage at least four inches above the finished floor, for a period of 25 months following the election.
- 20.7 Security cameras or other surveillance:
- 20.7.1 The county must maintain a log of each person who enters the ~~the~~ areas specified in Rule 20.7.3, including the person's name, signature, and date and time of entry. If access to the specified areas is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, ~~such a~~ ~~THE~~ log must meet the requirements of this ~~rule~~ ~~RULE~~.
- 20.7.2 Unless otherwise instructed, the county must make video security surveillance recordings of the areas specified in Rule 20.7.3 beginning at least 60 days ~~prior to the~~ ~~BEFORE~~ election ~~DAY~~ and continuing through at least 30 days after ~~the~~ election ~~DAY~~. If a recount or contest occurs, the recording must continue through the conclusion of all ~~such~~ ~~RELATED~~ activity. The recording system must ensure that records are not written over when the system is full. The recording system must provide a method to transfer the video records to a different recording device or to replace the recording media. If replaceable media is used then the county must provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available.
- 20.7.3 The following are the specific minimum requirements:
- (a) If the county has 50,000 or more registered voters, then the county must maintain a log and make video security surveillance recordings of the following areas, excluding voting booths:
    - (1) All areas in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.
    - (2) All areas used for processing ballots, including but not limited to areas used for Signature Verification, tabulation, or storage of voted ballots beginning at least 35 days ~~prior to the~~ ~~BEFORE~~ election ~~DAY~~ and continuing through at least 30 days after ~~the~~ election ~~DAY~~, unless there is a recount or contest. If a recount or contest occurs, the recording must continue through the conclusion of all ~~such~~ ~~RELATED~~ activity.
    - (3) The storage area for all voting equipment.
  - (b) If the county has fewer than 50,000 registered voters then the county must maintain a log and make video security surveillance recordings of all areas, in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.

- (c) The county must adequately light the area(s) subject to video surveillance to provide visibility for video recording.

20.8 Equipment maintenance procedures. In addition to the requirements for voting systems inventory specified in Rule ~~11.3-11.2~~, the county must adhere to the following minimum standards:

20.8.1 The county must store all equipment throughout the year with seals over the memory card slots for each device. The county must maintain a log of the seals used for each device consistent to the logs used for tracking Election Day seals.

20.8.2 For equipment being sent to the vendor for offsite repairs/replacements, the county must keep a maintenance log for the device that must contain the following: the model number, serial number, and the type of device; the firmware version; the software version, ~~(as applicable)~~; the printed name and signature of the person sending the equipment; and the date of submission to the vendor.

20.8.3 An employee must escort the vendor's representative at all times while on-site. At no time may the voting system vendor have access to any component of the voting system without supervision by an employee. [Section 24-72-305.6, C.R.S.]

20.8.4 Upon completion of any maintenance, the county must verify or reinstate the trusted build and conduct a full acceptance test of equipment that must, at a minimum, include the hardware diagnostics test, as indicated in Rule 11, and conduct a mock election in which an employee(s) must cast a minimum of five ballots on the device to ensure tabulation of votes is working correctly. The county must maintain all documentation of the results of the acceptance testing on file with the specific device.

20.8.5 The Secretary of State will annually inspect county maintenance records ~~AND VERIFY TRUSTED BUILD INSTALLATION~~ on a randomly selected basis.

20.9 Transportation of equipment, memory cards, ballot boxes, and ballots~~;~~

20.9.1 The county must submit detailed plans to the Secretary of State ~~prior to~~ BEFORE an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, the county clerk must be immediately notified and must follow the procedures specific to the incident as described in Rule 20.13. While the method of transportation of equipment may vary, the following standards apply:

- (a) Transportation by county personnel. County personnel must at all times display identification provided by the County. Two employee signatures and date are required at the departure location verifying that the equipment, including memory card or cartridge, is sealed to prevent tampering. Upon delivery of equipment, at least two election officials must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the serial numbers on the seals match the logged serial numbers.
- (b) Transportation by election judges. Election officials that are receiving equipment must inspect all components of voting devices and verify the specific numbers by signature and date on the chain-of-custody log for the device.

- (c) Transportation by contract. ~~A IF A county electing to contract~~ CONTRACTS FOR the delivery of equipment to remote voting locations, ~~must perform an ICHC on each of the specific individuals delivering the equipment~~ EACH INDIVIDUAL DELIVERING EQUIPMENT MUST SUCCESSFULLY PASS THE CRIMINAL BACKGROUND CHECK DESCRIBED IN RULE 6.5. ANY PERSON WHO HAS BEEN CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD IS PROHIBITED FROM HANDLING OR DELIVERING VOTING EQUIPMENT. Two election officials must verify, sign, and date the chain-of-custody log upon release of the equipment to the individual(s) delivering the equipment.

20.9.2 Standards for transporting voting equipment to and from the voting location:

- (a) Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:
- (1) Before removing a memory card or cartridge, two election officials must inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election officials must sign and date the chain-of-custody log ~~prior to~~ ~~BEFORE~~ breaking the seal.
  - (2) Election officials must place the memory cards or cartridges in a sealable transfer case and must seal the case. The election officials must maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.
  - (3) Election officials must place new seals over the empty memory card/cartridge slot and ~~for~~ door and document the seal numbers used.
  - (4) At least two election officials must accompany the transfer case to the processing location. The election officials who receive the equipment must verify, and indicate by signing and dating the chain-of-custody log, that the seals are intact and seal serial numbers match those listed in the log.
  - (5) Election officials transporting secured voting equipment must maintain chain-of-custody logs.
- (b) Required procedures if devices are delivered with memory cards/cartridges intact:
- (1) Two election officials must verify that all seals are intact at the close of polls. Election judges must sign and date the chain-of-custody log with such indication.
  - (2) At least two election officials must accompany the secured equipment to the drop-off location. The person receiving the equipment must verify the seals and sign and date the logs.
  - (3) Upon confirmation that the seals are intact and bear the correct numbers, election officials must remove and upload the memory cards/cartridges into the central count system.

- (4) To secure the equipment, election officials must place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal number(s).

#### 20.9.3 Required procedures for transportation of ballot boxes:

- (a) Election officials must seal all ballot boxes that contain voted ballots so that no person can access the ballots without breaking a seal. The election officials must record all seals in the chain-of-custody log and two election judges must verify, and indicate by signing and dating the log, that the required seals are intact.
- (b) Two election officials must accompany all ballot boxes that contain voted ballots at all times, except when the ballot box is located in a vault or secure physical location.
- (c) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a chain-in-custody log is completed for each ballot box.
- (D) If a seal is broken or chain-of-custody cannot be verified, the county clerk must investigate, document his or her findings, and report the incident to the Secretary of State, as appropriate.

#### 20.9.4 Ballot security at a voter service and polling center

- (a) The county must secure unvoted paper ballots during pre-election storage, transportation, and at polling locations.
  - (1) Except when election judges are actively issuing ballots the ballot containers must be sealed and secure.
  - (2) ~~the~~ THE county must maintain chain-of-custody logs for all ballot containers,
- (b) Unvoted paper ballots must be transported to polling locations in sealed containers. The county clerk must record the seal number on a chain-of-custody log for verification by the receiving election judges. The receiving election judges must verify the ballot container seal number before issuing ballots.
- (c) When election judges are actively issuing ballots, the unvoted ballots must be in clear view of a minimum of two election judges of different party affiliations and one of the election judges must actively monitor the ballots unless the ballots are stored in a locked location accessible only to election officials.
- (d) A minimum of two election judges of different party affiliations must reconcile and document all unvoted, issued, and spoiled paper ballots at the end of each day the polling center is open, and immediately report any inventory discrepancies to the county clerk.
- (e) If unvoted paper ballots are stored overnight at the polling location, the ballots must be sealed in containers and stored in a locked location accessible only to election officials.

20.10 Contingency plans:

20.10.1 The county must develop emergency contingency plans for voting equipment and voting locations in accordance with ~~THIS~~ Rule ~~21~~.

20.10.2 In the event of a serious or catastrophic equipment failure, or when equipment is removed from service, or there is not adequate backup equipment to meet the requirements of section 1-5-501, C.R.S., the county must notify the Secretary of State that the county is using provisional ballots as an emergency voting method.

20.10.3 The county contingency plans and evacuation procedures must address emergency situations including fire, severe weather, bomb threat, civil unrest, electrical blackout, equipment failure, and any other emergency situations ~~identified by the designated election official~~ ~~THE COUNTY IDENTIFIES~~.

20.10.4 The county must develop procedures to address failures of SCORE continuity, which includes:

- (a) ~~network~~ NETWORK failure,
- (b) ~~power~~ POWER failure that lasts less than one hour, and
- (c) Power failure that lasts more than one hour.

~~20.10.5 The county must develop procedures to protect against activities such as voting twice, including the use of an affidavit that the voter has not and will not cast another ballot.~~

20.11 Procedures for voter verifiable paper record (VVPAT). The following requirements apply only to DREs with a VVPAT.

20.11.1 Security. The VVPAT record is considered an official record of the election, in accordance with section 1-5-802, C.R.S. ~~All security procedures related to election ballots must apply to VVPAT records.~~

- (a) The housing unit for any VVPAT record to be used in the election must be sealed and secured ~~prior to~~ BEFORE any votes ~~being~~ ARE cast for the election. Election officials must attest to the VVPAT record having no votes included on the paper record ~~prior to~~ BEFORE the start of voting, and ~~prior to~~ BEFORE the installation or replacement of a new VVPAT record. Documentation of the seal number(s) must be maintained ~~and noted prior to~~ BEFORE voting and at the conclusion of voting.
- (b) If a DRE with VVPAT is used ~~during early voting~~ AT A VOTER SERVICE AND POLLING CENTER, the seal number(s) must be recorded at the beginning and end of each voting day.
- (c) At the close of the polls, the VVPAT records will be transferred to the election office in the same manner as any paper ballots. In the absence of paper ballots, the VVPAT records will be transferred to the election office in the same manner as memory cards.

20.11.2 Anonymity. The designated election official must implement measures to protect the anonymity of voters choosing to vote on DREs

- (a) Measures to protect anonymity include:
  - (1) ~~Appropriate marking in pollbook or other voting list indicating voter's choice to vote on DRE with the words: "Voted DRE", or similar in place of paper ballot information.~~ The county may not keep any record indicating the order in which people voted on the DRE, or which VVPAT record is associated with the voter.
  - (2) When more than one DRE is available at a voting location, the voter must be given the choice as to which DRE they would like to vote on, to the extent practicable.
- (b) The county clerk must remove the date/time stamp from any report or export generated from an electronic pollbook. The county clerk may not use this field as a sort method. The county clerk must randomly assign any Record ID, Key ID, or Serial Number stored in the database of votes.
- (c) At no time may an election official simultaneously access a VVPAT and the list of voters. Examination of the VVPAT record must be performed by at least two election officials.

20.11.3 Storage. The storage of the VVPAT records must be consistent with storage of paper ballots ~~pursuant to~~ UNDER SECTION 1-7-802, C.R.S.

- (a) Individual spools containing VVPAT records must contain the following catalog information affixed to the spool:
  - (1) Date and name of election;
  - (2) Name of voting location;
  - (3) Date(s) and time(s) of voting;
  - (4) Machine serial number of DRE associated with the record; and
  - (5) Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).
- (b) Light sensitive storage containers must be used for the 25 month storage period to ensure the integrity of the VVPAT paper record. Containers must be sealed, with record of the seal numbers maintained on file and signed by two election officials.
- (c) A master catalog must be maintained for the election containing the complete total number of VVPAT spools used in the election.

20.12 Security training for election officials. The county must include in its security plan the details of its security training. The county must address the anticipated time of training, location of training, and number of election officials receiving the security training, as it applies to the following requirements:

~~(a)~~ 20.12.1 The county must conduct a separate training module for field technicians and

election officials responsible for overseeing the transportation and use of the voting systems, picking up supplies, and troubleshooting device problems throughout the Election Day.

~~(b)~~ 20.12.2 Security training must include the following components:

- ~~(1)~~ A) Proper application and verification of seals and chain-of-custody logs;
- ~~(2)~~ B) How to detect tampering with voting equipment, memory cards/cartridges, or election data on the part of anyone coming in contact with voting equipment, including election officials, vendor personnel, or voters;
- ~~(3)~~ C) Ensuring privacy in voting booths;
- ~~(4)~~ D) VVPAT requirements;
- ~~(5)~~ E) Chain-of-custody requirements for voting equipment, memory cards/cartridges, and other election materials;
- ~~(6)~~ F) Ballot security;
- ~~(7)~~ G) Voter anonymity; and
- ~~(8)~~ H) Recognition and reporting of security incidents.

## 20.13 Remedies:

20.13.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

- (a) The county or Secretary of State must reinstate or verify the trusted build. For instances where the county can display, verify, or print the hash value (MD5 or SHA-1) of the firmware or software, the election official must document and verify that the hash value matches the documented alphanumeric string associated with the trusted build for the software or firmware of that device.
- (b) If the evidence indicates that the discrepancy occurred before the start of voting:
  - (1) The election officials must seal the device and securely deliver it to the county.
  - (2) The county or the Secretary of State must install a new, secure memory card into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and ~~proceed to~~ conduct an acceptance test on the machine in full election mode, casting at least 25 ballots on the device. The county must maintain on file all documentation of testing and chain-of-custody for each specific device.
  - (3) The county must complete the necessary seal process and documentation to re-establish the chain-of-custody for the device and new memory card.

- (4) The county must set the machine to election mode ready for a zero report.
- (c) If the evidence indicates that the discrepancy occurred after votes were cast on the device:
- (1) The county may not continue to use the machine until verification or reinstallation of trusted build and acceptance testing is complete. The county must set the machine to election mode ready for a zero report before resuming voting on the device.
  - (2) The election officials must seal the device and securely deliver it to the county.
  - (3) The county must close the election on that device, and perform a complete manual verification of the paper ballots (or VVPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.
  - (4) If the totals do not match then only the paper record will be accepted as the official results for that device. The county must re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless the trusted build is reinstated.
  - (5) If the totals match, the county may upload the memory card into the tally ELECTION MANAGEMENT software at the close of polls.
  - (6) After verifying the totals, the county must secure the paper records and memory card with seals and a chain-of-custody log.
  - (7) The county must complete the necessary seal process and documentation to establish the chain-of-custody for the device and memory card.
  - (8) ~~Prior to~~ BEFORE certifying election results, the county must conduct a full (all races) post-election audit on the device and report results to the Secretary of State as required by Rule 11. This requirement is in addition to the random selection conducted by the Secretary of State.

20.13.2 The county must make all documentation related to the voting system and for every device used in the election available for Secretary of State inspection.

#### 20.14 Amendments and review of security plans

20.14.1 If no changes have occurred since the last security plan was filed then the county must file a statement to that effect.

20.14.2 The county must clearly identify and describe any revisions to a previously filed security plan.



- 20.14.3 The county may change the security plan within 60 days of an election as a result of an emergency situation or other unforeseen circumstance. The county must document the changes and file the revisions with the Secretary of State within five days of the change.
- 20.15 Lease, loan, or rental of election equipment. Nothing in this ~~rule~~ **RULE** requires a county to lease, loan, or rent any election equipment to any municipality, special district or other local jurisdiction.
- 20.15.1 A county that chooses to lease, loan, or rent any certified election equipment to a municipality, special district, or other local jurisdiction for use in their elections must maintain or reestablish an acceptable chain-of-custody and appropriate documentation in accordance with Rule 20.2.
- 20.15.2 Upon return of the voting equipment to the county, if the documentation and chain-of-custody does not support the proper maintenance of the trusted build software then the county must reinstate or verify the trusted build before using the equipment.
- 20.15.3 To reinstate or verify the trusted build, the county must implement one of the following procedures:
- (a) The county clerk must:
    - (1) Deliver the equipment to the jurisdiction;
    - (2) Witness and document the installation of the memory card(s) or cartridge(s) used by the jurisdiction;
    - (3) Place one or more secure and numbered seals on the voting equipment in accordance with Rule 20.3. If during the course of the jurisdiction's election, the designated election official requires removal of a memory card or cartridge as a function of the election process, the county clerk must witness and document the removal and proper resealing of the memory card or cartridge; and
    - (4) Upon return of the equipment to the county, the county must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact. If any seal is damaged or removed, the county must reinstate or verify the trusted build.
  - (b) The county must designate and station deputized county staff with the loaned equipment at all times while the equipment is under control of the designated election official. The deputized county staff must maintain physical custody of the equipment at all times to ensure that no unauthorized access occurs.
  - (c) In accordance with section 1-5-605.5, C.R.S., the county must appoint the designated election official as a deputy for the purposes of supervising the voting equipment. The designated election official must:
    - (1) Sign and submit to the county an affirmation that ~~he/she~~ **HE OR SHE** will ensure the security and integrity of the voting equipment at all times;

- (2) Affirm that the use of the voting equipment is conducted in accordance with this Rule 20 the specific Conditions for Use of the voting equipment; and
- (3) Agree to maintain all chain-of-custody logs for the voting device(s).

20.16 Ballot on demand

20.16.1 The county must use the state-provided laptop for ballot on demand purposes only.

20.16.2 Software access, security, and storage.

- (a) The county must change all Windows and ballot on demand application passwords at least once per calendar year.
- (b) Only election officials or authorized vendor representatives may operate the ballot on demand system.
- (c) The county may connect the ballot on demand laptop to an external network for the purpose of connecting to SCORE only if the county maintains current virus protection, current operating system security patches, and implements firewalls to prevent unauthorized access.
- (d) The county must store the state-provided laptop and unused paper ballot stock in a locked storage area when the printer is not in use.

20.16.3 Ballot reconciliation.

- (a) The county must reconcile ballots printed on demand in accordance with Rules 10.4 and 10.5.
- (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

**Rule 21. Voting System Standards for Certification**

21.1 Definitions. The following definitions apply to their use in this ~~rule~~ **RULE** only, ~~unless otherwise stated.~~

- 21.1.1 “Audio ballot” means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.
- 21.1.2 “Audit log” means a system-generated record, in printed or electronic format, providing a record of activities and events relevant to initializing election software and hardware, the identification of files containing election parameters, initializing the tabulation process, processing voted ballots, and terminating the tabulation process.
- 21.1.3 “Ballot image” means a corresponding representation in electronic form of the marks or vote positions of a cast ballot that are captured by a DRE or a digitally retained image of a ballot.

- 21.1.4 “Ballot marking device” or “(BMD)”<sup>22</sup> means a device that may integrate components such as an optical scanner, printer, touch-screen monitor, audio output, and a navigational keypad and uses electronic technology to:
- (a) Mark a paper ballot at voter direction,
  - (b) Interpret the ballot selections,
  - (c) Communicate the interpretation for voter verification, and then
  - (d) Print a voter-verified ballot.
- 21.1.5 “Ballot style” means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests and candidates for which the voter is eligible to vote. It includes the order of contests and candidates, the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation. Multiple precincts may use a single ballot style. Multiple styles may appear in a single precinct where voters are split between two or more districts or other categories defining voter eligibility for particular contests and candidates.
- 21.1.6 “Closed network” means a network structure in which devices are not connected to the internet or other office automation networks, except as allowable under this Rule ~~21~~.
- 21.1.8 “EAC” means the United States Election Assistance Commission.
- 21.1.9 “Election management system” includes, ~~but is not limited to,~~ the ballot definition subsystem and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including maintaining equipment inventories, estimating ballot printing needs, and maintaining information on ~~Voter Service and Polling Centers~~ VOTER SERVICE AND POLLING CENTERS.
- 21.1.10 “Election media” means any device including a cartridge, card, memory device, or hard drive used in a voting system for the purposes of storing election setup records (ballot or card styles), recording voting results from electronic vote tabulating equipment, or any other data storage required by the voting system for a particular election function. The election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.
- 21.1.11 “Equipment” or “device” means a complete and inclusive term to represent all items submitted for certification by the voting system provider. This can include, ~~but is not limited to,~~ any voting device, accessory to voting device, DRE, touch screen voting device, card programming device, software, and hardware. “Equipment” may also mean a complete end to end voting system solution.
- 21.1.12 “Modification” means a revision or a new release of an electronic or electromechanical voting system.
- 21.1.13 “Optical scanner” means an optical or digital ballot scanner.
- 21.1.14 “Remote site” means any physical location identified by a designated election official as a location where the jurisdiction conducts the casting of ballots for a given election. A

remote site includes, ~~but is not limited to~~, locations such as voter service and polling centers.

21.1.15 “Removable storage media” means storage devices that can be removed from the system and transported to another location for readout and report generation. Examples of removable storage media include, but are not limited to, programmable read-only memory (PROM), random access memory (RAM) with battery backup, thumb drives, magnetic media, and optical media.

21.1.16 “Secretary of State” means the Colorado Secretary of State, ~~and~~ his or her ~~DESIGNEE,~~ ~~AND~~ agents including employees, contractors, and volunteers.

21.1.17 “Security” means the ability of a voting system to protect election information and election system resources with respect to confidentiality, integrity, and availability.

21.1.18 “Split precinct” means a precinct that has a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.

21.1.19 “Test Log” or “test records” means the documentation of certification testing and processes. This documentation may include, ~~but is not limited to~~, certification testing reports, test plans, requirements matrices, photographs, written notes, video, ~~and/or~~ audio recordings.

21.1.20 “Trusted build” means the write-once installation disk or disks for software and firmware for which the Secretary of State ~~or his/her agent~~ has established the chain of evidence to the building of a disk, which is then used to establish ~~and/or~~ re-establish the chain-of-custody of any component of the voting system ~~which~~ ~~THAT~~ contains firmware or software. The trusted build is the origin of the chain of evidence for any software and firmware component of the voting system.

21.1.21 “Voting system test laboratory” ~~or “(VSTL)”~~ means a “federally accredited laboratory”, as defined in section 1-1-104(16.5), C.R.S., which is accredited by the EAC to conduct certification testing for voting systems.

## 21.2 Introduction

21.2.1 For Colorado purposes, no single component of a voting system, or device, meets the definition of a voting system except that nothing in this ~~rule may be interpreted to require~~ ~~RULE REQUIRES~~ the testing of an entire modified system if the Secretary of State determines in accordance with section 1-5-618, C.R.S., that a modification to any certified voting system requires testing for security and accuracy. Only the modification and any affected features or capabilities must be tested to ensure compliance with this Rule ~~21~~.

21.2.2 Sufficient components must be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this ~~rule~~ ~~RULE~~.

21.2.3 The certification of a voting system ~~may not be interpreted as~~ ~~IS NOT~~ a requirement that a county purchase or lease all of the components of the voting system. Counties may choose to configure and use a subset of the certified voting system and may use the

services of a vendor or third party to provide ballot definition and election programming of memory cards. Counties are not required to use a paper ballot tabulation device if they choose to manually tabulate the election results.

### 21.3 Certification Process Overview and Timeline

21.3.1 The voting system will be considered as a unit, and all components tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system will require the entire voting system to be recertified unless the change is a modification that can be approved under section 1-5-618(1.5), C.R.S.

21.3.2 For a voting system to be certified, the voting system provider must successfully complete all phases of the certification process. The certification process includes: submission of a complete application, a documentation review, a public demonstration of the system, and functional testing.

21.3.3 The flow of each phase of certification is as follows:

- (a) Phase I – The voting system provider must submit an application and all documentation required in Rule 21.4. The Secretary of State will review the application and inform the voting system provider whether or not the application is complete. If the application is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. When the application is complete, the Secretary of State will make arrangements with the voting system provider for a public demonstration.
- (b) Phase II – The Secretary of State will review the submitted documentation, VSTL reports from previous testing, and evaluations provided by other states.
- (c) Phase III – The Secretary of State will prepare a certification test plan. If a VSTL is contracted to test the voting system, the VSTL will work with the Secretary of State to prepare a certification test plan. The certification test plan will be presented to the voting system provider for review before execution of the test plan.
- (d) Phase IV– Upon receipt of the voting system provider’s agreement to the certification test plan, the Secretary of State or the VSTL will execute the test plan.
- (e) Phase V – The Secretary of State will review the test results and determine whether the voting system substantially meets the requirements for certification. Within 30 days of a decision, the Secretary of State will post the certification test report for the voting system on its website.

21.3.4 The Secretary of State will certify voting systems that substantially comply with the requirements in this Rule 21, Colorado Election Code, and any additional testing ~~that is deemed necessary by~~ the Secretary of State **FINDS NECESSARY**.

### 21.4 Application Procedure

- 21.4.1 Any voting system provider may apply to the Secretary of State for certification at any time.
- 21.4.2 A voting system provider that desires to submit a voting system for certification must complete the Secretary of State’s “Application for Certification of Voting System” ~~which~~ THAT is available on the Secretary of State’s website.
- 21.4.3 The Secretary of State, in accordance with section 24-21-104(1)(a), C.R.S., will charge the voting system provider all direct and indirect costs associated with the testing of a voting system submitted for certification. The Secretary of State will provide an estimate of costs for certification testing before the certification process begins. In order to begin testing, the voting system provider must provide a written approval of the cost estimate. The voting system provider must pay all costs before the Secretary of state will issue a final determination.
- 21.4.4 Along with the application, the voting system provider must submit all documentation required in this Rule 21 in electronic format.
- 21.4.5 The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, ~~section 24-72-204, et. seq.~~ PART 2, ARTICLE 72 OF TITLE 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase III of the certification process.
- 21.4.6 The voting system provider must coordinate with the Secretary of State for the establishment of the trusted build. The voting system provider must submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. At a minimum, the trusted build must include a compilation of files placed on write-once media, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. The trusted build disks should all be labeled with identification of the voting system provider’s name and release version.
- 21.4.7 All materials submitted to the Secretary of State must remain in the custody of the Secretary of State as follows:
- (a) For certified systems, until the certification is permanently revoked, or until no components of the certified system are used in the State of Colorado; and
  - (b) For systems that are not certified, a period of 25 months.
- ~~21.4.8 The applicant must provide all additional information requested by the Secretary of State.~~

## 21.5 Voting System Standards

- 21.5.1 The 2002 Voting Systems Standards are incorporated by reference. Material incorporated by reference in the Election Rules does not include later amendments or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Federal Election Commission, 999 E Street NW, Washington, DC, 20463, 800-424-9530. Copies are also available online at [http://www.eac.gov/testing\\_and\\_certification/voluntary\\_voting\\_system\\_guidelines.aspx](http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx).

21.5.2 All voting systems must meet the 2002 Voting System Standards.

21.5.3 The voting system provider must document that all voting system software, hardware, and firmware meet all requirements of federal law that address accessibility for the voter interface of the voting system. These laws include:

- (a) The Help America Vote Act,
- (b) The Americans with Disabilities Act, and
- (c) The Federal Rehabilitation Act.

~~21.5.3~~ 21.5.4 Independent Analysis

(a) Before completion of functional testing, all voting system providers submitting a voting system must complete an independent analysis of the system, which includes:

- (1) An application penetration test conducted to analyze the system for potential vulnerabilities according to current industry standards that may result from poor or improper system configuration, known or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test must involve active exploitation of security vulnerabilities of the voting system, whether or not the vulnerabilities can be mitigated through compensating controls.
- (2) A source code evaluation conducted in accordance with Software Design and Coding Standards of the 2002 Voting System Standard or the most current version of the Voluntary Voting System Guidelines approved after January 1, 2008.
- (3) A complete report detailing all findings and recommended compensating controls for vulnerabilities and deficiencies identified.
- (4) The voting system provider must use at least one of the following to perform the independent analysis:
  - (A) An EAC approved VSTL;
  - (B) Testing conducted in another state; or
  - (C) Some combination of such VSTL and state testing that meets the requirements of this ~~rule~~ RULE.
- (5) The Secretary of State or VSTL will conduct a quality review of all work under this section. The review may include an examination of the testing records, interviews of the individuals who performed the work, or both. Review of testing records may be conducted at the VSTL, the state in which the testing was conducted, or at the site of any contractor or subcontractor utilized by another state to conduct the testing.

- (6) The Secretary of State may reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

~~21.5.4~~ 21.5.5 Functional Requirements

- (a) Functional requirements must address all detailed operations of the voting system related to the management and controls required to successfully conduct an election.
- (b) The voting system must provide for appropriately authorized users to:
  - (1) Set up and prepare ballots for an election;
  - (2) Lock and unlock system to prevent or allow changes to ballot design;
  - (3) Conduct hardware diagnostic testing;
  - (4) Conduct logic and accuracy testing;
  - (5) Conduct an election and meet requirements as identified in this Rule 21 for procedures for voting, auditing information, inventory control where applicable, counting ballots, opening and closing polls, recounts, reporting and accumulating results;
  - (6) Conduct the post-election audit; and
  - (7) Preserve the system for future election use.
- (c) The voting system must integrate election day voting results with mail and provisional ballot results.
- (d) The voting system must provide for the tabulation of votes cast in combined precincts at remote sites, where more than one precinct is voting at the same location, on either the same ballot style or on a different ballot style.
- (e) The election management system must provide authorized users with the capability to produce electronic files including election results in either ASCII (both comma-delimited and fixed-width) or web-based format. The software must provide authorized users with the ability to generate these files on an “on-demand” basis. After creating such files, the authorized users must have the capability to copy the files to diskette, tape, CD-ROM or other media type.
  - (1) Exports necessary for the Secretary of State must conform to a format approved by the Secretary of State. The format must be compatible with a commercially available data management program such as a spreadsheet, database, or report generator.
- (f) The voting system must include hardware or software to enable the closing of the voting location and disabling the acceptance of ballots on all vote tabulation devices to allow for the following:



- (1) Printout of the time the voting system was closed.
  - (2) Printout of the public counter and protective counter upon closing the ballot casting functionality.
  - (3) Ability to print a report which must contain:
    - (A) Names of the offices;
    - (B) Names of the candidates and party, when applicable;
    - (C) A tabulation of votes from ballots of different political parties at the same voting location in a primary election;
    - (D) Ballot titles;
    - (E) Submission clauses of all initiated, referred or other ballot issues or questions; ~~and~~
    - (F) The number of votes counted for or against each candidate or ballot issue;
    - (G) Date of election (day, month and year);
    - (H) Precinct number (ten digit format);
    - (I) County or jurisdiction name;
    - (J) "State of Colorado";
    - (K) Count of votes for each contest; and
    - (L) An election judge's certificate with an area for judges' signatures with the words similar to: "Certified by us", and "Election Judges". Space must allow for a minimum of two signatures.
  - (4) Votes counted by a summary of the voting location and by individual precincts.
  - (5) Ability to produce multiple copies of the unofficial results at the close of the election.
- (g) The election management system must ensure that an election setup may not be changed once ballots are printed and/or election media devices are downloaded without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs must accurately reflect the name of the system operator making the change(s), the date and time of the change(s), and the "old" and "new" values of the change(s).
  - (h) All DRE or BMD voting devices must use technology providing visual or auditory ballot display and selection methods used by people with disabilities.

- (i) All electronic voting devices supplied by the voting system provider and used at voter service and polling centers must have the capability to continue all normal voting operations and provide continuous device availability during a 2-hour period of electrical outage without any loss of election data.
- (j) The voting system must provide capabilities to protect the anonymity of ballot choices.
  - (1) All optical scan devices, associated ballot boxes, and VVPAT storage devices must provide physical locks and procedures during and after the vote casting operation.
  - (2) All DRE devices must provide randomization of all voter choices and stored electronic ballot information during and after storage of the voters' ballot selections.

~~21.5.5~~ 21.5.6 Physical and design characteristics

- (a) Physical and design characteristics must address any and all external or internal construction of the physical environment of the voting system, ~~or the internal workings of the software necessary for the voting system to function. The voting system must substantially comply with these requirements to be considered successful in the conduct of an election on the voting system.~~
- (b) The voting system provider must submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

~~21.5.6~~ 21.5.7 Ballot Definition Subsystem

- (a) The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule ~~21.5.6~~.
- (b) The ballot definition subsystem must be capable of handling at least 200 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.
- (c) The voting system must accommodate single page ballots (races on one face or both faces) and two page paper ballots (races on three or four faces).
- (d) The ballot definition subsystem must:
  - (1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates; ~~AND~~
  - (2) Generate all required masters and distributed copies of the ballot definition files.

~~21.5.7~~21.5.8 Trusted Build. The voting system must allow the operating system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

~~21.5.8~~21.5.9 Audit Capacity

- (a) The voting system must track and maintain read-only audit information of the following election management system events:
  - (1) Log on and log off activity;
  - (2) Application start and stop;
  - (3) Printing activity, where applicable;
  - (4) Election events –set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create voter service and polling centers, initialize devices, backup devices, and voting activity; and
  - (5) Hardware events – add hardware, remove hardware, initialize hardware, and change hardware properties.
- (b) All tabulation devices must display the unit serial number(s) both physically and within any applicable software, logs or reports.
- (c) Vote tabulation devices must allow for an alternate method of transfer of audit records if the device or a memory storage device is damaged or destroyed.
- (d) All transaction audit records of the election databases must be maintained in a file outside of or separate from the database in a read-only format.

~~21.5.9~~21.5.10 Security requirements

- (a) All voting systems must meet the following minimum system security requirements:
  - (1) The voting system must meet the following requirements to accommodate a general system of access by least privilege and role-based access control:
    - (A) Operating system administrative accounts may not have access to read or write data to the database;
    - (B) Operating system user/operator accounts must be able to be created that are restricted from the following aspects of the operating system:
      - (i) No access to system root directory;
      - (ii) No access to operating system specific folders;

- (iii) No access to install or remove programs; and
    - (iv) No access to modify other user accounts on the system.
  - (C) Application administrative accounts must have full access and rights to the application and database;
  - (D) Application user/operator accounts must have limited rights specifically designed to perform functional operation within the scope of the application. This user/operator must be restricted in the creation or modification of any user/operator accounts.
- (2) The voting system must meet the following requirements for network security:
- (A) All network-applicable components of the voting system must have the ability to operate on a closed network dedicated to the voting system;
  - (B) All network-applicable components of the voting system must include the limited use of non-routable IP address configurations for any device connected to the closed network. For the purposes of this requirement, non-routable IP addresses are those defined in the RFC 1918 Address base; and
  - (C) The voting system must include provisions for updating security patches, software and/or service packs without access to the open network.
- (3) All voting systems that use databases must: Have databases hardened to specifications developed by the voting system provider. Documentation included with the application must provide a detailed procedure for hardening according to current industry standards. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
- (4) The voting system must meet the following requirements for operating system security:
- (A) All voting systems must have all operating systems hardened to specifications developed by the voting system provider according to current industry standards. Documentation included with the application must provide a detailed procedure for hardening. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
  - (B) The voting system provider must configure the voting system operating system of the workstation and server used for the election management software to the following requirements:

- (i) The ability for the system to take an action upon inserting a removable media (auto run) must be disabled; and
    - (ii) The operating system must only boot from the drive or device identified as the primary drive.
  - (C) The voting system provider must use a virus protection/prevention application on the election management server(s)/workstations which must be capable of manual updates without the use of direct connection to the internet.
- (5) The voting system must meet the following requirements for password security:
- (A) All passwords must be stored and used in a non-reversible format;
  - (B) Passwords to the database must not be stored in the database;
  - (C) Password to the database must be owned and only known by the application;
  - (D) The application's database management system must require separate passwords for the administrative account and each operator account;
  - (E) The system must be designed in such a way to ensure that the use of the administrative account password is not required for normal operating functions;
  - (F) The system must ~~be designed in such a way to facilitate the~~ ALLOW USERS TO CHANGE PASSWORDS;
  - (G) The use of blank or empty passwords must not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and
  - (H) All voting systems must have all components of the voting system capable of supporting passwords of a minimum of eight characters, and must be capable of including numeric, alpha and special characters in upper case or lower case used in any combination.
- (6) All modules of the system must meet the 2002 voting system standards requirements for installation of software, including hardware with embedded firmware:
- (A) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-

readable source information must be made available as part of a source code review.

- (B) Security features and procedures must be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition. Replacement of the interpreted data files with tested and approved files from the trusted build must be by authorized personnel before the election definition is finalized for an election.
  - (C) The introduction of interpreted data during execution must not be permitted unless defined as a predefined set of commands or actions subject to security review and the **INTERPRETATION FUNCTION PROVIDES SECURITY EDITS ON INPUT TO PREVENT THE INTRODUCTION OF OTHER COMMANDS OR THE MODIFICATION OR REPLACEMENT OF EXISTING CODE.**
  - (D) The application must not allow users to open database tables for direct editing.
- (7) All voting systems must meet the following minimum requirements for removable storage media with data controls:
- (A) All voting data stored that includes, ballot images, tally data and cast vote records must be authenticated and validated.
  - (B) All non-voting data stored must be authenticated, encrypted, and validated.
  - (C) All removable media, upon insertion on server and/or workstations hosting the elections management software, must automatically be scanned by antivirus software.

#### ~~21.5.10~~ 21.5.11 Telecommunications requirements

- (a) Telecommunications includes all components of the system that transmit data outside of the closed network as defined in this Rule ~~21~~.
- (b) All electronic transmissions from a voting system must meet the 2002 Voting System Standards.
- (c) Modems from remote devices must be programmed to be “dial only” and not receive a call;
- (d) Any modem that fails to meet the requirements of this **rule RULE** may not be used by any voting system.
- (e) Line of sight infrared technology may only be used in a closed environment where the transmission and reception is shielded from external infrared signals and can only accept infrared signals generated from within the system.

- (f) All systems that transmit data over public telecommunications networks must maintain an audit trail when election results are transmitted.
- (g) Voting systems that transmit data through any telecommunications medium must be able to recover, either automatically or with manual intervention, from incomplete or failed transmission sessions and resume transmissions when telecommunications are reestablished.
  - (1) Recovery of transmissions must include notations of the interrupted transmission session and the resumed transmission session in the system and application transaction logs.
  - (2) Failure and recovery of transmissions must not cause any error in data transmitted from the voter service and polling centers to the central election site during a recovered transmission session.

~~21.5.11~~ 21.5.12 Voter-verifiable paper record requirements

- (a) Existing systems that are retrofitted to comply with section 1-5-802(1), C.R.S., must be examined for certification by the Secretary of State. Any retrofitted voting system must comply with the process and application for certification as identified by this Rule ~~21~~.
- (b) The VVPAT must include the following components:
  - (1) A paper audit trail writer or printer that must be attached, built into or used in conjunction with the DRE, and must duplicate a voter's selections from the DRE onto a paper record;
  - (2) A paper record display unit or area that must allow a voter to view his or her paper record; and
  - (3) A paper record storage unit that must store cast and spoiled paper record copies securely.
- (c) The VVPAT must meet the following functional requirements:
  - (1) The printer may only communicate with the voting device to which it is connected;
  - (2) The printer must function only as a printer, and not perform any other non-printer related services;
  - (3) Produce a paper record for every corresponding electronic voting record;
  - (4) Provide a "low supply" warning to the election official to add paper, ink, toner, ribbon or other like supplies. In the event that an election official is required to change supplies during the process of voting, the voter must be allowed to reprint and review the paper record without having to mark his or her ballot. The device must prevent the election official from seeing a voter's ballot.

- (5) Stop all operations if the printer is not working as designed.
  - (6) Allow a voter to spoil his or her paper record no more than two times.
  - (7) Upon spoiling, the voter must be able to modify and verify selections on the DRE without having to reselect all of his or her choices.
  - (8) Before the voter causes a third and final record to be printed the VVPAT must present the voter with a warning notice that the selections made on screen shall be final and the voter may see and verify a printout of his or her vote, but must not be given additional opportunities to change their vote.
  - (9) When VVPAT components are integrated into a previously certified voting system the new configuration of the voting system must comply with existing state testing and auditing requirements.
  - (10) Print a barcode with each record that contains the human readable contents of the paper record. The voting system provider must include documentation of the barcode type, protocol, and/or description of barcode and the method of reading the barcode as applicable to the voting system.
  - (11) If used for provisional ballots, the VVPAT must be able to mark paper records as a provisional ballot through the use of human readable text and optionally printing barcode and/or serial number information, which must provide for mapping the record back to the electronic record and the provisional voter for processing after verification in accordance with Article 8.5 of Title 1, C.R.S.
- (d) The VVPAT must meet the following design requirements:
- (1) Allow every voter to review and accept or reject his/her paper record in as private and independent manner as possible regardless of whether the voter has  disability.
  - (2) Print at a font size no less than 14-point sans-serif Arial.
  - (3) Allow each voter to verify his or her vote on a paper record in the same language that they voted in on the DRE.
  - (4) Prevent tampering with unique keys or seals for the compartment that stores the paper record.
  - (5) Print and store paper record copies for at least 75 ballots cast without requiring the paper supply source, ink or toner supply, or any other similar consumable supply to be changed, assuming a fully printed double sided 18 inch ballot with a minimum of 20 contests.
  - (6) The printed information on the paper record must contain at least the following items:



- (A) Name or header information of race, question or issue;
  - (B) Voter's selections for the race information;
  - (C) Write-in candidate's names if selected;
  - (D) Undervote information;
  - (E) Ability to optionally produce a unique serial number (randomized to protect privacy); and
  - (F) Identification that the ballot was cancelled or cast.
- (7) Prohibit the voter from leaving the voting area with the paper record.
- (8) The voting system provider must provide documentation describing how to investigate and resolve malfunctions including, but not limited to the following:
- (A) Misreporting votes;
  - (B) Unreadable paper records;
  - (C) Paper jams;
  - (D) Low-ink;
  - (E) Misfeeds;
  - (F) Lost votes; and
  - (G) Power failures.

~~21.5.12~~ 21.5.13 Documentation Requirements

- (a) The Secretary of State may rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:
- (1) The Secretary of State has access to any documentation, data, reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and
  - (2) The Secretary of State has determined that the tests were conducted in accordance with appropriate engineering standards, and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all ~~rules~~ RULES promulgated under those sections.
- (b) In addition to other documentation requirements in this ~~rule~~ RULE, the voting system provider must provide the following documents:
- (1) Standard issue users/operator manual;

- (2) System administrator's/application administration manual;
  - (3) Training manual and related materials;
  - (4) Election definition programming and diagnostics manuals; and
  - (5) A list of minimum services needed for the successful, secure and hardened operation of all components of the voting system.
- (c) The voting system provider must provide documentation concerning the use of touch screen or other display and selection technology including:
- (1) Technical documentation describing the nature and sensitivity of the tactile device, (if the system uses touch screen technology); AND
  - (2) Technical documentation describing the nature and sensitivity of any other technology used.
- (d) For the review of VSTL or other state testing in Rule 21.5.12(a) copies of all VSTL or state qualification reports, test logs and technical data packages must be provided to the Secretary of State.
- (1) The voting system provider must execute and submit any necessary releases for the applicable VSTL, state and/or EAC to discuss any and all procedures and findings relevant to the voting system with the Secretary of State and allow the review by the Secretary of State of any documentation, data, reports, or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider must provide a copy of the documentation to the Secretary of State.
  - (2) The voting system provider, the VSTL, the state or the EAC will identify to the Secretary of State any specific sections of documents for which they assert a legal requirement for redaction.
- (e) The voting system provider must provide documentation specifying the steps and times required for charging batteries, and the time of battery operation for each type of device they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power.
- (f) The Secretary of State will review submitted documentation to determine the extent to which the voting system has been tested to federal standards.
- (g) Failure by the voting system provider to provide any documentation will delay processing the application and may be cause for denial of certification.
- (h) The voting system must include detailed documentation, which includes the location and a description of the content of the of audit trail information throughout the system. The audit information applies to:
- (1) Operating Systems (workstation, server, optical scanner, BDM, and DRE);

- (2) Election management system; and
  - (3) Election Tabulation Devices – optical scan and DRE.
- (i) The voting system provider must provide documentation detailing voting system security. The documentation must contain configurations, properties and procedures to prevent, detect, and log changes to system capabilities for:
- (1) Defining ballot formats;
  - (2) Casting and recording votes;
  - (3) Calculating vote totals consistent with defined ballot formats;
  - (4) Reporting vote totals;
  - (5) Altering of voting system audit records;
  - (6) Changing or preventing the recording of a vote;
  - (7) Introducing data for a vote not cast by a registered voter;
  - (8) Changing calculated vote totals;
  - (9) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and
  - (10) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.
- (j) The voting system provider must provide documentation detailing the security measures it has in place for all systems, software, devices that act as connectors (upload, download, and other programming devices) and any additional recommended security measures.
- (k) The voting system provider must provide procedures and documentation for the use of the VVPAT.
- (l) The voting system provider must publish and specify processing standards for each component of the voting system as part of the documentation required for certification.
- (m) For the purpose of evaluating software, the voting system provider must provide detailed information as to the type of hardware required to execute the software.
- (n) The documentation supplied by the voting system must include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.

- (o) The voting system provider must provide any available data on problems caused for persons who experience epileptic seizures due to the DRE voting device's screen refresh rate.
- (p) The voting system provider must deliver to the Secretary of State documentation detailing estimated time of battery operation for each type of device submitted for certification, assuming continuous use of the devices by voters during an interruption of normal electrical power.
- (q) The voting system provider must deliver to the Secretary of State documentation specifying the steps and times required for charging batteries for each type of device submitted for certification.
- (r) The voting system provider must submit documentation containing a list of minimum services and executables required to run the election management system.

## 21.6 Testing preparation procedures

### 21.6.1 Voting system provider demonstration

- (a) The voting system provider must demonstrate the submitted voting system to the Secretary of State prior to any functional testing.
- (b) The demonstration period does not have a predetermined agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate the following items as they pertain to each area and use within the voting system, if applicable:
  - (1) System overview;
  - (2) Verification of complete system matching EAC certification;
  - (3) Ballot definition creation;
  - (4) Printing ballots on demand;
  - (5) Hardware diagnostic testing;
  - (6) Programming election media devices for various counting methods including:
    - (A) Mail ballots;
    - (B) In-person ballots; and
    - (C) Provisional ballots;
  - (7) Sealing and securing system devices;
  - (8) Logic and accuracy testing;

- (9) Processing ballots;
  - (10) Accessible use;
  - (11) ■ Accumulating results;
  - (12) Post-election audit;
  - (13) ■ Canvass process handling;
  - (14) ■ Audit steps and procedures throughout all processes;
  - (15) ■ Certification of results; and
  - (16) ■ Troubleshooting.
- (c) The voting system provider will have access to the demonstration room for one day prior to the start of the demonstration to provide time for setup of the voting system.
  - (d) A maximum of one business day is normally allowed for the demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.
  - (e) The demonstration will be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space.
  - (f) The Secretary of State will post notice of the fact that the demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice must indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.
  - (g) The voting system provider must provide the same class of workstation and/or server for testing the voting system as the normal production environment for the State of Colorado.
  - (h) Based upon the review of VSTL or other state reports and test records, the Secretary of State will prepare a test plan. The test plan will be designed to test for any requirements specific to Colorado law which were not addressed in prior testing and for any federal or Colorado requirements which were not addressed to the satisfaction of the Secretary of State in the reports and records from prior testing.
  - (i) The test plan must include the election definitions to be used in testing and specifications for test ballots. Test ballots and election definitions must generally follow all requirements for election definitions, ballot layout and printing to verify the system's ability to meet those requirements. Some election definitions and ballots may depart from the requirements in order to test specific functions.

- (j) For each system tested, a requirements matrix must be prepared to identify those requirements satisfied by the review of VSTL or other state reports and test data and how those requirements not satisfied are to be tested or otherwise satisfied. If during test planning or testing one of the requirements in the voting systems standards or in this ~~rule~~ **RULE** are determined to be not applicable to the system under test, the reason for the determination will be documented.
- (k) The voting system provider must submit for testing the specific system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the system be used.
- (l) The voting system provider is not required to have a representative present during the functional testing, but must provide a point of contact for technical support. After the delivery, unpacking, and initial inspection of the equipment for shipping damage and missing components, a vendor representative will only be allowed to operate or touch the equipment when approved by the Secretary of State. All such activity by a vendor representative must be documented on video or in writing.
- (m) The proprietary software must be installed on the workstation/server and all applicable voting system components by the Secretary of State or the VSTL using the trusted build following the installation procedures provided by the voting system provider. After installation, hash values for the software and firmware must be compared to any published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.
- (n) All equipment must be hardened using the voting system provider's procedures and specifications.
- (o) Testing must be performed with test election definitions and test ballots as required in the test plan.
- (p) The results of all testing must be recorded in the requirements matrix. The requirements matrix will be the primary record describing which requirements were met and specifying which were not. It must be supplemented as necessary to support the findings with test team notes and system reports. Supplemental information may include photographs and audio or video recordings.
- (q) Functional testing must be completed according to the phases identified in Rule 21.3.3.
- (r) The Secretary of State or the VSTL must conduct functional testing on the voting system based on this Rule ~~21~~.
- (s) The voting system must receive a pass, fail or not applicable for each requirement with appropriate notation in the requirements matrix.
- (t) ~~Records~~ **THE SECRETARY OF STATE WILL MAINTAIN RECORDS** of the test procedures ~~must be maintained~~ in accordance with Rule 21.4.7. The records must identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test

number, test plan, requirements matrix, test team notes, and other supplemental information, and results of test. The test environment conditions must be described.

- (u) In the event that a deviation from the test plan is required, it must be documented in a test team note. The note must provide a description of the deviation, the reason for the deviation and effect of the deviation on testing and determining compliance with requirements.

#### 21.6.2 General testing procedures and instructions

- (a) Certification tests must be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests will:
  - (1) Verify, by means of the voting system provider's standard operating procedure, that the device is in a normal condition and status;
  - (2) Establish the standard test environment or the special environment required to perform the test;
  - (3) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested;
  - (4) Measure and record the value or the range of values of the performance characteristic to be tested; and
  - (5) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
- (b) All tests will be generally conducted in regular election mode. Tests of test mode and diagnostic functions may be conducted in the appropriate test mode.
- (c) The voting system provider must produce ballots and assemble marked test decks and spare ballots as specified in the test plan.
- (d) For mark-sense or optical scan devices, the Secretary of State or the VSTL will prepare 100 or more test ballots with marking devices of various color, weight and consistency to determine the range of marks that can be read and the range and consistency of reading marginal marks.
- (e) Ballots must be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are, at a minimum, in-person, mail, and provisional ballots. Ballots may be run through components more than one time depending on components and counter group being tested to achieve a minimum number of ballots cast as follows for each group:
  - (1) Polling location / OS = 1,000;
  - (2) Polling location / DRE = 500;

- (3) ~~mail~~ MAIL = 1, 500; and
  - (4) Provisional = 500.
- (f) The requirements matrix must include the following requirements for election definitions and ballots to simulate and test “real world” situations in the State of Colorado. Election definitions and ballots must include the following minimum contest criteria:
- (1) Parties for different races;
  - (2) Selection of a pair of candidates, such as President and Vice-President;
  - (3) In a primary election, allow voters to vote for the candidates of the party for which they are eligible and for any and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;
  - (4) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to vote for any measure on the ballot that the voter is allowed to vote in, regardless of party;
  - (5) Allow for programming to accommodate Colorado recall questions as prescribed in Article 12 of Title 1, C.R.S.;
  - (6) A minimum of 20 pairs of “yes” and “no” positions for voting on ballot issues; and
  - (7) Ability to contain a ballot question or issue of at least 200 words.
- (g) A county clerk or his or her designated representative must be able to observe the functional testing of a voting system. The representative may assist at the request of the Secretary of State.
- (h) The public must be allowed to view all functional testing conducted by the Secretary of State. However, legal limitations may require that certain testing, including but not limited to proprietary information and system security, be done outside the view of the public. If the functional testing is outsourced to a testing lab or contractor, public viewing is subject to limitations set forth by the testing lab or contractor.
- (i) If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it must be recorded for inclusion in the analysis.

## 21.7 Temporary use

- 21.7.1 If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.



21.7.2 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time may a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.

21.7.3 Temporary use does not supersede the certification requirements ~~and~~ or process, and may be revoked at any time at the discretion of the Secretary of State.

## 21.8 Decertification

21.8.1 If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule 21, the Secretary of State will notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.

21.8.2 Certification of a voting system may be revoked or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:

- (a) The Election Assistance Commission (EAC);
- (b) Voting System Test Laboratory (VSTL);
- (c) The Federal Election Commission (FEC);
- (d) The National Software Reference Library (NSRL);
- (e) National Association of State Election Directors (NASED);
- (f) The National Association of Secretaries of State (NASS);
- (g) Information from any state elections department or Secretary of State;
- (h) Information from Colorado county clerks or their association; **OR**
- (i) Any other source the Secretary of State ~~deems~~ **FINDS** reliable.

21.8.3 If any voting system provider, provides for use, installs, or causes to be installed an uncertified or decertified voting system or component, the Secretary of State may suspend use of the component or the voting system.

21.8.4 In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public hearing to consider the decision to decertify a voting system.

21.9 Modifications and reexamination. Any modification, change or other alteration to a certified voting system requires certification or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule ~~21~~.

## 21.10 Acceptance Testing by Jurisdictions

- 21.10.1 Whenever a jurisdiction acquires voting equipment, the jurisdiction must perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system must be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and must be identical to the voting system certified by the Secretary of State.
- 21.10.2 The voting system provider must provide all manuals and training necessary for the proper operation of the system to the jurisdiction.
- 21.10.3 The election jurisdiction must perform ~~a series of~~ functional and programming tests for all functions of the voting system at their discretion.
- 21.11 Escrow of voting system software and firmware by voting system provider. The voting system provider must meet the requirement for software escrow per the following:
- 21.11.1 The voting system provider must place in escrow a copy of the election software, firmware, and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. [Section 1-7-511, C.R.S.]
- 21.11.2 Within ten days of the voting system provider receiving notification of examination of voting equipment as part of the certification process, the voting system provider must arrange for the completion of escrow requirements as indicated by this ~~rule~~ **RULE**.
- 21.11.3 The voting system provider must sign a sworn affidavit that the election software in escrow is the same as the election software used in its voting systems in this state. ~~An annual update of the affidavit will be on file in a secured location with the Secretary of State's office.~~
- 21.11.4 A complete copy of the certified election software including any and all subsystems of the certified software will be maintained in escrow.
- 21.11.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.
- 21.11.6 In addition to the requirements listed below, the voting system provider must include a cover/instructions sheet for any escrow material to include the voting system provider, address and pertinent contact information, software version, hardware version, firmware revision number, and other uniquely identifying numbers of the software submitted for certification.
- 21.11.7 Election software source code, maintained in escrow, must contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the source code should it be removed from escrow for any reason.
- 21.11.8 System documentation will include instructions for converting the escrowed source code into object code, organized and configured to produce an executable system, if warranted.
- 21.11.9 System documentation will include technical architecture design, analysis, detail design, testing and an installation and configuration guide.

- 21.11.10 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk must be filed with the Secretary of State.
- 21.11.11 All parties must treat as confidential the terms of this Rule including all escrow materials and any other related information that comes into their possession, control or custody in accordance with this section.
- 21.11.12 Copies of electronic media and supporting documentation for escrow within the Secretary of State will be sent to:
- Colorado Secretary of State  
Attn: Voting Systems Specialist  
1700 Broadway – Suite 200  
Denver, CO 80290
- 21.11.13 Any cost of using an alternative third party escrow agent must be borne by the voting system provider.

## **Rule 22. Use of approved and recommended election forms**

- 22.1 Where the Secretary of State issues an approved election form, notice, application, or correspondence, all designated election officials and registration offices must use the approved form.
- 22.1.1 A designated election official or registration office that wishes to substantively modify the content of any form approved by the Secretary of State must submit a written request via email to the Secretary of State's office stating the requested modification and the reasons it is needed.
- (a) The Secretary of State will approve or deny a request to modify an approved form within five business days. Failure of the Secretary of State to issue a decision within five business days does not constitute an approval of the request. If the modification request is denied, the Secretary of State will explain the reason for denying the request.
- (b) A non-substantive customization of an approved form, such as placing the form on county letterhead or language translation, does not require the Secretary of State's approval.
- 22.2 The Secretary of State will approve standard voter registration and ballot application forms for use by political parties and organizations that provide such forms to the public. The Secretary of State will publish on the department's website the current approved registration forms.
- 22.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all information specifically required by Colorado law, the applicants and the organization are afforded greater protection by distributing or using the state forms approved by the Secretary of State.

- 22.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public must identify themselves by printing the organization name and contact information on the form.
- 22.2.3 Any political party or organization may contact the Secretary of State before sending a mailing to request a review of the form and information to be mailed.
- 22.3 Under section 1-1-107(2)(d), C.R.S., the Secretary of State will seek injunctive action or other remedies for violations of this Rule.

**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. Effective Date of Adopted Rules**

These new rules will become permanently effective twenty days after publication in the Colorado Register.<sup>5</sup>

Dated this 14th day of November, 2013,



\_\_\_\_\_  
Suzanne Staiert  
Deputy Secretary of State

For

Scott Gessler  
Colorado Secretary of State

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<sup>5</sup> Section 24-4-103(5), C.R.S. (2013).



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

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

**November 14, 2013**

#### **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> and to implement amendments to the election laws made during the 2013 first regular session of the 69<sup>th</sup> General Assembly. The revisions are also intended to improve elections administration in Colorado and to increase the transparency and security of the election process.

This past legislative session, the General Assembly enacted House Bill 13-1303, which substantially changed how we administer elections in Colorado. Though Secretary of State staff pointed out several technical problems with the bill during the legislative process, our attempts to amend the bill were unsuccessful. In response to the recent and substantial legislation affecting elections, Secretary of State's office is recodifying the Election Rules. The rulemaking is intended to fill in several gaps and harmonize several conflicting provisions that now exist in the Election Code as a result of HB 13-1303. In addition, the Secretary of State is considering amendments to implement House Bills 13-1038 and 13-1135.

On July 26, 2013, the Secretary issued a request for public comment to help our office develop preliminary draft rules to address the use of numbers on ballots. The comments we received in anticipation of rulemaking are incorporated into the official rulemaking record and are available online at: [www.sos.state.co.us/pubs/rule\\_making/ruleComments.html](http://www.sos.state.co.us/pubs/rule_making/ruleComments.html).

Additional comments received during the official rulemaking proceeding are available online at: [www.sos.state.co.us/pubs/rule\\_making/hearings/2013/ElectionRulesHearing20131001.html](http://www.sos.state.co.us/pubs/rule_making/hearings/2013/ElectionRulesHearing20131001.html).

The Secretary of State considered the amendments and recodification at the October 1, 2013 rulemaking hearing in accordance with the State Administrative Procedure Act<sup>2</sup>. On October 9, 2013, the Secretary of State adopted the rule recodification on a temporary basis. Temporary adoption was necessary to comply with law and to preserve the public welfare given the close proximity of the 2013 Coordinated Election. A copy of the Notice of Temporary Adoption is available online at: [http://www.sos.state.co.us/pubs/rule\\_making/files/2013/20131009-Election-NoticeTempAdoption.pdf](http://www.sos.state.co.us/pubs/rule_making/files/2013/20131009-Election-NoticeTempAdoption.pdf). For more information, including copies of the redline and clean versions of the temporary rules, please

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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.

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2013).

see the eDocket details page for CCR tracking number 2013-01079 at: <http://www.sos.state.co.us/CCR/eDocketDetails.do?trackingNum=2013-01079>.

## II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. House Bill 13-1303, codified as follows:
  - a. Section 1-2-217.7(7), C.R.S., (2013), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
  - b. Section 1-7.5-107.3(6), C.R.S., (2013), which requires the Secretary of State to “adopt rules in accordance with article 4 of title 24, C.R.S., establishing procedures for using signature verification devices to process ballots used in mail ballot elections pursuant to this article.”
  - c. Section 1-7.5-115(4)(d), C.R.S. (2013) that states, “[t]he secretary of state may prescribe by rule any procedures or requirements as may be necessary to implement this subsection (4)”.
  - d. Section 1-7.5-105(3), C.R.S., (2013), which states that “[t]he county clerk and recorder or designated election official shall supervise the distribution, handling, and counting of ballots, and the survey of returns in accordance with rules promulgated by the secretary of state as provided in section 1-7.5-106 (2) and shall take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.”
2. Section 1-1-107(2)(a), C.R.S., (2013), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”
3. Section 1-1-109(3), C.R.S., (2013), which requires the Secretary of State to: promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., “as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
4. Section 1-1-301, C.R.S., (2013), which states that “(1) The secretary of state shall establish and operate or provide by contract a certification program for local election officials on the conduct of elections, the federal ““Help America Vote Act of 2002”, Pub.L. 107-252, codified at 42 U.S.C. sec. 15301 et seq., and other topics related to elections. (2) The secretary of state shall establish by rule a curriculum for the certification program, including core requirements and electives, the required number of hours, and methods for continuing education. (3) The secretary of state shall provide staffing and support services for the certification program. (4) The secretary of state shall appoint an advisory board to oversee the certification process and the development of the curriculum.”

5. Section 1-1.5-104(1)(b), C.R.S., (2013), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
6. Section 1-1.5-104(1)(e), C.R.S., (2013), 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] and of this article.”
7. Section 1-1.5-105, C.R.S., (2013), which authorizes the Secretary of State to “establish by rule a uniform administrative complain procedure to remedy grievances brought under Title III of HAVA.”
8. Section 1-2-202.5, C.R.S., (2013), which states that “[f]urther specifications regarding the security of the web site may be promulgated by the secretary by rule.”
9. Section 1-2-204(5), C.R.S., (2013), which requires the Secretary of State to: “promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as may be necessary to determine the identity of a resident of a group residential facility, as defined in section 1-1-104(18.5), and any rules necessary to ensure the consistent application of such identification rules.”
10. Section 1-2-301(4)(a)(III), C.R.S., (2013), which states that “[t]he secretary of state shall promulgate rules specifying whether such hardware is owned by the department or the counties or whether and to what extent ownership may be shared between the department and the counties...The secretary of state may promulgate rules providing that the county clerk and recorders shall be solely responsible for the support and maintenance of the hardware provided to the counties.”
11. Section 1-4-401.5, C.R.S., (2013), which authorizes the Secretary of State to “promulgate rules as may be necessary to administer and enforce any provision of this section or to adjust statutory deadlines to ensure that a special congressional vacancy election is held within the time required by this section and 2 U.S.C. sec. 8 (b).”
12. Section 1-5-407(7), C.R.S. (2013), which states that “[n]o printing or distinguishing marks shall be on the ballot except as specifically provided by [the Uniform Election Code].
13. Section 1-5-407, C.R.S., (2013), which authorizes the secretary of state to promulgate rules as may be necessary to administer Sections 1-5-407(5.3) and (5.4), C.R.S.
14. Section 1-5-504.5(1)(e), C.R.S., (2013) which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., to prescribe the form of such explanation.”
15. Section 1-5-601.5, C.R.S., (2013), which authorizes the Secretary of State to require by rule that voting systems and voting equipment satisfy certain voting systems standards promulgated by the federal Election Assistance Commission.
16. Section 1-5-608.5, C.R.S., (2013), which authorizes the Secretary of State to “promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the certification process.”

17. Section 1-5-613(1), C.R.S., (2013), which requires the Secretary of State to “adopt uniform rules in accordance with article 4 of title 24, C.R.S., for the purchase and sale of voting equipment in the state.”
18. Section 1-5-613(1), C.R.S., (2013), which requires the Secretary of State to “adopt uniform rules in accordance with article 4 of title 24, C.R.S., for the purchase and sale of voting equipment in the state.”
19. Section 1-5-616(3) and (4), C.R.S., (2013), which state that: “(3) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., to achieve the standards established by section 1-1-103 for the procedures of voting, including write-in voting, and of counting, tabulating, and recording votes by electronic or electromechanical voting systems used in this state. (4) The secretary of state shall adapt the standards for certification of electronic or electromechanical voting systems established by rule pursuant to subsection (1) of this section to ensure that new technologies that meet the requirements for such systems are certified in a timely manner and available for selection by political subdivisions and meet user standards.”
20. Section 1-5-616, C.R.S., (2013), which authorizes the Secretary of State to “adopt rules in accordance with article 4 of title 24, C.R.S., that establish minimum standards for electronic and electromechanical voting systems.”
21. Section 1-5-617, C.R.S., (2013), which requires a political subdivision to “apply to the secretary of state for approval of the purchase, installation, and use of the system” and authorizes the Secretary of State to “prescribe the form and procedure of the application by rule adopted in accordance with article 4 of title 24, C.R.S.”
22. Section 1-5-619, C.R.S., (2013), which authorizes the Secretary of State to adopt rules to “establish standards and procedures for temporary approval of electronic and electromechanical voting systems.”
23. Section 1-5-623(4), C.R.S., (2013), which authorizes the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify permissible conditions of use governing electronic voting devices or systems or related components of such devices or systems in accordance with the requirements of this part 6.”
24. Section 1-5.5-101(3), C.R.S., (2013), which authorizes the Secretary of State to promulgate rules to establish procedures necessary to implement this article.
25. Section 1-7-115, C.R.S., (2013), which states that “[a]n eligible elector shall not occupy a voting booth for longer than the time determined by the secretary of state by rule if all the booths are in use and other eligible electors are waiting to use them.”
26. Section 1-7-509(1)(b), C.R.S., (2013), which states that (b) The designated election official shall conduct at least three tests on all electronic and electromagnetic voting equipment, including a hardware test, a public logic and accuracy test conducted in accordance with subsection (2) of this section, and a postelection test or audit conducted in accordance with rules promulgated by the secretary of state. Each type of ballot, including mail, provisional, and audio ballots, shall be tested in accordance with rules promulgated by the secretary of state.”



27. Section 1-7-509(6), C.R.S., (2013), that requires the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner of performing the logic and accuracy testing required by this section.”
28. Section 1-7-510(6), C.R.S., (2013), which requires the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., to implement this section.”
29. Section 1-7-511(4), C.R.S., (2013), which requires the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner and procedures that voting system providers shall follow to comply with this section.”
30. Section 1-7-511(4), C.R.S., (2013), which requires the Secretary of state to “promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner and procedures that voting system providers shall follow to comply with this section.”
31. Section 1-7-512(2), C.R.S., (2013), which requires the Secretary of State to “promulgate rules...establishing procedures for voting system providers to comply with this section.”
32. Section 1-7-513(2), C.R.S., (2013), which requires the Secretary of State to “promulgate rules...prescribing the manner of maintenance of records required by this section.”
33. Section 1-7-514(5), C.R.S. (2013), which requires the Secretary of State to “promulgate such rules, in accordance with article 4 of title, 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to provide guidance to the counties in conducting any audit required by this section.”
34. Section 1-7-515(4), C.R.S., (2013), which requires the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement and administer the requirements of this section.”
35. Section 1-7.5-104, C.R.S. (2013) that states, “[f]or all general, primary, odd-year, coordinated, recall, and congressional vacancy elections conducted on or after July 1, 2013, and for any election in which the governing board of a political subdivision other than a county determines that an election shall be by mail ballot, the county clerk and recorder or designated election official for the political subdivision, as applicable, shall conduct the election by mail ballot under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
36. Section 1-7.5-106(2), C.R.S., (2013), which authorizes the Secretary of State to “adopt rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.].”
37. Section 1-8-114.5(5)(c), C.R.S., (2013), which requires the Secretary of State to adopt rules “establishing procedures for using signature verification devices to process mail-in ballots pursuant to this article and ballots used in mail ballot elections pursuant to article 7.5 of this title.”
38. Section 1-8-115(5)(d), C.R.S., (2013), which authorize the Secretary of State to “prescribe by rule any procedure or requirements as may be necessary to implement the provisions of [the emergency electronic transfer statute].”
39. Sections 1-8-203(2) and 1-8.3-105(2), C.R.S., (2013), which authorizes the Secretary of State to prescribe by rule “special procedures or requirements as may be necessary to facilitate early

voting by those members of the military or military support personnel directly affected by the emergency.”

40. Section 1-8.5-102(2), C.R.S., (2013), which requires the Secretary of State to prescribe by rule “the language of the affidavit, information, and instructions.”
41. Section 1-8.5-112, C.R.S., (2012), which requires the Secretary of State to promulgate all appropriate rules...for the purpose of ensuring the uniform application of [Article 8.5 of Title 1, C.R.S.]”
42. Section 1-10-104.5, C.R.S. (2013), which authorizes the Secretary of State to “promulgate rules...for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.”
43. Section 1-40-132, C.R.S. (2013), which states that “The secretary of state shall have the authority to promulgate rules as may be necessary to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments.”
44. Article XXI of the Colorado Constitution which prescribes recall procedures.