

Working Draft of Proposed Rules

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

September 29, 2017

Disclaimer:

The following is a working draft concerning the Election Rules. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on October 6, 2017. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>Italic blue font text</i>	Annotations

1 *Amendments to 8 CCR 1505-1 follow:*

2 *Amendments to Rule 2.5.3 concerning changes to an elector's existing voter registration record:*

3 2.5.3 If an elector submits a change to his or her voter registration record and leaves the
4 affiliation OR BALLOT PREFERENCE section blank, the county clerk ~~must make no~~ MAY
5 NOT change ~~to~~ the voter's EXISTING affiliation OR BALLOT PREFERENCE in the registration
6 record.

7 *Technical amendments to Rule 2.10 concerning new voter notifications:*

8 2.10 ~~New voter notification under section 1-2-509(3), C.R.S.~~ During the 22 days before an election,
9 the county clerk must defer processing undeliverable new voter notifications. After the election is
10 closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S.,
11 only if the applicant did not vote in the election.

12 *Amendments to Rule 2.14.4 concerning voter registration records and data:*

13 2.14.4 Without written authorization from the Secretary of State, the county clerk may not run
14 or schedule to run SCORE reports or exports that include voter or election detail during
15 regular business hours beginning 22 days before election day and from 7:00 am to 7:00

1 pm on election day. A COUNTY THAT USES AN AUTOMATED SIGNATURE VERIFICATION
2 DEVICE MAY RUN THE EXP-004 REPORT DURING THIS TIME.

3 *Amendments to Rule 3.4.1 concerning qualified political organizations:*

4 3.4.1 Files proof of organization with the Secretary of State BY MARCH 1 IN AN EVEN
5 NUMBERED YEAR;

6 *Amendments to Rule 4.5.2(e)(3) regarding order of ballot issues:*

7 4.5.2 Each political subdivision must determine the order of the ballot issues for their political
8 subdivision in accordance with the requirements of Colorado Constitution Article X,
9 Section 20 and Title 1.

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

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

1A-1Z	County Issues
2A-2Z	Municipal Issues WHOLLY WITHIN A COUNTY
3A-3Z	MUNICIPAL ISSUES GREATER THAN A COUNTY
3A-3Z 4A-4Z	School District Issues WHOLLY WITHIN A COUNTY
5A-5Z	SCHOOL DISTRICT ISSUES GREATER THAN A COUNTY
4A-4Z 6A-6Z	Ballot Issues and Questions for other political subdivisions greater than a county WHOLLY WITHIN A COUNTY
5A-5Z 7A-7Z	Ballot Issues and Questions for other political subdivisions which are wholly within a county GREATER THAN A COUNTY

14 *New Rules 7.2.10 through 7.2.14 concerning ballots and ballot packets:*

15 7.2.10 THE MAIL BALLOT PACKET REQUIRED UNDER SECTION 1-4-1203(4)(c), C.R.S. MUST
16 CONTAIN ONLY THE BALLOTS OF EACH PARTICIPATING MAJOR POLITICAL PARTY.

17 7.2.11 AN UNAFFILIATED VOTER WHO WANTS TO RECEIVE THE MAIL BALLOT OF A
18 PARTICIPATING MINOR POLITICAL PARTY IN THE MAIL MUST DECLARE A MAIL BALLOT
19 PREFERENCE FOR THAT PARTY IN ACCORDANCE WITH SECTION 1-2-204(2)(J.5), C.R.S.

20 7.2.12 IF AN UNAFFILIATED VOTER SELECTS A MAIL BALLOT PREFERENCE FOR A MAJOR OR
21 MINOR POLITICAL PARTY THAT IS NOT PARTICIPATING OR THAT PROHIBITS UNAFFILIATED
22 VOTERS FROM VOTING IN ITS PRIMARY ELECTION, THE COUNTY CLERK MUST SEND THE
23 VOTER THE MAIL BALLOT PACKET DESCRIBED IN RULE 7.2.10.

24 7.2.13 A VOTER AFFILIATED WITH A QUALIFIED POLITICAL ORGANIZATION IS CONSIDERED AN
25 UNAFFILIATED VOTER FOR THE PURPOSES OF THIS RULE 7.2.

26 7.2.14 A VOTER AFFILIATED WITH A POLITICAL PARTY THAT IS NOT PARTICIPATING IN THE
27 PRIMARY ELECTION WILL NOT RECEIVE A MAIL BALLOT.

1 *Renumbering Current Rules 7.2.10 through 7.2.12 to Rules 7.2.15 through 7.2.17:*

2 ~~7.2.10~~7.2.15 The mail ballot return envelope for each unaffiliated voter in a primary election
3 may provide a means for the county to determine, before opening the envelope, which
4 party's primary election ballot the elector returned. If the mail ballot return envelope does
5 not provide such a means, or the county cannot determine which party's ballot the elector
6 returned before opening the envelope, the county must follow the process outlined in
7 Rule 7.5.13. The county's determination under this Rule may not rely solely on a voter's
8 self-reported selection (for example, a checkbox).

9 ~~7.2.11~~7.2.16 Each mail ballot return envelope and mail ballot instruction for an unaffiliated
10 voter in a primary election must include a statement instructing the voter to return only
11 one ballot.

12 ~~7.2.12~~7.2.17 The county clerk must issue a replacement mail ballot packet to an unaffiliated
13 elector in a primary election as follows:

14 (a) If the elector has not declared a mail ballot preference, the county clerk must
15 issue a packet containing the ballots of all participating major political parties.

16 (b) If the Elector has timely declared a mail ballot preference, the county clerk must
17 issue the elector's preferred political party's ballot; or upon the elector's request,
18 a packet containing the ballots of all participating major political parties.

19 *Technical amendments to Rule 7.5.1 concerning receipt and processing of ballots:*

20 7.5.1 The county clerk must adequately light all stand-alone drop-off locations and use either
21 an election official or a video security surveillance recording system as defined in Rule
22 ~~4.1.43~~1.1.45 to monitor each location.

23 *Amendments to Rule 7.17 concerning scanning elector's signatures:*

24 7.17 Within ~~90~~120 days after each election DAY, OR BEFORE THE FIRST DAY TO CONDUCT SIGNATURE
25 VERIFICATION AT THE NEXT COUNTY OR MUNICIPAL MAIL BALLOT ELECTION, WHICHEVER IS
26 SOONER, the county clerk must scan into SCORE the elector's signature and signature date on
27 each accepted mail ballot return envelope and on any cure letter returned by the elector. A
28 COUNTY THAT IS UNABLE TO SCAN THE SIGNATURE DATE INTO SCORE MAY APPLY TO THE
29 SECRETARY OF STATE FOR A WAIVER FROM THIS REQUIREMENT.

30 *Amendments to Rule 10.4 concerning canvass:*

31 10.4 No canvass board may certify official results until authorized to do so by the Secretary of State.
32 The Secretary of State may extend the canvass deadline for one or more counties in order to
33 complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a
34 county that conducts a comparison audit as defined in Rule 25.1.4 must manually adjust the
35 preliminary results to ~~reflect all~~ACCOUNT FOR discrepancies identified in the risk-limiting audit IF
36 DIRECTED BY THE SECRETARY OF STATE.

37 *Amendments to Rule 11.3.2(c) and (d) concerning logic and accuracy testing:*

38 11.3.2 Logic and Accuracy Test

- 1 (c) Preparing for the Logic and Accuracy Test
- 2 (2) The county must convene a Testing Board of one registered elector from
- 3 each of the major political parties. Testing Board members must be
- 4 registered to vote in the county AND BE SWORN IN AS ELECTION JUDGES.
- 5 (d) Conducting the Test
- 6 (4) The Testing Board and designated election official must count the test
- 7 ballots as follows, if applicable:
- 8 (C) Ballot Marking Devices (BMDs):
- 9 (i) The Testing Board must RANDOMLY SELECT AND test at
- 10 least one BMD.

11 *Amendments to Rule 15.1.1 through 15.1.4 concerning preparation, filing, and verification of petitions:*

12 15.1 The following requirements apply to candidate, statewide initiative, recall, and referendum
 13 petitions, unless otherwise specified.

14 15.1.1 PETITION TEMPLATE FOR STATE PETITIONS

- 15 (A) PETITION PROPONENTS MUST USE THE SECRETARY OF STATE’S FILLABLE .PDF
- 16 PETITION TEMPLATE TO CREATE THEIR PETITION FORMAT.
- 17 (B) AFTER APPROVAL OF THE PETITION FORMAT AS TO FORM, PROPONENTS MUST
- 18 PRINT ALL PETITION SECTIONS IN ACCORDANCE WITH THE SECRETARY OF
- 19 STATE’S PETITION-PRINTING GUIDELINES.
- 20 (C) ANY SIGNATURE AFFIXED TO A PETITION SECTION THAT DOES NOT CONFORM TO
- 21 THE REQUIREMENTS OF THIS RULE 15.1.1 IS NOT VALID.

22 ~~15.1.1~~ 15.1.2 The Secretary of State or DEO will not accept or count additional signatures after
 23 proponents file the original petition or addendum.

24 ~~15.1.2~~ 15.1.3 Circulator affidavit

- 25 (a) If a petition section does not have a completed circulator affidavit, the Secretary
- 26 of State or DEO will reject the entire section.
- 27 (b) If a petition section does not have a completed notary clause, or if the date of the
- 28 notary clause differs from the date the circulator signed the affidavit, the
- 29 Secretary of State or DEO will reject the entire section.
- 30 (C) IF A STATE CANDIDATE IS CURING A CIRCULATOR AFFIDAVIT UNDER SECTION 1-
- 31 4-912(2), C.R.S., THE CANDIDATE MUST USE THE CURE AFFIDAVIT PROVIDED BY
- 32 THE SECRETARY OF STATE.

33 ~~15.1.3~~ 15.1.4 Verifying individual entries

- 34 (d) Secretary of State or DEO staff will reject the entry if:

1 (13) THE SIGNER'S INFORMATION APPEARS OUTSIDE OF A NUMBERED
2 SIGNATURE BLOCK ON A PETITION SECTION.

3 *Amendments to Rule 15.5 concerning initiative petition verification:*

4 15.5 Statewide initiative petition verification

5 15.5.1 Verification by random sample.

6 ~~15.5.2 Preliminary count and random number generation.~~

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

10 ~~(b)-(A) Staff will then create a record for each entry ON THE PETITION that contains the~~
11 ~~petition identification number, petition section number, page number, and the~~
12 ~~entry number. Staff will AND tally the total number of entries.~~

13 ~~(c) If the number of entries is less than the total number of signatures required to~~
14 ~~certify the measure to the ballot, the Secretary of State will issue a statement of~~
15 ~~insufficiency.~~

16 15.5.3(B) ~~Random sample.~~ The database will generate a series of random numbers equal to
17 4,000 signatures or five percent of the total number of signatures, whichever is greater.
18 Staff will check the validity of the random signatures in accordance with this Rule. Staff
19 will maintain a master record of each accepted and rejected entry, along with the reason
20 code for each rejected entry.

21 *New Rule 15.7 concerning signature verification of petitions:*

22 15.7 SIGNATURE VERIFICATION ON STATE CANDIDATE PETITIONS

23 15.7.1 THE SECRETARY OF STATE WILL COMPARE THE SIGNATURE ON EACH PETITION ENTRY
24 WITH THE ELECTOR'S SIGNATURE IN SCORE IN ACCORDANCE WITH THE SECRETARY OF
25 STATE'S SIGNATURE VERIFICATION GUIDE. THE SECRETARY OF STATE MAY USE AN
26 AUTOMATED SIGNATURE VERIFICATION DEVICE.

27 (A) IF THE SIGNATURES MATCH AND THE ENTRY IS OTHERWISE VALID, THE
28 SECRETARY OF STATE MUST ACCEPT THE ENTRY.

29 (B) IF UPON INITIAL REVIEW THE SIGNATURES DO NOT MATCH, THE SECRETARY OF
30 STATE MUST CONDUCT FURTHER REVIEW OF THE ENTRY. A TEAM OF TWO STAFF
31 MEMBERS MUST REVIEW THE SIGNATURES, CONDUCT ADDITIONAL RESEARCH IN
32 SCORE IF NECESSARY, AND, UNLESS BOTH STAFF MEMBERS AGREE THAT THE
33 SIGNATURES DO NOT MATCH, ACCEPT THE ENTRY IF IT IS OTHERWISE VALID.

34 *[Not shown: renumbering of Rule 15.7 to 15.8]*

35 *Amendments to Rule 16.1.7 concerning military and overseas electors:*

1 16.1.7 No later than 45 days before an election, the county clerk must report to the Secretary of
2 State the number OF ballots transmitted to military and overseas electors by the 45-day
3 deadline.

4 (a) ~~The status of the elector's record and ballot request;~~

5 (b) ~~The upcoming federal elections;~~

6 (c) ~~How to update the elector's mailing information and request a ballot; and~~

7 (d) ~~Any other information the county clerk deems appropriate.~~

8 *Amendments to Rule 16.2.3 concerning correction of citation:*

9 16.2.3 The self-affirmation must include the standard oath required by the Uniformed and
10 Overseas Citizen Voting Act (~~42 U.S.C. sec. 1973ff(b)(7) and 1(a)(5)~~ 52 U.S.C. SEC.
11 20301(B)(7) AND 20302(A)(5)), the elector's name, date of birth, signature, and the
12 following statement: I also understand that by returning my voted ballot by electronic
13 transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law
14 requires that I return this ballot by a more secure method, such as mail, if available and
15 feasible. (Sections 1-8.3-113 and 1-8.3-114, C.R.S.)

16 *Amendments to Rule 16.2.4 concerning electronic transmission to military and overseas electors:*

17 16.2.4 If the county clerk transmits a ballot packet to an elector by fax OR EMAIL and the
18 transmission is unsuccessful, the county clerk must attempt to fax OR EMAIL the ballot at
19 least two more times. IF ELECTRONIC TRANSMISSION IS UNSUCCESSFUL, THE COUNTY
20 CLERK MUST MAIL THE BALLOT.

21 *Amendments to Rule 25.2.4 concerning conducting the risk limiting audit:*

22 25.2.4 Concluding the audit. No later than the third business day following the expiration of the
23 deadline to request a recount under section 1-10.5-107(2), C.R.S. or the completion of
24 any recount, whichever is later, a county that conducted a comparison audit must review
25 its CVR file and redact voter choices corresponding to any ballot card susceptible to
26 being personally identified with an individual voter BEFORE SENDING IT TO THE
27 SECRETARY OF STATE, as required by section 24-72-205.5(4)(b)(iii), C.R.S.