



Notice of Permanent Adoption

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

August 22, 2018

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a permanent basis.

The Secretary of State considered the amendments at the July 9, 2018 rulemaking hearing in accordance with the State Administrative Procedure Act⁴.

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 and publication notes

[Current 8 CCR 1505-1 is amended as follows:]

Permanent adoption of New Rule 2.3.2(a)(4), temporary adopted on 7/31/2018 under CCR Tracking #2018-00375) concerning acceptable identification:

2.3.2 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:

(4) WRITTEN CORRESPONDENCE FROM THE COUNTY SHERIFF OR HIS OR HER DESIGNEE TO THE COUNTY CLERK INDICATING THAT THE ELECTOR IS CONFINED IN A COUNTY JAIL OR DETENTION FACILITY.

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2017).

² Section 24-4-103(3)(a), C.R.S. (2017).

³ 8 CCR 1505-1.

⁴ Section 24-4-103(3)(a), C.R.S. (2017).

New Rule 2.9 concerning registered electors absent from the state (renumbering and permanent adoption of Rule 2.18, temporary adopted on 5/16/2018, under CCR Tracking #2018-00215):

~~2.18-2.9~~ REGISTERED ELECTORS ABSENT FROM THE STATE

~~2.18.1-2.9.1~~ A REGISTERED ELECTOR WHO IS ABSENT FROM THE STATE BUT WHO MAINTAINS COLORADO RESIDENCY IS ELIGIBLE TO BE REGISTERED AND TO VOTE WITHOUT HOLDING A PROPERTY INTEREST IN A FIXED HABITATION IN THE STATE.

~~2.18.2-2.9.2~~ AN ABSENT ELECTOR'S VOTER REGISTRATION ADDRESS IS THE ELECTOR'S LAST RESIDENCE ADDRESS OR THE ADDRESS THE ELECTOR INTENDS TO RETURN TO IN THE STATE.

[Not shown: re-numbering Current Rules 2.9-2.17 as Rules 2.10-2.18]

Permanent adoption of New Rule 2.19, concerning voter registration at county jails, temporarily adopted on 7/31/2018 under CCR Tracking #2018-00375:

2.19 REGISTRATION OF ELECTORS WHO ARE CONFINED IN A COUNTY JAIL OR DETENTION FACILITY

2.19.1 BEFORE EACH ELECTION, BEGINNING WITH THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER IN THE COUNTY TO PROVIDE CONFINED ELIGIBLE INDIVIDUALS AN OPPORTUNITY TO REGISTER TO VOTE.

New Rule 7.4 concerning ballot transmission to county jails and detention facilities (renumbering and permanent adoption of Rule 7.17, temporarily adopted on 7/31/2018 under CCR Tracking #2018-00375):

~~7.17-7.4~~ BEGINNING IN THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER TO FACILITATE VOTING FOR ALL CONFINED ELIGIBLE ELECTORS.

~~7.17.1-7.4.1~~ THE COUNTY CLERK MUST DESCRIBE THE FOLLOWING IN ITS MAIL BALLOT PLAN:

- (A) HOW THE COUNTY CLERK WILL PROVIDE EACH COUNTY JAIL OR DETENTION CENTER VOTER INFORMATION MATERIALS CONSISTENT WITH MATERIALS PROVIDED TO NON-CONFINED ELIGIBLE ELECTORS, INCLUDING AT A MINIMUM A LIST OF ACCEPTABLE FORMS OF IDENTIFICATION UNDER SECTION 1-1-104(19.5), C.R.S., AND THE INFORMATION REQUIRED BY SECTIONS 1-40-124.5 AND 1-40-125, C.R.S.
- (B) THE PROCESS BY WHICH THE COUNTY CLERK AND THE SHERIFF OR HIS OR HER DESIGNEE WILL FACILITATE VOTER REGISTRATION, AND DELIVERY AND RETRIEVAL OF MAIL BALLOTS FOR CONFINED ELIGIBLE ELECTORS.

Permanent adoption of New Rule 7.7.5 (temporary adopted on 4/25/2018 under CCR Tracking #2018-00179):

7.7.5 THE COUNTY CLERK MUST ACCEPT ANY COMPLETED CURE FORM FOR A MISSING OR DISCREPANT SIGNATURE, OR A MISSING ID, THAT THE COUNTY RECEIVES BY 11:59 PM MT ON THE EIGHTH DAY AFTER THE ELECTION.

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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 and amended rules will become permanently effective twenty days after publication in the Colorado Register.⁵

Dated this 22nd day of August, 2018,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁵ Section 24-4-103(5), C.R.S. (2017).



Statement of Basis, Purpose, and Specific Statutory Authority

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

August 22, 2018

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The Secretary is adopting amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

Specific changes include:

- Permanent adoption of New Rule 2.3.2(a)(4) (temporarily adopted on 7/31/2018 under CCR Tracking #2018-00375). Amendments to Rule 2.3.2(a) clarify acceptable government documents for identification. Specifically, new subsection (4) provides that a government document includes written correspondence from the county sheriff or his or her designee to the county clerk indicating that the elector is confined in a county jail or detention facility.
- Permanent adoption of New Rule 2.9 (renumbering Rule 2.18, temporarily adopted on 5/16/2018 under CCR Tracking #2018-00215, as New Rule 2.9). The rule concerns registered electors absent from the state and is necessary to ensure uniform application of the law throughout the state regarding residency for voter registration purposes.
- Permanent adoption of New Rule 2.19 (temporarily adopted on 7/31/2018 under CCR Tracking #2018-00375). The rule establishes requirements concerning registration of electors who are confined in a county jail or detention facility.
- Permanent adoption of New Rule 7.4 (renumbering Rule 7.17, temporarily adopted on 7/31/2018 under CCR Tracking #2018-00375, as New Rule 7.4). The rule establishes requirements concerning ballot transmission to county jails and detention facilities.

¹ 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.

- Permanent adoption of Rule 7.7.5 (temporarily adopted on 4/25/2018 under CCR Tracking #2018-00179). The rule is necessary to ensure uniform application of the law throughout the state regarding mail ballot cure procedures.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

On April 25, 2018, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: www.sos.state.co.us/pubs/rule_making/ruleComments.html. Additional comments received during the formal rulemaking are available online at: https://www.sos.state.co.us/pubs/rule_making/hearings/2018/ElectionsRulesHearing20180709.html. All comments are incorporated into the official rulemaking record.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

- Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-7.5-104, C.R.S. (2017), which requires the county clerk and recorder to conduct a mail ballot election “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.”
- Section 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to 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).”