



## Notice of Temporary Adoption

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

May 28, 2020

#### I. Adopted Rule Amendments

As authorized by Colorado Elections Law<sup>1</sup> and the State Administrative Procedure Act<sup>2</sup>, the Colorado Secretary of State gives notice that the following amendments to the Election Rules<sup>3</sup> are adopted on a temporary basis and effective immediately. (SMALL CAPS indicate proposed additions to the current rules. ~~Stricken type~~ indicates proposed deletions from current rules. *Annotations* may be included):

*Current 8 CCR 1505-1 is amended as follows:*

*Current Temporary Rule 27.4.3, under rules concerning protecting the health of election judges, staff, and voters, is amended as follows:*

27.4.3 Clerks must allow election judges ~~and staff member(s)~~ to stay home if they have any COVID-19 related symptoms, concerns, illness or are quarantined without losing pay.

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

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

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

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

#### IV. Effective Date of Adopted Rules

These rule amendments are effective immediately.

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<sup>1</sup> Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2019).

<sup>2</sup> Section 24-4-103, C.R.S. (2019).

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

<sup>4</sup> Section 24-4-103(6), C.R.S. (2019).

Dated this 28th day of May, 2020,

Ian Rayder  
Deputy Secretary of State

For

Jena Griswold  
Colorado Secretary of State



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

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

**May 28, 2020**

### **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> improve elections administration in Colorado, and increase the transparency and security of the election process.

On March 10, 2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On March 16<sup>th</sup> and 18<sup>th</sup>, 2020, the Colorado Governor issued Executive Orders D 2020 003, D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption. On May 14, the Colorado Governor issued Executive Order D 2020 061 which extended Executive Orders, D 2020 005, D 2020 008, and D 2020 036 an additional 30 days. On May 8, 2020, the Secretary temporarily adopted rules including Rule 27 to provide necessary guidance for conducting elections during a public health emergency. Upon further consideration of Coronavirus Aid, Relief, and Economic Security Act (CARES) supplemental funding restrictions, the Secretary adopts the following amendment:

- Amendments to temporary Rule 27.4.3 repeal inclusion of county staff members and establishes that county clerks must allow election judges to stay home if they have any COVID-19 related symptoms, concerns, illness or are quarantined without losing pay.

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.

### **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

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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.

- Section 1-1-107(2)(a), C.R.S., (2019), 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 1-1.5-104(1)(e), C.R.S., (2019), which gives the Secretary of State the power to “[p]romulgate rules...as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA.”
- Section 1-7.5-106(2), C.R.S., (2019), which allows the Secretary of State to adopt rules governing procedures and forms necessary to implement mail ballot elections.
- Executive Orders D 2020 005, D 2020 008, D 2020 036, and D 2020 061 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption.



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

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

**May 28, 2020**

Amended Rule: 27.4.3

In accordance with Colorado election law,<sup>1</sup> the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws.

Adoption of these rules on a temporary basis is necessary given the approaching June 30, 2020, Primary Election. On March 10, 2020, the Colorado Governor declared a disaster emergency due to the COVID-19 contagion. On March 16<sup>th</sup> and 18<sup>th</sup>, 2020, the Colorado Governor issued Executive Orders D 2020 003, D 2020 005, D 2020 008, and D 2020 036 directing the Secretary of State to amend rules to limit in-person contact during elections to allow the 2020 Primary Election to proceed without interruption. On May 14, the Colorado Governor issued Executive Order D 2020 061 which extended Executive Orders, D 2020 005, D 2020 008, and D 2020 036 an additional 30 days. On May 8, 2020, the Secretary temporarily adopted rules including Rule 27 to provide necessary guidance for conducting elections during a public health emergency. Upon further consideration of Coronavirus Aid, Relief, and Economic Security Act (CARES) supplemental funding restrictions, the Secretary temporarily adopts amendments to temporary Rule 27.4.3. Specifically, the amendments repeal inclusion of county staff members and establishes that county clerks must allow election judges to stay home if they have any COVID-19 related symptoms, concerns, illness or are quarantined without losing pay. The amended rule is immediately effective as is necessary to provide clear guidance to interested parties, including, but not limited to: county clerks, county staff members, election judges, and the general public.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that temporary adoption of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.<sup>2</sup>

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<sup>1</sup> Sections 1-1-107 (1) (c), 1-1-107(2) (a), 1-7.5-104, C.R.S. (2019).

<sup>2</sup> Section 24-4-103(3) (6), C.R.S. (2019).