



**Notice of Temporary Adoption
Colorado Department of State
Elections Rules
8 CCR 1505-1**

September 9, 2024

I. Adopted Rule Amendments

As authorized by Colorado elections law¹ and the State Administrative Procedure Act², the Colorado Department of State gives notice that the following amendments to the elections rules³ 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):

Amendments to 8 CCR 1505-1 are as follows:

Amendments to Rule 2 are as follows:

New Rule 2.13.8 concerning the effective date for voter cancellation due to felony incarceration:

2.13.8 THE EFFECTIVE DATE OF A VOTER REGISTRATION CANCELLATION DUE TO FELONY INCARCERATION IS THE DATE THE INFORMATION REGARDING INCARCERATION IS PROVIDED TO THE SECRETARY OF STATE FROM THE DEPARTMENT OF CORRECTIONS.

Amendments to Rule 6 are as follows:

New Rule 6.1.7 concerning the hiring of sheriffs or sheriff staff as election judges:

6.1.7 THE COUNTY CLERK MAY NOT HIRE THE SHERIFF, CURRENT SHERIFF STAFF, OR OTHER PERSONNEL CURRENTLY INVOLVED IN THE DAY-TO-DAY OPERATIONS OF A COUNTY JAIL OR DETENTION FACILITY AS AN ELECTION JUDGE FOR THE IN-PERSON VOTING EVENT REQUIRED BY SECTION 1-7.5-113.5(4)(A)(I), C.R.S.

New Rule 6.7 concerning the appointment of, and tasks assigned to, student election judges:

6.7 SUBJECT TO THE LIMITATIONS PROVIDED IN SECTION 1-6-111, C.R.S., A COUNTY CLERK MAY APPOINT STUDENT ELECTION JUDGES TO COMPLETE ANY TASK ASSIGNED TO ANY OTHER ELECTION JUDGE.

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

² Section 24-4-103, C.R.S.

³ 8 CCR 1505-1

STUDENT ELECTION JUDGES MUST BE CONSIDERED AS AFFILIATED WITH A PARTY, OR UNAFFILIATED, AS REFLECTED IN THAT STUDENT ELECTION JUDGE'S VOTER REGISTRATION RECORD. IF THE STUDENT ELECTION JUDGE IS NOT REGISTERED TO VOTE, THE STUDENT MUST BE CONSIDERED UNAFFILIATED.

[Not shown: current Rules 6.7 through 6.9 are renumbered to Rules 6.8 through 6.10.]

Amendments to Rule 7 are as follows:

Amendments to Rule 7.4 concerning the review of video security surveillance at drop boxes and the security of drop box keys:

7.4 Receipt and processing of ballots

7.4.1 The county clerk must adequately light all drop box locations and use a video security surveillance recording system as defined in Rule 1.1.61 to monitor each location.

[Not shown: no changes to sections (a)-(e).]

- (F) THE COUNTY CLERK MUST ENSURE THAT VIDEO SECURITY SURVEILLANCE IS ONGOING AT EACH OPEN DROP BOX BY:
 - (I) VISUALLY CONFIRMING ONCE PER BUSINESS DAY, AND THE SATURDAY AND SUNDAY BEFORE ELECTION DAY, THAT THE SURVEILLANCE IS OPERATIONAL FOR THOSE CAMERAS THE COUNTY CLERK CAN ACCESS REMOTELY;
 - (II) CONFIRMING VIA AN EMAIL TO A THIRD PARTY OR OTHER GOVERNMENT AGENCY WHO MAINTAINS AND OPERATES A CAMERA, ONCE PER BUSINESS DAY, AND THE SATURDAY AND SUNDAY BEFORE ELECTION DAY, THAT THE SURVEILLANCE IS OPERATIONAL FOR THAT CAMERA. THE CLERK SHALL MAINTAIN A COPY OF THE EMAIL CONFIRMING OPERATION OF THE CAMERA THROUGHOUT THE CONCLUSION OF THE CONTEST PERIOD, OR ANY OPEN CONTEST FOR THAT ELECTION; AND
 - (III) OTHERWISE CONFIRMING ON EACH VISIT TO PICK UP BALLOTS FROM A DROP BOX THAT THE SURVEILLANCE IS OPERATIONAL FOR ANY OTHER BALLOT DROP BOX CAMERA.
- (G) DROP BOX KEY SECURITY
 - (I) THE COUNTY CLERK MUST ASSIGN AND SECURELY AFFIX A UNIQUE IDENTIFIER TO EACH KEY USED TO OPEN A BALLOT DROP BOX. THE COUNTY CLERK MAY USE A MANUFACTURER ASSIGNED SERIAL NUMBER ON A KEY FOR THIS PURPOSE, IF PRESENT.
 - (II) THE COUNTY CLERK MUST HANDLE BALLOT DROP BOX KEYS IN A SECURE MANNER AT ALL TIMES. THE COUNTY CLERK MUST STORE ANY KEY, WHEN NOT IN USE BY AN ELECTION JUDGE, IN A SECURE CONTAINER WITH AT LEAST ONE SEAL. UPON DELIVERY TO AN ELECTION JUDGE FOR USE, ELECTION JUDGES OR COUNTY PERSONNEL MUST VERIFY, AND INDICATE BY SIGNING AND DATING THE CHAIN-OF-CUSTODY LOG, THAT ALL SEAL NUMBERS FOR THE KEY STORAGE CONTAINER MATCH THOSE LISTED IN THE LOG.
 - (III) THE COUNTY CLERK MUST MAINTAIN A COMPLETE INVENTORY OF DROP BOX KEYS, INCLUDING WHICH DROP BOXES THOSE KEYS MAY BE USED TO OPEN DURING AN ELECTION. AT THE BEGINNING AND END OF EACH DAY IN WHICH THE

KEYS WILL BE USED TO PICK UP BALLOTS, ELECTION JUDGES OR COUNTY PERSONNEL MUST VERIFY THAT ALL KEYS MAINTAINED BY THE COUNTY ARE PRESENT. IF AT ANY TIME ELECTION JUDGES OR COUNTY PERSONNEL CANNOT ACCOUNT FOR ALL DROP BOX KEYS, THE COUNTY CLERK MUST SUBMIT AN INCIDENT REPORT TO THE SECRETARY OF STATE UNDER RULE 20.12.2.

New Rule 7.16.4 concerning the removal of the ability or the appearance of the ability of a video surveillance camera to be able to record a voter's marking or casting of their ballot:

7.16.4 THE COUNTY CLERK MUST ARRANGE VOTER SERVICE AND POLLING CENTERS IN A MANNER THAT PREVENTS A VIDEO SURVEILLANCE CAMERA FROM RECORDING HOW A VOTER MARKS OR CASTS THEIR BALLOT.

Amendments to Rule 8 are as follows:

Amendments to Rule 8.9 concerning necessary restructuring of Rule 8.9 into Rule 8.9.1 and including New Rule 8.9.2 and a title for Rule 8.9:

8.9 OBSERVATION OF OFF-SITE ACTIVITY

8.9.1 A watcher may observe election activities at a group residential facility, as defined in section 1-1-104(18.5), C.R.S., only if the watcher contacts the county clerk beforehand to arrange the time and location. While at a group residential facility, a watcher must maintain an adequate distance from the elector so the elector may mark or receive assistance marking his or her ballot in private. A watcher may not enter a voter's private room or apartment unless the voter consents.

New Rule 8.9.2 concerning watcher activity inside a county jail or detention center, if watcher activity is permitted by the county clerk and county sheriff:

8.9.2 IF PERMITTED BY THE COUNTY CLERK AND COUNTY SHERIFF, A WATCHER MAY OBSERVE ELECTION ACTIVITIES INSIDE A COUNTY JAIL OR DETENTION CENTER. IF PERMITTED TO ATTEND THOSE ACTIVITIES, THE WATCHER MUST FOLLOW ALL RULES AND PROCEDURES PRESCRIBED BY THE COUNTY CLERK AND COUNTY SHERIFF. THOSE RULES AND PROCEDURES PRESCRIBED BY THE CLERK AND SHERIFF MAY BE DIFFERENT THAN THOSE RULES IN PLACE FOR WATCHERS WATCHING OTHER ELECTION ACTIVITY.

Amendments to Rule 11 are as follows:

Amendments to Rule 11.3.2(c)(1) concerning the sufficient number of ballots in a test deck of ballots for Logic and Accuracy Tests and updating the internal rule reference:

11.3.2 Logic and Accuracy Test

[Not shown: no changes to sections (a)-(b).]

(c) Preparing for the Logic and Accuracy Test

(1) A county that is conducting an election with at least one plurality voting contest must prepare a test deck of ballots that:

(A) Includes every ballot style and, where applicable, precinct;

(B) Includes a sufficient number of ballots ~~to mark every vote position for every contest~~ SO THAT EACH VOTE POSITION IN EACH

CONTEST RECEIVES A UNIQUE, KNOWN VOTE TOTAL FOR THAT CONTEST, including write-in candidates, contests that permit an elector to vote for two or more positions, and overvotes and undervotes for each contest;

[Not shown: no changes to subsection (C).]

[Not shown: no changes to subsections (2)-(7).]

[Not shown: no changes to sections (d) and (e).]

Amendments to Rule 17 are as follows:

Amendments to Rule 17.1.4 concerning the number of provisional ballots a county must have on-hand in an election:

17.1 Provisional voting in the voter service and polling center

17.1.4 A county clerk must have the ability to issue provisional ballots and envelopes totaling ~~10% of voters who appeared in person~~ EQUAL TO AT LEAST THREE TIMES THE NUMBER OF PROVISIONAL BALLOTS AND ENVELOPES ISSUED in the last election of the same type.

Amendments to Rule 17.2.9 concerning the acceptance of a provisional ballot for President as required by federal law:

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

AOK Reviewed and confirmed voter's eligibility, INCLUDING VOTERS ELIGIBLE TO VOTE ONLY FOR PRESIDENT IN A PRESIDENTIAL GENERAL ELECTION, AS PROVIDED BY 52 U.S.C. § 10502 (c).

[Not shown: no changes to ADB and ALC codes.]

Amendments to Rule 20 are as follows:

Amendments to Rule 20.8.1 concerning a clarification of the rule title and additional information required to be provided by a voting system provider:

20.8 Security for voting system providers and vendors

20.8.1 ~~Remote~~-VENDOR-PROVIDED election programming services

[Not shown: no changes to sections (a) and (b).]

(c) THE FORM MUST BE SPECIFIC TO EACH COUNTY AND INCLUDE THE NAME OF ALL EMPLOYEES DIRECTLY INVOLVED IN THE PROGRAMMING FOR THAT INDIVIDUAL COUNTY, INCLUDING THEIR RESPONSIBILITIES, IF APPLICABLE. HOWEVER, PRIOR TO ANY PROJECT PROGRAMMING, A VENDOR MAY PROPOSE AN ALTERNATIVE TO THIS REQUIREMENT THAT ALLOWS THE SECRETARY OF STATE TO IDENTIFY ALL EMPLOYEES INVOLVED IN PROJECT PROGRAMMING FOR ALL COUNTIES UPON COMPLETION OF PROGRAMING. THE VENDOR MAY NOT COMMENCE PROJECT PROGRAMMING FOR AN ELECTION UNTIL THE ALTERNATIVE METHOD IS APPROVED BY THE SECRETARY OF STATE.

Amendments to Rule 20.11.1 concerning the timeframe of a regular interval for contingency plans submitted to the Department:

20.11 Security of operations

20.11.1 Contingency plans

[Not shown: no changes to sections (a)-(e).]

- (f) The county clerk must develop contingency plans which address an unexpected outage of any required video surveillance. The plan must include regular intervals, INCLUDING THOSE INTERVALS REQUIRED BY RULE 7.4.1, at which the county will confirm that all required video surveillance is operational.

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 Department of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference. Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference⁴.

IV. Effective Date of Adopted Rules

These rule amendments are effective immediately.

Temporarily adopted on 9th of September 2024,



Christopher P. Beall
Deputy Secretary of State

For

Jena Griswold
Colorado Secretary of State

⁴ Section 24-4-103(6), C.R.S.



Statement of Basis, Purpose, and Specific Statutory Authority

Colorado Department of State Election Rules 8 CCR 1505-1

September 9, 2024

I. Basis and Purpose

This statement explains amendments to the Colorado Department of State Elections Rules. The amendments are intended 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:

- Amendments to Rule 2 concerning voter registration.
 - New Rule 2.13.8 clarifies the effective date for voter cancellation due to a felony incarceration at the Colorado Department of Corrections.
- Amendments to Rule 6 concerning election judges.
 - New Rule 6.1.7 prohibits a county from hiring the sheriff, sheriff staff, or other personnel involved in the day-to-day operations of a county jail or detention facility as an election judge for the in-person voting event required by law.
 - New Rule 6.7 clarifies the duties a student election judge may be appointed to conduct. The rule also clarifies how the county clerk must treat that student judge's affiliation.
- Amendments to Rule 7 concerning elections conducted by the county clerk and recorder.
 - Amendments to Rule 7.4.1 concerning security at ballot drop boxes.
 - Amendments to Rule 7.4.1(f) require county clerks to confirm that ballot drop box video is operational on a schedule depending on the type of drop box video being used.

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.

- Amendments to Rule 7.4.1(g) require county clerks to employ specific security measures for keys used to open and lock ballot drop boxes.
 - New Rule 7.16.4 requires the county clerk to set up a voter service and polling center in a manner that does not allow a video surveillance camera to see how a voter is voting.
- Amendments to Rule 8 concerning watchers.
 - Amendments to Rule 8.9, including Rule 8.9.1 and New Rule 8.9.2, which allows watchers to be present at in-person voting at a county jail or detention center only if allowed by both the county clerk and county sheriff. If watchers are allowed to be present, the rule specifies that they are subject to any rules or guidelines imposed by the county clerk or sheriff, even if those rules otherwise differ from normal rules applicable to watchers.
- Amendments to Rule 11 concerning voting systems.
 - Amendments to Rule 11.3.2 alter the requirement for the composition of the logic and accuracy test deck to include enough ballots so that each vote position in each contest receives a unique, known vote total for that contest.
- Amendments to Rule 17 concerning provisional voting.
 - Amendments to Rule 17.1.4 alter the number of provisional ballots a county clerk must have on hand during an election.
 - Amendments to Rule 17.2.9 clarify that a provisional ballot may be accepted for a vote for President for voters who have not been residents in Colorado for 22 days prior to a general election, as required by federal law.
- Amendments to Rule 20 concerning county security procedures.
 - Amendments to Rule 20.8.1 clarify that the affirmation required of voting system programmers must allow the specific project programmers to be identified for each individual county.
 - Amendments to Rule 20.11.1(f) which require the amendments to Rule 7.4.1 to be followed.

II. Rulemaking Authority

The statutory authority is as follows:

- Senate Bill 24-072, enacted May 31, 2024.
- Senate Bill 24-210, enacted June 6, 2024.
- Section 1-1-107(2)(a), C.R.S., 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 1-1-110(1), C.R.S., which requires county clerks to, “follow the rules and order promulgated by the secretary of state pursuant to this code.”
- Section 1-1.5-104(1)(b), C.R.S., 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.”
- Section 1-1.5-104(1)(e), C.R.S., 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 and of [Article 1.5].”
- Section 1-5-102.9(5)(d)(I), C.R.S., which requires counties to follow, “the secretary of state’s current security rules . . .” regarding drop boxes.
- Section 1-5-616(1), C.R.S., which requires the Secretary of State to adopt rules “that establish minimum standards for electronic and electromechanical voting systems.” This includes the authority to adopt rules regarding “documentation requirements”, “security requirements”, and “accessibility” for those voting systems.
- Section 1-5-616(4), C.R.S., which requires the Secretary of State to “adapt the standards for certification of electronic or electromechanical voting systems established by rule . . . to ensure that new technologies that meet the requirements for such systems are certified in a timely manner...”
- Section 1-5-623(4), C.R.S., which requires the Secretary of State to promulgate rules necessary “to specify permissible conditions of use governing electronic voting devices or systems or related components of such devices or systems...”
- Section 1-7-513.5(6), C.R.S., which requires the Secretary of State to promulgate rules necessary to implement the section regarding voting system equipment security and surveillance.
- Section 1-7.5-104, C.R.S., 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 1-7.5-107(4.3)(a)(I), C.R.S., which requires drop boxes to “comply with the secretary of state’s current security rules.”
- Section 1-7.5-113.5(6), C.R.S. which authorizes the Secretary of State to promulgate rules “as may be necessary to administer and enforce the requirements of” voting at county jails or detention centers.
- Section 1-8.5-102 (2), C.R.S. which requires the Secretary of State to prescribe by rules, “the language of the affidavit, information, and instructions [for provisional ballots].”
- Section 1-8.5-105 (1), C.R.S. which requires a designated election official to follow the procedures and databases prescribed by Secretary of State by rule when verifying a provisional ballot cast by a voter.

- Section 1-8.5-112, C.R.S. which requires the Secretary of State to “promulgate all appropriate rules . . . for the purpose of ensuring the uniform application [of laws related to provisional ballots].”



Statement of Justification and Reasons for Adoption of Temporary Rules

Colorado Department of State Election Rules 8 CCR 1505-1

September 9, 2024

Amended Rules: 7.4.1, 8.9, 11.3.2(c), 17.1.4, 17.2.9, 20.8.1, and 20.11.1(f)

New Rules: 2.13.8, 6.1.7, 6.7, 7.16.4, 8.9.1, and 8.9.2

In accordance with Colorado law¹, the Department of State finds that certain amendments to the existing election rules are imperatively necessary and, as a result, must be adopted and effective immediately to ensure compliance with the uniform and proper administration and enforcement of Colorado and federal election laws.

The adoption of these rules on a temporary basis is necessary given the quickly approaching General Election on November 5, 2024. Adopting these rules with immediate effect will provide interested parties, including, but not limited to county clerks, county sheriffs, voting system providers, watchers, student election judges, and the general public with the rules necessary to ensure the uniform and proper administration of the November 5, 2024 election. Leaving the questions and issues resolved in these temporary rules unresolved before the general election would be contrary to the public interest in a properly administered election.

For these reasons, and in accordance with the State Administrative Procedure Act, the Department of State finds that temporary adoption of the amendments to existing election rules is imperatively necessary to comply with state and federal law and failure to adopt these rules immediately would be contrary to the public interest².

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-7.5-104, 24-4-103 (6)(a) C.R.S.

² Section 24-4-103(6), C.R.S.