

to challenge ineligible electors, and to assist in the correction of discrepancies.

It is impossible to imagine that watchers can accomplish the witnessing and verification of each step in the conduct of the election if they cannot see the details. In other walks of life, when one witnesses something, it is usually on paper that must be read carefully, and then one signs one's name. It is a close inspection, not a fly-by from a distance. Election witnessing and verifying are just as important than signing a legal document, maybe more so. Transparency and verification are hallmarks of a quality election that has integrity. Please do not reduce these attributes of our election as we approach November.

12.11.1: Typo (remove "the"): If the elector ~~wishes~~ REQUESTS to receive the ballot by mail, ~~the~~ HE OR SHE MUST MAKE THE request ~~must be received~~ no later than the close of business on the seventh day before the election.

12.11.3: Typo (make (D) into a separate item).

Rule 41: I am not sure why many of the changes are suggested, so I am posing questions about them. I also have strong impressions that many of the changes proposed are heading in a direction exactly opposite to transparency and citizens' ability to oversee their (not the government's) elections.

41.1.1 seems to omit some important tasks of the canvass board. What about overseeing and approving the audit? What about running a recount if one is required or requested? What about the ability of the canvass board members to request substantiating data from the clerk to support the numbers that are to be certified? Others more familiar with canvass board processes and prerogatives will have even more concerns, I believe.

41.1.2 destroys the independence of the canvass board and should absolutely not be adopted. In no case should the county clerk appoint a member of the canvass board or have any direct or indirect influence over who is appointed by the parties.

41.2.2 similarly should not be adopted. The clerk should have nothing to do with applications to serve on canvass boards; that duty resides with the parties. Minor parties may be added to canvass boards in several beneficial ways, but not through clerk appointment. One useful suggestion, probably not timely for the 2012 General Election, is to allow one of the minor parties to appoint a member or two members to the canvass board in each election cycle (two years). The minor parties can rotate their canvass board duties or be assigned them by lot. It is a dreadful notion that the citizens who support the minor parties would be represented on the canvass board by someone appointed not by those citizen's party but by the clerk. Should any canvass board member be appointed by the clerk, that person would be beholden to the clerk and would not be able to objectively provide oversight to the clerk's work. Unaffiliated electors, on the other hand, should be able to be appointed by any of the

parties that supply members to the canvass board. In fact, it would be a good thing to include unaffiliated electors; they just should not be appointed by the clerk.

41.2.3 indicates that canvass board members must be affiliated with the party he or she represents. That requirement, as you may glean from the comment on 41.2.2, seems unnecessary when so many electors are unaffiliated. The kind of person needed on the canvass board is not necessarily a party member. He or she is rather a dedicated and, may I say, either patriotic or politically cynical individual with particular talents (as an accountant, lawyer, computer programmer, database manager, or systems analyst, for example) to bring to the task. Such people are often unaffiliated.

41.3.1 has an odd ring to it. What is its purpose? Perhaps a canvass board will have a bad feeling about an election or some part of an election and want to delve deeper to achieve clarity and confidence that all is well or determine what went wrong. Why should there be a limitation on the board's duty that might keep diligent individuals from uncovering a problem, even one that might lead to a change in the election outcome?

41.3.2 harks from the time that we all voted in precinct polling places and has no usefulness in today's elections with their unfortunate heavy use of mail ballots. I realize that statute is driving this requirement, and I urge you and your staff to work with the legislature to improve the numeric criteria by which the canvass board certifies the election. In my county's recent primary, only some 30 percent of the mail ballots were returned. The numbers game is not worth playing. We need to look beneath the gross numbers to see if voter's intent was honored and if machines counted real ballots (not test ballots) properly. We need to verify that the audit was conducted with due statistical sufficiency (I've been warned not to say "robustness") and that ballot accounting, beginning with ballot reception and finishing when the ballots are stored away, was accurate. The canvass board needs to check all phases of the election. (An apostrophe is needed: THE JUDGES' RECONCILIATION.)

41.3.3 has been attached to 41.3.2 and misnumbered.

41.3.4 should have more information to assist the canvass board that finds itself with questions or problems and wishes to document them. In such an eventuality, there needs to be a formal approach for a canvas board to take.

41.3.5 too severely limits the canvass board. They are the last bastion of strength for the citizens who depend on engaged people to check that the election was handled correctly. This rule should not be approved.

41.57 is really misnamed. The Boulder County canvass board worked for ten days (not continuously) on the canvass tasks. As Colorado moves to each county having a risk-limiting audit in 2014, the time commitment of the canvass board will rise.

41.57.1 needs to allow the canvass board to inspect anonymous UOCAVA ballots and confidential-voter anonymous ballots that are part of the count. The clerk needs to have a process in which a collection of ballots of each style are held until the end so that such ballots plus late signature-cure ballots and late-accepted provisional ballots, etc., can be mixed in with ballots accepted but not counted by election night, to preserve secrecy in voting.

41.68.3 should also include an item for primary elections that lists the number of votes cast in each precinct by race and party.

41.9.2 could be better stated, perhaps “ONCE THE CANVASS BOARD CERTIFIES THE ABSTRACT, THE CANVASS BOARD MAY NOT WITHDRAW THE CERTIFICATION.

41.13 is not useful if 8.6 is not maintained in its form from prior to April 2, 2012, and prior to Secretary of State Bernie Buescher’s misreading of the locations and time frames where the six-foot rule properly applies, i.e., when the voter is present with his or her ballot. As a watcher for the Boulder County canvass board for the 2012 primary, my usefulness to the board members representing the party I also represented was seriously impaired, and I would not spend time in that fashion again or recommend that others do so. It seems that there is pressure within the Secretary of State’s office, probably coming from the county clerks and their supporters, to remove citizen oversight and replace it with highly regulated and restricted canvass board members. Such a change will not lead to increased confidence in elections or their outcomes or to increased turnout. Our democracy is thus tattered further, when instead we could be mending the small rips here and there.

In summary, please hear the plea of this citizen, this long-time election-integrity advocate, who dares to speak for those many good Colorado citizens who depend on you to guide our elections along a transparent and verifiable path, but who cannot spare the time and energy to look closely at the issues discussed herein.

Please do not adopt the proposed changes to Rule 8 (i.e., use rule as written prior to April 2012) or Rule 41.

Sincerely,

Mary C. Eberle
(delivered by email)