

Andrea Gyger

From: Harvie Branscomb [REDACTED]
Sent: Friday, July 27, 2012 12:23 PM
To: Andrea Gyger
Cc: Harvie Branscomb
Subject: substitute document for one of two posted earlier this week.
Attachments: Branscomb_7_27_12_Draft Rules_8_26_41.pdf

Categories: Rules

Andrea

I have modified and updated one of the documents I sent you at the beginning of the week. It is attached. Please include this updated version in the record of the rulemaking, thank you very much. It replaces only the final 10 pages of what you concatenated onto a single pdf from my first submission. So the first part of that document is not being replaced.

Thanks very much.
Harvie Branscomb

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Harvie Branscomb [REDACTED]

Harvie Branscomb's Draft of Proposed Election Rules 8.6, 26.13, 41

July 22, 2012 updated July 27, 2012

Rules meeting was held:

[(2PM-5PM, Monday, Secretary of State Office, 3rd Floor, Aspen Room, 1700 Broadway Denver. Audio is found on the internet here (Harvie Branscomb's testimony is the last one on the first recording):

[Rulemaking Hearing - Elections - 7/23/12 - 2:00pm](#)
[Rulemaking Hearing - Elections - 7/23/12 - Part 2](#)

Following are proposed additions to the current rules are reflected in SMALL CAPS. Some small caps are from the original SOS version July 18, some are added by Harvie Branscomb. Parts updated since July 22 are highlighted in green.

[Annotation] may be included and highlighted in yellow.

1 Amendments to Rule 8.6:

2 8.6 WATCHERS ARE SUBJECT TO THE PROVISIONS OF SECTION 1-5-503, C.R.S.

3 **[C.R.S.1-5-503. Arrangement of equipment or voting booths and ballot boxes**

4
5 The voting equipment or voting booths and the ballot box shall be situated in the polling place
6 so as to be in plain view of the election officials and watchers. No person other than the
7 election officials and those admitted for the purpose of voting shall be permitted within the
8 immediate voting area, which shall be considered as within six feet of the voting equipment or
9 voting booths and the ballot box, except by authority of the election judges or the designated
10 election official, and then only when necessary to keep order and enforce the law.]

11
12

13 8.6.1 THE "IMMEDIATE VOTING AREA" IS THE AREA THAT IS WITHIN SIX FEET OF THE VOTING
14 EQUIPMENT, VOTING BOOTHS, AND THE BALLOT BOX WHILE LOCATED AT THE POLLING
15 PLACE AND WHEN ELECTORS ARE PRESENT AND IN THE PROCESS OF VOTING.

16 **[Note that CRS 1-5-503 pertains to the polling place and to no other portion or place of the**
17 **election process].**

18 8.6.2 THE DESIGNATED ELECTION OFFICIAL MUST POSITION THE VOTING EQUIPMENT, VOTING
19 BOOTHS, AND THE BALLOT BOX SO THAT THEY ARE IN PLAIN VIEW OF THE ELECTION
20 OFFICIALS AND WATCHERS.

21 8.6.3 WATCHERS ARE PERMITTED TO VIEW THE ACTIVITIES TAKING PLACE WITHIN THE

1 IMMEDIATE VOTING AREA FROM A DISTANCE OF AT LEAST SIX FEET UNLESS THE SIZE OR
2 CONFIGURATION OF THE ROOM DOES NOT ALLOW.

3 ***[Watchers have historically performed a valuable by catching errors and reminding election***
4 ***judges, staff and other officials about rules and statutes.]***

5 8.6.4 THE DESIGNATED ELECTION OFFICIAL SHALL ALLOW WATCHERS WITHIN SIX FEET OF ALL
6 ACTIVITIES DESCRIBED IN TITLE I, ARTICLE 7 THAT ARE NOT TAKING PLACE IN THE
7 IMMEDIATE VOTING AREA TO THE EXTENT POSSIBLE WITHOUT INTERFERING WITH THOSE
8 ACTIVITIES. THE DESIGNATED ELECTION OFFICIAL SHALL ALSO ALLOW WATCHERS TO
9 WITNESS AND VERIFY EACH STEP IN THE CONDUCT OF THE ELECTION FROM PRIOR TO THE
10 OPENING OF POLLS THROUGH THE COMPLETION OF THE COUNT AND ANNOUNCEMENT OF
11 THE RESULTS, TO CHALLENGE INELIGIBLE ELECTORS AND TO ASSIST IN THE CORRECTION
12 OF DISCREPANCIES. **STEPS OF THE CONDUCT OF THE ELECTION INCLUDE AUDITS,**
13 **RECOUNTS, CONTESTS, AND ALL ACTIVITIES OF THE CANVASS BOARD.**

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16 [\[C.R.S. 1-7-108\]](#) 1-7-108. Requirements of watchers

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18
19
20 (1) Watchers shall take an oath administered by one of the election judges that they are eligible electors, that their name has
21 been submitted to the designated election official as a watcher for this election, and that they will not in any manner make known
22 to anyone the result of counting votes until the polls have closed.

23
24 (2) Neither candidates nor members of their immediate families by blood or marriage to the second degree may be poll watchers
25 for that candidate.

26
27 (3) Each watcher shall have the right to maintain a list of eligible electors who have voted, to witness and verify each step in the
28 conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the
29 results, to challenge ineligible electors, and to assist in the correction of discrepancies.]

30
31 ***[During semi-private discussions at the Capitol Hilary Rudy specifically argued against***
32 ***repeating this text (CRS 1-7-108 (3)) in the new law 24-72-205.5 because it "might***
33 ***change." The sense that this very important language is considered almost temporary***
34 ***at the CDOS is all the more reason why it must be copied in full into the rules, as it***
35 ***does have the force of existing statute.]***

36
37
38 New Rule 26.13:

39 26.13 VOTER ACCESS TO PROVISIONAL BALLOT INFORMATION

40 26.13.1 THE SECRETARY OF STATE WILL PROVIDE A FUNCTION ON THE SECRETARY'S WEBSITE
41 THAT SERVES TO INFORM VOTERS OF THE STATUS OF ANY BALLOT MARKED BY THEM
42 THAT HAS BEEN DETERMINED TO BE PROVISIONAL, OR SUBJECT TO ANY ALTERNATE
43 DELAY IN COUNTING FOR REASON OF ID DEFICIENCY, SIGNATURE CURE, OR ANY OTHER
44 REASON. VOTERS WHO ARE SUBJECT TO COUNTING FEDERAL CONTESTS ONLY SHALL
45 ALSO BE NOTIFIED OF THIS CONDITION.

46 ***[Not only provisional voters, but other voters whose ballots are diverted for delayed***
47 ***determination and counting because of signature or ID check deserve to know if their***
48 ***voter intent was included in the election and to what extent.]***

1 26.13.2 THE COUNTY CLERK AND RECORDER MUST NUMBER THE STUB OF ANY BALLOT
2 DETERMINED TO BE PROVISIONAL USING A STANDARD NUMBERING CONVENTION
3 APPROVED BY THE SECRETARY OF STATE. AFTER THE STUB IS REMOVED, THE FACE OF
4 ANY BALLOT DETERMINED TO BE PROVISIONAL SHALL BE INDISTINGUISHABLE FROM ANY
5 OTHER BALLOT OF SAME BALLOT STYLE.

6 **[Numbering ballot stock, other than on the required stub, is a huge mistake and potentially in**
7 **violation of the Colorado constitution. There is no reason why a ballot to be voted**
8 **provisionally should be marked any differently than any other ballot to be voted upon,**
9 **and to do so does create a problem for "Secrecy in voting" and "revealing how the**
10 **elector voted" through recognition of the special markings on the ballot. Of course a**
11 **special envelope is required and not by necessarily a problem for privacy]**

12 26.13.3 AN ELECTOR MAY ACCESS THE SYSTEM DURING THE 30 DAYS FOLLOWING THE ELECTION.

13 Amendments to Rule 41:

14 **Rule 41. Rules Concerning Canvassing**

15 41.1 Definitions

16 41.1.1 "Canvass" means the ACCOUNTING, AUDITING AND BALANCING OF AND CORRECTION
17 OF ERRORS IN THE ELECTION, AND THE CERTIFICATION OF THE OFFICIAL ABSTRACT OF
18 VOTES AND ANY SUBSEQUENT CERTIFICATION OR AMENDMENT PURSUANT TO A
19 RECOUNT. CANVASS OR THE PROCESS OF CANVASSING IS CONDUCTED BY THE
20 CANVASS BOARD IN EACH COUNTY. THE ROLE INCLUDES reconciling the number of
21 ballots counted to the number of BALLOTS CAST, AND RECONCILING THE NUMBER OF
22 BALLOTS CAST TO THE NUMBER OF voters who voted AS PART OF A REVIEW THAT
23 LEADS TO CERTIFICATION OF THE RESULTS OF THE ELECTION IN THE FORM OF AN
24 ABSTRACT OF VOTES TRANSMITTED BY THE BOARD TO THE SECRETARY OF STATE.
25 (SECTION 1-10-101.5, C.R.S.) Detailed ballot logs, Statement of Ballots Forms, LAT
26 RECORDS, POLLBOOKS, BALLOTS BOTH VOTED AND UNVOTED, AND OTHER
27 DOCUMENTS CREATED IN THE COURSE OF THE ELECTION ARE SUBJECT TO REVIEW BY
28 THE CANVASS BOARD. THE CANVASS BOARD ALSO PERFORMS RECOUNTS IF ANY
29 (C.R.S.1-10-102 AND RANDOM AUDIT (C.R.S.1-7-514).

30 41.1.2 "CANVASS BOARD" MEANS A COMMITTEE COMPOSED OF THE COUNTY CLERK AND
31 RECORDER AND THE REGISTERED ELECTORS APPOINTED BY MAJOR PARTY CHAIRS
32 THAT CONDUCTS THE CANVASS AND PERFORMS OTHER ACTIVITIES AS REQUIRED BY
33 C.R.S. TITLE 1. A CANVASS BOARD IS ALSO A PUBLIC BODY FOR PURPOSES OF
34 C.R.S.24-72.

35 41.1.3 "Canvass workers" means workers appointed or hired by the designated election
36 official AT THE REQUEST OF THE CANVASS BOARD to assist in the preparation and
37 conduct of the canvass.

38 41.1.4 "DETAILED BALLOT LOG" MEANS A LOG THAT ACCOUNTS FOR EVERY ENVELOPE AND
39 BALLOT AND BALLOT STUB EITHER PRINTED, DISTRIBUTED, RETURNED, TABULATED,
40 AUDITED, RECOUNTED OR STORED WITH ACCOUNTING DETAILED BY DATE, VOTING
41 METHOD, POLLING LOCATION, PRECINCT NUMBER AND BALLOT STYLE. AFTER
42 SEPARATION OF THE STUB, THE DETAILED BALLOT LOG MAY ACCOUNT FOR STUBS IN

1 PLACE OF BALLOTS IN ORDER TO MAINTAIN PRIVACY OF EACH VOTER'S INTENT WHEN
2 CAST BALLOTS ARE MIXED FOR PURPOSES OF ACHIEVING ANONYMITY.

3 41.1.5 "Statement of Ballots Forms" means the form used at the polling location, INCLUDING
4 ANY EARLY, VOTE-CENTER AND SERVICE-CENTER LOCATIONS that accounts for all
5 ballots, STUBS, ARRIVING ELECTORS AND ELECTORS WHO HAVE SUCCESSFULLY VOTED
6 at that location AND INCLUDES AT A MINIMUM THE FOLLOWING INFORMATION:

7 (A) TBD

8 (B) TBD

9 ...

10 41.2 APPOINTMENT TO THE CANVASS BOARD

11 41.2.1 IN A PARTISAN OR COORDINATED ELECTION THE BOARD MUST INCLUDE AN EQUAL
12 NUMBER OF REPRESENTATIVES FROM EACH MAJOR PARTY, UNLESS A MAJOR PARTY
13 FAILS TO CERTIFY REPRESENTATIVES FOR APPOINTMENT IN WHICH CASE THAT PARTY
14 MAY HAVE LESS REPRESENTATION. THIS CALCULATION DOES NOT INCLUDE THE CLERK
15 AND RECORDER IF THE CLERK AND RECORDER VOLUNTARILY SERVES IN A NON-VOTING
16 ROLE ON THE CANVASS BOARD.

17 41.2.2 ~~THE COUNTY CLERK AND RECORDER MAY ACCEPT APPLICATIONS FROM, AND~~
18 ~~SUBSEQUENTLY APPOINT, ADDITIONAL REPRESENTATIVES FROM AMONG MINOR PARTY~~
19 ~~AND UNAFFILIATED ELECTORS.~~

20 **[This gives too much power to the clerk to stack the canvass board with less than independent**
21 **members, and by this means to guarantee that the board will agree with the clerk.**
22 **New law is required to specify how if at all unaffiliated voters are to be represented**
23 **on the canvass board.]**

24 41.2.3 EACH MAJOR PARTY REPRESENTATIVE ON THE CANVASS BOARD IN A PARTISAN OR
25 COORDINATED ELECTION MUST BE REGISTERED TO VOTE IN THE COUNTY WHERE THE
26 REPRESENTATIVE WILL SERVE AND AFFILIATED WITH THE PARTY HE OR SHE
27 REPRESENTS OR BE UNAFFILIATED.

28 41.2.4 ~~EACH UNAFFILIATED REPRESENTATIVE ON THE CANVASS BOARD MUST BE REGISTERED~~
29 ~~TO VOTE IN THE COUNTY WHERE THE REPRESENTATIVE WILL SERVE.~~

30 41.2.5 IN A CANVASS OF A NON-PARTISAN NON-COORDINATED ELECTION, THE COUNTY CLERK
31 AND RECORDER MUST ACCEPT THE APPOINTMENT OF ONE REGISTERED ELECTOR
32 APPOINTED BY ANY PARTICIPATING JURISDICTION AND EACH PRO AND CON ISSUE
33 COMMITTEE UNLESS SUCH AN ENTITY FAILS TO SUBMIT A REPRESENTATIVE FOR
34 APPOINTMENT. MAJOR PARTIES DO NOT HAVE CANVASS BOARD REPRESENTATION IN A
35 NON PARTISAN NON-COORDINATED ELECTION.

36 41.2.6 A CANDIDATE FOR OFFICE AND MEMBERS OF THE CANDIDATE'S IMMEDIATE FAMILY
37 MAY NOT SERVE ON THE CANVASS BOARD.

38 41.2.7 IF THE CLERK AND RECORDER IS ACTING VOLUNTARILY IN A NON-VOTING CAPACITY

1 (41.2.1) AND THEREFORE THE CANVASS BOARD CONSISTS OF AN EVEN NUMBER OF
2 VOTING MEMBERS, IN CASE OF A TIE, THE CLERK AND RECORDER SHALL CAST THE
3 DECIDING VOTE.

4 41.2.8 THE COUNTY CLERK AND RECORDER SHALL ENCOURAGE THE APPOINTMENT OF THE
5 CANVASS BOARD MEMBERS BY THE MAJOR PARTY CHAIRS PRIOR TO ANY DELIVERY OF
6 BALLOTS IN THE ELECTION, AND SHALL INFORM THE MEMBERS AS SOON AS THEY ARE
7 APPOINTED OF THESE RULES, THE APPLICABLE STATUTES, AND THE INTENDED
8 SCHEDULE AND LOCATION FOR ELECTION ACTIVITIES APPLICABLE TO OVERSIGHT
9 INCLUDING RECEIPT OF MAIL BALLOTS, SIGNATURE CHECKING, EARLY BALLOT
10 TABULATION, ELECTION DAY ACTIVITIES, PLANS FOR CANVASS BOARD MEETINGS, ETC.
11 CANVASS BOARD MEMBERS SHALL BE MADE AWARE UPON APPOINTMENT THAT THEY
12 ARE ELECTION OFFICIALS AND AS SUCH ARE WELCOME TO ATTEND ANY OF THE
13 ELECTION PROCESSES AND THAT THE CANVASS BOARD IS A PUBLIC BODY AND SUBJECT
14 TO C.R.S 24-72.

15 41.2.9 THE COUNTY CLERK AND RECORDER SHALL ADMINISTRATE THE OATH FOR CANVASS
16 BOARD MEMBERS AND INCLUDE A COPY OF THE SIGNED OATH AS PART OF THE
17 CANVASS RECORDS. IDENTITIES OF CANVASS BOARD MEMBERS SHALL BE A MATTER
18 OF PUBLIC RECORD.

19 41.2.10 THE FIRST MEETING OF THE CANVASS BOARD MUST OCCUR AT THE LATEST BY THREE
20 DAYS AFTER ELECTION DAY IN ORDER TO BE SURE THERE IS SUFFICIENT TIME FOR THE
21 BOARD TO CONDUCT ITS WORK PRIOR TO THE DEADLINE FOR CERTIFICATION. THE
22 MEETING WILL BE CALLED BY THE CLERK AND RECORDER PROVIDING ONE WEEK
23 ADVANCE NOTICE TO ALL MEMBERS.

24 41.2.11 AT THE FIRST MEETING THE CANVASS BOARD SHALL ELECT A CHAIRPERSON WHO WILL
25 BE RESPONSIBLE FOR PLANNING FUTURE MEETINGS, ADMINISTERING VOTES AND
26 INTERACTING WITH ELECTION OFFICIALS TO OBTAIN NECESSARY RECORDS.

27

28 41.3 DUTIES OF THE CANVASS BOARD

29 41.3.1 THE CANVASS BOARD'S DUTY IS TO CONDUCT THE CANVASS AS DEFINED IN RULE
30 41.1.1 AND ALL OTHER FUNCTIONS DESCRIBED FOR IT IN C.R.S. TITLE 1 INCLUDING
31 PERFORMING INVESTIGATIONS AND RECOUNTS AND SUPERVISING AUDITS.

32 41.3.2 THE CANVASS BOARD SHALL ATTEMPT TO CONFIRM THAT THE NUMBER OF BALLOTS
33 CAST IS LESS THAN OR EQUAL TO THE NUMBER OF PEOPLE WHO ACTUALLY VOTED IN
34 THE ELECTION BY REVIEWING AND VERIFYING AND IF NECESSARY CORRECTING
35 ELECTION RECORDS INCLUDING THE JUDGES RECONCILIATION OF BALLOTS, STUBS,
36 POLLBOOKS, FORMS AND OTHER ELECTION RECORDS.

37 41.3.3 IF THE BOARD IDENTIFIES A DISCREPANCY IN THE RECORDS, THE BOARD MAY REVIEW
38 BALLOTS, POLLBOOKS AND OTHER ELECTION RECORDS TO IDENTIFY, CORRECT, AND
39 ACCOUNT FOR ANY ERROR.

40 41.3.4 THE CANVASS BOARD MAY CERTIFY AND MUST TRANSMIT THE RESULTS TO THE
41 SECRETARY OF STATE REGARDLESS OF WHETHER THE BOARD IS ABLE TO RESOLVE

1 ERRORS OR INACCURACIES IN THE RECORDS OF THE ELECTION.

2 41.3.5—~~THE CANVASS BOARD MAY NOT PERFORM DUTIES TYPICALLY RESERVED FOR ELECTION~~
3 ~~JUDGES, INCLUDING DETERMINING VOTER INTENT, EVALUATING VOTER ELIGIBILITY,~~
4 ~~AND REVIEWING LOGS OR REPORTS THAT WERE NOT GENERATED WHILE CONDUCTING~~
5 ~~THE ELECTION.~~

6 ***[This is an outrageous proposed restriction that among other effects, prevents the performance***
7 ***of or even the effective supervision of a post election audit. Current Colorado***
8 ***election practices have placed election judges into a submissive employee-employer***
9 ***role to the clerk, and this text seeks to place canvass boards into a diminutive role***
10 ***with respect to the election judges.]***

11 41.3.5 THE CANVASS BOARD SHALL MAKE A RECOUNT PER [C.R.S. 1-10.5-107](#). THE CANVASS
12 BOARD MUST CERTIFY THAT THE VOTING EQUIPMENT AND PERSONNEL INVOLVED IN A
13 RECOUNT IS, WHENEVER PRACTICAL, INDEPENDENT OF BOTH THE EQUIPMENT USED
14 AND THE JUDGES AND STAFF EMPLOYED TO PRODUCE THE ORIGINALLY CERTIFIED
15 RESULTS, AND THE EQUIPMENT HAS BEEN TESTED WITH A SUFFICIENT NUMBER OF
16 BALLOTS VOTED IN THE RECOUNTED CONTEST TO SATISFY THE BOARD THAT IF THE
17 TEST ALLOWS A MACHINE RECOUNT THAT A HAND COUNT OF THE BALLOTS WOULD
18 NOT ALTER THE RESULTS OF THE RECOUNT, BUT IN NO CASE LESS THAN 5 PERCENT OF
19 THE BALLOTS CONTAINING THE RECOUNTED CONTEST. BALLOTS SELECTED FOR THE
20 TEST SHALL BE SELECTED IN A MANNER THAT IS VERIFIABLE TO THE PUBLIC TO BE
21 RANDOM (E.G. ROLL OF DICE) AND THEREFORE A REPRESENTATIVE SAMPLE OF
22 BALLOTS CONTAINING THE CONTEST. THE COUNTS PERFORMED FOR THE TEST MAY BE
23 INCLUDED AS PART OF THE RECOUNT TABULATION.

24 41.4 Detailed Ballot Log

25 41.1 The designated election official MUST keep a detailed BALLOT LOG STARTING WHEN
26 ballots are ordered. The ELECTION JUDGES AND WHEN APPLICABLE, ELECTION STAFF,
27 MUST RECONCILE THE log at the conclusion of each workday.

28 41..2 The ELECTION JUDGES AND WHEN APPLICABLE, ELECTION STAFF MUST keep and
29 reconcile daily logs of INCOMING AND OUTGOING mail-in, mail, AND early voting
30 ballots AND BALLOTS ASSOCIATED WITH ALL OTHER VOTING METHODS SUCH AS
31 UOCAVA, EMERGENCY, CONFIDENTIAL, ETC. FOR PURPOSES OF ACHIEVING ANONYMITY
32 OF THE BALLOT FACE, STUBS MAY BE ACCOUNTED FOR IN PLACE OF BALLOTS ONCE
33 THEY ARE SEPARATED.

34 41.3 The designated election official MUST indicate in the detailed log the number of paper
35 ballots that are sent to OR PRINTED AT each polling location for use on EACH
36 APPLICABLE day.

37 41.4 THE DESIGNATED ELECTION OFFICIAL MAY KEEP required logs AND FORMS IN
38 electronic OR PAPER FORMAT BUT ALL ENTRIES SHOULD BE CAPABLE OF BEING
39 ENTERED MANUALLY ON PAPER. LOGS AND FORMS SHALL BE ACCESSIBLE AS OPEN
40 RECORDS REGARDLESS OF FORMAT AND IDENTIFIABLE BY A STANDARD WELL KNOWN
41 NAME AND DATE.

1 *[The details of what the log must include in Rule 41.4.1 are relocated to New Rule 41.1.5 in the*
2 *definitions]*

3 41.5 Election Day Tracking Process

4 41.5.1 The designated election official MUST supply each polling location with a Statement of
5 Ballots Form. -Combined precincts may use one form BUT MUST ACCOUNT FOR EACH
6 PRECINCT, BALLOT STYLE AND VOTING METHOD IF APPLICABLE SEPARATELY. The form
7 MUST include a place for the judges to account for the following information:

8 (a) The name(s) or number(s) of the precinct(S) or vote center;

9 (b) The number of ballots provided to OR PRINTED AT the polling location;

10 (c) The number of ballots cast;

11 (d) The number of unvoted ballots;

12 (e) The number of damaged or spoiled ballots; and

13 (f) The number of voted provisional ballots.

14 41.5.2 ELECTION JUDGES OF DIFFERING MAJOR PARTIES MUST RECONCILE THE total number of
15 voted ballots WITH the number of voters who voted. STUBS MAY BE USED TO PROVIDE
16 PHYSICAL ACCOUNTING OF POTENTIALLY IDENTIFIABLE SUBSETS OF VOTERS AFTER
17 BALLOTS HAVE BEEN REMOVED, TO ALLOW IMMEDIATE MIXING OF BALLOTS TO
18 PROTECT THE PRIVACY OF THE VOTER.

19 41.5.3 ELECTION JUDGES OF DIFFERING MAJOR PARTIES MUST VERIFY THAT THE total number
20 of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots IS
21 THE SAME AS the number of total ballots SUPPLIED TO PLUS PRINTED AT the polling
22 location.

23 41.5.4 ELECTION JUDGES OF DIFFERING MAJOR PARTIES MUST RECONCILE the number of
24 people who signed the pollbook BY PRECINCT to the total of the number of ballots cast
25 BY COUNTING THE STUBS ACCORDING TO SEPARATE BALLOT STYLES.

26 41.5.5 If there is a discrepancy in the numbers on the Statement of Ballots form, the judges
27 MUST EXPLAIN THE DISCREPANCY IN WRITING (for example, THE voter signed in but left
28 the polling place without voting, etc.).

29 41.5.6 Judges MUST return the completed Statement of Ballots form to the designated election
30 official with the other precinct supplies and mail a duplicate copy TO THE DESIGNATED
31 ELECTION OFFICIAL'S OFFICE.

32 41.6 Canvass Board's Disposition of Forms

33 41.6.1 The CANVASS BOARD MUST review the Statement of Ballots form AS RECEIVED FROM
34 ELECTION JUDGES FOR COMPLETION AND ACCURACY.

35 41.6.2 If the Canvass Board discovers a problem with the Statement of Ballots form that
36 cannot be easily resolved ANY MEMBER MAY contact the election judges FOR AN

1 EXPLANATION. THE CANVASS BOARD SHALL USE BEST EFFORTS WITH ALL AVAILABLE
2 INFORMATION SOURCES UNTIL THE discrepancy is explained or corrected. THE CLERK
3 AND RECORDER SHALL PROVIDE SUCH RECORDS AS ARE REQUESTED BY THE CANVASS
4 BOARD IN PURSUIT OF ITS ROLE OF TRANSMITTING AN ACCURATE ABSTRACT OF THE
5 VOTE TO THE SECRETARY OF STATE.

6 41.7 Procedures for Canvass

7 41.7.1 THE designated election official MUST provide the following information TO THE
8 CANVASS BOARD:

9 (a) The name of each candidate, office, votes received AND COUNTS OF UNDER AND
10 OVER VOTES SUFFICIENT TO BALANCE EACH CONTEST AGAINST THE BALLOTS
11 CAST;

12 (b) The number/letter of each ballot issue or question and votes received AND COUNTS
13 OF UNDER AND OVER VOTES SUFFICIENT TO BALANCE EACH CONTEST AGAINST THE
14 BALLOTS CAST;

15 (c) The number of voters who voted BY EACH VOTING METHOD INCLUDING EARLY,
16 MAIL OR MAIL-IN, UOCAVA, EMERGENCY, ETC. INCLUDING NUMBERS OF MAIL
17 BALLOT ENVELOPES ACCEPTED AND REJECTED, AND NUMBER OF MAIL OR MAIL-IN
18 BALLOTS CAST, EACH GROUP ACCOUNTED FOR BY PRECINCT AND BY DAY OF
19 RECEIPT;

20 (d) THE NUMBER OF VOTERS WHOSE BALLOTS HAVE NOT BEEN COUNTED DUE TO
21 DELAYS FOR SIGNATURE CHECKING, ID COMPLIANCE OR OTHER REASONS;

22 (e) The number of provisional ballots counted OR YET TO BE COUNTED

23 41.7.2 Any written documentation INCLUDING ANY REPORT OF AN INVESTIGATION OR
24 WRITTEN EVIDENCE OF EXCEPTIONS AND FAILURES TO RECONCILE ARE included as part
25 of the canvass AND SHALL BE KEPT FOR AT LEAST 25 MONTHS AND NON-EXEMPTED PORTIONS
26 ARE SUBJECT TO PUBLIC INSPECTION UNDER CORA.

27 41.8 Official Abstract

28 41.68.1 The designated election official MUST INCLUDE the number of ELIGIBLE voters on
29 election day on the official abstract.

30 41.68.2 The CANVASS BOARD MAY CERTIFY THE official abstract ONLY IN a format approved by
31 the Secretary of State.

32 41.68.3 The official abstract MUST include, SEPARATED by precinct/ballot style AND VOTING
33 METHOD OR LOCATION, E.G. VOTE-center, where applicable:

34 (a) The statement of votes counted by race and ballot question or issue; INCLUDING
35 UNDER AND OVER VOTES;

36 (b) The total active registered electors in the precinct and the total for the jurisdiction
37 holding the election;

1 (c) The total number of electors voting in EACH precinct, and the total for the
2 jurisdiction holding the election;

3 (d) The number of voters who voted early AND THE NUMBER WHO VOTED IN VOTE-
4 CENTERS AND SERVICE-CENTERS;

5 (e) The number of emergency registrations;

6 (f) The number of mail-in or mail ballots counted and the number rejected;

7 (g) The number of provisional ballots counted and the number rejected listed by each
8 rejection code; and

9 (h) The number of damaged, spoiled ballots AND DUPLICATED BALLOTS AND A REPORT
10 OF THE REASON/RESOLUTION FOR EACH CATEGORY OF SPOILED/DAMAGED AND
11 DUPLICATED BALLOTS.

12 (i) THE NUMBER OF VOTERS WHO VOTED BY UOCAVA, EMERGENCY AND
13 CONFIDENTIAL METHODS OF VOTING AND ANY OTHERS NOT INCLUDED IN THE ABOVE
14 CATEGORIES.

15 41.9 The Abstract IS the Official Permanent Record.

16 41.9.1 The designated election official MUST keep all official canvass reports and forms as
17 part of the official permanent election record THAT IS NOT SUBJECT TO RETENTION
18 LIMITATIONS.

19 41.9.2 ONCE THE CANVASS BOARD CERTIFIES THE ABSTRACT IT MAY NOT WITHDRAW THE
20 CERTIFICATION. IN THE EVENT OF A RECOUNT, OR FAILURE TO CERTIFY, THE CANVASS
21 BOARD MAY ONLY AFFIRM OR AMEND THE ABSTRACT AND MAY SUBSEQUENTLY
22 CERTIFY. EACH MEMBER OF THE CANVASS BOARD SHALL BE MADE AWARE OF THIS
23 RULE UPON SIGNING THE REQUIRED OATH.

24 41.10 Appointment of Canvass Workers. The designated election official may APPOINT ON BEHALF OF
25 THE CANVASS BOARD canvass workers to HELP PREPARE and conduct the canvass. THESE
26 WORKERS SHALL WORK FOR THE CANVASS BOARD.

27 41.911 Voter History

28 41.911.1 After the canvass the designated election official MUST give credit to each voter who
29 votes by mail, at an early voting site, or at a polling location OR BY ANY OTHER LEGAL
30 VOTING METHOD.

31 41.911.2 If the voter history records do not match the number of voters who voted at that
32 election, the designated election official MUST ensure AND THE CANVASS BOARD MUST
33 REVIEW COMPLIANCE WITH the following:

34 (a) Each voter RECEIVED credit for voting; and EACH PERSON WHO ESTABLISHED
35 ELIGIBILITY TO VOTE WHO ATTEMPTED TO VOTE IS SHOWN AS A REGISTERED,
36 ACTIVE ELECTOR;

1 (b) All pollbook ENTRIES and signature cards are accounted for.

2

3 41.11.3 All research concerning discrepancies MUST be explained and documented AND MUST
4 BECOME PART OF THE ACCESSIBLE PUBLIC RECORD OF THE ELECTION AS PART OF THE CANVASS
5 RECORD (41.7.2)

6 41.12 Written Complaints. THE designated election official MUST provide the canvass board WITH any
7 written complaint submitted by a registered elector OR ELECTION OFFICIAL, and, if ALREADY
8 resolved, how it was resolved and if pending, a proposal for how the issue COULD be resolved IF
9 APPLICABLE.

10 41.13 ROLE OF WATCHERS. THE CANVASS BOARD MUST GRANT WATCHERS A REASONABLE
11 OPPORTUNITY TO OBSERVE THE BOARD WHILE IT PERFORMS ITS DUTIES, SUBJECT TO RULE 8.

12 41.14 ROLE OF THE SECRETARY OF STATE

13 41.14.1 A MAJORITY OF THE APPOINTED CANVASS BOARD MEMBERS MAY REQUEST THAT THE
14 SECRETARY OF STATE PROVIDE GUIDANCE AND SUPPORT TO THE CANVASS BOARD IN
15 THE EXERCISE OF THE BOARD'S DUTIES.

16 41.14.2 IF, IN THE COURSE OF ASSISTING A CANVASS BOARD, THE SECRETARY OF STATE
17 DISCOVERS AN ERROR OR ABNORMALITY THAT THE SECRETARY BELIEVES MAY AFFECT
18 THE CONDUCT OF OTHER CANVASS BOARDS, THE SECRETARY SHALL PROVIDE NOTICE
19 TO OTHER COUNTIES' BOARDS REGARDING THE NATURE OF THE ERROR OR
20 ABNORMALITY AND THAT NOTICE SHALL BECOME A PUBLIC RECORD ACCESSIBLE
21 UNDER CORA.

22 41.14.3 INVESTIGATION OF CANVASS BOARD'S TRANSMISSION OF IMPERFECT RETURNS.

23 (A) CERTIFIED BUT IMPERFECT RETURNS: IF THE CANVASS BOARD CERTIFIES AND
24 TRANSMITS IMPERFECT RETURNS THE SECRETARY OF STATE MAY CERTIFY THE
25 ELECTION AND ORDER RECOUNTS, IF ANY, AND SHALL SHARE THE INFORMATION
26 ABOUT THE DEFECTS IN THE ELECTION WITH OTHER CANVASS BOARDS AND THE
27 PUBLIC. IF THE SECRETARY OF STATE HAS BEEN MADE AWARE OF MORE THAN
28 ONE SET OF ARGUABLY CORRECT VOTE COUNTS IN A CONTEST, EACH SHALL BE
29 SEPARATELY APPLIED TO DETERMINE IF A RECOUNT IS REQUIRED AND ANY ONE
30 SHALL BE DEEMED SUFFICIENT.

31 (B) FAILURE TO CERTIFY ANY CONTEST WITH IMPERFECT RETURNS. IF THE CANVASS
32 BOARD FAILS TO CERTIFY AND TRANSMITS IMPERFECT RETURNS THE SECRETARY
33 OF STATE WILL CONDUCT ITS OWN INVESTIGATION TO IDENTIFY THE NATURE OF,
34 AND ADVISE THE CANVASS BOARD FOR THE PURPOSE OF CORRECTING ANY
35 INACCURACY AND THEN CERTIFYING ANY UNCERTIFIED CONTEST OR AMENDING
36 ONE OR MORE EXISTING CERTIFICATIONS OF THE ELECTION. IN THIS CASE, IF
37 THERE ARE MULTIPLE ARGUABLY CORRECT VOTE COUNTS KNOWN TO THE
38 SECRETARY OF STATE, FOR EXAMPLE ORIGINAL UNOFFICIAL AND CORRECTED
39 VOTE COUNTS, ALL SHALL BE SEPARATELY APPLIED TO DETERMINE IF A
40 RECOUNT IS REQUIRED AND ANY ONE SHALL BE DEEMED SUFFICIENT AND THE
41 THRESHOLD FOR A RECOUNT SHALL BE EXPANDED TO ONE PERCENT OF THE

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VOTERS WHO CAST BALLOTS IN THE CONTEST.

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