



LEAGUE OF WOMEN VOTERS®
OF COLORADO

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July 27, 2012

The Honorable Scott Gessler
Secretary of State
Department of State
1700 Broadway
Denver, CO 80290

Re: Feedback on the Proposed Amendments to the CO SOS Election Rules

Dear Secretary Gessler:

Thank you for your consideration of the comments from the League of Women Voters of Colorado in connection with the hearing on these proposed rules held on July 23, 2012.

The League of Women Voters works to encourage the active and informed participation of citizens in government and to increase understanding of major public policy issues. The League does not oppose or endorse candidates or political parties.

As we continue the work we have done for more than 90 years – protecting the right to vote, we offer these comments. Our goal is to make sure that every eligible elector has an equal opportunity to vote! It is from this perspective that we ask you to reject some of the proposed rules.

Inactive - Failed to Vote Electors Rules

LWVCO urges rejection of proposed Rules 12.4.1(d) and 13.19, limiting access to voting by eligible voters who have been designated “inactive failed to vote” (“IFTV”). These proposed rules would impose unnecessary and unjustified burdens on the voting rights of Coloradans, and would thereby violate the Colorado and the U.S. Constitutions.

Voter confusion is one of the many problems with the IFTV status. During League’s outreach to educate voters, we have discovered that most voters who are registered to vote and have requested permanent mail-in ballot status are NOT aware that they have become an IFTV elector and that, as a result, they have been removed from the permanent mail-in ballot list. Adding the rule to stop IFTV ballot mailings clearly doesn’t take into account this voter’s situation and works to discourage active participation in the process.

Moreover, these proposed rules are inconsistent with Colorado statutory law. The Legislature passed the Mail Ballot Election Act in 1990, setting forth the rules regarding the distribution of mail ballots, in order to increase voter participation in elections. Reflecting that legislative intent, the statutes governing mail ballots plainly state that election officials shall send a ballot to “each active registered elector.” But, proposed Rule 12.4.1(d) would prohibit an election official from mailing a ballot in connection with an all-mail-ballot election to any eligible, properly registered elector who is marked IFTV. This is clearly at odds with the plain language and purpose of the applicable law. For these reasons the LWVCO urges the rejection of all of these proposed rules as they relate to IFTV electors.

Concerning proposed Rule 12.11, which relates to a request for a replacement ballot by an active elector and a request for a ballot by an inactive elector, we note that the request by an active elector may be

made by phone. However, the request by the inactive elector cannot be made by phone. Our goal is to make sure that every eligible voter has an equal opportunity to vote. This discrepancy is not equal. LWVCO believes a phone request should be permissible for both active and inactive electors.

Identification Rules

LWVCO believes that the proposed changes to Rule 30.1.6 are appropriate and should be adopted, to the extent that they allow the valid veteran identification card (Section 30.1.6(l)) and a valid tribal identification card (Section 30.1.6(m)) to be used as identification for voting. Similarly, the removal of the example in Section 30.1.6(g)(II) is appropriate in that the example required that documentation from a public institution of higher education in Colorado contain at least the name, date of birth and legal residence address of the student elector. The requirement of a date of birth as stated in the example was beyond the language of Section 1-1-104(19.5)(a)(VII) and was therefore in excess of the Secretary's authority to promulgate in the first instance. Removing the example should make it clearer that a government document that shows the name and address of the elector from any source, including from a public institution of higher education in Colorado, is valid.

LWVCO would oppose any change in the present rules that would impose a match between a voter's present residence address and the address shown on those pieces of identification that are presented at the polls. The rules currently reflect the requirements of Colorado law and should not be modified.

The League of Women Voters of Colorado appreciates the work of the SOS and staff to make Colorado Elections secure, transparent and accountable.

Thank you for the opportunity to comment. Please contact us if you would like additional information.

Sincerely,

Catherine Perrone
LWVCO President