

## Dwight Shellman

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**From:** Andrea Gyger  
**Sent:** Tuesday, October 08, 2013 3:36 PM  
**To:** Dwight Shellman  
**Subject:** Fwd: Additional written comments - proposed election rule recodification  
**Attachments:** image001.jpg; ATT00001.htm; image002.jpg; ATT00002.htm; image003.jpg; ATT00003.htm; Comments on Revised Draft of Proposed Rules 10.01.13 v2.pdf; ATT00004.htm

Sent from my iPhone

Begin forwarded message:

**Resent-From:** <[SoS.Rulemaking@sos.state.co.us](mailto:SoS.Rulemaking@sos.state.co.us)>  
**From:** Wayne Williams <[WayneWilliams@elpasoco.com](mailto:WayneWilliams@elpasoco.com)>  
**Date:** October 8, 2013 at 3:33:57 PM MDT  
**To:** SoS Rulemaking <[SoS.Rulemaking@SOS.STATE.CO.US](mailto:SoS.Rulemaking@SOS.STATE.CO.US)>  
**Cc:** Liz Olson <[ElizabethOlson@elpasoco.com](mailto:ElizabethOlson@elpasoco.com)>, Suzanne Staiert <[Suzanne.Staiert@SOS.STATE.CO.US](mailto:Suzanne.Staiert@SOS.STATE.CO.US)>, Hilary Rudy <[Hilary.Rudy@SOS.STATE.CO.US](mailto:Hilary.Rudy@SOS.STATE.CO.US)>, Jeff Weston <[JeffWeston@elpasoco.com](mailto:JeffWeston@elpasoco.com)>  
**Subject:** **Additional written comments - proposed election rule recodification**

Our office previously provided the attached comments with respect to the proposed rules. These comments were mostly technical in nature. To these comments, I wish to add the following:

1. Some clarification in the rules with respect to residency is imperative. As evidenced by the recent recall elections, residency was not well addressed under HB13-1303. Specific areas that should be included within the rules are:
  - a. The applicability of various contradictory residency rules. For example, 22-31-101(1) requires a voter in school district elections to have lived within the precinct for 25 days immediately preceding the election. The hastily passed 1303 created a patchwork system requiring different residency for different parts of the election. Since the legislature failed in this area, the rules need to cover this. For example, do clerks need to provide recently moved voters with differing ballots based on residency? So, a voter who moved into the precinct on October 15<sup>th</sup> would receive only limited questions on their ballot? Similar issues may exist with some charters in home rule municipalities and special districts (32-1-806) whose elections are run by the Clerk and Recorder
  - b. The rules should clarify that a change in residency to a new precinct must have actually occurred prior to a change of voter registration to that precinct. This means that a voter should have established residency and abandoned any claim to another residence *prior* registering to vote in the new precinct. We recently mailed to all 268 new registrants in Senate District 11 and have already had five letters returned to us by the post office. It is clear that the new residency legislation needs to be fixed, and the rules may permit some clarification on this matter within the scope permitted by statute.
2. The rules should address the use as identification of a mailing sent from the Clerk's office to a voter when that mailing is based solely on information provided by that voter, a circular process that provides no independent verification. Of concern is the potential for an individual to register with false information and then when the Clerk sends a card to that fictitious voter the individual seeking to vote illegally could use the card sent to them as proof that they are the fictitiously registered voter.

Thank you for your consideration of these comments.

Wayne W. Williams  
El Paso County Clerk & Recorder  
(719) 520-6270

STAY CONNECTED:



Date: October 1, 2013  
To: Secretary Gessler  
From: El Paso County Elections  
Re: Comments on Revised Draft of Proposed Rules

After reviewing the revised draft of proposed rules, El Paso County respectfully submits the following written comments.

- Rule 2.2.2 (pg 11, line 15 - 21) - If the elector submits an application and does not include the date he or she moved, the county clerk must enter the date the application is received or postmarked, whichever is earlier, as the date moved. The elector submits the application during the 22 days before an election and does not provide the date he or she moved, the county clerk must enter the date moved as the 22<sup>nd</sup> day before the election based upon the affidavit.

Will SCORE be adding a place to put the date moved? Will it look odd in SCORE when the date moved is before the registration date? The portion that starts after the 22 days will be confusing for temps so will the SCORE help desk be checking to make sure that we are doing this regularly?

- Rule 2.6.1.a (pg 14, line 3) - A signed written request, by mail, fax, or PDF attachment to an email.

Throughout the rest of the rules, “a PDF” attachment has been removed and replaced with “an email” attachment except for this location.

- Rule 2.13.3.A (pg 18, line 36) - Whose records have been marked “Inactive - returned mail”, “INACTIVE - undeliverable”, “Inactive - undeliverable ballot”, or “Inactive - NCOA”;

Currently, there is no “INACTIVE - undeliverable” status.

- Rule 10.4.1.b (pg 67, line 8) - The number of ballots provided to the polling location;

If we use BODs at the polling locations, would this still apply?

- Rule 15.8.3 (pg 112, line 25 & 26) - signor’s.

Shouldn’t this be signers instead of signor’s?

- Rule 17.2.7 (pg 124) - If an elector casts a provisional ballot without providing valid identification, the county clerk must verify and count the provisional ballot as follows:

In previous rules, it states that if an elector whose voter registration record is tagged ID required casts a provisional ballot without providing valid identification, the ballot shall be verified and counted as follows:

Does this mean that we have to send letters to everyone including the voters who are ID compliant in SCORE?

- Rule 17.2.7.a (pg 124 & 125, line 1 & 2) - If the county clerk calls any elector, he or she must call all electors whose affidavits are unsigned.

This section talks about not providing valid identification so this portion discussing unsigned affidavits seems out of place.

- Rule 20.16.3.A ( pg 159, line 32 & 33) - The County must reconcile ballots printed on demand in accordance with rules 20.4 and 20.5.

How do you reconcile ballots printed on demand? Also, it is confusing on what rules 20.4 and 20.5 have to do with reconciling ballots printed on the BOD.

- 11.5.3.8.4 (4) (page 83, Line 19-29) - This section requires the Testing Board to count the Boards AND the County's test ballot batches separately to ensure the machine count is counting correctly.

In El Paso County, this process would take many days as we have several thousand ballots in our test deck in each election (3,643 in the 2013 Election). In Rule 11.5.3.8.4 (4) (pg 81, lines 18-22) Counties were required to count the Boards test ballot batches and only precinct specific county test ballots, not the entire county's test deck.

Our proposed change is to 11.5.3.8.4 (4) (B) (4) (page 83, lines 19-22)

THE TESTING BOARD MUST COUNT THE BOARD'S AND A RANDOM SAMPLE OF 25 OF THE COUNTY'S test BALLOT BATCHES SEPERATELY AND GENERATE REPORTS TO VERIFY that the machine count IS IDENTICAL to the predetermined tally.

