



TESTIMONY REGARDING PROPOSED ELECTION RULEMAKING
COLORADO SECRETARY OF STATE
AUGUST 14, 2014

Project Vote appreciates this opportunity to provide commentary regarding the proposed rules published in the Notice of Rulemaking dated July 15, 2014 and updated August 7, 2014.

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Through its research, advocacy, and direct legal services, Project Vote works to ensure that these constituencies are able to fully participate in American civic life by registering to vote, staying on the rolls, and casting a ballot that counts. Project Vote provides local community partners with the tools, training, and support to conduct successful nonpartisan voter registration drives and help increase the number of registered voters in underrepresented communities nationwide.

Proposed Changes: Proposed Rule 14.4.6

The proposed new regulation prohibits circulators and voter registration drive organizers from highlighting or otherwise marking the approved voter registration drive application form, other than to write the VRD number and circulator information.

The current rules do not address this issue. Current rule 14.4.3 requires only that the VRD organizer place the VRD number on the application form.

Commentary on Proposed Changes

The proposed revised rule has no basis in Colorado statute, is confusing, and appears to interfere with the ability of voter registration drives to assist applicants during a drive.

The proposed rule has no basis in Colorado statute, which does not prohibit drives or circulators from marking applications.

The proposed rule is also confusing in light of the accommodations made for individuals who are unable to sign their applications. The Colorado voter registration form provides that applicants who are unable to sign may make a mark and provides that a witness to the mark must sign the application.¹ Circulators must be able to serve as witnesses for applicants who are unable to sign applications, and this proposed rule is confusing in light of those accommodations.

The proposed revised rule could be read to prohibit drives from assisting applicants who request assistance with filling out their applications. Applicants who are unable to read and/or write or who have a disability may require the assistance of a circulator to exercise their rights to register to vote. At minimum, any revision to this proposed rule should be clear that an exception is made for marks made at the direction of the applicant.

¹ <https://www.sos.state.co.us/pubs/elections/vote/VoterRegFormEnglish.pdf>

Proposed Changes: Elimination of Current Rule 2.13.5

The proposed rule eliminates current Rule 2.13.5, which prohibits counties from consolidating or canceling duplicate records within the 90-day period before a primary or general election.

Current Rule 2.13.5 should be maintained. It is consistent with the National Voter Registration Act, which requires states to complete no later than 90 days before any federal election “any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.”² The purpose of this rule is to protect eligible voters from being incorrectly removed from the rolls too close to an election when it may be too late for them to correct errors. Colorado must comply with the NVRA’s requirements regardless of changes to current Rule 2.13.5.

Conclusion

For the above reasons, Project Vote suggests that Proposed Rule 14.4.6 be eliminated, or at minimum, clarified to provide that an exception is made for marks made at the direction of the applicant.

Further, Project Vote suggests that current Rule 2.13.5 be maintained.

² 42 U.S.C. § 1973gg-6(c)(2)(A).