



August 14, 2014

Honorable Scott E. Gessler
Secretary of State of Colorado
1700 Broadway, Suite 250
Denver, CO 80290

Re: Colorado Ethics Watch Comments on Proposed Revisions to the Election Rules, 8 C.C.R. 1505-1.

Dear Secretary Gessler:

Colorado Ethics Watch (“Ethics Watch”), a project of Citizens for Responsibility and Ethics in Washington, is a nonpartisan, nonprofit watchdog group dedicated to ethics, transparency, and clean elections at the state and local level in Colorado. Ethics Watch respectfully submits this comment on the proposed repeal of Election Rule 2.13.5.

Rule 2.13.5 currently prohibits counties from consolidating or canceling suspected duplicate records during the last ninety days before a primary or general election. The rule merely restates, in the specific context of suspected duplicate records, the National Voter Registration Act’s prohibition of any action “the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters” during these ninety-day periods. 42 U.S.C. § 1973gg-6(c)(2)(a).

The proposed draft would delete Rule 2.13.5 in its entirety, though the deletion is described as an “[a]mendment to current Rule 2.13.5 to allow counties to consolidate or cancel duplicate records within the period beginning 90 days before a primary or general election.” Deleting the Rule, of course, would not have the effect of allowing counties to conduct systematic removal of names from voting rolls during the last ninety days before an election – such an action would remain prohibited by federal law. *See Arcia v. Fla. Sec’y of State*, 746 F.3d 1273, 1282-1283 (11th Cir. 2014) (“Congress intended the 90 Day Provision to encompass [voter registration removal] programs of any kind . . .”).

In order to correct any mistaken impression that counties may be permitted to conduct systematic purges of voting records during the last ninety days before the election, Ethics Watch recommends leaving Rule 2.13.5 in place in its entirety.

Federal law recognizes that even well-intentioned efforts to clean up voter rolls may cause eligible voters to be mistakenly purged during the last months before an election, when voters may be least able to protect their rights. Without this important protection, voters with confusingly similar names to other eligible voters might find

themselves wrongly removed from the rolls and have their sacred right to vote called into question at the least opportune time.

We appreciate this opportunity to comment.

Very truly yours,

A handwritten signature in black ink that reads "Luis Toro". The signature is written in a cursive style and is placed on a light gray rectangular background.

Luis Toro
Director