



May 22, 2017

The Honorable Wayne W. Williams
Secretary of State
1700 Broadway
Suite 200
Denver, CO 80290

Re: Comments on Working Draft of Proposed Election Rules, dated May 15, 2017

Dear Secretary Williams:

Common Cause is a nonpartisan, nonprofit organization that is dedicated to restoring the core values of American democracy, reinventing an open, honest and accountable government that serves the public interest, and empowering ordinary people to make their voices heard in the political process.

The following comments and questions are in response to the request for comments on the working draft of proposed election rules dated May 15, 2017 issued by your office. We appreciate the opportunity to comment.

Rule 2.5.4. We believe that county clerks should be required to process affiliation declarations even after ballots have been mailed. Just as replacement ballots and changes of address are processed in general and coordinated elections, affiliation declarations could be similarly processed. The ballots previously mailed (for both primaries) would be cancelled in SCORE, a new ballot for the party the voter has chosen to affiliate with would be mailed to the voter (up until 8 days prior to the Primary Election), and the same rule of “first ballot to be returned” would apply in terms of counting that voter’s ballot. There doesn’t seem to be any reason to change or adopt a new process for this function, when a current process, known to the voters and to the counties, is available.

Rule 7.5.5. Does “remote” drop off locations mean locations not at the Clerk’s office(s) or VSPCs? We believe it should be stated that the waiver will expire in the event that the mail ballot drop box is overflowing or otherwise exceeds its capacity as a secure drop off location at any point during the voting period.

Rule 7.5.11. We support clarification of the process for ballots which are delivered to the “wrong” county. Requiring a timeframe for the transfer of such ballots between counties is important and useful, and requiring transfer no later than the next business day seems

appropriate. Is the intent of sending a scanned image of the outside of the mail ballot envelope to allow the “correct” county to do signature verification using the scanned image and thereby be able to notify a voter of a signature discrepancy in a more timely manner? If so, we support this process and would suggest adding a requirement that if there is a tab covering the voter’s signature, that the tab be removed before the scan is sent.

The statutory foundation for this rule is 1-7.5-107(7). The intent of that section, when passed as part of SB14-161, was to allow for cross-county drop-off of ballots. The rule as written, and as practiced by certain counties in the 2016 election, does not comport with the intent of the foundational statute. The practice in the 2016 election was to aggressively discourage and make it difficult for voters to drop their ballots in locations that were not in their county of residence. This was not the intent of the statute. Some of the resistance appeared to be a result of the hassle and difficulty of exchanging ballots with other counties. Perhaps the provision of a regularized process between the counties as proposed in this rule will alleviate that resistance. However, we believe that language affirmatively requiring counties to accept mail ballots from other counties, and then to follow the process outlined in the proposed rule, should be added. The rule would then reflect the actual needs of voters, which is to have convenient drop off locations, whether in their county of residence or elsewhere.

Rule 7.7.3. We generally support using additional means, in addition to mail, to contact voters about discrepant or missing signatures. If a clerk chooses to email or phone a voter about their ballot, does the term “similarly situated” mean the clerk must also contact by email or phone other voters who have discrepant or missing signatures for which the clerk has the same additional means of contact (i.e. an email or a phone number)? If a clerk has contacted a voter by email, can she contact other voters by phone? Do the additional means of contact need to be the same for everyone contacted?

Rule 7.9.8 and 7.9.9. We fully support the requirement for the measuring and recording of wait times at VSPCs in the larger counties. As drafted, this is a data collection requirement. While data is useful, a requirement that the wait times be posted in real-time, making it available to voters to help them in the voting process, would be even better.

Attachment One – Ballot Separation Options.

We generally support Option 1, which is the determination, prior to the opening of the mail ballot return envelope, of which party’s primary election the voter voted in. However, we do not support the use of a checkbox or other external marking requirement on the mail ballot return envelope. If a voter were to incorrectly mark the outside of the envelope and it did not match the ballot enclosed, we are concerned this could create a question with regard to voter intent, and that it would cause problems in being able to accurately account for all ballots by party. The better option, in our view, is to have some marking on the ballot itself, visible from the outside of the envelope by an envelope window or otherwise, that would indicate which party’s primary ballot is enclosed.

Attachment Two – Potential cross-jurisdiction voting pilot.

We support reasonable sharing arrangements between counties. However, we oppose such arrangements if the result is a reduction in the convenience or availability of services to voters. We believe it is excessive to allow 50% of a county's VSPCs to be outside of the county boundaries during early vote. To the extent that a shared VSPC would be counted toward the minimum number of VSPCs required by each county, this rule would effectively reduce the VSPC formula in Section 1-5-102.9 by up to one-half. That result would be contrary to law and should not be permitted.

Thank you for the opportunity to comment on this working draft of the rules. Please feel free to contact me if there are any questions about these comments.

Sincerely,

A handwritten signature in blue ink that reads "Elizabeth Steele". The signature is written in a cursive, flowing style.

Elizabeth Steele
Elections Director
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