

May 22, 2017

**Via E-Mail**

The Honorable Wayne Williams, Secretary of State  
Colorado Department of State  
1700 Broadway  
Denver, CO 80290  
SOS.Rulemaking@sos.state.co.us

Re: Election Rules – 8 CCR 1505-1 – Working Draft of Proposed Rules Dated May 15, 2017

Dear Secretary Williams:

I am writing on behalf of the Colorado Democratic Party to comment on the Working Draft of Proposed Rules dated May 15, 2017.

**Proposed Rule 2.5.4**

It is unclear why the affiliation change must be deferred under this proposed rule. The associational rights afforded to political parties require that eligible electors choosing to affiliate should not have to wait to do so. The CDP would like to see the affiliation processed at the time it is received. If the affiliation request is received prior to 8 days before the election, then the two ballots previously sent could be voided in SCORE and a new ballot for the party the voter has chosen to affiliate with could be sent. If it is 8 days or closer to the election, then the voter would need to vote in person at a VSPC.

**Proposed Rule 7.9.8**

The CDP is supportive of the requirement for measuring and recording wait times but would like to see a requirement for the top ten most populous counties to post that information in real time (or increments of time throughout the voting period – two-three times per day during early vote until the final Monday and then hourly on the final

Monday and Tuesday?) so that voters and political parties and campaigns can use that information to help voters select a suitable VSPC.

### **Proposed Rule 8.15.8**

The CDP is concerned that this rule, as drafted, could prohibit watchers from having devices while watching at VSPCs, which would severely limit the function of watchers and their ability to contact their appointing authority while at VSPCs. While personally identifiable information is not readily available at VSPCs, the CDP is concerned that some election judges or county clerks will construe this rule to prohibit electronic devices in VSPCs because some judges will be accessing SCORE while processing voters and watchers might be in proximity to this activity. The rule as drafted could require election judges at VSPCs to demand that watchers either surrender their device to the election judge for safekeeping inside the VSPC, or place it in a vehicle, which may be a substantial distance away from the VSPC. A more appropriate approach to protecting personally identifiable information would be to draft a rule that states that no watcher may capture or record any personally identifiable information with any device (this is already in Rule 8.15.10 which could be revised/strengthened). Similarly, if the goal of the rule is to protect information in ballot processing or signature verification areas, then the rule could be limited to those locations, or the rule could exempt VSPCs from its scope. As written, the rule is likely to inadvertently and negatively impact the ability of watchers to perform their statutorily authorized functions at VSPCs.

### **Attachment One: Propositions 107 and 108 – Ballot Separation Options**

The CDP is in favor of Option 1, requiring the envelopes to provide a means for the county to determine, before opening the envelope, which party's primary election the elector voted in. The CDP is not in favor, however, of using a voter designated method for making this determination, such as requiring the voter to mark on the outside of the envelope which party's ballot the voter voted. This type of voter designated method would invite spoilage and the CDP does not support a system that would place ballots into a cure status for failure to include this manual information. Rather, the CDP favors a color stripe or bar code on the ballot that could be read from a window on the envelope, and thereby maintain voter anonymity. The CDP is not necessarily opposed to Option 2 or Option 3, because we think that the team approach to processing the ballots and capturing the information does protect voter anonymity, but we do have concerns about differing spoilage rates between the two methods, which could create an equal protection problem for multi-county districts if adjacent counties used differing methods.

### **Attachment Two: Potential Cross-Jurisdiction Voting Pilot**

The CDP favors increasing creative ways to allow voters to vote in convenient locations, which may include voting in a neighboring county. The CDP is adamantly opposed to allowing such arrangements to give counties the option to reduce the VSPC offerings in their own counties.

Secretary of State Wayne Williams

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Thank you for the opportunity to comment on these proposed rules. If you have any questions arising from these comments, please do not hesitate to contact me.

Sincerely,

TIERNEY LAWRENCE LLC

A handwritten signature in black ink, appearing to read "Martha M. Tierney". The signature is written in a cursive style with a large, prominent initial "M" and a long, sweeping tail.

By: Martha M. Tierney

cc: Morgan Carroll