

**From:** Celeste Landry  
**To:** [SoS Rulemaking](#)  
**Subject:** comments on proposed rules: recounts and RLA  
**Date:** Tuesday, January 23, 2018 4:37:06 PM

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Dear Secretary Williams and elections administrators across the state,

Thank you for piloting risk-limiting audits (RLA) in 2017. Protecting the accuracy of our vote is an integral part of our democracy.

I appreciate the clear advantages of RLA over traditional auditing methods, specifically attaining more statistical certainty of election results while often using smaller sample sizes.

Thank you for the language in proposed Rule 25.2.3(D), specifically, "THE REPORT MUST INCLUDE ANY DISCREPANCIES FOUND AND THE CORRESPONDING BALLOT IMAGES." However, I understand that the discrepancies reported in the 2017 election did not include specific information, e.g., one-vote overstatement or two-vote understatement. By having the audit boards provide in their report a comparison of the ballot images and the voting system's interpretation (aka Cast Vote Record) and by making that information available to the public, our citizenry will have more trust in the election results. Please consider adding text such as, "*INCLUDING SPECIFIC INFORMATION ABOUT DISCREPANCIES, E.G., ONE-VOTE OVERSTATEMENT, TWO-VOTE UNDERSTATEMENT, ON ANY BALLOTS*" at the end of the sentence "To the extent applicable, the Secretary of State.... post the results of the comparison on the Audit Center" in Rule 25.2.3(c) [page 7, line 8].

Rule 25.2.2(i) [page 5, lines 8-15] only requires that one statewide and one local countywide contest per county be selected as an audited or targeted contest. Many important races take place in municipalities, school districts or other jurisdictions and deserve attention also. According to Rule 25.2.3(a)(1) [page 6, lines 20-23], "the audit board must examine each randomly selected ballot card and report the voter markings or choices in **all** [emphasis added] contests using the RLA Tool or other means specified by the Secretary of State." Unfortunately, there is no stipulation that any analysis or improvement may come about due to discrepancies discovered, especially in the non-targeted contests. Please consider adding something along the lines of the following text as Rule 25.2.3(F) [page 7, after line 22]: "*THE SECRETARY OF STATE AND/OR THE APPLICABLE COUNTY CLERK WILL CONDUCT A POST-ELECTION ANALYSIS TO EVALUATE ANY DISCREPANCIES FOUND DURING A RLA IN ANY TARGETED AND NON-TARGETED CONTESTS WHICH DID NOT ACHIEVE THE RISK LIMIT. THE RLA FOR A PARTICULARLY SMALL NON-TARGETED CONTEST, DEFINED AS FEWER THAN \_\_\_ CAST BALLOTS, MAY BE WAIVED WITH THE SECRETARY OF STATE'S WRITTEN NOTICE ON THE AUDIT CENTER. THE ANALYSIS REPORT WILL BE POSTED ON THE AUDIT CENTER WITHIN ONE MONTH FOLLOWING THE EXPIRATION OF THE DEADLINE TO REQUEST A RECOUNT UNDER SECTION 1-10.5-106(2), C.R.S. OR THE COMPLETION OF ANY RECOUNT, WHICHEVER IS LATER.*"

In proposed Rule 25.2.3(E) [page 7, lines 18-22], it is reasonable for the Secretary of State to direct additional audit rounds or a full hand count because those actions align with the RLA process. However, a random audit does not. I am also concerned about "other action." Because the Secretary of State's office is an easy target for charges of politicization, as seen in Florida in 2000 and Ohio in 2004, it would be preferable to have auditing be managed independently so that there is no

partisan cause for concern about a possible “other action.” I would suggest changing Rule 25.2.3(E) as follows: “THE SECRETARY OF STATE WILL REVIEW THE AUDIT BOARD’S REPORT AND MAY DIRECT THE COUNTY CLERK TO CONDUCT ADDITIONAL AUDIT ROUNDS, ~~A RANDOM AUDIT,~~ OR A FULL HAND COUNT, ~~OR OTHER ACTION.~~ THE SECRETARY OF STATE MAY INSTRUCT THE COUNTY TO DELAY CANVASS UNTIL IT COMPLETES THE ADDITIONAL AUDIT ~~OR OTHER ACTION~~ OR THE FULL HAND COUNT.

When the Secretary of State or a County Clerk is running for office in Colorado, it doesn’t seem appropriate for the Secretary of State or the County Clerk to oversee the counting or an audit of ballots containing their own names as candidates. If no such conflict-of-interest rules currently exist, I would like to see some rules enacted to prevent the appearance, as well as the actuality, of any impropriety. Text could be added to have counting and auditing conducted independently.

Meanwhile, please delete Rule 25.2.5 (proposed Rule 25.2.6) [page 7, lines 35-36]: ~~The Secretary of State may, by order, alter any of the requirements outlined in 35 Rule 25.2.~~

Thank you for the opportunity to provide comments, and thank you in advance for considering these comments!

Celeste Landry

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