

July 31, 2019
The Honorable Jena Griswold, Secretary of State
Department of State
1700 Broadway
Denver, CO 80290

Via email to: sos.rulemaking@sos.state.co.us

Re: Proposed rules to implement legislative changes – Elections

The recommendations below are submitted in tandem with Colorado Common Cause, New Era Colorado, and America Votes. Thank you for the opportunity to comment on the proposed election rules.

Section 1 of this letter presents comments on the proposed working draft that the secretary included as the PDF document “20190726_Election_RevisedDraftRules.pdf” that was sent in the public email communication of July 26, 2019, “Revised Draft Elections Rules - Rulemaking Hearing 7/31/2019.” Section 2 of this letter presents additional suggestions related to HB19-1266, HB19-1278, and SB19-202.

Section 1. Comments on proposed rules.

Rule 2.10.1: The group questions if this rule requires “or other location” in addition to the proposed change.

Rule 2.19.1: The group recommends removing “make efforts to” from this rule in addition to the proposed change.

Rule 7.1 covering election plans: The group recommends several clarifications and additions to this section in the spirit of HB19-1278, Modifications to Uniform Elections Code, which are detailed below in bullet-point format.

- Drawing upon existing rule 11.2.2 as a guide, clerks should report any and all quantitative data in an electronic format that is exportable to a comma separated (CSV), excel spreadsheet (XLS or XLSX), or quote or tab separated (TXT) file before delivery to the secretary of state. Data that should be captured in this rule includes but is not limited to the information included in election plans, such as the addresses and hours of operation for each voter service and polling center (VSPC) and more.
- The number of electors anticipated at the VSPC or VSPCs should be estimated in total and by day and, in future election plans, historical data of the number of electors who used each VSPC at each time of day during previous elections should be included.
- Election plans should also include the number of printers at each VSPC and the number of election judges at each VSPC.
- Before submission of election plans, clerks should have to follow and complete a uniform public comment period and process so that the public can comment on proposed election plans. The comments received as well as the groups and individuals consulted should be listed. The election plans along with the comments should be made available online and accessible through a centralized location.
- Alongside VSPC locations, the nearest public transportation stop should be detailed.
- Spanish-speaking election judges should be made available when applicable and possible.
- A plan for translated materials and signage should be included, at minimum, for counties that are covered by the minority language group status of Section 203 of the Voting Rights Act.
- Previous year’s numbers of staff, printers, check-in stations, and drop-box locations.
- Information on whether the VSPC and drop-box site serves historically underserved communities and how they have consulted census or other demographic data.
- In a formatted narrative section, details on past and anticipated or possible problem areas. The narrative should detail how past problems are being addressed.

- After election plans are filed, there should be a second chance for the public to comment in an open forum where recommendations can be made for alterations to the plan.
- The election plan should include a copy of any anticipated post-election voter communications including but not limited to the cure letter county clerks intend to send voters.
- The election plan should include a copy of election judge training materials as well as what efforts at recruitment were made.
- Public notice should be given if a VSPC location or drop-box location *changes* after an initial location has been selected or announced. Public notice should also be given if a *new* VSPC or drop-box location is established after the initial election plans are made. All changes and additions should be announced online and as an amendment to the election plan.

Rule 7.5.3: The group suggest that the secretary outline the application process by which voters with disabilities covered under section 1-5-706 may apply for an accessible ballot. We also suggest that the application be durable either permanently or for a set number of elections so that he voter need not reapply every election cycle. Additionally, signature section of the application should encompass the entire lower portion of the document so that a voter with visual impairments is not limited to a signature line which may not be visible and/or detectable to them.

Rule 7.5.13: The group suggest the addition of a line preceding the current language which specifies that a county shall receive any Colorado ballot which is dropped off at any drop box or voter service and polling center. As drafted the rule leaves ambiguous whether a county may reject such a ballot, it merely requires the transfer of such a ballot *if* it is received.

Section 2. Additional recommendations.

Rule addition to rule section 6.1: The group recommends that county clerks make efforts to recruit younger and more diverse election judges. As a starting point, we propose the following draft of Rule 6.1.6: “THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH HIGH SCHOOLS, UNIVERSITIES, AND COLLEGES OPERATING WITHIN THE COUNTY IN AN ATTEMPT TO RECRUIT STUDENTS AND A DIVERSE GROUP OF APPLICANTS TO ACT AS ELECTION JUDGES.”

Rule addition to rule 2 covering voter registration: The groups recommends additions to this rule given the passage of HB19-1266, Restore Voting Rights Parolees. Given that voter registration can be conducted in a number of ways including through online voter registration and the increasing expansion of automatic voter registration, it follows that when a formerly incarcerated individual with a felony conviction enters the parole program and meets with her or his parole officer, the parolee should not only be informed about *how* to register to vote as per HB19-1266 but *actually given the chance* to register then and there. The parolee could either fill out a paper form or register online. Our proposed rule would require the clerk to coordinate with the State Parole Board or with the Division of Adult Parole of the Department of Corrections to make sure that parolees are informed about how to register to vote (including which documents fulfill requirements) and then given the chance to register when she or he meets with their parole officer.

Regarding implementation of SB19-202, counties should be required to provide voters with disabilities the opportunity to test applications and ballots prior implementation. Additionally, voters should not be required to attest to a specific disability in order to receive an accessible ballot, and applications themselves should be compatible with assistive technology.

Thank you for the opportunity to comment.

Sincerely,

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