

August 3, 2023

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 Regarding Elections

Dear Secretary Griswold,

Colorado Common Cause respectfully submits comment regarding the draft rules regarding elections proposed on June 30, 2023. Colorado Common Cause's Executive Director Aly Belknap will also virtually attend the Secretary's rulemaking hearing on August 3, 2023 to answer any questions on Common Cause's comments.

Colorado Common Cause is a nonpartisan, grassroots organization dedication to upholding the core values of American democracy. We work to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process.

Comments on proposed rules:

USE OF MOBILE PHONES BY VOTERS

There is currently nothing in rule relating to CRS 1-7-119 which allows voters to bring their mobile phones/ other personal electronic devices into the Voter Service and Polling Center. To ensure thorough and uniform administration of the law by county clerks and election staff, we suggest that signs are placed into Voter Service and Polling Centers displaying affirmative language to election judges and voters. We feel it is of utmost importance that voters are informed proactively of their right to use a cell phone or other personal device for permitted activities while voting, because voting is not a closed-book test. Colorado Common Cause and our partners at New Era Colorado encounter many voters each election, including many first-time voters, who are not aware of their right to use a phone or other materials of their choice while voting. Lack of information can be a barrier for these voters; it should be noted that when young people are asked why they don't vote, one of the most often cited reasons is that they feel they don't know enough about the issues and candidates on their ballot to

participate.¹ Making this right expressly clear to voters will accomplish the following: ensuring voters more thoroughly understand their rights when voting, allowing voters to vote in person with confidence using resources they trust, and added assurance that election judges across all counties have greater awareness of how personal electronic devices can be used by voters in the Voter Service Center. The intention of CRS 1-7-119 is to address misunderstandings in polling places regarding the use of cell phones that can rise to the level of voting rights violations; adding signs with affirmative language will further ensure that voters' right to use personal electronic devices is upheld across the state.

SIGNATURE VERIFICATION

We are glad to see that the draft amendments to Rule 7.7.3 (concerning standards for accepting or rejecting a signature) aim to specify standards by which a signature is flagged as discrepant to be in favor of the voter and the likelihood that many inconsistencies can be ascribed to normal variations in the way an individual signs their name. This standard of proof - "more likely than not" - is a step in the right direction. We suggest that the Secretary of State issue more specific guidance in training and or/ in rule as to the meaning of "more likely than not" and how an election judge is expected to apply that standard of proof when evaluating individual ballots. We foresee a possible scenario in which the language as written, if left up to interpretation, could serve as the basis for a more rigid approach in evaluating signatures, wherein an election judge interprets the rule to mean signatures should be rejected due to any level of doubt or inconsistency. We encourage the Secretary to take measures to prevent any perceived tightening of standards on the signature verification process.

USE OF MOBILE PHONES BY WATCHERS

We suggest that specific guidelines are set for what it means for a watcher to have personally identifiable information within view, as described in Rule 8.10.2 (d) and 8.14.8. Watchers are permitted access to the following election-related activities, including personal visual access at a reasonable proximity to read documents writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors:

1. Setup and breakdown of Voter Service and Polling Centers.
2. Voter check-in and registration activities.
3. Ballot receipt and processing, including ballot drop-off at a drop box.
4. Signature verification of mail ballot envelopes.
5. Ballot duplication.
6. Ballot tabulation.
7. The post-election audit.
8. Provisional ballot processing.
9. UOCAVA ballot processing.
10. Canvass.
11. Recount.
12. Ballot printing and mailing preparation that occur at the county clerk's office

There are many unique instances throughout each of the above listed election activities when it may come into question whether a poll watcher is or is not in view of personally identifiable information. We suggest that the Secretary issue a standard for when personally identifiable information is in view, and that the Secretary sends guidance to County Clerks regarding this standard, to ensure there is uniform interpretation of when a watcher can and cannot use a cell phone to send or receive text messages while observing election activities.

For example, a watcher who is observing voter check-in and registration activities and is listening to the ongoing process, but cannot visually see the screen where voter information is displayed from where they are standing, can

¹ [Youth in 2022: Concerned about Issues but Neglected by Campaigns | CIRCLE \(tufts.edu\)](https://www.cIRCLEtufts.edu/)

use a cell phone while watching activities, even though the information is able to be viewed from the location within the VSPC that the watcher is observing election activities.

Thank you for the opportunity to comment.

Sincerely,

Aly Belknap

Executive Director

Colorado Common Cause