Please find below proposed edits from Boulder County for consideration to SOS Rules relating to election rules. These comments address the proposed rules as published by the SOS on June 30, 2023.

Proposed Edits

Current SOS rules are in black standard font, SOS proposed rule changes are in BLACK CAPITAL LETTERS (or ~~black strikethrough~~), proposed changes from Boulder are in RED CAPITAL LETTERS (or ~~red strikethrough~~):

Rule 2.5.5

…IF NO RESPONSE IS RECEIVED, THE CLERK MAY NOT ~~MAKE~~ REMOVE THE ELECTOR'S COVERED VOTER STATUS.

Reasons for proposed change

- Typo

Rule 2.11.1

The Secretary of State'S OFFICE will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk BY THE FIFTH BUSINESS DAY OF EACH ~~ONCE A~~ month.

Reasons for proposed change

- We prefer that this remains a specific day as this provides:
  - A consistent expectation as to when we receive this increase in data changes
  - An understanding with those that use our data, that obtaining an extract after this data is processed may better support their needs instead of prior (ex: municipal petition verification)

Rule 2.12.3

Clarification Requested

- We would like to understand the rationale for the removal of this rule and if the intent is (1) this is now a county responsibility or (2) this is now prohibited to provide this list to a party
- If stricken without further clarification, we would not provide such list and instead (1) encourage confidential voters attending caucus to obtain a certificate of registration in advance and (2) keep our phone lines open during caucus to allow the party to call to verify a confidential voters precinct.
- This practice as we interpret it, could be a heightened burden on smaller counties to remain open these additional hours/days. It may also create different practices across counties regarding this list.
- We prefer that if a list is allowed to be provided, the Secretary of State continues to provide it.

Rule 6.1 Appointment of election judges under section 1-6-104, C.R.S.

6.1.1 The county clerk must request an updated list of election judges from each major party AT LEAST 120 DAYS before each election the clerk conducts under the Uniform Election Code.

6.1.3 THE MAJOR PARTIES MUST PROVIDE AN UPDATED LIST TO THE COUNTY CLERK (IF THEY DESIRE TO) BY THE 90TH DAY BEFORE AN ELECTION. THE COUNTY CLERK MUST REASONABLY ATTEMPT TO EXHAUST THE PRECINCT CAUCUS AND UPDATED LIST PROVIDED BY THE MAJOR PARTIES BY THE 60TH DAY BEFORE AN ELECTION. If, BY THE ~~60TH~~ 90TH DAY BEFORE AN ELECTION, a major political party fails to provide ~~an adequate~~ A SUFFICIENT list of election judges WHO ARE APPROPRIATELY QUALIFIED AND AVAILABLE FOR THE COUNTY TO STAFF ALL OF THE ELECTION JUDGE POSITIONS, DATES, AND TIMES NEEDED BY THE COUNTY FOR THAT ELECTION ~~by the 60th day before election day~~, ~~the county clerk may consider a supplemental list from a~~ THAT major political party. ~~IF THAT SUPPLEMENTAL LIST IS STILL NOT SUFFICIENT,~~ THE CLERK MAY SUPPLEMENT WITH ADDITIONAL MAJOR PARTY, MINOR PARTY, OR UNAFFILIATED JUDGES.

<u>Reasons for proposed change</u>

- We would like to see the updated list, if provided, be provided earlier to support our ability to get judges hired earlier.
- In large elections, judge training may start in September and if parties are not required to provide an updated list until the 60th day, it does not provide ample time to exhaust this list and hire "off list" if needed.
- We offer that a list by 90 days prior to the election provides that time.
- We would like to see an addition that speaks to the fact that a judge also must be qualified and not just available to fill an open position
- We also offer adding an obligation for us to request it earlier in 6.1.1 to support this changing timeline.
- We find the reference to a supplement list confusing in the amended rule and unnecessary. We read the last sentence that references "supplementing with additional major party" judges to be the same thing. We believe this supports counties in hiring "off list" as soon as the names provided by the major parties are exhausted or if on the 90th day, the list is already insufficient for the number of judges needed.
- We always will take additional recommendations from the parties for hiring (regardless of the date) and attempt to hire these recommendations if unfilled positions remain and we believe this new rule as edited continues to support this practice.

Rule 6.1 Appointment of election judges under section 1-6-104, C.R.S.

6.1.2 ~~The county clerk must reasonably attempt to exhaust the updated list provided by the major parties before supplementing with additional major party judges or minor party or unaffiliated judges. When the county clerk is filling election judge vacancies under section 1-6-113 (1), C.R.S., the clerk may choose from any of the available lists.~~ NO LATER THAN THE FRIDAY BEFORE PRECINCT CAUCUSES, THE CLERK MUST PROVIDE EACH MAJOR PARTY WITH AN ESTIMATE OF THE NUMBER OF JUDGES NEEDED FOR EACH POSITION, AND REPRESENTATIVE DATE RANGES ~~THE DATES~~ AND TIMES THE CLERK WILL REQUIRE ELECTIONS JUDGES TO WORK IN THOSE POSITIONS IN ELECTIONS FOR THE UPCOMING 2-YEAR CYCLE. THE CLERK MAY UPDATE THIS ESTIMATE FOR EACH MAJOR PARTY PRIOR TO AN ELECTION.

- We can appreciate how this can assist the parties in recruiting judges and we would like to provide them with a range of representative dates and times for a position
    - For example, a ballot box judge works 1 day on election day for 13 hours, a visual inspection judge works 6-7 days from ~15 days prior to election day to election day. Shift lengths vary from 4 -10 hours.
- We are concerned that it will be difficult to provide exact dates and times 18 months in advance as we are continually evaluating our processes after each election. Changes in statute and rule could also impact our processes and create additional work to update the specifics that this rule as originally drafted requires.

6.2 Assignment of election judges

6.2.2 PRIOR TO ASSIGNING AN ELECTION JUDGE TO PERFORM SIGNATURE VERIFICATION, THE COUNTY CLERK MUST REVIEW ANY DATA AVAILABLE FROM THAT JUDGE'S SIGNATURE VERIFICATION WORK IN A PREVIOUS ELECTION AT THAT COUNTY. IF THE JUDGE HAD AN UNEXPLAINED, IRREGULAR ACCEPTANCE OR REJECTION RATE THAT DID NOT IMPROVE WITH TRAINING, THE CLERK MAY NOT ASSIGN THAT JUDGE TO CONDUCT SIGNATURE VERIFICATION.

Reasons for proposed change

- We would like to ensure a standard isn't created that requires a county to obtain data from other counties or municipalities where a judge might have worked as we understand that many judges do work in multiple counties/municipalities.
- We also want to ensure that if we did re-train the judge last election after the unacceptable rate was identified, that we continue to retain our flexibility in re-hiring them if their rates after re-training were acceptable.

Rules 6.7 and 6.8

6.7 A supervisor judge in a voter service and polling center must complete a training course conducted by the county clerk. The Secretary of State must provide or approve the training content EVERY TWO YEARS BEFORE ITS FIRST USE. ~~TRAINING CONTENT WHICH IS APPROVED BY THE SECRETARY OF STATE IS ONLY VALID FOR ONE YEAR AFTER APPROVAL.~~ THE SECRETARY OF STATE WILL APPROVE THIS TRAINING CONTENT WITHIN 10 BUSINESS DAYS OF COUNTY SUBMISSION.

6.8 A signature verification judge must SUCCESSFULLY complete a training course conducted by the county clerk PRIOR TO EACH ELECTION ~~at least once per election cycle~~. The county clerk must use the Secretary of State provided training AND MAY PROVIDE ADDITIONAL or provide their own training. If the county clerk provides their own training, it must be approved by the Secretary of State EVERY TWO YEARS ~~EACH YEAR~~ before its first use. THE SECRETARY OF STATE WILL APPROVE THIS TRAINING CONTENT WITHIN 10 BUSINESS DAYS OF COUNTY SUBMISSION.

Reasons for proposed change

- We would like a commitment on how quickly the SOS will be able to review and approve training to ensure that our operations or training dates are not impacted by us waiting for this approval.

- Secondly, 6.7 states training is valid for 1 year while 6.8 states it must be approved each year before its use. These are inconsistent requirements and will add overhead for both the SOS and counties to track when each type of training was approved and when it needs to be approved again.
  - We could support either cycle based on what the SOS's intent was, however, have a slight preference for "each year before its use" to make tracking marginally easier. We do believe this may negatively impact the SOS, in that for a year like a presidential primary, the SOS will need to review these trainings for all counties in a very short time window.
- We would also like to see this extended to every 2 years, as in years without significant legislative or rule changes, we are concerned this will be an administrative burden without much benefit.

Rule 7.2.16 - Strike proposed rule in entirety

Clarification Requested

- We would like to confirm that this rule does not conflict with Title 32 in that Title 32 also allows special district voters to affirm their eligibility through a letter process. We are concerned that a county may read this rule in isolation and believe that this method is mandatory.
- We do not have suggestions for edits as we aren't certain of the intent as to why the creation of this rule is even necessary based on what is already written in statute.

Rule 7.4.1 - Strike proposed rule in entirety

Clarification Requested

- This appears to contrast with statute and its definition of video security surveillance recording in 1-1-104(49.9) which requires video to be stored as an election record for 25 months.

Rule 7.4.10(A)(1)

IF RECEIVED BEFORE 7:00 P.M. ON ELECTION DAY, DATE STAMP THE BALLOT ENVELOPE WITH A STAMP THAT IDENTIFIES THAT THE BALLOT WAS RECEIVED BEFORE 7:00 P.M. ON ELECTION DAY, AND NOTING THE COUNTY WHERE THE BALLOT WAS RECEIVED OR INCLUDE A CERTIFICATION IN THE MAILING THAT ASSERTS IF ALL INCLUDED BALLOTS WERE RECEIVED BY 7:00 P.M. ON ELECTION DAY.

Reasons for proposed change

- There are a limited number of characters that mail sorters can print on each received envelope in addition to the date. Requiring counties to manually stamp these ballots after they are stamped by the sorter will increase processing time and possibly delay the logging and mailing. A certification within the mailing can accomplish the same outcome and counties can opt into the option that best suits their process and staffing.

Rule 7.4.10(A)(2)(C)

(2) FORWARD THE BALLOT TO THE CORRECT COUNTY;
    (C) BALLOTS THAT ARE MAILED MUST BE SENT TO THE MAILING ADDRESS PROVIDED BY THE COUNTY CLERK ~~PRESENT ON THE BALLOT ENVELOPE~~.

Reasons for proposed change

- Requiring us to mail ballots to the PO Box on the ballot envelope means that FedEx can no longer be used as they do not deliver to PO Boxes. We are concerned this will delay delivery of ballots to other counties.

Rule 7.4.10(A)(3) and (4)

(3) CREATE AN ENTRY IN A LOG WHICH RECORDS THE DATE THE BALLOT WAS RECEIVED, THE VOTER IDENTIFICATION NUMBER OR THE BALLOT TRACKING NUMBER FOR THE BALLOT, THE COUNTY THE BALLOT WILL BE DELIVERED TO, THE METHOD OF DELIVERY TO THE CORRECT COUNTY, THE DELIVERY TRACKING NUMBER, IF ANY, AND THE DATE THE BALLOT WAS MAILED OR PHYSICALLY DELIVERED TO THE CORRECT COUNTY;

(4) IF THE BALLOT WILL BE MAILED, NOTIFY THE COUNTY WHERE THE BALLOT WILL BE SENT ~~VIA EMAIL~~ WHEN THE BALLOT HAS BEEN PLACED IN THE MAIL, THE VOTER IDENTIFICATION NUMBER OR THE BALLOT TRACKING NUMBER OF THE BALLOT, AND THE METHOD OF DELIVERY FOR THE BALLOT; AND

Reasons for proposed change

- We would like flexibility on what number is tracked to enable scanning the barcode from each envelope to hopefully speed up this process
- We would like this to be more flexible beyond requiring an email to allow for things like secure shared documents or using the SOS FTP where access could be more efficient than sending individual email notifications.

Rule 7.7.3

An election judge conducting signature verification must compare the signature on the self-affirmation on each ballot return envelope with the elector's signature in SCORE in accordance with the Secretary of State's Signature Verification Guide. A SIGNATURE ON A MAIL BALLOT ENVELOPE THAT IS CONSISTENT WITH ~~THE~~ A SIGNATURE~~S~~ FOR THE VOTER IN SCORE IS ONE THAT IS MORE LIKELY THAN NOT TO BE THE SIGNATURE OF THE VOTER. A SIGNATURE THAT IS CONSISTENT MUST BE ACCEPTED AS A MATCH.

Reasons for proposed change

- Originally proposed wording suggests that multiple signatures in SCORE must be matched for a signature to be accepted. We are do not believe that interpretation was intended or is correct.

Rule 7.7.8 Signature Verification Judge Monitoring

(A) THE COUNTY CLERK MUST KEEP ~~REAL-TIME~~ RECORDS OF EACH SIGNATURE VERIFICATION TRANSACTION, INCLUDING:

(1) EACH DECISION MADE BY AN ELECTION JUDGE AT TIER 1 TO ACCEPT OR REJECT A SIGNATURE; AND

(2) EACH DECISION MADE BY AN ELECTION JUDGE TEAM AT TIER 2 TO ACCEPT OR REJECT A SIGNATURE;

(3) THE SIGNATURES ASSOCIATED WITH EACH DECISION MADE BY AN ELECTION JUDGE AT TIER 1 OR TIER 2;

(4) AGGREGATE ACCEPTANCE AND REJECTION RATE DATA FOR EACH TIER 1 ELECTION JUDGE; AND

(5) SIGNATURES REJECTED BY AN ELECTION JUDGE TEAM AT TIER 2 WHICH ARE LATER CURED BY THE VOTER.

(B) THE RECORDS CREATED BY THIS RULE ARE AN ELECTION RECORD WHICH MUST BE MADE AVAILABLE TO THE SECRETARY OF STATE UPON REQUEST.

(C) USING THE DATA COLLECTED IN RULE 7.7.8, EACH DAY SIGNATURE VERIFICATION IS CONDUCTED, THE county clerk must periodically audit TRACK THE ACCEPTANCE AND REJECTION RATE OF signature verification judges. If a judge or team of judges has an unexplained, irregular acceptance, rejection, OR OVERTURN rate, the county clerk must retrain or remove that judge or team of judges from conducting signature verification.

Reasons for proposed change

- The term "real-time" is confusing to us. Our systems track each disposition as it occurs, however there is a natural lag between dispositioning a signature in the mail sorter software and uploading it to SCORE. We are concerned real-time creates a standard that processes cannot meet.
- We proposed to strike (3) as we do not understand what this means. SCORE already has all signatures in the voter record and after the election, we upload the envelope signature to the voter's record, therefore all signatures associated are already retained as required. We don't know of any way in our current solutions to "note" which signature from the entire list was used in the decision process nor why that is necessary (or if that was the intent of this requirement?)
- We are concerned with the term "overturn." In Tier 1, when a judge is comparing a single reference signature image to the ballot envelope and refers it to Tier 2, they refer it to Tier 2 with a disposition of "Other" that signifies that more research is needed. When the ballot envelope signature is reviewed in Tier 2, there is not an "overturning" that happens, but simply the final disposition.
- This can happen regularly based on the type of signature that a voter might have as the last reference signature in their record. We know that electronic signatures are more difficult to verify than handwritten and it is not problematic for a judge to see one electronic reference image in Tier 1, refer to Tier 2 and then in Tier 2 when those judges can see prior envelope signatures, it can be accepted. We do not see this as an inherent problem and are concerned that the word "overturn" suggests an action that isn't occurring.

Rule 7.7.10

Clarification Requested

- We believe from testimony and discussion at the public hearing that this was intended to mean an image of "full side of the envelope where the voter signs"
- If so, we request clarification of this sort to clarify what the "back" of the envelope is
- If this was intended to ensure that counties take an image of both sides of the envelope, we request that this requirement be stricken as the side of our envelope where voters place a stamp and where our address is located for delivery, there is no voter or signature information.

Rule 7.8.2 - Strike proposed rule changes in entirety

Reasons for proposed change

- If a tool is being created (or has been created), allowing counties to use it regularly before requiring its use would be appreciated
- Vote center requirements are already outlined in statute so we are curious and unsure what this tool would provide that we are not already required to assess
- Additionally, we are already in planning for the 2024 election year, if this tool is required to be used, we would desire it to be available immediately so that we can review its outputs along side the public comment period for proposed vote centers for the 2024 General.

Rule 7.17.3

7.17.23 BALLOT STYLE NAMES:

(A) IF A COUNTY REPORTS RESULTS FOR ANY ELECTION BY PRECINCT, THE COUNTY MUST RENAME ITS BALLOT STYLES IN SCORE ACCORDING TO THE CONVENTION OF XXX-Y OR XXX-YY OR XXX-DS-Y OR XXX-DS-YY, WHERE XXX IS THE FINAL THREE DIGITS OF THE TEN-DIGIT PRECINCT NUMBER, AND Y OR YY IS THE ONE- OR TWO-DIGIT DISTRICT STYLE NUMBER, AND DS REPRESENTS "DISTRICT STYLE". BY WAY OF EXAMPLE, IF SCORE GENERATES A SINGLE DISTRICT STYLE AND THE COUNTY HAS 3 PRECINCTS, THE COUNTY MUST NAME THE PRECINCT STYLES AS 001-1, 002-1, AND 003-1 OR 001-DS-01, 002-DS-01 AND 003-DS-01. IF SCORE GENERATES MORE THAN NINE DISTRICT STYLES FOR AN ELECTION, THE COUNTY MUST NAME THEM WITH A TWO-DIGIT NUMBER, SUCH AS 01 THROUGH 09, 10, 11, ETC. HOWEVER, A COUNTY CAN ELECT TO USE THIS TWO DIGIT CONVENTION REGARDLESS OF THE NUMBER OF DISTRICT STYLES.

(B) IF THE COUNTY REPORTS RESULTS OF AN ELECTION BY BALLOT STYLE, THE COUNTY MUST NAME THE BALLOT STYLE WITH THE BALLOT STYLE NUMBER GENERATED BY SCORE. BY WAY OF EXAMPLE, IF SCORE GENERATES THREE DIFFERENT DISTRICT STYLES FOR AN ELECTION OTHER THAN A GENERAL ELECTION, THE COUNTY MUST NAME THE BALLOT STYLES 1, 2, AND 3. IF SCORE GENERATES MORE THAN NINE DISTRICT STYLES FOR AN ELECTION, THE COUNTY MUST NAME THEM WITH A TWO-DIGIT NUMBER, SUCH AS 01 THROUGH 09, 10, 11, ETC. HOWEVER, A COUNTY CAN ELECT TO USE THIS TWO DIGIT CONVENTION REGARDLESS OF THE NUMBER OF DISTRICT STYLES.

(C) IN A PRIMARY ELECTION, A COUNTY MAY ELECT TO APPEND A LETTER TO THE BALLOT STYLE NAME SUCH AS XXX-YYD OR XXX-DS-YYR TO DENOTE THE PARTY THAT STYLE IS ASSOCIATED WITH.

- Typo of 7.17.2 which we infer was meant to be 7.17.3
- We prefer the visual split of the two pieces of important information and find it helpful to refer to the styles as "DS-01" instead of simply "01". We would appreciate the flexibility to keep this convention.
  - Ex: 801-DS-01
- We would like to see (a) and (b) be consistent in the requirement to go to "01" if more than nine styles and we would like the ability to use "01" even when there are nine or less styles. We find this visually easier to recognize when the number of characters and format in the ballot style is always consistent election over election. We would prefer to not have an election where we have 801-1 and then in the next election, we have 801-01 because there are more than nine style generated.
- We would like to be able to continue our practice of including the party letter in our ballot style naming during a primary election. We find it easier for team members to have this visual queue when processing these ballots through various points in their lifecycle.

Rule 20.4.2 Surveillance of secure areas

(E) PLANNED MAINTENANCE OF VIDEO SURVEILLANCE

(1) ~~IF~~ WHEN NECESSITY REQUIRES IT, A COUNTY CLERK MAY TEMPORARILY CEASE VIDEO SURVEILLANCE OF VOTING SYSTEM COMPONENTS OR OTHER AREAS FOR PLANNED MAINTENANCE OF THE VIDEO SURVEILLANCE SYSTEM, BUT ONLY FOR SO LONG AS THE INTERRUPTION OF SURVEILLANCE IS REQUIRED.

(2) BEFORE THE PLANNED OUTAGE, THE COUNTY CLERK MUST NOTIFY AND SUBMIT DETAILED PLANS TO THE SECRETARY OF STATE WHICH DESCRIBE SECURITY MEASURES THE CLERK WILL TAKE TO ENSURE THE SECURITY OF THE VOTING SYSTEM COMPONENTS OR AREAS DURING THE PLANNED OUTAGE. THE SECRETARY OF STATE WILL REVIEW AND RESPOND TO A COUNTY'S REQUEST WITHIN 5 BUSINESS DAYS.

(3) AFTER REVIEW OF THE PLANS, THE SECRETARY OF STATE MAY REQUIRE A COUNTY CLERK TO TAKE ADDITIONAL OR DIFFERENT ACTIONS TO ENSURE THE SECURITY OF VOTING SYSTEM COMPONENTS OR AREAS DURING THE PLANNED OUTAGE.

Reasons for proposed change

- Now that 1-7-513.5(2) requires components of the voting system to be under continuous video surveillance, we believe it will be a necessity (at some point) for every county to do some type of camera or server maintenance that impacts these devices. We would like to see rule reflect that is an expected request instead of implying that this should not occur.
- We would like to see an expectation of how quickly the SOS will be able to review and respond to this type of request from a county so that we can appropriately include this review time into any plans.

Additional Rule Suggestions

Rule 2.15.7

If a county receives information ~~from a jurisdiction outside of Colorado~~ indicating that a Colorado voter may have voted in more than one state in the same election, the county must send that information to the Secretary of State's office for potential investigation and prosecution.

Reasons for proposed change

- Expand to encompass all referrals, regardless of the source

Rule 9.1 Challenging A VOTER in-person ~~voter~~

9.1.1 Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged while voting in-person OR RECEIVING A MAIL BALLOT IN-PERSON, must be offered a regular ballot by an election judge if the person answers the applicable challenge questions confirming their eligibility as specified in section 1-9-203, C.R.S., and this Rule. If the person challenged refuses to answer the challenge questions or does not otherwise confirm their eligibility, an election judge must offer the person a provisional ballot.

Reasons for proposed change

- Currently, rule 9.1 is titled *Challenging an in-person voter* and does not include challenging voters who are receiving a mail ballot (new or replacement) in person.
- It is not currently clear that a mail ballot voter can be challenged, nor that the challenge form used should be the in-person challenge form, however we believe this to be true based on challenge rights in 1-9-201.

Rule 9.2 Challenging a ~~mail ballot voter~~ VOTED MAIL BALLOT

Reasons for proposed change

- Updating the title as the substance under Rule 9.2 and the Voter Challenge – Mail Ballot Voter form is speaking to voted mail ballots