



Office of the Clerk & Recorder

1750 33rd Street • Boulder, CO 80301 • www.BoulderCounty.gov
Molly Fitzpatrick, Boulder County Clerk & Recorder

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 August 15, 2025.

Proposed Edits

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

Rule 7.2.4(d)(1)

Was it intended for there to be an “except that” instead of an “or” at the end of (1)?

“Or” seems to create a situation where counties may choose to do different things during the same vacancy contest, which seems problematic to us.

If the intent was “except that” – we believe some nuance is missing. The requirement to be eligible to vote in the vacancy race is at the 22 day mark. Based on that, affiliation requests after the 22-day mark that change a voter’s eligibility should be deferred until post-election. We believe that this deferral is needed to prevent a ballot being issued to someone that affiliated with the vacancy party at the 15 day mark from voting in the election. This perhaps could be clarified.

If affiliation changes at the 22 day mark are deferred, this rule could be amended to evaluating the ballot returned against a voter’s affiliation at the 22 day mark only in instances where the voter has a replacement ballot mailed that does contain the contest. In cases where a replacement ballot has not been mailed, the first returned ballot does not need to be held. This is easy to identify as a ballot is voided when a replacement is issued – in the scenario we are discussing, those ballots would be voided and need to be reviewed by the county prior to processing. This would be identical to the process counties should be following in primary elections w/the clarification added in 18.4.2 to duplicate these ballots vs. reject as Voted Wrong Party.

Rule 7.7.8

We would like to see references to “or bipartisan team of election judges” removed from this rule in (b)(2) and (3). With a bipartisan team performing the review, after another judge has reviewed it first, it seems to us to be unnecessary to audit the team.

Rule 7.7.8(b)(1)

Occur each day that signature verification is conducted on the same day or prior to the judges next shift the day after, except for the Monday and Tuesday of election week

Reasons for proposed change

The critical piece is here is to complete the audit before the judge works again so that, if necessary, the judge can be re-trained. We are concerned with a same day requirement and “the day after” is vague. Does that mean business days? Weekend days? Etc.

We don’t see a need to require it to be the next business day. Sometimes there are 3 days (or more) before the next time the judge is working. We see this as creating additional scheduling constraints without benefit.

In addition, we are incredibly concerned about Monday and Tuesday of election week. Even with the rule amended as we propose, it will not be possible to complete a random audit before the next day of work. If the office is suggesting that we select from the “first signatures a judge reviews for the day” – we offer that is not random and does not meet (b)(8). Plus, a judge may switch between Tier 1 and Tier 2 and/or switch partners – it is by far the cleanest and least error prone to perform the sample selection after a day of work is complete.

We would like to see an exception granted for Monday and Tuesday of election week. We would prefer to see these days excluded entirely from the audit requirement, however if that is not agreeable, we suggest requiring it to be completed by Thursday (election day +2), to align with the cure deadline.

Rule 7.7.8(b)(2)

Review ~~three~~ one percent of decisions made or five decisions made for each election judge or bipartisan team of election judges, whichever is greater;

Reasons for proposed change

We have concerns over the volume increase in our audits if 3% is required. We have found we receive enough audit data for decisions at 1%.

Rule 7.7.8(b)(5)

Be conducted by a single auditor ~~or a team of two auditors~~;

Reasons for proposed change

We disagree that the audit should be allowed to be performed by a team. We think this creates a level of potential inconsistency that isn’t valuable.

Rule 7.7.8(b)(7)

We understand the form is not available in these proposed rules, we request that the form contain minimal data as much other data could be obtained from SCORE.

For example, limiting the form to key information such as: Ballot Tracking Number, original disposition, date of disposition, election judge, the date of audit, auditors name and audit disposition would be sufficient. We see no need for any voter information on this form.

Rule 7.7.15

Boulder is opposed to this rule as we are concerned:

1. requiring something to be mailed, emailed, texted to the same voter is redundant and will create confusion. We already see confusion when a voter gets an email, responds, then receives a letter in the mail days/weeks later asking for the same resolution.
 - a. If any portion of this remains, we would want to see it drafted as mailed or emailed or texted
2. it is unclear what “if available” means in regards to texting. Is that if available for the county or the voter? Unless the State were to use BallotTrax, our county does not have a way to text voters.
3. the rule is silent on how to treat a voter that has unsubscribed from emails. If this is a mandatory communication, would that override an unsubscribe request?
4. We would prefer one (or perhaps both) of these following alternatives to target portions of this same population in a different way:
 - a. Add language to the AVR/OLVR Letters asking these voters to add a signature
 - b. Target first time voters (regardless of age) to add a signature

We think options (a) and (b) above provide a more targeted letter and will alleviate sending letters to the portion of this after group that is actively engaged and has already voted multiple times since they become eligible. For Boulder, 66% of current active voters in this age bracket have voted in one or more elections, which means they will have at least one non-electronic signature in their record.

We do agree that more reference signatures better support the signature verification process, however we don't believe this is the path to achieve this.

We offer another option of seeing if the fewer than two signature letter that will be required for the first time in 2026 is effective first, which is likely to overlap some of the same population of voters.

Rule 7.8.5

A county must make available to ~~An election judge must offer~~ all electors who appear at a voter service and polling center the option to use a ballot marking device, a hand marked paper ballot, or to receive a mail ballot. If a county fails to **make available to** ~~offer~~ its electors the options available at a voter service and polling center, the Department may implement a remedial program similar to that described in Rule 16.1.8.

We are concerned that the word “offer” implies to mean that every voter an election judge interacts with, they must add a sentence/statement that offers the option of all 3 services. This is overly burdensome and will lengthen very transaction in our vote centers.

More generally, we thought these were already required services to be offered, so we aren’t even sure that our suggested edit is needed vs. simply not implementing this rule.

Rule 7.8.12

We have interpreted this to mean that an iPhone/Android phone would qualify. We don’t have concerns as a county that uses iPhones for multi-lingual hotline use, however this will prohibit a county from using a landline phone for the multi-lingual hotline and likely could require expenditure for those counties.

Rule 7.9.4

Boulder is opposed to this rule as we are concerned:

1. the requirements the Secretary’s office is placing on this role are broad-sweeping and vague
2. we disagree that the Secretary’s office can require us to have all accessibility responsibilities in a single individual. We agree that the requirements need to be met/complied with, however, how we do so is our discretion.
3. this may create issues for us and other counties around position/job classifications and the requirements of our staff roles and how those align to their positions responsibilities
4. it is unclear to us if this creates liability for this staff member to “ensure” that we are compliant. We may be compliant on Monday and on Tuesday, an election judge moved a table which makes a vote center non-compliant. It is not feasible to dedicate a staff member to monitoring our compliance to this single aspect of law the amount of time that would be needed to “ensure” compliance.

Rule 11.2.1

Boulder supports this edit proposal.

Rule 16.1.3(b)

The county clerk must remove the covered voter status of any elector who:

~~(1) Votes in-person in two consecutive elections any election, unless the county clerk is aware that the voter cast their ballot prior to their departure from the state for that election; or~~

~~(2) Returns their ballot in a drop box, drop-off location, or in person in two consecutive elections;~~

Reasons for proposed change

Boulder appreciates needing to address concerns from counties regarding voters with covered voter status that are not eligible for their covered status.

And as such, we recommend amending this rule to only remove the status when a voter votes in-person in two consecutive elections (and keeping (c) with amendments below).

We are concerned around (2) in that the source of mail ballot return is not mandatory for counties to track at the ballot tracking number and this will create that obligation for all counties for all mail ballots, as large counties would not be able to only do this for UOCAVA voters. Would counties also need to track if the ballot was returned in another county's 24-hour drop box?

In addition, we know voters have quite a range of unique circumstances and the method by which they return their mail ballot seems to potentially be an overreach and creates assumptions about their eligibility that might not be true – for example, spouses of deployed military are covered voters and very well might return their ballots via a drop box.

We are also concerned about the language in (1) around the “clerk being aware.” In large counties this is not practical to know.

Even as proposed to amend, this might create issues for military spouses that are eligible and do vote in-person.

There also, depending on the state of the final rule, might need some explicit clarification for counties on how to deal with overseas mailing or ballot addresses, as we believe there is a control in SCORE now that prohibits counties from saving a UOCAVA record as non-UOCAVA when an overseas address is still present.

Rule 16.1.3(c)

(c) The county clerk must send correspondence by email, if available, and by mail if email is unavailable, to an elector who has had their status as a covered voter removed which notifies them that their status as a covered voter has been removed and informs them of their ability to submit a new application affirming their eligibility as a covered voter.

Reasons for proposed change

Most of these voters communicate with our office exclusively over email and requiring us to then mail something to them is wasteful. It also creates confusion when a voter responds to the email and still receives the mail.

Lastly, we have concerns on timing here – if we send this request over email and the voter responds and the mail comes back undeliverable, then Rule 16.1.7 creates a conflict whereby the voter just responded over email and the letter came back undeliverable requiring us to make them inactive. We think the change to only mailing if no email resolves this.

Rule 16.1.6

Most of these voters communicate with our office exclusively over email and requiring us to then mail something to them is wasteful. Boulder would like to not see this rule amended at all and if the office feels it must be, then we would support only changing the email requirement from “may” to “must” but leaving the mail as only if there is no email.

Rule 16.1.7

We think the combination of the proposed change in 16.1.6 and 16.1.7 could result in valid UOCAVA voters being made inactive given that they are permitted to use their last known stateside address per federal law. This rule could stay if the requirement to mail in 16.1.6 is removed and the impact then should be limited.

Rule 19.3.4

Boulder is opposed to this rule as we are concerned:

1. This proposal may unintentionally restrict elections staff's ability to take time off, as training is currently only offered twice a year. Requiring attendance at one of these sessions annually could significantly limit flexibility for staff scheduling and vacation planning, especially in presidential election years.
2. A more effective approach would be to update the existing online training for new staff certifications so it reflects current statute and the state voter registration system. This would ensure all staff receive accurate, up-to-date information while also reducing the need for additional in-person training. By modernizing the online training, the Secretary's Office can both strengthen staff preparedness and demonstrate efficiency in meeting statutory requirements.
3. In addition, requiring annual in-person attendance could create financial and logistical challenges for smaller counties. Travel and mileage costs every year, compared to every other year, may place an unnecessary burden on constrained budgets. Updating the online training would provide a consistent, cost-effective alternative that supports both counties and the Secretary's Office in meeting shared goals of accuracy, security, and voter confidence.

Rule 20.1.2(h)

The number of operational ~~required~~ surveillance cameras for the upcoming election; and

Reasons for proposed change

We suspect the use of the word “required” is a drafting error. In this context, there is not a number of required surveillance cameras as all county facilities and layouts are different.

Rule 20.4.4(b) and (c)

Boulder is opposed to this rule as we are concerned:

1. There is some nuance in how counties hire and there are others groups that counties might hire that are neither election judges or staff (ex: contractors) and we think the way (b) was previously written is preferred in that it requires identification but doesn’t limit the categories of those that need it to only judges and staff.
2. We don’t understand why (c) would be necessary and it would cause our county as well as many others to have issues with our current county-wide badge system. Our current system is standard for security practices in that a staff members ID badge has their name and picture on it and this would prohibit that. The cost of amending county-wide badge systems to resolve something that we don’t know of as a problem would far outweigh any perceived benefit.
 - a. ID badges with photos and names are standards for security best practices and this is requesting us to move away from those best practices.

We do not see a need to edit 20.4.4(b) or add (c).

Rule 20.5.1

Boulder would like to confirm that seals can be removed if needed for other reasons – i.e., we needed to move equipment around the room and a seal was damaged in the process and needed to be replaced. In this scenario, we do not see any reason to obtain Secretary of State approval under this rule as we are not removing a seal to allow access.

Rule 21.1.1(c)(5)

Boulder is uncertain on intent for this change and would like to raise a few points that could lead to rule clarification:

1. If a peripheral were to stop working, would counties be permitted to change it out?
 - a. Assuming peripheral was obtained from a reputable source (I.e. a mouse from Dell that we would use on a SCORE computer)
2. Or, would counties be required to obtain a replacement from Dominion?
 - a. This is concerning as it would decommission an adjudication or ICC workstation until the replacement part could be obtained, which could have significant impact on results reporting depending on when the issue occurs
3. If #2,
 - a. Have Dominion and Clear Ballot agreed to become a supplier of peripheral devices on short notice?
 - b. If the approved peripheral device was no longer available, Dominion and Clear Ballot might (depending on interpretation of the rule) need to gain SOS approval before providing a county with a replacement, which would increase the impact on the county
4. This could impact contracts counties have with these providers and these contracts might require amendments for pricing and delivery expectations

Additional Rule Suggestions

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