

# Colorado Secretary of State

## Election Rules [8 CCR 1505-1]

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**Rule 1. Definitions**

1.1 As used in these Rules, unless stated otherwise:

- 1.1.1 “Active ballot” means a ballot properly marked and counted for either a winning candidate or a continuing candidate in a ranked voting election.
- 1.1.2 “Audio ballot” means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.
- 1.1.3 “Audit log” means a record generated by a voting system, in printed or electronic format, providing a record of activities and events relevant to initializing election management software and hardware, including the identification of files containing election parameters, initializing the tabulation process, processing voted ballots, and terminating the tabulation process.
- 1.1.4 “Ballot image” means a digitally captured image of a paper ballot.
- 1.1.5 “Ballot marking device” or “BMD” means a device that may integrate components such as a ballot scanner, printer, touch-screen monitor, audio output, and a navigational keypad and uses electronic technology to:
- (a) Mark a paper ballot at voter direction;
  - (b) Interpret the ballot selections;
  - (c) Communicate the interpretation for voter verification; and
  - (d) Print a voter-verifiable ballot.
- 1.1.6 “Ballot measure” means a ballot issue or ballot question as defined in sections 1-1-104(2.3) and (2.7), C.R.S.
- 1.1.7 “Ballot scanner” means an optical or digital ballot scanner.
- 1.1.8 “Ballot style” means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests and candidates for which the voter is eligible to vote. It includes the order of contests and candidates, the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation.

Multiple precincts may use a single ballot style. Multiple styles may appear in a single precinct where voters are split between two or more districts or other categories defining voter eligibility for particular contests and candidates.

- 1.1.9 “Ballots cast” means the total number of ballots received by the county clerk in an election. “Ballots cast” does not include mail ballot envelopes returned to the county clerk by the U.S. Postal Service as undeliverable.
- 1.1.10 “Blank ballot” means a ballot on which the voter has made no marks in any voting position, has marked with an unreadable marker, or has consistently marked outside of the “read” area of the ballot scanner.
- 1.1.11 “Canvass workers” means workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.
- 1.1.12 “Cast vote record” or “CVR” means the aggregated ballot-level data on ballots counted, consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter’s markings on the ballot, as adjudicated and resolved by election judges, if applicable.
- 1.1.13 “Central count” means the county’s principal ballot counting and processing location.
- 1.1.14 “Chain-of-custody log” means a written record documenting security, possession, and control of a voting system component, election record, or other election material.
- 1.1.15 “Closed network” means a network configuration in which voting system components connect to and communicate only with each other and not with the Internet or any other computer network.
- 1.1.16 “Continuing candidate” means a candidate who has not been eliminated but is not a winning candidate in a ranked voting election.
- 1.1.17 “County clerk” means the elected county clerk as chief designated election official for the county.
- 1.1.18 “Damaged ballot” means a ballot that is torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the ballot scanner. Damaged ballots include:

- (a) All ballots that contain a foreign substance that could interfere with the ballot scanner (e.g. food, drink, etc.).
  - (b) Ballots that are marked in a medium or manner that cannot be detected by a ballot scanner.
- 1.1.19 “Data entry county” means a county using an election management system that exports a file to be uploaded to the Election Night Reporting system.
- 1.1.20 “De minimis change” means a change to voting system hardware that is so minor in nature and effect that it requires no additional testing by a VSTL.
- 1.1.21 “Department”, “Colorado Department of State”, “Colorado Secretary of State’s Office,” and “Colorado Secretary of State” all mean the Colorado Secretary of State and personnel employed by the Secretary of State to efficiently carry out the powers and duties prescribed by Title 1, C.R.S., as authorized by section 1-1-107(2)(c).
- 1.1.22 “Designated election official” or “DEO” includes the designated election official’s sworn, deputized designee.
- 1.1.23 “Duplicate ranking” means a voter marked more than one ranking for a candidate in a ranked voting election.
- 1.1.24 “Duplicated ballot” means a ballot for which a true copy must be made for the ballot to be properly processed and counted because of damage, improper marking, or any issue that would prevent a ballot tabulating machine from accurately counting the ballot.
- 1.1.25 “Election complaint” means a complaint filed with the Secretary of State under Articles 1 through 13 of Title 1, C.R.S.
- 1.1.26 “Election management software” means the software for election equipment or computers that controls election setup vote recording, vote tabulation, and reporting.
- 1.1.27 “Election management system” means the hardware and software applications used to configure, program, and report election results from one or more voting system components, including the ballot definition and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including

maintaining equipment inventories, estimating ballot printing needs, and maintaining information on voter service and polling centers.

- 1.1.28 “Election media” means any device including a cartridge, card, memory device, or hard drive used in a voting system for the purposes of storing election setup records (ballot or card styles), recording voting results from electronic vote tabulating equipment, or any other data storage required by the voting system for a particular election function. The election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.
- 1.1.29 “Election project backup” means a set of files that is generated by the voting system software’s dedicated backup/export functions and vendor defined procedures after the initial project is created that can be used to restore the voting system to a previous state. This does not include a full or partial hard drive image or clone.
- 1.1.30 “Election setup records” means the electronic records, often in the form of a database or a set of databases, generated by election management software to create and define ballots, tabulation instruction, and other functions related to the election.
- 1.1.31 “Electronic ballot” means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter’s choices must be marked and printed on a paper ballot for subsequent counting by a ballot scanner.
- 1.1.32 “Electronic transmission” means:
- (a) Sending an unvoted ballot by fax, email, or online delivery to:
    - (1) A military or overseas elector under Article 8.3 of Title 1, C.R.S.
    - (2) An elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S.
    - (3) An elector with a disability who requests a ballot under section 1-5-706, C.R.S.
  - (b) Returning a voted ballot by fax, email, or other electronic means.

- 1.1.33 “Firmware” means computer programs stored on read-only memory devices or other electronic circuitry in voting devices that control the basic operation and function of those devices.
- 1.1.34 “Help America Vote Act complaint” or “HAVA complaint” means a complaint filed with the Secretary of State under Title III of the Help America Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.
- 1.1.35 “Immediate voting area” means the area that is within six feet of the voting equipment, voting booths, and the ballot box.
- 1.1.36 “Inactive ballot” means a ballot that does not count for any candidate for any of the reasons listed in Rule 26.7.
- 1.1.37 “Instant runoff voting contest” means a type of ranked voting contest as set forth in section 1-7-1003, C.R.S., where only one candidate will be elected to the office.
- 1.1.38 “Manual entry county” means a county that does not use an election management system to export data to the Election Night Results system.
- 1.1.39 “Official Observer” means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process and perform duties as may be assigned by the Secretary of State, but are subject to Rules and regulations as prescribed by the Secretary of State.
- 1.1.40 “Overvote” means:
- (a) An instance where the elector marked votes for more than the maximum number of candidates or responses for a ballot measure;
  - (b) In a ranked voting contest, a voter marked more than one candidate with the same ranking.
- 1.1.41 “Personally identifiable information” means information about an individual that can be used to distinguish or trace an individual’s identity, such as an elector’s social security number, driver’s license number, email address, month and day of birth, and signature.
- 1.1.42 “Qualified political organization” means an organization that has placed a partisan candidate, certified to the ballot by the Secretary of State in a

congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and continues to meet the requirements of Rules 3.3 and 3.4.

- 1.1.43 “Ranking” means the voter’s assigned number or the numeric position for a candidate to express the voter’s preference for that candidate in a ranked voting election. Ranking number one is the highest rank, ranking number two is the next-highest rank, and so on.
- 1.1.44 “Related to the second degree” means spouse, civil union partner, parents, children, brothers and sisters, grandparents, and grandchildren.
- 1.1.45 “Removable card or cartridge” means a programming card or cartridge, except a voter activation card, that stores firmware, software, or data.
- 1.1.46 “Resolution board” means a bipartisan team of election judges directed by the county clerk to conduct ballot resolution activities described in Rule 18.
- 1.1.47 “Runoff tabulation entity” means the election jurisdiction that will conduct the round-by-round count for a ranked voting contest. For a contest that is wholly within a single county, the county clerk and recorder or designated election official appointed by the municipality holding the ranked voting contest is the runoff tabulation entity. For a contest that is shared by more than a single county, the controlling county, as defined by Rule 4.2.2, is the runoff tabulation entity.
- 1.1.48 “SCORE” means the centralized statewide registration system and the computerized statewide voter registration list described in Part 3 of Article 2 of Title 1.
- 1.1.49 “Seal” means a serial-numbered tamper-evident device.
- 1.1.50 “Secure ballot area” means:
- (a) All areas used for processing ballots, including but not limited to:
    - (1) Signature verification;
    - (2) Ballot opening;
    - (3) Tabulation; or
    - (4) Storage of voted ballots.

- (b) This does not include an area located within a voter service and polling center.

1.1.51 “Secure equipment area” means:

- (a) All areas in which voting system components are used, including but not limited to:
  - (1) Programming;
  - (2) Copying election files to or from memory cards or flash media;
  - (3) Adjudicating ballots;
  - (4) Tallying results;
  - (5) Results reporting; or
  - (6) The storage area for all voting system components.
- (b) This does not include an area located within a voter service and polling center.

1.1.52 “Single transferable vote contest” means a type of ranked voting contest, as set forth in section 1-7-1003, C.R.S., where more than one candidate will be elected to the same office.

1.1.53 “Skipped ranking” means a voter did not rank candidates in numerical order (e.g., voter ranks top candidate with a “1” and second candidate with a “3”, or leaves a ranking blank).

1.1.54 “Split precinct” means a precinct that has a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.

1.1.55 “Statement of Ballots Form” means the form used at the polling location that accounts for all ballots at that location and includes all information required by Rule 10.

1.1.56 “Surplus fraction” means a fraction calculated by dividing the surplus votes by the total votes cast for the winning candidate, calculated to four decimal places, ignoring any remainder. Surplus fraction = (surplus votes of a

winning candidate)/(total votes cast for winning candidate), calculated to four decimal places, ignoring any remainder.

- 1.1.57 “Surplus votes” means the votes cast for a winning candidate in excess of the winning threshold that may be transferred to a continuing candidate.
- 1.1.58 “Target area” means the square or oval corresponding to the candidate’s name or ballot response (examples: “Yes”, “No”, “For” or “Against”) on a paper ballot.
- 1.1.59 “Transfer” means assigning the vote of an eliminated candidate or the surplus vote of a winning candidate to the next-highest-ranked continuing candidate in the tabulation of an instant runoff voting contest and single transferable vote contest.
- 1.1.60 “Transfer value” means the fraction of a vote in a single transferable vote contest that a transferred ballot will contribute to the next ranked continuing candidate on that ballot. The transfer value of a vote cast for a winning candidate is limited to four decimal places, ignoring any remainder.
- 1.1.61 “Trusted build” means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain-of-custody to the building of the disks, which is then used to establish or re-establish the chain-of-custody of any component of a voting system that contains firmware or software. The trusted build is the origin of the chain-of-custody for any software and firmware component of the voting system.
- 1.1.62 “Undervote” means an instance where the voter marked votes for fewer than the maximum number of candidates or responses for a ballot measure.
- 1.1.63 “Video security surveillance recording” means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.
- 1.1.64 “Voting system” as defined in section 1-1-104(50.8), C.R.S., means:
- (a) The total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to:

- (1) Define ballots;
  - (2) Cast and count votes;
  - (3) Report or display election results; and
  - (4) Maintain and produce any audit trail information.
- (b) The practices and associated documentation used to:
- (1) Identify system components and versions of such components;
  - (2) Test the system during its development and maintenance;
  - (3) Maintain records of system errors and defects;
  - (4) Determine specific system changes to be made to a system after the initial qualification of the system; and
  - (5) Make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
- (c) “Voting system” does not include any other component of election administration, such as voter registration applications or systems, electronic pollbooks, ballot delivery and retrieval systems, signature verification and envelope sorting devices, ballot-on-demand printers, election night reporting and other election reporting systems, and other components used throughout the election process that do not capture and tabulate votes.

1.1.65 “Voting system test laboratory” or “VSTL” means a federally accredited entity that conducts certification testing for voting systems.

1.1.66 “Winning candidate” means a candidate who is elected after receiving more than 50 percent of the votes on active ballots in an instant runoff contest, or after reaching the winning threshold required in a single transferrable vote contest, or because the number of continuing candidates and other winning candidates is less than or equal to the number of seats to be filled.

1.1.67 “Winning threshold” means the number of votes sufficient for a candidate to be elected in a single transferable vote contest. In such a contest, the winning threshold equals the total votes counted in the first round of

tabulation, divided by the sum of one plus the number of offices to be filled, then adding one, disregarding any fractions. Winning threshold =  $((\text{Total votes cast})/(\text{Seats to be elected} + 1)) + 1$ , with any fraction disregarded.

- 1.1.68 “Write-in vote” means a vote where the voter physically writes in the name of a qualified write-in candidate in the space reserved on the ballot for write-in votes.

**Rule 2. Voter Registration**

- 2.1 Submission of voter registration applications
  - 2.1.1 An applicant may submit a properly executed voter registration form to the county clerk in person, by mail, by fax, by online voter registration, or as an email attachment.
  - 2.1.2 If any portion of a voter registration form is illegible, the county clerk must notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.
  - 2.1.3 For submitting applications by fax, email, or online voter registration, close of business is 11:59 p.m. MT.
  - 2.1.4 Under section 1-2-508, C.R.S., the effective date of a voter registration application received by the Secretary of State is the date of the postmark, if legible. If there is no legible postmark, the effective date is the date the application is received.
  - 2.1.5 The county clerk must implement a data entry review process to ensure that the county accurately processes voter registration applications in SCORE.
  - 2.1.6 The effective date of a voter registration application completed through the online voter registration system is the date and time the applicant submits it.
- 2.2 For purposes of precinct caucus lists the elector's duration of residency within a precinct is based on the effective date shown in SCORE.
- 2.3 When processing a new voter registration application, the county clerk must mark the registration record "ID required" unless the elector provides his or her verifiable driver's license number or state identification number, or the elector is otherwise exempt under law. [Section 1-2-204(2)(f.5), C.R.S.]
  - 2.3.1 The county must process the Help America Vote Verification file on at least a monthly basis by verifying social security numbers and removing the "ID required" flag from verified records.
  - 2.3.2 As used in section 1-1-104(19.5), C.R.S., government document means a document issued by a city, county, state, or federal government.

- (a) A government document includes:
- (1) A Certificate of Degree of Indian or Alaskan Native Blood;
  - (2) A letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in SCORE; and
  - (3) A division of youth corrections identification card issued by Department of Human Services.
  - (4) Written correspondence from the county sheriff or his or her designee to the county clerk indicating that the elector is confined in a county jail or detention facility.
- (b) A government document does not include any document produced by the SCORE system or using an address label produced by SCORE.

[Sections 1-1-104(18.5), (19.5)(c), and (19.5)(d), C.R.S.]

2.3.3 As used in section 1-1-104(19.5)(a)(VII), C.R.S., "current" means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.

## 2.4 Treatment of incomplete new registration applications

2.4.1 If an applicant fails to check the box answering the question, "Are you a citizen of the United States?", the county clerk must accept and process the application as complete so long as it is otherwise complete and the affirmation at the bottom of the form is signed.

2.4.2 If an applicant fails to complete the required identification portion of the form in accordance with sections 1-2-204(2)(f.5) and (3)(c), C.R.S., the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or identification card, the county clerk must enter the ID number from the card into the applicant's record and process the application as complete.

2.4.3 If an applicant fails to provide a date of birth, the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or other approved form of ID that includes the

date of birth, the county clerk must enter that information into the applicant's record and process the application as complete.

## 2.5 Changes to an elector's existing voter registration record

- 2.5.1 If an elector submits a change to his or her voter registration record and fails to include the information required by sections 1-2-216 or 1-2-219, C.R.S., the county clerk may not make the requested change unless the county clerk can establish minimum matching criteria. If the county clerk cannot establish minimum matching criteria, the county clerk may not change the elector's status and must notify the elector of the additional information that is required to process the request.
- 2.5.2 If an elector submits a change to his or her voter registration record and writes or selects a name of an organization that is not a qualified political party or qualified political organization, or writes "none", the elector's affiliation must be recorded as "Unaffiliated".
- 2.5.3 If an elector submits a change to their voter registration record and leaves the affiliation section blank, the county clerk may not change the voter's existing affiliation in the registration record.
- 2.5.4 If an unaffiliated elector who has already been mailed a primary election ballot packet submits an affiliation declaration, the county clerk must defer processing the affiliation change until after the primary election; except that an unaffiliated elector who appears in person to vote may affiliate and vote a party ballot if the county clerk has not received the elector's voted mail ballot.
- 2.5.5 A covered voter, as defined in section 1-8.3-102(2), C.R.S., who provides an address change to the Department of Revenue, which indicates the voter is no longer overseas or serving in the military out of state, may not have their status as a covered voter removed due to the change. The clerk must instead send a notification via mail and email, if available, to the elector notifying them that a change of address was received and asking the voter to confirm that they are no longer a covered voter. If no response is received, the clerk may not remove the elector's covered voter status.

## 2.6 Changes to an elector's voter registration status

- 2.6.1 An elector may update his or her inactive registration status to active status by submitting:

- (a) A signed written request, by mail, fax, or an email attachment;
- (b) An online voter registration application; or
- (c) An in-person request.

[Section 1-2-605(4)(a), C.R.S.]

2.6.2 If an elector is unable to sign, another person must witness the elector's mark. An elector may use a signature stamp because of age, disability, or other need. The stamp is treated as a signature and does not require a witness.

## 2.7 Minimum matching criteria

2.7.1 Except as provided in section 1-2-302.5, C.R.S., the county clerk may not transfer, consolidate, or cancel a voter registration record unless the applicable minimum matching criteria as set forth in sections 1-2-603 or 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county clerk must send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.

2.7.2 A match of the name means a match of the full name, except that the following are sufficient to establish a match:

- (a) Common variations and nicknames in the first or middle name, e.g., Michael and Mike;
- (b) Explainable and documented change of name, including last name, e.g., maiden name and married name; and
- (c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records is not considered a variation. Examples of suffix variations that must be explained include junior in one record and III in another.

2.7.3 A match of the prior address means a match of the residential street address.

2.7.4 The county clerk may use the DMV Motor Voter database to verify prior name or residence address history for the purpose of meeting the

minimum matching criteria. The county clerk must scan and retain the information in the elector's record to document how the criteria were met.

## 2.8 Registered electors absent from the state

2.8.1 A registered elector who is absent from the state but who maintains Colorado residency is eligible to be registered and to vote without holding a property interest in a fixed habitation in the state.

2.8.2 An absent elector's voter registration address is the elector's last residence address or the address an elector previously resided at that the elector intends to return to in the state. A covered voter, as defined in section 1-8.3-102(2), C.R.S., who is absent and has never resided in the United States may use the residence address of their parent, legal guardian, spouse, or civil union partner as required by section 1-8.3-102(2)(d), C.R.S.

2.9 During the 22 days before an election, the county clerk must defer processing undeliverable new voter notifications. After the election is closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S., only if the applicant did not vote in the election.

## 2.10 Registration of Address Confidentiality Program (ACP) electors

2.10.1 When an ACP participant registers to vote by mail, the participant must provide a copy of his/her ACP Authorization Card.

2.10.2 The county clerk must:

- (a) Use the actual residence address of the ACP elector for precinct designation.
- (b) Use the substitute address, as defined in section 24-30-2103(14), C.R.S., for all correspondence and mailings placed in the United States mail.
- (c) Keep the participant's address, county, voting precinct, and split number confidential from the public.

2.10.3 A state or local government agency may request access to an ACP participant's voter registration record using the process in section 24-30-2110, C.R.S.

2.10.4 Except as specifically provided by Part 21 of Article 30 of Title 24, C.R.S., a program participant's actual address and telephone number is not a public record under Part 2 of Article 72 of Title 24, C.R.S.

2.11 List maintenance under section 8 of the National Voter Registration Act of 1993

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 month unless the Secretary of State's Office does not receive the list in time to transmit it by the fifth business day. If the Secretary of State's Office does not receive the list in time to transmit it by the fifth business day, it will be transmitted as soon as practicable.

- (a) The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.
- (b) The county may not change a residential address to a non-residential address, like a post office box, based on the information in the NCOA data.
- (c) When the county updates a voter registration record using NCOA data, the county must use the NCOA transaction source.

2.11.2 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the Department of State, working in conjunction with county clerks, will cancel the registrations of electors:

- (a) Whose records have been marked "Inactive – returned mail", "Inactive – undeliverable ballot", or "Inactive – NCOA"; and
- (b) Who have been mailed a confirmation card; and
- (c) Who have thereafter failed to vote in two consecutive general elections.

2.11.3 The Secretary of State will notify each county of the records cancelled in that county under section 1-2-605(7), C.R.S. once the cancellation is complete.

2.11.4 The county must process all records designated for cancellation by the Secretary of State:

- (a) Within 21 days of receipt; and
- (b) Before the county mails ballots throughout the election.

2.11.5 The county must process and mail all confirmation cards using SCORE so that the elector's voter registration record audit log shows the date on which the county printed or extracted the confirmation card.

2.12 Voter registration at a voter service and polling center. A person registering voters or updating voter registration information in a voter service and polling center must:

2.12.1 Be an election judge, a permanent or temporary county employee, state employee of the Department of State, or temporary staff hired by the county clerk; and

2.12.2 Complete a training course provided by or approved by the Secretary of State.

2.13 Voter registration records and data

2.13.1 The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with section 1-5-301, C.R.S.

2.13.2 Under section 24-21-104(3), C.R.S., the Secretary of State must charge a fee for voter information reports and related services. A request for elections data must be submitted using the Elections Data Request Form. The Secretary of State will provide the requested data after payment of the fee as outlined in the fee schedule on the Secretary's website.

2.13.3 The county clerk of each county may charge fees for county voter information reports and related services.

2.13.4 Without written authorization from the Secretary of State, the county clerk may not run or schedule to run SCORE reports or exports that include voter or election detail during regular business hours beginning 22 days before election day and from 7:00 am to 7:00 pm on election day. A county that uses an automated signature verification device may run the EXP-004 report during this time.

2.13.5 Custodianship of Voter Registration Information

- (a) The Secretary of State is the official custodian of the centralized statewide registration system, all the information contained within, and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.
- (b) Each county clerk is the official custodian of the voter registration information only for electors within their county. In the event that a county clerk receives an open records request for publicly available information in a registration record for an elector registered in another county, they may not provide that record as part of the request and must direct that requestor to submit their request to the Secretary of State's office or to the elector's county of residence.
- (c) A county clerk may not provide the registration record for an elector registered in another county out of SCORE unless:
  - (1) It is provided for use in an election to the designated election official of a municipality or special district within Colorado; or
  - (2) The county is otherwise required by law to provide that information.

2.13.6 If a person requests a certificate of registration or other election record that contains personally identifiable information, he or she must provide a copy of identification as defined in section 1-1-104(19.5), C.R.S.

2.13.7 If a county receives information from a jurisdiction 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.

2.13.8 The effective date of a voter registration cancellation due to felony incarceration is the date the information regarding incarceration is provided to the Secretary of State from the Department of Corrections.

2.14 To assist state institutions of higher education comply with the requirements of Section 1-2-213.5(1)(c), C.R.S., the Department of State will provide the Colorado Department of Higher Education with a template communication for enrolled students.

2.15 The county clerk must send the county's precinct shape files or maps to the Secretary of State annually, no later than March 1. If the county clerk adjusts

precinct boundaries under section 1-5-103, C.R.S., the county must send the Secretary of State updated precinct shape files or maps within 30 days.

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**Rule 3. Rules Concerning Qualified Political Organizations**

- 3.1 A qualified political organization, as defined in Rule 1.1.42, must file proof of organization with the Secretary of State. The proof must include, but is not limited to:
- 3.1.1 The organization's bylaws, which must include the method for selecting officers, delegates to county, state, and national conventions, and candidates planning to petition onto the state's general election ballot; and
  - 3.1.2 The names, addresses, and telephone numbers of the organization's Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the bylaws.
- 3.2 A qualified political organization must meet at least once each calendar year.
- 3.2.1 During the meeting in odd-numbered years, the organization must elect a chairperson, vice-chairperson, secretary, and other officers or committees required by the organization's bylaws. If the political organization is a new organization, the organization must hold this meeting before placing a candidate on the ballot. In this instance, the organization may hold this meeting in an even-numbered year and may select candidates as described in Rule 3.3.3.
  - 3.2.2 The organization's chairperson and secretary must file with the Secretary of State a full and complete list, under oath, of the persons elected or appointed under this Rule 3.2, together with any amendments to the bylaws adopted at the meeting.
  - 3.2.3 During the meeting in even-numbered years, the organization must select candidates who will attempt to petition onto the ballot for the next general election.
- 3.3 To remain in good standing, a qualified political organization must place a candidate, certified to the ballot by the Secretary of State, on the general election ballot every two years. A write-in candidate alone is not sufficient to meet this requirement.
- 3.3.1 Organization candidates must be nominated in accordance with section 1-4-802, C.R.S.

- 3.3.2 Each petition must contain the name of one candidate and an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form must be approved by the Secretary of State.
  - 3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political organization by the first business day in January of the election year, or if the organization has not been qualified, the candidate must have been registered as unaffiliated by the first business day in January of the election year.
- 3.4 The Secretary of State will qualify a political organization if the organization:
  - 3.4.1 Files proof of organization with the Secretary of State by March 1 in an even numbered year;
  - 3.4.2 Meets and names a candidate to the general election ballot; and
  - 3.4.3 Places a candidate, certified to the ballot by the Secretary of State, on the general election ballot.
- 3.5 Once qualified, eligible electors may affiliate with the political organization.
- 3.6 The Secretary of State will revoke the qualified status of a political organization if the organization does not fully comply with Rules 3.3 and 3.4.
- 3.7 If the Secretary of State revokes the qualified status of a political organization, the Secretary will notify county clerks by June 1 of each odd-numbered year. Upon receipt, the county clerk must mark registration records as “unaffiliated”, where applicable.

**Rule 4. Coordinated Elections****4.1 Participation in coordinated elections**

4.1.1 For elections where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.

4.1.2 A coordinating political subdivision must enter into an intergovernmental agreement with the county clerk that delineates which tasks are the responsibility of the designated election official of the political subdivision and which are the responsibility of the county clerk.

- (a) A county required to provide translations under section 1-5-905, C.R.S., must include in each intergovernmental agreement responsibility for translating coordinating district content.
- (b) In the event that the coordinating district is responsible for translating content, the intergovernmental agreement must require the ballot certification from the coordinating district designated election official that the produced translations are:
  - (1) Linguistically accurate;
  - (2) Culturally appropriate; and
  - (3) Technically consistent with the original documents.
- (c) The intergovernmental agreement may also address limitations on, or requirements for, ballot contest length and formatting or any other lawful topic.

4.1.3 The county clerk must include all coordinating districts in the SCORE districts and precincts module and election setup module before conducting a coordinated election. If the county clerk is unable to include one or more districts in SCORE, the clerk must list the districts and explain the issue in the election plan required under Rule 7.1.1.

4.2 Procedures for coordinated elections involving jurisdictions shared by multiple counties.

- 4.2.1 For each jurisdiction that is shared by multiple counties, a controlling county must be designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and questions in coordinated elections.
- 4.2.2 The controlling county is the county where the administrative office of the political subdivision is maintained at the time that the controlling county is designated.
  - (a) If the administrative office is not maintained within the boundaries of the political subdivision, the controlling county must be the county where the largest number of active registered electors within the jurisdiction reside at the time that the controlling county is designated.
  - (b) Once designated, the controlling county will not change unless approved by the Secretary of State upon request of any of the affected counties.
- 4.2.3 The controlling county must coordinate with each county that shares the jurisdiction to assign the ballot number/letter in accordance with Rule 4.5 no later than the date of ballot certification. All counties within the shared jurisdiction must ensure that the shared races, issues, and questions are printed on the ballot as certified by the Secretary of State or designated election official, and in the order assigned by the controlling county.
- 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance with this Rule, any of the other counties in the shared jurisdiction may make a written request to the Secretary of State to temporarily assume the duties of the controlling county. The Secretary of State may act on behalf of the controlling county or to temporarily designate another county to act as the controlling county to implement this Rule.
- 4.3 November coordinated elections
  - 4.3.1 The county clerk is the coordinated election official for coordinated elections held in November of each year and is responsible for coordinating the Article X, Section 20 Ballot Issue notice mailing.
  - 4.3.2 Placing measures on the ballot for coordinated odd-year elections
    - (a) For a statewide ballot measure, the Secretary of State must determine whether a proposed initiative is eligible to appear on an

odd-year election ballot and whether it concerns state matters arising under Section 20 of Article X of the State Constitution.

- (b) For all other ballot measures, the political subdivision certifying the ballot content to the coordinated election official must determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.

4.3.3 In any odd-year November coordinated election in which there is a statewide issue on the ballot, the canvass board members that will canvass the statewide issue must be appointed in accordance with section 1-10-101, C.R.S.

#### 4.4 Form of coordinated elections held other than in November

4.4.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in section 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of the overlapping jurisdictions must identify the election official responsible for assuring that the Article X, Section 20 notice is given.

4.4.2 The political subdivisions may contract with the appropriate county clerk to be the coordinated election official.

#### 4.5 Determination of ballot issues and texts.

4.5.1 Each political subdivision must prepare the list of candidates and the ballot title and text for ballot issues and ballot questions, as required by law.

- (a) The coordinated election official must print the ballot title on each ballot as required by law.
- (b) Political subdivisions may only require the coordinated election official to print the entire text of a ballot issue or ballot question on the ballot if the political subdivision pays for any additional cost associated with printing.
- (c) For counties where ballot election material must be printed in languages other than English, the political subdivisions are responsible for assuring proper translation of all election materials related to that political subdivision and must pay their pro-rata

share of increased printing costs unless otherwise provided by the intergovernmental agreement.

- (d) For counties where election material is not required to be printed in languages other than English, the political subdivisions are not required to provide translation of all election materials nor pay a pro-rata share of the printing costs unless they so agree.

4.5.2 Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.

- (a) Referred measures must be designated by a letter or by a number and a letter; initiatives must be designated by a number.
- (b) For each grouping of ballot issues and ballot questions by a political subdivision, all referred measures must precede all initiatives.
- (c) For each grouping of ballot issues and ballot questions, the order is as follows:
  - (1) Referred measures to increase taxes;
  - (2) Referred measures to retain excess revenues;
  - (3) Referred measures to increase debt;
  - (4) Other referred measures;
  - (5) Initiatives to increase taxes;
  - (6) Initiatives to retain excess revenues;
  - (7) Initiatives to increase debt;
  - (8) Other citizen petitions.
- (d) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every proposed change to the Colorado Constitution must be called an “amendment” and every proposed change to the Colorado Revised Statutes must be called a “proposition”
- (e) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:

- (1) Each category of referred and initiated state amendments and propositions must be numbered and listed on the ballot in the following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

If a referred or initiated measure contains both a proposed constitutional and statutory change, the measure must be ordered on the ballot as a constitutional amendment.

- (2) Each category of initiated local ballot issues and questions must be numbered in the following series:

200-299	County Issues
300-399	Municipal Issues
400-499	School District Issues
500-599	Ballot Issues and Questions for other political subdivisions greater than a county
600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county

- (3) Each category of local referred ballot issues and questions must be designated by a letter or a number and a letter in the following series:

1A-1Z	County measures
2A-2Z	Municipal measures wholly within a county
3A-3Z	Municipal measures greater than a county
4A-4Z	School District measures wholly within a county
5A-5Z	School District measures greater than a county
6A-6Z	Ballot measures for other political subdivisions wholly within a county
7A-7Z	Ballot measures for other political subdivisions which are greater than a county

- (4) Ballot questions and issues are numbered or lettered in the order in which the measures are certified to the ballot by the designated election official after the protest period has ended, or if a protest was filed after the protest has been completed.
- (5) For other than state issues, if a county has multiple cities or multiple discrete school districts and other political subdivisions, the designated election official may either further subdivide the series and assign each political subdivision a specific series of numbers, or when the ballot is certified the designated election official may assign the final numbers or letters, making sure that all measures for each political subdivision are grouped together.

- (6) For other than state issues and questions, if the same ballot issue or question will be on the ballot in more than one county, the county clerks must confer with one another and must give the same ballot number or letter to the ballot issue or questions.
  - (7) Each ballot question or issue must contain the name of the political subdivision at the beginning of the ballot questions or issue. If the designated election official chooses, the name of the political subdivision may appear before the grouping of questions, such as State Ballot Questions, Arapahoe County Ballot Questions, City of Aurora Ballot Questions, etc.
- (f) The Secretary of State will place any measures referred by the legislature on the ballot in the order they are received. The Secretary of State will place any measures referred by the people under Article V, Section 1 of the Colorado Constitution on the ballot in the order they are certified to the ballot.

#### 4.6 Candidate audio recordings

4.6.1 A candidate for statewide office, the general assembly, congressional office, regent, or district attorney must provide an audio recording of his or her name to the Secretary of State. The candidate must record his or her name exactly as it appears on the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable, and the candidate must provide the recording to the secretary of state no later than the deadline to file the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable.

4.6.2 A candidate for a county, municipal, school district, or special district office in an election coordinated by the county clerk must provide an audio recording of his or her name to the county clerk. The candidate must record his or her name exactly as it appears on the statement of intent, and must provide the recording to the county clerk no later than the deadline to file the statement of intent.

#### 4.7 Congressional term limits declaration

4.7.1 The Secretary of State must make the Congressional Term Limits Declaration available to every candidate for United States House of

Representatives or the United States Senate, provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to these candidates when the candidate submits a candidate acceptance form with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate will have no effect on the candidate's candidacy.

- 4.7.2 The Secretary of State must accept Part A of the Term Limits Declaration if Part B of the Term Limits Declaration was not duly executed and submitted. (Article XVIII, Section 12a(7) of the Colorado Constitution)
  - 4.7.3 In the case of a candidate who has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One, the Secretary of State may not place the words, "Signed declaration to limit service to [3 terms] [2 terms]" after the candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.
- 4.8 Ballot format and printing
- 4.8.1 The county clerk must print the candidate names and the text of ballot issues and ballot questions in upper and lower case, except that the clerk must print the text of ballot issues subject to Article X, Section 20 of the Colorado Constitution in all uppercase text.
  - 4.8.2 If there is no candidate for an office, the ballot must state, "There are no candidates for this office."
  - 4.8.3 If there is a qualified write-in candidate on the ballot, the clerk must include "Write-in" before or directly below the space for writing in a candidate.
  - 4.8.4 Printing primary election ballots
    - (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk must conduct the primary election for all major political parties unless the party chooses to nominate candidates in accordance with section 1-4-702, C.R.S.
      - (1) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.

- (2) If there are no candidates for any particular office, the county clerk must print on the ballot “There are no candidates for this office”.
- (b) If a minor political party, as defined in section 1-1-104(23), C.R.S., nominates more than one candidate for any office, the county clerk may conduct the primary election for that party only.
  - (1) The county clerk must include on the ballot only the offices for which there is more than one candidate designated.
  - (2) If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.
- (c) This rule does not apply to presidential primary elections conducted under sections 1-4-1201, C.R.S. et seq.

#### 4.8.5 Use of unique numbers on ballots

- (a) Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.
  - (1) A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.
  - (2) Nothing in this Rule prohibits a county from printing a unique number or barcode on a removable stub.
- (b) After an election official dissociates a voted ballot from its envelope and removes the stub, if any, the county may write or print unique numbers on the voted ballot for auditing and accounting purposes, including duplication of damaged ballots and risk limiting audits.
- (c) The county must redact unique numbers or any other information that could identify an individual voter before providing ballots in response to a request for inspection under the Colorado Open Records Act (Section 24-72-205.5(4)(b)(II), C.R.S.).

- 4.8.6 If the designated election official discovers a ballot layout, printing, or programming error, he or she must immediately report the issue to the Secretary of State's office and work in conjunction to correct the error.
- 4.8.7 The county clerk must use the Secretary of State approved naming convention for naming ballot styles in the county's Election Management System, SCORE, and .pdfs. The county clerk must use the approved naming convention for contest names in the election night reporting system.
- 4.8.8 Counties required to provide in-person and sample ballot translations under section 1-5-905, C.R.S., must affirm in the election plan for that election that they are using a translator or interpreter who:
- (a) Is screened and tested for proficiency in both written English and the target language, with affiliation or accreditation by a nationally recognized association of translators or have other credentials or certifications that are comparable to or exceed the standards used by a nationally recognized association of translators; and
  - (b) Produces translations that are linguistically accurate, culturally appropriate, and technically consistent with the original documents.
- 4.8.9 Qualified translator or interpreter
- (a) Counties required to provide in-person and sample ballot translations under section 1-5-905, C.R.S., must describe in their election plan the company, service, or individual who will be translating ballot content the county is responsible for.
  - (b) A "qualified translator or interpreter" as defined in section 1-5-903(4), C.R.S., includes:
    - (1) A translation service or company that holds an International Organization for Standardization (ISO) 17100:2015 accreditation or comparable accreditation; or
    - (2) The use of two individuals not employed by a translation service or company to translate the ballot content if those individuals:
      - (A) Have been screened and tested for proficiency in both written English and the target language; and

- (B) Are affiliated or accredited by a nationally recognized association of translators or have other credentials or certifications that are comparable to or exceed the standards used by a nationally recognized association of translators.

#### 4.9 Colorado Constitution Article X, Section 20 notice requirements

4.9.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and distributing notices required by Article X, Section 20. These responsibilities may be delegated to the coordinated election official in the intergovernmental agreement.

#### 4.9.2 Mailing ballot issue notices

- (a) Nothing precludes the coordinated or designated election official from sending notice of various elections to persons who are not eligible electors if the notice sent is part of the coordinated notice and if the sending arises from the official's efforts to mail the notice at "least cost".
- (b) Nothing precludes the coordinated or designated election official from sending notice to each household in the county or political subdivision whether or not registered electors reside at that household as long as notice is sent which ensures that all active registered electors are included on the mailing list.
- (c) Nothing precludes the coordinated or designated election official from sending notice to each registered elector in a particular political subdivision.
- (d) The coordinated or designated election official may include the following statement with the ballot issue notice: "This notice is mailed to each address with one or more active, registered electors. You may not be eligible to vote on all issues presented in this notice."

4.9.3 If state statute allows the ballot issue notice and the ballot to be mailed at the same time, the ballot for the mail ballot election may be included with the notice.

4.9.4 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified.

- 4.9.5 The coordinated election official is not responsible for failure to meet the Article X, Section 20 constraints if the political subdivision fails to submit the notice and summaries within the deadline and in the form required by the coordinated election official.
- (a) Comment summaries for and against ballot issues must not include language of a generally recognized profane, indecent, immoral, offensive, scandalous, or libelous character. No names of persons or private groups may be included in any summary.
  - (b) For counting and verification purposes of the 500-word constitutional limit for each "pro" and each "con" summary, a hyphenated word, unless it is a continuation hyphen, counts as two or more words. A number counts as one word, regardless of dollar signs, commas, or periods within the number.
- 4.9.6 No person may withdraw written ballot issue comments submitted to the designated election official after the last Friday immediately preceding the forty-fifth day before the election.

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**Rule 5. Nonpartisan Elections not Coordinated by the County Clerk**

- 5.1 The designated election official must send notice of the election to the clerk of the county in which the election will be held. The notice must include the date by which the list of registered electors must be submitted to the political subdivision.
- 5.2 For multi-county political subdivisions, the notice sent to each clerk must also include the names of all other counties in which the election will be held.
- 5.3 Registration list for a special district election
  - 5.3.1 If a special district requests a registration list under section 1-13.5-203(1), C.R.S., the county clerk must provide to the designated election official:
    - (a) A list of registered electors as of the 40<sup>th</sup> day before the election to be delivered on the 30<sup>th</sup> day before the election, followed by a list of all registered electors as of the close of business on the 22<sup>nd</sup> day before the election to be delivered on the 20<sup>th</sup> day before the election; or
    - (b) A complete list of registered electors as of the sixth day before the election.
  - 5.3.2 Upon request, the county must provide the designated election official a list of UOCAVA electors who reside within the special district.
  - 5.3.3 Beginning the 40<sup>th</sup> day before the date of election and through election day, the county must stay current with all voter registration data entry.
  - 5.3.4 For every registration list sent to the special district, the county clerk must inform the designated election official of the proper procedures for handling protected or confidential elector information. [Section 24-72-204(3.5), (8), and Part 21, Article 30, Title 24, C.R.S.]
- 5.4 Registration lists for municipal elections
  - 5.4.1 If a municipality is conducting a mail ballot election, the county clerk must provide the municipality with:
    - (a) A preliminary list of all eligible electors no later than the 30<sup>th</sup> day before the election; and
    - (b) A supplemental list of electors no later than the 20<sup>th</sup> day before the election. The list must contain the names of all eligible electors in

the municipality who were not on the 30-day list and who registered on or before the 22<sup>nd</sup> day before the election.

- 5.4.2 The county clerk must provide the municipality with a registration list no later than the fifth day before the election. If provided on the fifth day, the list must include all registered electors in the municipality as of the sixth day before the election.
  - 5.4.3 Beginning the 40<sup>th</sup> day before the election and through election day, the county clerk must stay current with all voter registration data entry.
  - 5.4.4 For every registration list sent to the municipality, the county clerk must inform the designated election official of the proper procedures for handling protected or confidential elector information. [Section 24-72-204(3.5), (8), and Part 21, Article 30, Title 24, C.R.S.]
- 5.5 If an eligible elector attempts to register or update his or her registration at the county clerk's office, the county must process the request and ensure that the elector appears on the next registration list provided to the municipality or issue the elector a certificate of registration.

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

- 6.1.1 Except for a state primary election, the county clerk must request an updated list of election judges from each major party before each election the clerk conducts under the Uniform Election Code. Each party must provide that list to the county clerk no later than 90 days before election day. For the state primary election, each party must provide a list of election judges no later than the first Tuesday of April preceding the election, as required by section 1-6-103, C.R.S.
- 6.1.2 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 the general time commitment required for each position for the upcoming primary, general, and odd-year coordinated election. The clerk may update this estimate for each major party prior to an election.
- 6.1.3 Except for a state primary election, the county clerk must reasonably attempt to exhaust the precinct caucus and updated list provided by the major parties by the 90<sup>th</sup> day before an election. If, by the 90<sup>th</sup> day before an election, a major political party fails to provide a sufficient list of election judges who are available for the county to staff all of the election judge positions, dates, and times needed by the county for that election, the county clerk may appoint additional major party, minor party, or unaffiliated judges to fill any remaining positions. For a state primary election, the county clerk may appoint additional major party, minor party, or unaffiliated judges after reasonably attempting to exhaust the precinct caucus list and list of election judges provided in accordance with section 1-6-103, C.R.S.
- 6.1.4 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 major party, minor party, or unaffiliated judges.
- 6.1.5 The county clerk must provide a list of election judges, including political party affiliations and assignments, if known, to each appointing party no later than 35 days before election day. Upon request by an appointing party, the clerk must provide a supplemental list no later than seven days before the date on which the county will open its first voter service and polling center.

- 6.1.6 The county clerk may not ask an election judge or county staff member to change his or her party affiliation to achieve the bipartisan balance required under section 1-6-109, C.R.S.
- 6.1.7 The county clerk may not hire the sheriff, current sheriff staff, or other personnel currently involved in the day-to-day operations of a county jail or detention facility as an election judge for the in-person voting event required by section 1-7.5-113.5(4)(a)(I), C.R.S.
- 6.1.8 The county clerk may consider an unaffiliated elector's service as an election judge in previous elections as a request under section 1-6-103.7, C.R.S.
- 6.2 Assignment of election judges
- 6.2.1 The county clerk may assign an election judge based upon appropriate skill level and interest. If a major party objects to the initial election judge assignments provided by the clerk under Rule 6.1.4, the political party may contact the clerk and nominate judges for replacement. The clerk must consider the new nominations.
- 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 in the same county. If the judge had an unexplained, irregular acceptance or rejection rate the clerk may not assign that judge to conduct signature verification.
- 6.2.3 The county clerk may remove or reassign an election judge performing signature verification at any time for cause, which may include, but is not limited to:
- (a) An inability to perform signature verification;
  - (b) An inability to serve for the requisite amount of time needed; or
  - (c) An irregular acceptance or rejection rate, as determined by the county clerk.
- 6.3 The county clerk may not personally conduct signature verification.
- 6.4 Except for UOCAVA ballots and ballots received for counting after election day:

- 6.4.1 Absent written consent by each major party county chair, a county with 5,000 or more active electors on the 90<sup>th</sup> day before election day may not use regular staff as signature verification judges.
- 6.4.2 A county with fewer than 5,000 active electors on the 90<sup>th</sup> day before election day may use regular county staff that are sworn in as election judges to conduct signature verification.
- 6.5 For purposes of training election judges, an “election cycle” means all elections held during a calendar year beginning January 1 and ending December 31.
- 6.6 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each student election judge must take a self-affirming oath or affirmation before serving, in substantially the following form:
- “I, \_\_\_\_\_ do solemnly swear (or affirm) that I am a citizen of the United States and state of Colorado; that I am at least 16 years of age and a High School Junior or Senior; that I will perform the duties of an election judge according to law and to the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as a student election judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed.”
- 6.7 Subject to the limitations provided in section 1-6-111, C.R.S., a county clerk may appoint student election judges to complete any task assigned to any other election judge. Student election judges must be considered as affiliated with a party, or unaffiliated, as reflected in that student election judge’s voter registration record. If the student election judge is not registered to vote, the student must be considered unaffiliated.
- 6.8 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. Training content which is approved by the Secretary of State is only valid for the calendar year in which it is approved. A supervisor training approved in the calendar year before a presidential primary is valid for the presidential primary.

- 6.9 A signature verification judge must successfully complete a training course conducted by the county clerk prior to each election. The county clerk must use the Secretary of State's provided training and may provide additional training. If the county clerk provides their own training, it must be approved by the Secretary of State each year before its first use. A signature verification training approved in the calendar year before a presidential primary is valid for the presidential primary.
- 6.10 The county clerk must inform the Secretary of State's office within two business days, in writing, of the fact that an election judge has been removed from duty under sections 1-6-119(2)–(4) and 1-6-120, C.R.S., by the county clerk.

**Rule 7. Elections Conducted by the County Clerk and Recorder****7.1 Election plans**

7.1.1 The county clerk must submit an election plan to the Secretary of State no later than 110 days before every election. The county clerk must submit with the election plan all information required by section 1-7.5-105 (1.3), C.R.S.

7.1.2 To request a waiver from the requirements of section 1-5-102.9 (c)(III)(A), C.R.S., a county clerk must complete and submit the approved waiver form no later than the filing of their election plan.

**7.1.3 Approval of election plans and submission of amendments**

(a) If the Secretary of State requests modifications to a plan before approval, the county clerk must submit the modified plan within ten days from the request. The Secretary of State will approve or disapprove the modified plan within 15 days from the date it is received.

(b) A county clerk may amend a timely submitted election plan by submitting a written statement outlining the amendment. The amendment must state the specific section of the plan amended and the reason for the amendment. The Secretary of State will approve or disapprove the amendment within 15 days from the date it is received. If the amendment is received within 30 days before the election, the Secretary of State will approve or disapprove the amendment within two business days.

**7.2 Ballots and ballot packets**

7.2.1 In accordance with section 1-7-116(1), C.R.S., for all coordinated elections, the outgoing envelope, instructions, or other notice must include a notice advising electors that they may receive a ballot from another political subdivision conducting a mail ballot election.

7.2.2 If the ballot is returned to the election official as undeliverable, the county clerk is not required to re-mail the ballot packet.

7.2.3 The county clerk must process all new registration applications and updates received by the 22-day deadline to mail applicants a ballot in accordance with section 1-7.5-107(3), C.R.S.

#### 7.2.4 Voiding ballots due to timely changes in address or affiliation.

- (a) If an elector timely changes their address or affiliation after the county mails ballots or sends the voter file to the vendor, the county must void the first ballot and generate a second ballot. If the county processes the change to the elector's record after it sends the voter file to the vendor but before the vendor prints ballots, the county must provide the vendor a voided ballot file to prevent the vendor from printing and preparing voided ballots for mailing.
- (b) If the county mails its own ballots, the county clerk must remove all voided ballots before mailing.
- (c) If the county processes the change to the elector's record after it mails ballots, the county must count the first ballot returned by the elector in accordance with section 1-7.5-107(6), C.R.S., except where an elector is affiliated with a political party, the county may only count the ballot issued for the elector's new party affiliation.
- (d) In a coordinated election that includes a general assembly vacancy race or county commissioner vacancy race, if the county clerk processes a change to the elector's party affiliation on the 22<sup>nd</sup> day or prior, but after the vendor has printed or mailed its ballots, and the elector's change in affiliation would allow the elector to vote in the general assembly vacancy race or county commissioner vacancy race when they could not have done so before, the county clerk must wait until all ballots are received to determine if the voter returned the ballot with the vacancy race included. If the elector returns the ballot with the vacancy race, the county may only count that ballot. If the elector only returns their original ballot without the vacancy race, the county must count that ballot.

7.2.5 Each mail ballot return envelope and mail ballot instruction must include a statement informing voters that it is a violation of law to receive more than ten ballots for mailing or delivery in any election.

7.2.6 A county that uses a vendor to mail ballots must print the elector's full name under or near the self-affirmation signature line on each ballot return envelope.

7.2.7 The county clerk must provide a space on the ballot-return envelope for a witness to the elector's mark to provide his or her full legal name.

- 7.2.8 The mail ballot packet required under sections 1-4-101(2)(b) and 1-4-1203(4)(c), C.R.S. must contain only the ballots of each participating major political party unless a major party's presidential primary election has been cancelled under section 1-4-1203(5), C.R.S.
- 7.2.9 An unaffiliated voter who wants to receive the mail ballot of a participating minor political party in the mail must request a replacement mail ballot or in-person ballot of that minor political party.
- 7.2.10 A voter affiliated with a qualified political organization is considered an unaffiliated voter for the purposes of Rule 7.2.
- 7.2.11 A voter affiliated with a political party that is not participating in the primary election will not receive a mail ballot.
- 7.2.12 The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in Rule 7.4.14. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).
- 7.2.13 Each mail ballot return envelope and mail ballot instruction for an unaffiliated voter must include a statement instructing the voter to return only one ballot.
- 7.2.14 The county clerk must issue a replacement mail ballot packet that contains ballots of all participating major political parties to an unaffiliated elector who requires or is eligible for a replacement ballot. If an unaffiliated voter requests a ballot for a minor political party that is participating in the primary election and allows unaffiliated voters to vote, the unaffiliated elector must be issued a replacement ballot with only that party's ballot included.
- 7.2.15 Print vendors may overlay a 2-D barcode for purposes of mailing and insertion provided that it only contains the precinct number and ballot style name and the information in the barcode is not traceable to any individual voter.

7.2.16 A county coordinating a mail ballot election with a special district in which property owners are eligible to vote under section 32-1-103(5)(a)(II), C.R.S., must automatically mail property owner ballots to active, registered voters who are certified as eligible by the district's designated election official.

7.2.17 Hole in return envelopes

- (a) No county clerk may use a ballot return envelope with a hole or any other opening of any size where the target area for any contest on a ballot can be seen in any way.
- (b) If a county intends to use ballot return envelopes with a hole punch or other opening, the county must provide written certification to the Secretary of State that:
  - (1) The diameter of any hole punch is smaller than the size of any target area bubble on the ballot that is to be enclosed within the envelope;
  - (2) The location of any hole punches or other openings are situated on the ballot envelope in locations to assist the visually impaired in locating where on the envelope they should sign the envelope; and
  - (3) The envelopes have been manually inspected and tested by the county clerk to ensure that no target areas are visible through the hole punches or other openings in the envelope considering all the ways a ballot could be reasonably folded and inserted into the envelope.

7.2.18 A county clerk who uses a mail ballot printing vendor must work with their vendor to establish a quality control process for all printed materials.

7.3 Emergency ballot transmission

7.3.1 The county clerk may deliver a replacement ballot as required by section 1-7.5-115, C.R.S., to an elector's authorized representative or to the elector by electronic transmission in the case of an emergency replacement ballot under section 1-7.5-115, C.R.S., upon receipt of a completed application by the elector. If the county clerk delivers an emergency replacement ballot to an elector by electronic transmission, the elector may return the ballot by electronic transmission.

- 7.3.2 Voters who request an emergency ballot be sent to them electronically must be directed by the county clerk to the online ballot delivery system maintained by the Secretary of State to receive their ballot electronically. The Secretary of State will maintain information regarding emergency ballots accessed using the online ballot delivery system.
- 7.3.3 The county clerk may send an emergency ballot and all materials provided in the online ballot delivery system by other means, including by fax or in-person through an authorized representative who presents a written statement from the voter, if the voter requests that method of delivery.
- 7.3.4 Upon receipt of the ballot, election judges must verify the signature on the affidavit under Rule 7.7. After the signature on the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot.
- 7.4 Receipt and processing of ballots
- 7.4.1 The county clerk must adequately light all drop box locations and use a video security surveillance recording system to monitor each location.
- (a) Drop box locations must be monitored when they are open to receive ballots.
  - (b) If the drop box location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored.
  - (c) Signage at each drop box location must inform voters that it is a violation of law for any person to collect more than ten ballots for mailing or delivery in any election, and that electioneering is prohibited within 100 feet of any drop box.
  - (d) The minimum number of drop box locations must be open 24 hours a day through 7:00 p.m. on election day.
  - (e) Video security surveillance must be retained by the county clerk as an election record.
  - (f) The county clerk must ensure that video security surveillance is ongoing at each open drop box by:

- (1) Visually confirming once per business day, and the Saturday and Sunday before election day, that the surveillance is operational for those cameras the county clerk can access remotely;
  - (2) Confirming via an email to a third party or other government agency who maintains and operates a camera, once per business day, and the Saturday and Sunday before election day, that the surveillance is operational for that camera. The clerk shall maintain a copy of the email confirming operation of the camera throughout the conclusion of the contest period, or any open contest for that election; and
  - (3) Otherwise confirming on each visit to pick up ballots from a drop box that the surveillance is operational for any other ballot drop box camera.
- (g) Drop box key security
- (1) The county clerk must assign and securely affix a unique identifier to each key used to open a ballot drop box. The county clerk may use a manufacturer assigned serial number on a key for this purpose, if present.
  - (2) The county clerk must handle ballot drop box keys in a secure manner at all times. The county clerk must store any key, when not in use by an election judge, in a secure container with at least one seal. Upon delivery to an election judge for use, election judges or county personnel must verify, and indicate by signing and dating the chain-of-custody log, that all seal numbers for the key storage container match those listed in the log.
  - (3) The county clerk must maintain a complete inventory of drop box keys, including which drop boxes those keys may be used to open during an election. At the beginning and end of each day in which the keys will be used to pick up ballots, election judges or county personnel must verify that all keys maintained by the county are present. If at any time election judges or county personnel cannot account for all drop box keys, the county clerk must submit an incident report to the Secretary of State under Rule 20.12.2.

- 7.4.2 Each day when ballots come in, an election official must count the ballot envelopes, batch them and record the number of ballots received.
- 7.4.3 A county clerk who receives an application and ballot from a voter with a disability covered under section 1-5-706, C.R.S. must maintain a log of each ballot and application received under this section. The county clerk must retain the log as part of the official election record. The log must include: the name of the voter; the date the ballot packet was received; and the initials of the election judge or employee who received the ballot.
- 7.4.4 An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Except for ballots submitted by military or overseas electors, any ballot received after the close of polls must be date-stamped but not counted.
- 7.4.5 The county clerk must arrange for the collection of ballots by bipartisan teams, of election judges and/or staff, from each drop box location once it is open and receive the ballots into SCORE.
- (a) For counties with less than 250,000 active electors as of the previous general election, at least twice on election day, at approximately 1:00 p.m. and 7:00 p.m.
- (b) The county clerk may meet the requirements of this Rule following the requirements of section 1-7.5-107(4.3)(c)(II), C.R.S.
- 7.4.6 Election officials must record the number of ballot packets returned as undeliverable and receive the ballot packets in SCORE upon receipt.
- 7.4.7 After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve, if applicable, and a voted ballot in a manner that ensures no person is able to determine how an individual voted.
- 7.4.8 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from receiving more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney and receive the ballots delivered by that person.
- 7.4.9 Before tabulating ballots, the county clerk must, to the extent practicable, dissociate counting batches from any SCORE batch number that could trace a ballot back to the specific voter who cast it.

## 7.4.10 Intercounty transfer of ballots

- (a) If an elector delivers a statewide or mail ballot to the county in which they do not reside, the county who initially received the ballot must take the following actions:
  - (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;
  - (2) Forward the ballot to the correct county;
    - (A) On and after election day, the ballot must be physically delivered, sent by next-day delivery if available, or sent by first class mail if next-day delivery is not available to the correct county.
    - (B) Ballots must be physically delivered or mailed no later than two days after election day.
    - (C) Ballots that are mailed must be sent to the mailing address provided by the receiving county clerk.
  - (3) 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 ballot tracking number, and the method of delivery for the ballot; and
  - (4) Beginning the day before election day, send, by secure electronic transmission, a scanned image of the outside of the mail ballot envelope, including the signature, to the county where the ballot will be sent. A county that physically delivers ballots to another county no later than the next business day, or immediately transmits them by next-day delivery, is not required to scan the envelope. The county receiving the image may perform signature verification upon receipt of the image.
- (b) The correct county must treat the ballot as received as of the date and time of the date stamp.

- 7.4.11 County clerks who deliver or receive ballots from electors who are confined in a county jail or detention facility must maintain a log of the number of ballots delivered and received from each facility and provide the log to the Secretary of State's office following an election that is not conducted in November. The county clerk must separately maintain a log of the number of voter registration forms received from the county jail or detention facility, or submitted to county clerk personnel who are on-site at the jail or facility.
- 7.4.12 If an election judge is unable to determine, before opening the envelope, which party's ballot an unaffiliated elector returned as outlined in Rule 7.2.12, the county must separate the elector's ballot from the envelope in the following manner:
- (a) An election judge must remove the ballot from the mail ballot return envelope and pass it to a bipartisan team of judges without allowing the team of judges to determine the identity of the elector.
  - (b) The bipartisan team of election judges must review the ballot and audibly report to the first election judge which political party's election the elector voted in.
  - (c) The first election judge must record in SCORE which political party's election the elector voted in, or document the proper party information for later recording in SCORE.
- 7.4.13 If an unaffiliated elector returns more than one ballot in a primary election, a bipartisan team of election judges must review the ballots to determine the elector's intent in accordance with the Secretary of State's Voter Intent Guide.
- (a) If the bipartisan team determines the elector voted in only one party's primary election, the election judge with access to the envelope must record the party chosen in SCORE and the ballot must be counted. The county must retain any unvoted ballot as an election record.
  - (b) If the bipartisan team determines the elector voted in more than one party's primary election, or returned only blank ballots, the county must reject the ballots, not count them, and retain them in the mail ballot return envelope as an election record.

## 7.5 Ballot returned in unofficial envelope

- 7.5.1 If the county timely receives a mail ballot from an eligible elector in an envelope that is missing or lacks the correct self-affirmation, the county must contact the elector by mail and by email, if available, within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record.
- 7.5.2 If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot.
- 7.5.3 A county that receives a ballot from a voter with a disability covered under section 1-5-706, C.R.S., in an unofficial envelope must accept the ballot for processing if the envelope also contains a signed application from the voter.

## 7.6 Mail ballot cure procedures

- 7.6.1 Except as provided in Rule 7.6.4, the county clerk must follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a), C.R.S., if:
- (a) A mail ballot return envelope lacks a signature;
  - (b) A provisional ballot return envelope lacks a signature;
  - (c) A ballot from a voter with a disability covered under section 1-5-706, C.R.S., is returned without an application; or
  - (d) A ballot from a voter with a disability covered under section 1-5-706, C.R.S., is returned with an application that is not signed and does not include a copy of an acceptable form of identification as defined by section 1-1-104(19.5), C.R.S.
- 7.6.2 The county clerk must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.
- 7.6.3 If the county clerk uses any means in addition to mail or electronic mail to contact any elector regarding a missing or discrepant signature or missing ID, he or she must attempt to contact all similarly situated electors whose registration records have the same type of contact information.

- 7.6.4 If an elector fails to cure a missing signature, the county clerk need not send a copy of the mail ballot return envelope to the district attorney for investigation.
- 7.6.5 The county clerk must accept any completed cure form for a missing or discrepant signature, or a missing ID, that the county receives by 11:59 pm MT on the eighth day after the election.
- 7.7 Signature verification procedures
- 7.7.1 When reviewing signatures through the use of signature verification judges, the county clerk must follow the requirements of section 1-7.5-107.3(2), C.R.S., for the initial and second level review of signatures, including:
- (a) The requirement that a single election judge conducts the initial level of signature verification; and
  - (b) The requirement that a bipartisan team of election judges review an escalated signature. That bipartisan team may not include the election judge who made the first decision to reject a signature.
- 7.7.2 If the elector's signature appears anywhere on the ballot return envelope, the election judge must verify the signature in accordance with section 1-7.5-107.3, C.R.S.
- 7.7.3 An election judge conducting signature verification must compare the self-affirmation signature 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 a signature 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.
- 7.7.4 If an election judge must conduct further research on an elector's signature, he or she must check SCORE for additional documents signed by the voter, if available.
- 7.7.5 An election judge may compare additional information written by the voter on the return envelope, such as the voter's address and date of signing. Any similarities noted when comparing other information may be used as part of the signature verification decision process.

- 7.7.6 If an election judge determines that a voter inadvertently returned his or her ballot in another household member's ballot return envelope, the election judge must process and prepare the ballot of the elector who signed the self-affirmation for counting if it is otherwise valid. The election judge need not send a signature discrepancy letter to the voter.
- 7.7.7 If, after bipartisan review, the election judges determine that a signature is discrepant, the judges must document the discrepancy and the research steps taken in a log that:
- (a) Identifies the elector only by name and voter identification number.
  - (b) Does not contain the elector's signature.
  - (c) Notes the final resolution and ballot disposition.
  - (d) Identifies the election judges responsible for final resolution and ballot disposition.
- 7.7.8 Signature verification judge audits
- (a) The county clerk must audit decisions made by election judges conducting signature verification.
  - (b) The audit must:
    - (1) Review, in total over an entire election, at least two percent or 50 decisions, whichever is less, of randomly selected decisions made by each election judge or bipartisan team;
    - (2) Be conducted on the same day or the next business day after signatures are reviewed by human judges until the requisite amount of reviews have been met;
    - (3) Review the decisions of each election judge or bipartisan team of judges who conducted signature verification;
    - (4) Be conducted by trained election judges or county election staff who have completed the signature verification training program provided by the Secretary of State or approved by the Secretary of State. The individuals conducting the audit may work alone or as a team of two, and multiple individuals or groups may work simultaneously;

- (5) Not allow an election judge or staff member to audit their own verification work; and
  - (6) Be recorded with the detailed information provided on a form approved by the Secretary of State.
- (c) After conducting the audit, if the county clerk determines that an election judge or team of election judges is incorrectly applying signature verification procedures, the clerk must retrain or remove that judge or team of judges from conducting signature verification.

7.7.9 The election official must use the letter and the signature verification form approved by the Secretary of State.

7.7.10 If the county uses a ballot sorting and signature capture device, the county clerk must test the device before using it in an election to ensure that it properly sorts envelopes, and accurately and clearly captures the signature on the envelope for comparison to the correct voter record. The device must also capture an image of the full side of the mail ballot envelope that contains the signature.

7.7.11 Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.

- (a) The county clerk must test Signature Verification Devices at the beginning of an election by following the procedures in this rule.
  - (1) The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.
  - (2) The county must pull and test at least the first 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.
    - (A) A team of bipartisan election officials must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
    - (B) If both election judges agree that a signature accepted by the device would not have been accepted if reviewed by election judges, the county

must immediately cease use of automated signature verification and notify the Secretary of State. The county clerk must not resume use until the Secretary of State and the county have worked in coordination to identify the issue and implement a solution.

- (C) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
- (b) The county must conduct a regular audit of each Signature Verification Device during its use.
    - (1) The county must pull a random sampling of at least five in every one-hundred machine-verified signatures daily.
    - (2) A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
    - (3) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
    - (4) If both election judges agree that a signature accepted by the device would not have been accepted if reviewed by election judges, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.
    - (5) No later than 90 days after election day, the county clerk must provide to the Secretary of State a report of the ballots audited under this rule on the form approved by the Secretary of State.
  - (c) The county must operate the device on a secure network.
    - (1) The county may connect the device to the county network only for maintenance and support.

- (2) The device must be secured by the county firewall.
- (3) The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, and the specific reason for access.

7.7.12 If a county uses a signature capture device to compare a ballot envelope signature to a signature maintained in SCORE, the system may display only one voter's signature at a time.

7.7.13 Following the election, the county clerk must report to the Secretary of State in writing the number of ballot return envelopes with discrepant signatures that the clerk forwarded to the district attorney for investigation.

7.7.14 On the first Wednesday of every August, the Department of State will provide to each county clerk a list of active registered and pre-registered electors aged 17 to 25, and active registered electors who have fewer than two reference signatures in SCORE. The list will not include voters who have an accepted signature from an election conducted within the prior three months. No later than September 15th, the county clerk must send correspondence on a form approved for use by the Department of State to every individual on the list provided by the Department of State to request an additional reference signature. The correspondence must be sent to the elector's mailing address on file and must also be sent by email and text, if available. Any signature returned by an elector must be added as a reference signature to the elector's voter file.

## 7.8 Voter service and polling centers

7.8.1 The county clerk must designate and open the minimum number of voter service and polling centers as required in section 1-5-102.9, C.R.S., for a general election and section 1-7.5-107(4.5), C.R.S., for all primary and coordinated elections.

(a) For a general election, the minimum number of voter service and polling centers must be open beginning 15 days before election day during the following hours:

- (1) In a county described in section 1-5-102.9 (1)(a)(I) or (1)(a)(II), C.R.S., voter service and polling centers must be

open from 8 A.M. to 5 P.M. Monday through Friday, and the second Saturday.

(2) In all other counties, voter service and polling centers must be open during normal business hours, which means at least eight hours per day Monday through Friday, and at least four hours continuously on the second Saturday.

(b) For any primary or November coordinated election, the minimum number of voter service and polling centers must be open beginning 8 days before election day during normal business hours, which means at least eight hours Monday through Friday, and at least four hours continuously on Saturday.

(c) All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.

(d) Signage at each voter service and polling center must indicate that it is a violation of law for any person to collect more than ten ballots for delivery in any election.

7.8.2 When determining where in a county a voter service and polling center or drop box should be placed in a general election, a county clerk must take into consideration the recommendations given by the voter center siting tool. The tool will be provided for use by the Department of State.

7.8.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers with sufficient election judges, WebSCORE workstations, voting equipment, and sufficient numbers of mail and in-person ballots that can be tabulated by the county's voting system without further duplication, and other supplies. A county may satisfy this Rule by providing a sufficient number of ballot marking devices or ballot-on-demand printers.

7.8.4 Except for voters with disabilities, the maximum allowable time in a voting booth is 15 minutes if there are voters waiting. The Secretary of State may order additional time based on the length of the ballot.

7.8.5 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 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.

- 7.8.6 If a voter leaves the voting area without completing the voting process, two judges of different affiliation must, to the extent possible, cover the voter's choices, and cast the ballot as the voter left it.
- 7.8.7 An unaffiliated elector voting in person at a voter service and polling center in a primary election must state which party's election he or she chooses to vote in, and the election judge must indicate the voter's selection in WebSCORE and provide the voter with that party's ballot.
- 7.8.8 On election day, a county must measure and record the wait time at each of its voter service and polling centers in accordance with the Secretary of State's written wait time policy document.
- 7.8.9 Each county must report its wait time data results to the Secretary of State no later than 30 days after the election.
- 7.8.10 A county clerk that receives notice of a petition for extending the hours of any voter service and polling center on election day must immediately notify the Secretary of State of the order. If an order is entered by any court that extends the hours of any voter service and polling center in the state, all counties must wait to post, publish, or disclose election night results until the time for the extension has passed; except that a county may upload its results to the secretary of state. The Secretary of State's office will not publish results on the Election Night Reporting system until all polls have closed.
- 7.8.11 The county clerk of any county that has a tribal council headquarters located within the county borders must notify the tribal council by letter that the tribal nation has the right to request that a voter service and polling center be located within the boundaries of the tribal nation in the upcoming general election. The county clerk must send this notification by mail no later than 225 days before the date of any general election.
- 7.8.12 In any election in which the multilingual hotline created by section 1-5-904, C.R.S., is in operation, the county clerk must provide the following at each voter service and polling center:
- (a) A sign approved by the Secretary of State that indicates that the multilingual hotline is available for use;

- (b) A telephone that can be used by a voter to access the multilingual hotline;
- (c) No later than the 2026 general election, a device that is capable of displaying and sharing video to access video relay interpretation through the multilingual hotline;
- (d) A designated staff person or election judge who can assist the voter to access and use the multilingual hotline; and
- (e) To the extent feasible, an area where the voter may utilize the multilingual hotline while privately marking their ballot.

7.9 The county clerk must complete an accessibility survey for all drop box and voter service and polling center locations annually before designating a location for use, and no later than 120 days before an election, the county clerk must designate drop-off, drop box, and voter service and polling center locations. In a presidential election year, the county clerk's accessibility survey for the presidential primary election serves as the annual survey for that voter service and polling center or drop box through the following general election.

7.9.1 For the first survey of a location, the county clerk must complete the full ADA Checklist for voter service and polling centers. The county clerk must complete the Annual Voter Service and Polling Center Accessibility Survey form for each location designated for use in an election year after the initial survey is completed.

7.9.2 If a location fails to meet the minimum accessibility requirements outlined in the ADA Checklist, the county clerk must develop a barrier removal plan outlining the modifications that the county clerk will implement to bring the site into compliance. The county clerk must indicate on the survey whether the modifications are temporary or permanent.

7.9.3 The Department of State will conduct site visits to assess compliance and identify accessibility barriers. The Secretary will seek injunctive action or other penalties under section 1-1-107(2)(d), C.R.S., as necessary to remedy violations of this Rule.

7.9.4 Prior to each election the county clerk must provide the Department of State with the name of the person or persons who will serve as the accessibility coordinator or accessibility coordinators for that election.

7.10 Voter service and polling center connectivity

- 7.10.1 The county must have real-time access to SCORE and WebSCORE at every voter service and polling center.
- 7.10.2 At no time may an election official open simultaneous sessions of both SCORE and WebSCORE on a single workstation.
- 7.10.3 Every voter service and polling center designated by the county clerk must meet the minimum security procedures for transmitting voter registration data as outlined in section 1-5-102.9, C.R.S., and Rule 20.9.1(b).
- 7.11 At each voter service and polling center, election judges and, if appropriate, election staff, must:
- 7.11.1 Provide all services outlined in 1-5-102.9, C.R.S., including providing blank cure forms and collecting completed cure forms for voters who wish to cure their ballot in accordance with sections 1-2-502.5 (4)(c), 1-7.5-107 (3.5)(d), or 1-7.5-107.3 (1.5), C.R.S.; and
- 7.11.2 Use WebSCORE to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots.
- 7.12 Assisting voters with disabilities in a voter service and polling center
- 7.12.1 The designated election official must post a sign at the voter service and polling center that states:

### NOTICE

#### VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES

*Colorado law protects a voter's legal right to assistance in voting if assistance is needed because of a disability.*

- 1. If you require assistance, please inform an election judge.*
- 2. Any person, including an election judge, may assist you.*
- 3. If you select a person other than an election judge, he or she must complete a Voter Assistance Form, which includes an oath that states:*

*I, ....., certify that I am the individual chosen by the elector to assist the elector in casting a ballot. I further certify that I will not in*

*any way attempt to persuade or induce the elector to vote in a particular manner, nor will I cast the elector's vote other than as directed by the elector I am assisting.*

4. *The person you select may provide any assistance you need, including entering the voting booth, preparing the ballot, or operating the voting machine.*
5. *The person assisting you may not seek to persuade you or induce you to vote in a particular manner.*
6. *The election judge must record the name of each voter who receives assistance and the name of the person who provides assistance on the signature card.*

7.12.2 If a voter has spoiled two ballots and requests a third ballot, an election official must offer assistance in voting and casting the ballot.

### 7.13 Voter history

7.13.1 After the canvass, the designated election official must give vote credit to each person who voted in the election.

7.13.2 If the voter history records do not match the number of voters at that election, the designated election official must ensure the following:

- (a) Each voter received credit; and
- (b) All signature cards are accounted for.

7.13.3 The designated election official must explain and document all research concerning discrepancies.

### 7.14 Reimbursement to counties for state elections.

7.14.1 No later than 90 days after election day, the county must submit a completed request for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request using the form provided by the Secretary of State, along with supporting documentation concerning the specific reimbursements being requested.

7.14.2 The following direct costs are deemed necessary and reasonable for an election and thus reimbursable by the state under section 1-5-505.5, C.R.S.:

- (a) The salary or hourly wages for permanent staff, temporary staff, election judges, and canvass board members that meet the following criteria:
  - (1) Overtime wages for county personnel for overtime spent performing election duties from the date of ballot certification through the completion of the canvass or a recount, whichever is later; and
  - (2) Wages for temporary staff, election judges, and canvass board members for time spent performing election duties from the date of ballot certification through the completion of the canvass or a recount, whichever is later;
- (b) Direct costs attributable to the hiring, training, and support of the work of election judges for that election, including:
  - (1) Creation, printing, and presentation of election judge training materials;
  - (2) Mileage paid to election judges for necessary and reasonable use of the election judge's personal vehicle for election-related tasks;
  - (3) Mobile phone or other electronic device operating costs for devices issued to election judges; and
  - (4) Food provided to election judges;
- (c) The printing and mailing costs that meet the following criteria:
  - (1) Ballot printing and insertion costs that are billed and paid by the county to a third-party vendor in connection with the specific, covered election. This includes direct costs to print mail, in-person, provisional, state, and test ballots, as well as the cost to insert ballots into mail ballot envelopes;
  - (2) Ballot printing costs incurred by a county that prints some or all ballots in-house at a reimbursable rate of \$0.05 per page, or a higher rate if the county can document the actual cost of in-house printing at the requested higher rate;

- (3) Ballot envelope printing costs that are billed and paid by the county to a third-party vendor in connection with the specific, covered election. This includes outgoing and return envelopes and any labels;
- (4) Additional ballot material printing and insertion costs for inserts or other materials that are required by statute or rule and that are included in a ballot packet mailing where such costs are billed and paid by the county to a third-party vendor in connection with the specific, covered election. This includes the cost to print and insert voter instructions, or other required mail ballot inserts;
- (5) Printing and mailing costs for correspondence that is required by section 1-2-508(3)(a)(I) and Articles 7.5 and 8.5 of Title 1, C.R.S., and Rules 7.5, 7.6.1, and 17.2.7;
- (6) Forms printed for use at a voter service and polling center and central counting facility;
- (7) Election notice printing, mailing, and publication costs. This includes the cost to publish the statutory notice of election that is billed and paid by the county to a news organization in connection with the specific, covered election;
- (8) Ballot shipping and mailing costs that are billed and paid by the county to the postal service or a third-party vendor in connection with the specific, covered election. This includes costs to ship outgoing ballots for delivery and postage for outgoing ballots;
- (9) Ballot-on-demand supplies that are billed and paid by the county to a third-party vendor in connection with the specific, covered election. This includes the cost to purchase card stock, toner, and other necessary materials for the operation of ballot-on-demand printers in connection with the specific, covered election;
- (10) Postage for undeliverable returned mail ballots and other correspondence required by section 1-2-508(3)(a)(I) and Articles 7.5 and 8.5 of Title 1, C.R.S., and Rules 7.5, 7.6.1, and 17.2.7 in connection with the specific, covered election;

- (11) Insufficient postage costs for ballots and other correspondence returned by the county's voters in connection with the specific, covered election; and
  - (12) Intercounty ballot transfer mailing or delivery costs in connection with the specific, covered election. This includes the cost to mail, ship, or physically deliver statewide ballots and other ballots returned to the county in which the elector does not reside;
- (d) Ballot programming and election services, including:
- (1) Third-party vendor onsite support during the specific, covered election that is deemed necessary to the execution of the election, rather than complementary from the vendor;
  - (2) Third-party ballot layout and programming support for the specific, covered election; and
  - (3) Third-party ballot-on-demand ballot programming support for the specific, covered election;
- (e) Voter service and polling center costs, including:
- (1) Location rental expenses that are billed and paid by the county in connection with the specific, covered election;
  - (2) Office supplies that are purchased by the county for use at the voter service and polling center during the specific, covered election;
  - (3) Equipment rental expenses for equipment used at voter service and polling center that are billed and paid by the county to a third-party vendor in connection with the specific, covered election;
  - (4) Ballot and equipment delivery and collection expenses that are billed and paid by the county to a third-party vendor in connection with the specific, covered election; and
  - (5) Remote connectivity for voter check-in equipment that is billed and paid by the county to a third-party vendor in connection with the specific, covered election;

- (f) Security expenses that are not separately covered by grants or other funding from either the Department's security grant program or from other state or federal sources, including:
  - (1) Incremental additional video surveillance storage costs documented by the county clerk as directly attributable to the specific, covered election and that is billed and paid by the county to a third-party vendor;
  - (2) Seals purchased for use during the specific, covered election;
  - (3) Colorado Bureau of Investigation background checks requested in connection with the specific, covered election; and
  - (4) On-site security personnel contracted to provide security for elections staff and processes that are billed and paid by the county to a third-party vendor or overtime wages for county personnel for overtime spent performing security for election staff and processes in connection with the specific, covered election;
- (g) Translation costs for translating any content directly attributable to the specific, covered election and that are billed and paid by the county to a third-party vendor; and
- (h) Other additional incremental direct costs, which the county clerk can clearly document as directly attributable to the conduct of the specific, covered election.

7.14.3 The following costs are deemed not necessary and reasonable for an election and thus not reimbursable by the state under section 1-5-505.5, C.R.S.:

- (a) Any cost that is above the fair market value of the goods or services for which reimbursement is sought, where such fair market value is established by a competitive solicitation or other generally accepted methods for establishing a competitive price;
- (b) Annual voting system firmware, software, and other election management license fees;

- (c) Annual preventative maintenance expenses;
- (d) Non-voting system equipment annual agreements;
- (e) Ballot issue notices;
- (f) Overhead expenses incurred by the county. This includes:
  - (1) Facilities costs such as utilities, grounds maintenance, insurance, leased space, and other costs that are not a direct result of an election;
  - (2) Normal wages and benefits provided to county personnel; and
  - (3) Annual permits for postage;
- (g) Purchase or lease of equipment used for more than one election; and
- (h) Costs for observers or supervisors appointed by the Secretary of State, unless otherwise ordered by the Secretary of State.

7.14.4 When submitting a request for reimbursement of election expenses under section 1-5-505.5, C.R.S., documentation supporting the requested reimbursement must include receipts, purchase orders, invoices, payroll records, or any other documentation that is sufficient to reflect what the purchase or expenditure obtained, the amount of the cost that was paid by the county, how that cost was calculated, when the cost was paid by the county, who was the recipient of the payment, including their name and contact information, and whether any part of the cost was paid in whole or in part by another person, organization, or government entity, including the amount that was paid by that third party.

#### 7.14.5 Review and audit of reimbursement request

- (a) The Department will review and evaluate the propriety of any expense submitted for reimbursement under section 1-5-505.5, C.R.S., and will not provide payment on the requested reimbursement until the Department is satisfied that the requested reimbursement meets all requirements set forth in these rules.

- (b) In the event the Department requests documentation of the fair market price of any goods or services for which the county seeks reimbursements, the county will provide any and all documentation concerning the procurement process that was used and the evaluation of prices proposed by the vendors solicited. The Department's determination as to what constitutes a fair market price for a cost will include any regional or local variations in the costs for specific goods or services.
- (c) Any payment of a reimbursement request is without prejudice to the authority of the Department to clawback any portion of a reimbursement payment that is subsequently found to have been unauthorized or inconsistent with the requirements of these rules.

#### 7.14.6 Reimbursement spending authority

- (a) The Department's spending authority for the amount of reimbursement payments to counties is set each year by the General Assembly through the Long Bill managed by the legislature's Joint Budget Committee. The Department will pay counties the statutory percentage established in section 1-5-505.5, C.R.S., up to the amount of spending authority approved in the Long Bill on a first-submitted/first-approved basis.
- (b) Notwithstanding the foregoing first-submitted/first-approved basis, counties with more than 425,000 active registered voters as of the date of the election for which reimbursement is being sought and which submit cost reimbursement requests that are otherwise permissible under these rules but for which the General Assembly has not approved sufficient spending authority will not be paid until additional spending authority is approved by the General Assembly.
- (c) The Department will notify the General Assembly within five business days of reaching the level of approved reimbursement expenses that exceeds the amount of spending authority approved for such reimbursements in the Long Bill. Unless and until the General Assembly approves additional spending authority for the amounts of approved reimbursement expenses that exceed the Long Bill's cap, any county's outstanding request for excess reimbursement spending will be held by the Department and submitted to the Joint Budget Committee as part of the Department's budget request for the next budget cycle.

- 7.15 Within 45 days after election day, or before the first day to conduct signature verification at the next county or municipal mail ballot election, whichever is sooner, the county clerk must scan into SCORE the elector's signature and signature date on each accepted mail ballot return envelope and on any cure letter returned by the elector. In a presidential primary year, the deadline for scanning signatures and signature dates from all prior elections that year is extended to 45 days after the state primary election.
- 7.16 Anonymity
- 7.16.1 Measures to protect anonymity include:
- (a) The county may not keep any record indicating the order in which people voted on the BMD.
  - (b) When more than one BMD is available at a voting location, the county must, to the extent practicable, allow the voter to choose the BMD they wish to vote on.
- 7.16.2 The county clerk may not release a report generated from SCORE that includes a date and time stamp that could potentially identify a voter who cast a specific ballot.
- 7.16.3 The county must arrange voter service and polling center in a manner that prevents election officials and other voters from observing how any voter marks or casts their ballot.
- 7.16.4 The county clerk must arrange voter service and polling centers in a manner that prevents a video surveillance camera from recording a voter marking or casting their ballot.
- 7.17 Data entry standards for district, position, and ballot style names in SCORE. Authorized SCORE users must comply with the data entry standards set forth in this Rule when naming districts, positions, and ballot styles in SCORE's Districts & Precincts and Election Management modules.
- 7.17.1 District names: county clerks must name local districts in SCORE's Districts & Precincts module exactly the same as they are named in the Department of Local Affairs' Local Government Information System (LGIS), with two exceptions:
- (a) LGIS lists municipalities by name followed by a comma and the municipality type. SCORE users must enter the names of

municipalities in SCORE according to common usage, so that the municipality type precedes the municipality's name. By way of example, if LGIS lists *Avon, Town of*, the county must name the municipality in SCORE as *Town of Avon*.

- (b) LGIS lists school districts by the state board of education's truncated organization name with the words "school district" appended at the end of the district's name. Counties must enter the district's name into SCORE according to common usage. By way of example, if LGIS lists a school district as *Las Animas RE-1 School District*, the county must name the district in SCORE as *Las Animas School District RE-1*.

7.17.2 Position names: counties must name positions in SCORE so that the full name of the district precedes the position or office name followed by the position district number or letter and term of years, if certified by the responsible designated election official, if any. The county clerk may delete the full district name from the position or office name on ballot art if a ballot header or contest heading sufficiently identifies the participating district, but the position must be named in accordance with this Rule to ensure it is included in the county's election definition export, election results exports, and cast vote record files. For example:

- (a) County position names: Adams County Commissioner – District 1; Adams County Clerk and Recorder; Adams County Treasurer; Adams County Assessor; Adams County Sheriff; Adams County Coroner; Adams County Surveyor;
- (b) Municipal position names: City of Aspen city council – at large; City of Aspen city council – ward 2; Town of Mancos board of trustees – ward 1; City of Littleton mayor;
- (c) School district position names: Alamosa School District RE-11J Board of Directors – District 2 (2-year Term); Kit Carson School District R-1 Board of Directors – District A; and
- (d) Special district position names: Allison Valley Metropolitan District No. 2 Board of Directors (2-year term); Denver Southeast Suburban Water & Sanitation District Board of Directors (4-year term).

7.17.3 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-yy or xxx-yyy, where xxx is the final three digits of the ten-digit precinct number, and yy or yyy is the district style number. A county clerk must use a two or three-digit number for the district style component of the ballot style name even if in any election SCORE generates fewer than 10 district styles. 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 001-01, 002-01, and 003-01 or 001-001, 002-002, and 003-003.
- (b) If the county reports results of an election by ballot style, the county must name the ballot style with the district style number from 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, or 01, 02 and 03. 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.
- (c) For primary elections, the county must append to the ballot style name SCORE's abbreviation of the name of the political party for which the primary ballot is prepared. By way of example, in a county that reports primary election results by precinct in which there are more than 99 precincts and 9 district styles, and district style 1 is the Democratic Party and district style 2 is the Republican Party ballot for precinct 1, the county must name the Precinct 1 ballot styles as 001-01 DEM and 001-02 REP. In a county with fewer than 10 precincts and only two primary election district styles, the county must name the ballot styles 1 DEM and 2 REP, or 01 DEM and 02 REP. If the county reports primary election results by ballot style, the county must name the ballot styles 1 DEM and 2 Rep.

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**Rule 8. Watchers**

- 8.1 A watcher must affirm that they are qualified to act as a watcher under Colorado law. The county clerk must accept the appointment of all eligible watchers duly certified by a political party, candidate, or issue committee under sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.1.1 The registered agent or designated filing agent for an issue committee is the authorized representative to appoint watchers for the issue committee.
- 8.1.2 Watchers may be appointed for a recall election by each qualified successor candidate, the proponents and opponents of the recall ballot question, and each participating political party for a partisan recall election.
- 8.1.3 For the purpose of appointing a watcher, the proponent or opponent of a ballot measure means a registered issue committee supporting or opposing the ballot measure.
- 8.1.4 A designated watcher need not be a resident of the county they are designated in as long as they are an eligible elector in the State of Colorado.
- 8.1.5 The county clerk must confirm a watcher's eligibility before allowing the watcher to perform his or her duties. If the county clerk is unable to confirm the watcher's eligibility, the clerk must promptly inform the appointing entity.
- 8.1.6 A watcher may provide a copy of his or her current registration record from the Secretary of State's website with the Certificate of Appointment to satisfy the eligibility-confirmation requirement.
- 8.1.7 A watcher for an issue committee may provide a TRACER print-out of the issue committee registration with the Certificate of Appointment to show that the person appointing the watcher is permitted to appoint under Rule 8.1.1.
- 8.1.8 A watcher must complete a training provided by or approved by the Secretary of State before observing election activities where confidential or personally identifiable information may be within view or before observing voters dropping ballots off at a drop box. To verify completion of the training, a watcher must provide his or her training certificate of completion with the Certificate of Appointment. A training certificate of

completion is valid until December 31 of that calendar year. An approved training may be used for one calendar year from the date approved.

- 8.1.9 Watchers who wish to observe voters dropping ballots off at a drop box must first submit their Certificate of Appointment and proof of completion of training to the county clerk's central office. The certificate of completion must list the drop box locations the watcher intends to observe and the dates and times the watcher intends to observe them.
- 8.2 Interested parties may appoint and certify watchers to observe recall elections held under Article 12, Title I, C.R.S., in accordance with sections 1-7-106 and 1-7-107, C.R.S.
- 8.3 A political party attorney may not be in the polling location unless he or she is a duly appointed watcher or is casting his or her ballot.
- 8.4 A watcher may be certified to observe more than one location in which the county is conducting election activities. A watcher must present a Certificate of Appointment at each location where the watcher is designated to observe, unless the county clerk has established an alternate process.
- 8.4.1 If a watcher leaves a location but returns to the same location, another certificate of appointment is not necessary.
- 8.4.2 A new watcher who is replacing an original watcher must provide his or her certificate of appointment for that polling location.
- 8.4.3 A certificate of appointment as a watcher is not transferable to another individual.
- 8.4.4 In addition to the requirements of Rule 8.1.6, a watcher who has been appointed to watch a drop box must present a Certificate of Appointment:
- (a) To the supervisor election judge of a voter service and polling center that is open, if the drop box is located within or outside the building where the voter service and polling center is located;
  - (b) To the county clerk if the drop box is located outside the clerk's office; or
  - (c) To the county clerk if the drop box is located in any other location not listed in subsections (b) or (c).

- 8.5 A watcher must take the oath described in section 1-7-108(1), C.R.S.
- 8.6 Removal of Watchers.
- 8.6.1 A county clerk or his or her designee may remove a watcher upon finding that the watcher:
- (a) Committed or encouraged fraud in connection with his or her duties;
  - (b) Violated any of the limitations outlined in Rule 8.14;
  - (c) Violated his or her oath; or
  - (d) Was abusive or threatening toward election officials or voters.
- 8.6.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.
- 8.6.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.7 The county clerk must submit a watcher accommodation plan to the Secretary of State by email using the approved form no later than 90 days before an election.
- 8.7.1 Watchers may be present at each stage of the conduct of the election, including when electors are voting or when election judges are present and performing election activities.
- 8.7.2 The county clerk must provide, and identify in some manner, at least one primary contact for watchers at each location where election activities are performed when watchers are present.
- 8.7.3 At voter service and polling centers, the designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.
- 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule 1.1.35 applies only to voting and dropping ballots off at a drop box.
- 8.8 The minimum number of watchers the county clerk must accommodate for each appointing entity in a nonpartisan, coordinated election is as follows:

- 8.8.1 In a central count facility, one watcher per central count process, but in any case not less than one watcher for every ten election judges.
  - 8.8.2 During signature verification, one watcher for every four election judges.
  - 8.8.3 At each voter service and polling center, one watcher, or one watcher per voter service and polling center process.
  - 8.8.4 At each ballot drop box, one watcher.
  - 8.8.5 The number of watchers permitted in any room at one time is subject to space limitations and local safety codes.
- 8.9 Observation of off-site activity
- 8.9.1 A watcher may observe election activities at a group residential facility, as defined in section 1-1-104(18.5), C.R.S., only if the watcher contacts the county clerk beforehand to arrange the time and location. While at a group residential facility, a watcher must maintain an adequate distance from the elector so the elector may mark or receive assistance marking his or her ballot in private. A watcher may not enter a voter's private room or apartment unless the voter consents.
  - 8.9.2 If permitted by the county clerk and county sheriff, a watcher may observe election activities inside a county jail or detention center. If permitted to attend those activities, the watcher must follow all rules and procedures prescribed by the county clerk and county sheriff. Those rules and procedures prescribed by the clerk and sheriff may be different than those rules in place for watchers watching other election activity.
- 8.10 Watchers are subject to the provisions of section 1-5-503, C.R.S.
- 8.10.1 A watcher may witness and verify activities described in Title 1, C.R.S. If election officials are conducting election activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.
  - 8.10.2 Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities. This includes 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.

- (a) Election activities include:
  - (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.
- (b) Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.
- (c) Individuals allowed to attend the logic and accuracy test under section 1-7-509(2), C.R.S., do not need to be credentialed as watchers. The county clerk may limit attendance to the logic and accuracy test subject to space limitations and local safety codes.
- (d) During a recount, the county clerk must give priority to watchers appointed by the candidates, political parties, or proponents or opponents of a ballot issue or question who are the subject of the recount to attend the recount activities. Other candidates, parties, or proponents or opponents of a ballot issue or question authorized to appoint watchers for that election may also be allowed access to recount activities if their presence watching that activity will not

result in space limitations or local safety codes being exceeded, as determined by the county clerk.

- (e) The county clerk must allow a watcher to possess a mobile phone to send or receive text messages while watching election activities as long as the watcher is not located where personally identifiable information is within view as required by section 1-7-108(4), C.R.S.
- 8.11 The county clerk must provide a list of all voters who have cast a ballot in the county. If requested, the county clerk must make the list available at least daily at the clerk's main office or provide the list electronically.
- 8.12 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13.
- 8.13 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:
- 8.13.1 Attempt to determine how any elector voted;
  - 8.13.2 Disclose or record any confidential voter information that he or she may observe; or
  - 8.13.3 Disclose any results before the polls are closed.
- 8.14 A county clerk must revoke the certificate of a watcher who:
- 8.14.1 Personally interrupts or disrupts the processing, verification, and counting of any ballots or any other stage of the election, including lodging repeated challenges of voters or mail ballots on bases, or in locations, that are not authorized by statute or these Rules after being advised that such bases are not authorized.
  - 8.14.2 Writes down any ballot numbers or any other personally identifying information about the electors.
  - 8.14.3 Touches or handles the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.

- 8.14.4 Interferes with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots, which includes voters dropping off ballots at a drop box.
- 8.14.5 Communicates with election judges about that judge's duties while that election judge is currently on duty, unless the judge is the designated watcher contact.
- 8.14.6 Uses a mobile phone or other electronic device to make or receive an audio or video communication in any polling location or other place election activities are conducted, including while observing a ballot drop box.
- 8.14.7 Uses any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted, including while observing a ballot drop box.
- 8.14.8 Has in their open and visible possession any mobile phone or other electronic device while watching election activities where voters' confidential or personally identifiable information is within view.
- 8.14.9 Attempts to determine how any elector voted.
- 8.14.10 Discloses or records any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.
- 8.14.11 Discloses any results before the polls have closed.
- 8.14.12 Attempts to intimidate or interfere with an election judge or other election officials during the discharge of that judge or official's duties.
- 8.14.13 Attempts to dissuade a voter from returning a ballot or multiple ballots to a drop box.
- 8.14.14 Refuses or fails to wear an approved badge identifying themselves as a watcher while observing a ballot drop box as required by Rule 8.15.
- 8.15 A watcher observing a drop box must at all times while observing the box display an identification badge that states "Official election watcher for (*appointing candidate or entity*)" in bold-faced type that is clearly legible. The badge must be provided by the appointing entity and shown to the county clerk at the time the watcher delivers the Certificate of Appointment to the county clerk.

- 8.16 If a watcher disputes a decision made by an election judge or alleges a discrepancy, the watcher must alert the designated watcher contact.
- 8.17 The Secretary of State must approve Official Observers appointed by the federal government. Official observers are subject to Colorado law and these Rules. But an Official Observer is not required to be an eligible elector in the jurisdiction. This Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers must obtain a letter of authority from the Secretary of State and surrender the letter to the county clerk.
- 8.18 Media Observers may witness all election activities. A county clerk may, in his or her discretion, require a media observer to appoint a pool reporter and a pool photographer to represent all media observers. All media observers are subject to the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Association and the Secretary of State as outlined below:

Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):

The Colorado State Association of County Clerks and Recordors, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of county clerks to count ballots or doing anything to compromise the integrity of the election process.

1. If practical, please contact the county clerk's office prior to coming to observe the counting of ballots. If the county clerk knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.
2. At the discretion of the county clerk, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take

the photos or video you need, the county clerk may be able to make arrangements to accommodate your needs.

3. Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.
4. The Secretary of State's Election Rules state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.
5. Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standards will help us to meet all these goals.

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**Rule 9. Voting Challenges**

## 9.1 Challenging an 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, 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.

9.1.2 Citizenship. The election judge must ask the elector, "Are you a citizen of the United States?"

9.1.3 Residency. The election judge must ask the elector the following questions:

- (a) "Will you have resided in Colorado for the 22 days before election day?"
- (b) "Do you reside at the address stated in your voter registration record?"
- (c) "Have you been absent from Colorado during the past 22 days?" If the elector responds that he or she was absent during the 22-day period, the election judge must also ask the following questions:
  - (1) "Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?"
  - (2) "While you were absent, did you consider Colorado to be your home or did you maintain a home or domicile elsewhere?"
  - (3) "While you were absent, did you vote in any other state or territory of the United States?"

9.1.4 Age. The election judge must ask the elector, "Will you be 18 years of age or older on election day?"

## 9.2 Challenging a mail ballot voter

9.2.1 Challenges of a mail ballot must be made in writing on the form approved for use by the Secretary of State, at the county clerk's office, and must include all information required on the form. Once filled out, the challenge must be delivered to a person designated by the county clerk who did not make the challenge. The person designated by the county clerk to receive the challenge form must attach the challenge form to the mail ballot being challenged and process the challenge in accordance with this Rule 9.

9.2.2 If an individual challenges a mail ballot for forgery of a deceased person's signature on the mail ballot envelope or for submission of multiple ballots by the same voter for the same election, the election judge must forward the ballot to two other election judges of different political party affiliations designated by the county clerk who must jointly review the elector's eligibility to vote. At their request, the election judges may receive assistance in making their eligibility determination from county clerk staff. A challenge for submission of multiple ballots under this rule does not apply to an unaffiliated voter who returns more than one party's ballot.

(a) If both election judges determine the mail ballot should not be counted because they believe it contains a forgery of a deceased person's signature on the mail ballot envelope, or they believe it is one of multiple ballots cast by the same voter for the same election, then the following steps must be taken by the county clerk:

- (1) The county clerk must send to the challenged voter:
  - (A) Notification that their ballot has been challenged;
  - (B) A copy of the challenge form;
  - (C) A form for the eligible elector to return confirming that the elector returned their mail ballot or did not return more than one mail ballot as applicable;
  - (D) Instructions to the eligible elector to return a copy of the elector's identification as defined in section 1-1-104 (19.5); C.R.S., and
  - (E) Notification to the eligible elector that the challenge and elector's response must be referred to the district attorney under section 1-9-209, C.R.S.

- (2) Notification of the challenge must be sent within three days after the challenge has been made, but no later than two days after election day.
  - (3) The challenged ballot must be counted if the ballot is otherwise valid and the county clerk receives the form from the eligible elector within eight days after election day, including:
    - (A) A statement that the elector returned a mail ballot to the county clerk and recorder or did not vote more than once in an election as applicable; and
    - (B) A copy of the elector's identification as defined in section 1-1-104 (19.5), C.R.S.
  - (4) If the county clerk receives a form indicating that the elector did not return a ballot to the county clerk, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope must be categorized as incorrect, and the ballot may not be counted.
- (b) If either election judge determines the challenge should be rejected, then the county clerk must count the elector's ballot if it is otherwise valid. Unless the challenge is withdrawn, the county clerk must send the challenged voter:
- (1) A copy of the challenge along with notification that the challenge was rejected;
  - (2) Notification that the ballot was counted;
  - (3) Instructions to the elector allowing them to otherwise respond to the challenge; and
  - (4) Notification that the challenge and elector's response must be referred to the district attorney under section 1-9-209, C.R.S.

9.2.3 If an individual challenges a mail ballot for any reason other than for forgery of a deceased person's signature or for submission of multiple ballots cast by the same voter for the same election, the election judge

must forward the challenge to the county clerk and otherwise process the mail ballot as normal. Unless the challenge is withdrawn, the county clerk must send the challenged voter:

- (a) A copy of the challenge;
- (b) Notification that the ballot was counted;
- (c) Instructions to the elector allowing them to otherwise respond to the challenge; and
- (d) Notification that the challenge and elector's response must be referred to the district attorney under section 1-9-209, C.R.S.

9.2.4 Following the election, the county clerk must send a copy of all challenges that have not been withdrawn, along with any responses received from the challenged voters, to the district attorney as required by section 1-9-209, C.R.S.

**Rule 10. Canvassing and Recount**

## 10.1 Precanvass accounting

10.1.1 Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

10.1.2 Daily voter service and polling center ballot accounting. The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.1.3 After a polling location closes for the day election judges must complete the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.

- (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

10.1.4 After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots to one of the election offices designated in the election plan.

10.1.5 The designated election official must review the Statement of Ballots forms for completion and accuracy.

## 10.2 Appointment to the Canvass Board

10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.

10.2.2 For an election conducted with any partisan ballot content, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.

10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.

10.2.4 A candidate for office and members of the candidate's immediate family may not serve on the canvass board.

10.2.5 The designated election official may appoint canvass workers to help prepare and conduct the canvass.

## 10.3 Duties of the Canvass Board

10.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.

10.3.2 The canvass board's only duties are to:

- (a) Conduct the canvass and certify the official abstract of votes in accordance with section 1-10-101.5, C.R.S., by:

- (1) Reconciling the number of ballots counted to the number of ballots cast; and
  - (2) Reconciling the number of ballots cast to the number of voters who voted.
- (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 25.2 or 25.3;
  - (c) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and this Rule; and
  - (d) For a canvass board of a controlling county with an instant runoff voting contest that is contained in more than one county, review the final ranking data for that contest from each county to certify a winner of the instant runoff voting contest to the local jurisdiction.

10.3.3 The canvass board may not perform duties typically reserved for election judges while canvassing the results, while including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility, including reviewing signatures that have been accepted or rejected; and
- (c) Requesting new logs or reports that were not created to conduct the election.

10.3.4 Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule 25.1.4 must manually adjust the preliminary results to account for discrepancies identified in the risk-limiting audit if directed by the Secretary of State.

## 10.5 Procedures for Canvass

10.5.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The total number of ballots cast;
- (d) The number of provisional ballots cast, including totals for:
  - (1) Ballots accepted by each code; and
  - (2) Ballots rejected by each code.
- (e) The number of mail ballots cast, including totals for:
  - (1) Ballots accepted; and
  - (2) Ballots rejected by each code.
- (f) The number of in-person ballots counted;
- (g) The number of damaged and spoiled ballots.
- (h) If applicable, the number of ballots cast in each party's primary election, including totals for:
  - (1) Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and
  - (2) Ballots rejected by each code;
- (i) If applicable, the ranked voting results report required by section 1-71003(7)(a)(I) and (III), C.R.S.; and
- (j) For a canvass board of a controlling county with an instant runoff voting contest that is contained in more than one county, the final, certified, ranking data for the instant runoff voting contest from each county with that contest to allow the canvass board of the controlling county to certify a winner to the local jurisdiction.

10.5.2 Any written documentation regarding official results must be included as part of the canvass.

## 10.6 Official abstract and reporting to the Secretary of State

10.6.1 The official county abstract must include, by precinct or ballot style, where applicable:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue, including the number of write-in votes cast for each qualified write-in candidate certified to the ballot by the Secretary of State;
- (d) The total number of ballots cast in the election;
- (e) For instant runoff voting contests conducted by a county clerk that are within a single county, the round-by-round tabulation results of each race; and
- (f) For instant runoff voting contests conducted by a county clerk that are contained in more than one county, a report detailing the rankings each candidate received in the county.

10.6.2 A county must submit the state portion of the abstract and the ENR upload required by Rule 11.9.6 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

- (a) The summary of votes cast for each state race and each ballot question or issue;
- (b) The total number of ballots counted in the election; and
- (c) For instant runoff voting contests conducted by a county clerk that are contained in more than one county, the final, tabulated results of that contest.

10.6.3 A county must notify the Secretary of State immediately after the meeting of the canvass board if:

- (a) The canvass board votes not to certify the abstract of votes cast;
- (b) The canvass board otherwise fails to take action to certify the abstract of votes cast; or

- (c) In an election conducted with partisan ballot content, the composition of the canvass board did not consist of:
  - (1) An equal number of board members appointed from each of the opposing major parties; and
  - (2) The county clerk or deputy clerk.

## 10.7 The County Abstract is the Official Permanent Record

10.7.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

10.7.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

## 10.8 Role of the Secretary of State

10.8.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections.

10.8.2 The county clerk or any canvass board member may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.

10.8.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.

## 10.9 Recount generally

10.9.1 The purpose of a recount is to re-tabulate the ballots.

10.9.2 A county that has successfully completed a comparison audit under Rule 25.2 and reported no discrepancies in the recount contest need not re-scan ballots during a requested recount, except as provided in Rule 10.9.3. In all cases, the county must re-adjudicate ballot images for voter intent in accordance with Rule 10.13.3.

10.9.3 An interested party, as defined in section 1-10.5-106, C.R.S., may request that the county re-scan ballots. The request is due no later the day in which a recount is paid.

10.9.4 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.

10.9.5 If there is a recount in a local jurisdiction whose borders encompass area in more than one county, the controlling county, as defined in Rule 4.2.2, must coordinate the scheduling and conduct of the recount with each county that shares the jurisdiction.

10.9.6 Recounts for instant runoff voting contests. The smallest margin in an instant runoff voting contest will be determined by calculating the minimum number of votes that would have to be different to change the round-by-round count, such that the winner in the final round of tabulation would be different. If the smallest margin between two candidates in an instant runoff voting contest is less than or equal to one-half of one percent of the votes cast in the contest, then a recount must be held in accordance with section 1-10.5-103, C.R.S.

- (a) If a recount must be held, the county clerk or designated election official appointed by the municipality holding the ranked voting contest must order a recount of an instant runoff voting contest within a single county, following the canvass of results by the county canvass board or designated election official, as applicable.
- (b) If a recount must be held, each county clerk must order a recount of an instant runoff voting contest contained in more than one county following the canvass of results by the controlling county of the election.

#### 10.10 Recount cost estimates and reimbursements

10.10.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:

- (a) Mailings and notices;
- (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
- (c) Copies and other office expenses related to the recount.

- 10.10.2 Requested recounts
- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.
  - (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount and must distinguish the cost for conducting the recount with and without rescanning the ballots.
  - (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.
- 10.11 In accordance with section 1-10.5-107, C.R.S., and Rule 10.3.2(c), the canvass board's role in a recount includes selecting ballots for the test, observing the recounting of ballots, and issuing an amended abstract of results, if necessary.
- 10.12 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S.
- 10.13 Counting ballots during a recount
- 10.13.1 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.
- 10.13.2 Ballots must be reviewed for voter intent using the standards in Rule 18.
- (a) Every overvote, undervote, blank vote, ambiguous mark, and write-in vote in the races or measures subject to the recount must be reviewed in accordance with the Voter Intent Guide.
  - (b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.
- 10.13.3 To recount ballots by hand count.
- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.

- (b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

10.13.4 Tabulation of ballots must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

10.13.5 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

#### 10.14 Canvass and reporting results for a recount

10.14.1 For a plurality race or ballot measure, the county clerk must report the results of the recount as the combined total of votes for each race or measure recounted. The total must include undervotes, blank votes, valid write-in votes, and overvotes for the race or measure recounted.

10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

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**Rule 11. Voting Systems****11.1 Voting system access**

11.1.1 In accordance with section 24-72-305.6, C.R.S., all permanent and temporary county staff and all vendor staff who have access to the voting system or any voting or counting equipment must pass a criminal background check. A person convicted of an election offense or an offense containing an element of fraud may not have access to a code, combination, password, or encryption key for the voting equipment, ballot storage area, counting room, or tabulation workstation.

**11.2 Voting system inventory**

11.2.1 The designated election official must maintain an inventory record for each component of the voting system. The record must include the manufacturer, make, model, serial number, and date of last trusted build.

11.2.2 The inventory must be in an electronic format and exportable to a comma separated value (CSV or TXT), or Excel spreadsheet (XLS or XLSX) file.

11.2.3 The designated election official must file the voting system inventory required by Rule 11.2.1, noting which equipment will be used for the election, with the Secretary of State no later than ten days before the election.

11.2.4 A county clerk must notify the Secretary of State if a license agreement with a voting system vendor is terminated within one week after the agreement is terminated. A county clerk must also notify the Secretary if a voting system component is no longer going to be used as part of the voting system, but the component will be retained by the county. The county clerk must follow the requirements found in Rule 20.5.6 for all retained components.

**11.3 Hardware diagnostic and logic and accuracy test****11.3.1 Hardware Diagnostic Test**

- (a) The designated election official must perform the Hardware Diagnostic Test before the election on each device that the designated election official will use in the election, including spare or back up devices. The test must include the following devices and provide the following information:

- (1) All input and output devices;
  - (2) Communications ports;
  - (3) System printers;
  - (4) System screen displays;
  - (5) Boot performance and initializations;
  - (6) Display of firmware or software hash value (MD5 or SHA-1) when possible;
  - (7) Confirmation that screen displays are functioning;
  - (8) Date, time, and calibration of systems, if applicable; and
  - (9) Scanner calibration, if applicable.
- (b) The designated election official must seal each device upon the successful completion of the test and retain documentation of the seal information and all records in accordance with section 1-7-802, C.R.S.

#### 11.3.2 Logic and Accuracy Test

- (a) The county clerk must conduct the public Logic and Accuracy Test no later than the 21<sup>st</sup> day before election day.
- (b) The county must ensure that the Logic and Accuracy Test is open to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The county clerk may limit the number of representatives from each group because of space limitations.
- (c) Preparing for the Logic and Accuracy Test
  - (1) A county that is conducting an election with at least one plurality voting contest must prepare a test deck of ballots that:
    - (A) Includes every ballot style and, where applicable, precinct;

- (B) Includes a sufficient number of ballots so that each vote position in each contest receives a unique, known vote total for that contest, including write-in candidates, contests that permit an elector to vote for two or more positions, and overvotes and undervotes for each contest;
  - (C) Includes at least one write-in vote for each qualified write-in candidate so that all qualified write-in candidate names will appear in the LAT result uploaded to ENR as required by Rule 11.9.4; and
- (2) For a county that is conducting an instant runoff voting contest that is wholly within the county, each contest must:
- (A) Include a sufficient number of ballots to mark a vote position for every candidate in the contest in the first round of tabulation, including write-in candidates;
  - (B) Include at least one overvote, at least one skipped ranking, and at least one duplicate ranking; and
  - (C) Be marked in such a manner so that no candidate receives a majority of the first ranking votes in the first round.
- (3) Any county test deck must include ballots printed from a ballot-on-demand or mobile ballot production printer if either will be used in the upcoming election and must include commercially printed ballots.
- (4) The county must convene a Testing Board of one registered elector from each of the major political parties. Testing Board members must be registered to vote in the county and be sworn in as election judges.
- (5) The county must provide at least 25 ballots that are clearly marked as test ballots to each Testing Board member. A county conducting an instant runoff election must ensure that instant runoff voting contests are included on at least 25 test ballots per board member.

- (6) Testing Board members must mark their test ballots following the instructions printed on the ballots and retain a record of the tally. In a county conducting an instant runoff election, if after a review of the machine and hand tally of the testing board member's test ballots it is found that the ballots did not require a second round of tabulation, the testing board member must mark 25 additional test ballots which will result in no candidate receiving a majority of votes in the first round of tabulation. A county clerk may remove a member of the Testing Board from their duties if that member refuses to mark their ballot according to the instructions printed on the ballot or as required by this Rule.
  - (7) The Testing Board must test the ballots on each type of voting device used in the election and each type of ballot including audio ballots.
- (d) Conducting the Test
- (1) The county and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.
  - (2) The county must reset the public counter to zero on all devices and present the summary report to the Testing Board for verification.
  - (3) The county must make an appropriate number of voting devices available and the Testing Board may witness the programming of devices necessary for the test.
  - (4) The Testing Board and designated election official must count the test ballots as follows, as applicable:
    - (A) Ballot Scanners:
      - (i) The Testing Board must test at least one central count ballot scanner.
      - (ii) The Testing Board must randomly select the machines to test.

- (iii) The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.
- (B) Ballot Marking Devices (BMDs):
  - (i) The Testing Board must randomly select and test at least one BMD.
  - (ii) At least two members of the Testing Board must use the selected BMD to mark all of the ballots and print at least 25 ballots in the same manner that the testing board member manually marked their test ballots. At least two members of the Testing Board must mark at least one of their test ballots using the audio ballot playback and accessible input devices.
  - (iii) A Testing Board member or county election official must separately scan and tabulate the test ballots marked with and printed from the BMD on one central count or polling location scanner, and generate a results report.
  - (iv) Each Testing Board member must verify that the results report generated from the scanner exactly corresponds to the testing board member's tally of the votes on the manually marked paper ballots comprising their test ballots.
- (e) Completing the test
  - (1) The county must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the county clerk. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.

- (2) The county must backup and preserve the election database or project containing test results, and export and preserve the test results and CVR files. The county must prepare and preserve a ballot manifest corresponding to the test CVR file.
- (3) The county must upload the test results file during the ENR test required under Rule 11.9.4. The county must hash and upload the CVR and ballot manifest to the RLA software during the RLA practice period, as required under Rule 25.2.2(b).
- (4) After testing, the Testing Board must watch the county reset and seal each voting device, if applicable.
- (5) The Testing Board and the county clerk must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, if applicable, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.
- (6) The county may not change the programming of any voting device after completing the logic and accuracy test for an election, except as required to conduct a recount or as authorized by the Secretary of State.

### 11.3.3 Logic and accuracy test for multi-jurisdictional ranked voting contests

- (a) In addition to the logic and accuracy test conducted pursuant to Rule 11.3.2, an additional logic and accuracy test described by this Rule must be performed if two or more county clerks are conducting an instant runoff voting contest for each local jurisdiction and for each of these local jurisdiction's contests.
- (b) In preparation for a logic and accuracy test under this Rule, the runoff tabulation entity must provide a marking pattern for an additional test deck of at least 25 ballots, per county, to each county clerk sharing the contest. The deck, as a whole, must conform to the requirements of Rule 11.3.2(c)(2).

- (c) At each county clerk's logic and accuracy test, the county clerk must scan the additional test deck and provide the cast vote record of the test deck to the runoff tabulation entity in the manner prescribed by the runoff tabulation entity. The test deck must be preserved as an election record alongside any other logic and accuracy materials that are preserved as election records for that election.
- (d) At a public meeting, which conforms as closely as practicable to the requirements of section 1-7-509(2)(b), C.R.S., the runoff tabulation entity must use the cast vote records received from each county clerk during their logic and accuracy test to tabulate the instant runoff voting contest or contests that are subject to this Rule. The contest or contests must be tabulated using the third-party software that has been certified for use under Rule 21.12. The runoff tabulation entity must confirm that the round-by-round tabulation corresponds to the known results of the test decks provided to each county clerk.
- (e) Following the logic and accuracy tabulation, the runoff tabulation entity must maintain the round-by-round results report as an election record.

#### 11.4 Election database project backups

11.4.1 The county clerk must create election project backups at the following times at a minimum:

- (a) At the conclusion of the logic and accuracy test with the data from the completed logic and accuracy test according to Rule 11.3.2(e)(1);
- (b) After the election project has been reset following the logic and accuracy test according to Rule 11.3.2(e)(4). The county clerk must designate this election project backup as the election setup records as defined by Rule 1.1.30 and according to section 1-7-510, C.R.S. The county clerk must submit a copy of the election setup records to the Department of State according to Rule 11.4.3;
- (c) When a county clerk concludes ballot processing activities for the day, including election night;

- (d) After all ballot processing activities have concluded on the ninth day after the election; and
- (e) After the canvass board has certified the results of the election.

11.4.2 If the county's voting system does not export logs from the election management system when an election project backup is created, the county clerk must also export the logs from the election management system for retention, according to Rule 20.10.2, at the time they create an election project backup according to the procedures defined by the voting system vendor.

11.4.3 A county that electronically tabulates election results must submit election setup records to the Secretary of State so that they are received no later than 5:00 p.m. on the seventh day before election day.

- (a) Election setup records must be in an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats include CD-ROM, DVD-ROM, or flash media.
- (b) The county must create a hash value using a SHA-256 algorithm of the setup records file and transmit the hash value to the Secretary of State by e-mail to [voting.systems@coloradosos.gov](mailto:voting.systems@coloradosos.gov).
- (c) The designated election official must include a point of contact and method of contact (phone, email, etc.).
- (d) Within one business day of receipt of the election setup records, the Secretary of State's office will contact the jurisdiction to confirm receipt.
- (e) The Secretary of State's office will store the election setup records in a secured, limited-access location.
- (f) The county clerk and Secretary of State must treat the election setup records as confidential.

11.5 The designated election official must retain all testing records and documentation for 25 months.

- 11.6 Accessible voting systems. A political subdivision may not purchase or lease voting systems for use by people with disabilities unless the system is certified by the Secretary of State.
- 11.7 Notice of voting system malfunction
- 11.7.1 The voting system provider must submit a software or hardware incident report to the Secretary of State no later than 72 hours after an incident has occurred. Submission of this incident report by the provider is required even if the designated election official also submits a report of the same incident.
- 11.7.2 A vendor or designated election official must notify the Secretary of State within 24 hours of a reported or actual malfunction of its voting system. The notice must include a description, date, and the names of those who witnessed the malfunction, as well as the procedures followed before the malfunction, and any error messages displayed. The notice may be verbal, but a written notice must follow.
- 11.7.3 If the Secretary of State requires additional information the vendor or the designated election official must submit a report to the Secretary of State's office detailing the reprogramming, repair, or any other actions necessary to correct a voting system malfunction.
- (a) The report must address whether permanent changes are necessary to prevent similar malfunctions in the future.
  - (b) If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the designated election official must submit an updated election setup record to the Secretary of State's office as set forth in Rule 11.4.3.
  - (c) The report must be submitted within 30 days after the date of the request by the Secretary of State. If an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report.
  - (d) Failure to submit a report within the required period is grounds to decertify the system.

- (e) The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
- (f) A copy of this report will be on file in the Secretary of State's office.
- (g) The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

## 11.8 Purchases and contracts

11.8.1 In accordance with sections 1-5-617(5) and 1-5-623(3), C.R.S., a political subdivision may not purchase, lease, transfer, or use a certified electromechanical or electronic voting system, device, or related component, unless the political subdivision first applies for and obtains approval from the Secretary of State.

11.8.2 The Secretary of State will approve a political subdivision's application to purchase, lease, or use the voting system, device, or related component, after considering all relevant factors, including without limitation:

- (a) Evaluations of the voting system performed by public committees organized by the secretary of state, and any recommendations regarding the use of the voting system by any such public committee;
- (b) The voting system's ability to support the efficient and uniform conduct of elections under the uniform election code of 1992, as amended;
- (c) The voting system's utilization of commercial off-the-shelf hardware components, rather than proprietary, purpose-built hardware components;
- (d) The voting system's integration of its data management application, if any, with other components of its election management system, so that system users can operate or access all election management system components within a single interface on the same server or workstation;
- (e) The voting system's ability to support efficient risk-limiting audits as required by section 1-7-515, C.R.S.;

- (f) The voting system's compatibility with dependent systems that are not directly related to the tabulation of votes and ballots, but are nevertheless utilized by designated election officials in conducting elections in Colorado, including:
  - (1) Ballot-on-demand systems,
  - (2) Election Night Reporting systems,
  - (3) Electronic ballot delivery systems,
  - (4) Election definition data exported from SCORE, and
  - (5) The Secretary of State's RLA software;
- (g) The voting system's ability to efficiently support elections principally conducted by mail ballot, in all political subdivisions, regardless of their size, number of registered electors, or fiscal resources, including:
  - (1) The voting system's inclusion of applications enabling election judges to digitally, rather than manually, adjudicate, resolve, and duplicate ballots with marginal or ambiguous voter markings, and
  - (2) The voting system's use of ballot scanners equipped with automatic document feeders, enabling election judges to scan multiple ballots rather than a single ballot at a time;
- (h) The voting system's ability to enable voters with disabilities to vote independently and privately, and on the same or substantially similar devices throughout Colorado, without regard to their county of residence;
- (i) The voting system's scalability and affordability, enabling all political subdivisions to utilize the same or substantially similar equipment, regardless of their size, number of registered voters, or fiscal resources;
- (j) The voting system's portability as provided in the provider's hardware and software license agreements, enabling political subdivisions that purchase, lease, or use the system to loan or borrow voting devices and related components to or from one

another without charge, as exigencies and other circumstances warrant, and as approved by the Secretary of State;

- (k) The voting system's ability to easily export images of voted ballots, in response to requests filed under section 24-72-205.5(3)-(4), C.R.S., of the Colorado Open Records Act;
- (l) The voting system provider's past performance of successfully implementing its voting system in multiple jurisdictions simultaneously;
- (m) The voting system provider's past performance of successfully training local election officials to use its voting system in multiple jurisdictions simultaneously;
- (n) The voting system provider's past performance of post-implementation customer and technical support for political subdivisions that acquire its voting system;
- (o) The voting system provider's past performance of compliance with Colorado law regarding voter anonymity, and responsiveness to other issues and concerns raised by designated election officials and Secretary of State staff members;
- (p) The voting system provider's financial stability and sustainability as an ongoing business concern; and
- (q) The extent to which the voting system provider's hardware and software license agreements permit the Secretary of State, or political subdivisions that license the hardware and software applications necessary to program elections and voting devices, to perform those services without charge for other political subdivisions that are licensed to use the voting system.

11.8.3 The Secretary of State will approve a county's application for the purchase, lease, or use of an electromechanical or electronic voting system, device, or related component, certified after January 1, 2016, only if:

- (a) The voting system includes, and the county acquires, digital ballot resolution and adjudication capability;

- (b) The voting system includes, and the county acquires, central count ballot scanners equipped with automatic document feeders capable of scanning multiple ballots rather than a single ballot at a time;
- (c) The voting system integrates all components of the election management system, including the data management application, if any, into a single user interface that is operable or accessible from the same server or workstation;
- (d) The voting system is capable of supporting efficient risk-limiting audits, in the manner required by Rule 21.4.12;
- (e) The voting system is compatible with dependent systems that are not directly related to the tabulation of votes and ballots, but are nevertheless utilized by designated election officials in conducting elections in Colorado, including:
  - (1) Ballot-on-demand systems,
  - (2) Election Night Reporting systems,
  - (3) Electronic ballot delivery systems,
  - (4) Election definition data exported from SCORE, and
  - (5) The Secretary of State's RLA Software;
- (f) The voting system provider's software and hardware license agreements expressly permit political subdivisions that purchase, lease, or use the system to loan or borrow voting devices and related components to or from one another, without charge, as exigencies and other circumstances warrant, and as approved by the Secretary of State; and
- (g) The voting system provider's software and hardware license agreements expressly permit the Secretary of State, or political subdivisions that license the hardware and software applications necessary to program elections and voting devices, to perform those services without charge for other political subdivisions that are licensed to use the voting system.

11.8.4 Due to their unsuitability for risk-limiting audits, the Secretary of State will not approve a county's application to purchase, lease or use a ballot

scanner certified for use after January 1, 2016, that is not equipped with an automatic document feeder, whether intended for use by voters at polling locations, or by election judges at central count locations.

- 11.8.5 A political subdivision's contract to purchase or lease a voting system under Rule 11.8.1 must provide for user training and preventative maintenance.
- 11.8.6 The Secretary of State will only approve a political subdivision's application to purchase or lease a voting system or component if the voting system or component allows the designated election official to conduct elections in accordance with Colorado law, as amended.
- 11.8.7 The Secretary of State will maintain a list of all certified electromechanical or electronic voting systems, devices and related components, purchased, leased, or used by Colorado political subdivisions. The list will include, at minimum, the name of the jurisdiction, the name and version of the voting system, the date of acquisition, and the serial numbers of voting devices.
- 11.8.8 The Secretary of State will not approve a county's application to purchase, lease, or use a voting system if the term of the contract expires 90 days before an election through the conclusion of any potential recounts for that election.
- (a) A county may not extend an agreement with a voting system provider for a voting system for a term that expires from 90 days before an election through the conclusion of any potential recounts for that election.
  - (b) If a congressional vacancy election or recall election where a county clerk is the designated election official is scheduled to occur over a time period in which that county's contract with a voting system provider would expire, the voting system provider and county clerk must temporarily extend the existing contract to cover the election in question for a reasonable fee unless the county clerk has an agreement for purchase, lease, or use of another voting system that covers the election in question.
- 11.8.9 No county or voting system provider may voluntarily terminate a contract for purchase, lease, or use of a voting system without the Secretary of State's permission beginning 90 days before an election through the conclusion of any recounts for that election.

- 11.8.10 If a county covered by section 1-5-612(1)(b), C.R.S., cannot procure a voting system or otherwise does not have access to a voting system as required for an election, that county must contract with a nearby county to undertake all election activities it is unable to fulfill. The Secretary of State may issue an order to compel compliance with this Rule.
- 11.9 Election Night Reporting. The county must use the Secretary of State's Election Night Reporting (ENR) system to report results for all primary, general, coordinated, and recall elections in accordance with this Rule.
- 11.9.1 A data entry county must upload a results data file to ENR containing the election results on the dates and times specified in Rules 11.9.3 through 11.9.5. The county must program its election database so that the results file exported from the voting system is formatted in accordance with the following requirements:
- (a) Contest names: Except as otherwise provided in subsections (1) – (3) of this Rule, the results file must contain the contest names as they are certified for the ballot.
    - (1) For primary elections, the county must append to the end of the certified contest name the SCORE abbreviation of the political party affiliation of the candidates in the contest (e.g., "United States Senator – Dem," "State Senator – District 21 – REP," "County Treasurer – Lib,").
    - (2) For ballot measures other than judicial retention questions, the contest name must include the political subdivision that referred the measure to the ballot, the ballot measure type, and the number or letter as it appears on the ballot (e.g., "Adams County Ballot Issue 200," "City of Brighton Ballot Question 5A,").
    - (3) For Judicial Retention Questions, the contest name must include the court and the title and last name of the justice or judge standing for retention (E.g., "Supreme Court – Justice Erickson," "Court of Appeals – Judge Jones," "1<sup>st</sup> Judicial District– Judge Smith," "Adams County Court – Judge Doe,").

- (b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule, the results file must list the contests in the same order as they are certified for the ballot.
- (1) For primary elections, the results file must list the contests in the order prescribed by section 1-5-403(5), C.R.S., with results for each contest grouped in alphabetical order of the abbreviated names of the participating major political parties, followed by the abbreviated names of participating minor political parties and qualified political organizations (e.g., “United States Senator – DEM,” “United States Senator – REP,” “United States Senator – GRN,” “United States Senator – LIB,” “United States Senator – UNI,”).
  - (2) The results file must list ballot measures in the order certified by the Secretary of State, followed by the ballot measures certified by other participating political subdivisions in the order and using the numbering conventions specified in Rule 4.5.2(e).
  - (3) A county using the Dominion, or Clear Ballot voting system must include and populate the contest sequence number field in its results files to define the order of contests on the ballot as required by this Rule.
- (c) Candidate names: The results file must include candidates’ names in proper case and include periods following initials (e.g., “John A. Smith”), and may not include the name or abbreviation of the candidate’s political party.
- (d) Precinct names: If a county reports results by precinct, its results file must only include the ten-digit precinct number from SCORE, followed by a dash and any split precinct indication (e.g., 1234567890-1).
- (e) Provisional results: The results file must include a “provisional” precinct or counting group as a placeholder for separately reported provisional ballot results if required by section 1-8.5-110(2), C.R.S.

11.9.2 No later than 45 days before the election, a county clerk must provide their SCORE election\_details\_to\_dominion export to the Secretary of State’s Office by sending an email to [voting.systems@coloradosos.gov](mailto:voting.systems@coloradosos.gov).

- 11.9.3 No later than 35 days before the election, a county must provide the following information to the Secretary of State:
- (a) A data entry county must email a sample or “zero” file. Except in the case of withdrawn or deceased candidates, a data entry county may not change or alter the election database or export file after submitting its zero file.
  - (b) A manual entry county must send a list of all ballot content.
- 11.9.4 No later than 21 days before the election, a data entry county must upload the LAT results file to ENR. At a minimum, the LAT results file must contain the results of the complete county test deck required under Rule 11.3.2(c)(1). The county must check the totals and content configuration reflected on the ENR website at the time of uploading the LAT results file. The county must send an email to [voting.systems@coloradosos.gov](mailto:voting.systems@coloradosos.gov) once verification of the ENR website is complete.
- 11.9.5 Election night uploads. All counties other than manual entry counties must export or produce preliminary election results and upload them to the ENR system:
- (a) While tabulating, counties must upload to the ENR system at a minimum:
    - (1) After the close of polls but no later than 8:00 p.m.; and
    - (2) No later than 9:00 p.m.
  - (b) If the county believes it will be unable to meet the schedule outlined in this rule, it must contact the voting systems team before the deadline.
  - (c) The Secretary of State may, at his or her discretion, waive or modify this rule.
- 11.9.6 A county must produce preliminary election results and upload them to the ENR system after counting is completed on election night, indicate in the ENR system that election night counting is completed, and notify the voting systems team by email that election night counting is completed.
- 11.9.7 Canvass upload. The county must export or produce official election results, and check the appropriate box in the ENR system to indicate that

the canvass upload is complete, not later than close of business of the first business day after the statutory deadline for completing the canvass.

11.10 Reports or materials required by this Rule may be submitted to the voting systems team:

11.10.1 By delivery to:

Colorado Secretary of State  
Attn: Voting Systems  
1700 Broadway – Suite 550  
Denver, CO 80290

11.10.2 By email to:

[voting.systems@coloradosos.gov](mailto:voting.systems@coloradosos.gov)

11.10.3 By Fax to:

303-869-4861

**Rule 12. Recall**

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**Rule 13. Election and HAVA Complaints**

## 13.1 Election complaint procedures

13.1.1 Any individual who personally witnesses a violation of the Uniform Election Code of 1992 may file an election complaint.

13.1.2 An election complaint must include the approved Secretary of State's Election Complaint cover sheet.

## 13.1.3 Processing and docketing election complaints

(a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rule 13.1.2 and sufficiently alleges a violation of the Uniform Election Code of 1992. The Secretary's designee may extend this deadline in the event that there are extenuating circumstances which would inhibit the designee's ability to meet the deadline.

(1) If the complaint does not meet the requirements of Rule 13.1.3(a), the Secretary's designee will notify the complainant of the deficiency.

(2) If a complaint meets the criteria, the Secretary's designee will notify the complainant and send a copy of the complaint to the person or entity alleged to have committed a violation.

(b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

## 13.1.4 Amending an election complaint

(a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.

(b) An amendment may not contain allegations of a new violation.

## 13.1.5 Investigation

(a) After the response period outlined in Rule 13.1.3, the Secretary's designee will investigate the complaint.

- (b) If the Secretary of State determines that the complaint requires an immediate investigation, the Secretary's designee will begin investigating before the response period closes. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.
- (c) Depending on the violation alleged, the Secretary's designee may:
  - (1) Review documents;
  - (2) Visit the county;
  - (3) Conduct interviews;
  - (4) Test equipment;
  - (5) Take other steps necessary; or
  - (6) Convene a hearing and take testimony from interested parties.
- (d) During an ongoing investigation, county clerks and staff must accommodate requests by the Secretary's designee in the timeframe requested by staff.

#### 13.1.6 Resolution of election complaints

- (a) After an investigation and hearing, if applicable, the Secretary's designee will:
  - (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or
  - (3) Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State.

### 13.2 Help America Vote Act (HAVA) complaint procedures

13.2.1 Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, may file a HAVA complaint with the Secretary of State.

13.2.2 A HAVA complaint must include the approved Secretary of State's HAVA Complaint cover sheet.

13.2.3 A complainant must allege a HAVA violation with particularity and refer to the section of HAVA that has been violated.

13.2.4 A complaint must be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the violation, whichever is later.

13.2.5 Each complaint must be in writing and notarized, signed, and sworn by the person filing the complaint.

13.2.6 Processing and docketing HAVA complaints

(a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rules 13.2.2 through 13.2.5.

(1) If the complaint does not include a cover sheet the Secretary's designee will notify the complainant of the discrepancy.

(2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.

(b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

(c) The Secretary's designee may consolidate two or more HAVA complaints.

13.2.7 Amending a HAVA complaint

(a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.

(b) An amendment may not contain allegations of a new violation.

13.2.8 Investigation

- (a) After the response period outlined in Rule 13.2.6, the Secretary's designee will investigate the complaint.
- (b) If the Secretary of State determines an immediate investigation is required, the Secretary's designee will begin investigating before the response period has closed. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.
- (c) Depending on the violation alleged, the Secretary's designee may:
  - (1) Review documents;
  - (2) Visit the county;
  - (3) Conduct interviews;
  - (4) Test equipment; or
  - (5) Take other steps necessary.
- (d) While an investigation is ongoing, county clerk staff must accommodate requests by the Secretary's designee in the timeframe requested.

#### 13.2.9 Hearing and resolution of HAVA complaints

- (a) The Secretary of State or his or her designee will hold a hearing if the complainant requests one at the time of filing the complaint, unless the complainant later withdraws the request.
- (b) After the investigation and hearing, if any, the Secretary's designee will:
  - (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or
  - (3) Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State.

#### 13.2.10 Alternative dispute resolution under section 1-1.5-105(2)(j), C.R.S.

- (a) If the Secretary of State does not resolve the complaint within 90 days of the date that it was filed and the complainant does not consent to an extension of time, the Secretary of State will transfer the complaint to a hearing officer for a hearing as required by 8 CCR 1505-3, Rule 3.
- (b) The Secretary of State will provide the record and any other materials from the proceedings to the hearing officer.
- (c) The Secretary of State will consider the initial determination by the hearing officer and issue a final determination within 30 days of the date the determination is received by the Secretary.

13.2.11 The Secretary of State's determination is a final agency action.

13.2.12 The Secretary of State may recover the costs of proceeding against any complainant that files a frivolous, groundless, or vexatious complaint.

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**Rule 14. Voter Registration Drives****14.1 Statement of Intent**

14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive (“VRD”) must file a Statement of Intent and Training Acknowledgment Form with the Secretary of State to conduct a voter registration drive. The Statement of Intent and Training Acknowledgment Form must include the following information:

- (a) The name of the group conducting the VRD, and the name address, email address, and telephone number of the individual organizing the VRD;
- (b) The name of the agent (who is required to be a Colorado resident) and the contact information for that agent, if different from the person organizing the VRD;
- (c) A statement specifying that the VRD intends to operate within the State of Colorado;
- (d) A notice that the VRD number expires at the end of the calendar year; and
- (e) A signature line requiring the organizer’s signature.

14.1.2 A VRD organizer must file amendments to the Statement of Intent and Training Acknowledgment Form with the Secretary of State no later than three business days after the change occurs. Amendments may be made by fax, email, mail or in person.

14.1.3 The Secretary of State will immediately attempt to verify the information provided in the Statement of Intent and Training Acknowledgment Form before issuing a number to the VRD organizer. The Secretary of State may deny a number to the VRD organizer if the information provided on the Statement of Intent cannot be verified.

**14.2 Training**

14.2.1 To receive a VRD number, the VRD organizer must successfully complete the online training and test provided by the Secretary of State and submit a Statement of Intent and Training Acknowledgment form to the Secretary of State.

- 14.2.2 Before circulating, a VRD circulator must complete a training provided by the VRD organizer and submit a Training Acknowledgment form to the VRD organizer. The training must include, at a minimum, the content contained in the Secretary of State's circulator training.
- 14.2.3 The VRD organizer training is provided online, but a VRD organizer may schedule a time to view the training at the Secretary of State's office.
- 14.2.4 After completing the VRD organizer training, the VRD organizer must complete the training test and answer the questions 100% correctly before the Secretary of State will issue a VRD number.
- 14.2.5 After completing the VRD organizer training and test, the VRD organizer must sign a Statement of Intent and Training Acknowledgment Form confirming that the training and test have been completed and that he or she was informed of rules, laws and penalties relating to voter registration drives.
- 14.2.6 A VRD organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.

### 14.3 Number Assigned

- 14.3.1 After successful completion of the required training and test, and submission of the Statement of Intent and Training Acknowledgment Form, the Secretary of State will assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State will:
- (a) Advise the VRD organizer of their unique number;
  - (b) Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and
  - (c) Post the agent and the name of the group conducting the drive on the Secretary of State website.
- 14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.
- 14.3.3 The VRD must assign each circulator a unique circulator identification number and maintain a record of each number issued. The circulator identification number must begin with the VRD's five-digit identification number (e.g., 16-999-0001).

14.3.4 The VRD must provide the Secretary of State with the name of the circulator associated with a particular identification number, upon request.

#### 14.4 Voter Registration Drive Voter Application Forms

14.4.1 A VRD must use the Secretary of State's approved Voter Registration Drive Application Form or the National Mail Voter Registration Form when collecting registration applications.

14.4.2 A VRD organizer can obtain Colorado Voter Registration Drive Application Forms from County Clerks and the Secretary of State.

14.4.3 The organizer is responsible for placing the VRD number on the application form.

14.4.4 The VRD organizer must receive a VRD number before he or she can receive the approved Colorado Voter Registration Drive Application Forms.

14.4.5 The circulator must include his or her unique circulator identification number on each voter registration form he or she submits.

14.4.6 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk of the applicant's legal residence. No VRD may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk or the Secretary of State.

14.4.7 A VRD organizer or circulator must provide the applicant a blue or black ink pen to complete the application, and may not highlight or otherwise mark the approved voter registration drive application form other than to write the VRD number and circulator information.

#### 14.5 Voter Registration Drive Complaints and fines

14.5.1 Any person, including the Secretary of State, who believes a VRD organizer or circulator has not complied with the requirements of Part 7, Article 2 of Title 1, C.R.S., or this Rule 14 may file a written complaint with the Secretary of State.

14.5.2 A written complaint filed with the Secretary of State must contain the following information:

- (a) The complainant's name;
- (b) The complainant's full residence address and mailing address (if different from residence);
- (c) A description of the alleged violation, which may include a reference to the particular statute or rule;
- (d) The name and assigned number of the VRD, if known;
- (e) The date and location of the alleged violation, if known; and
- (f) Other applicable or relevant information.

14.5.3 The Secretary of State will review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State will impose a fine in accordance with section 1-2-703, C.R.S., and notify the VRD organizer of:

- (a) The date and factual basis of each act with which the VRD organizer is being charged;
- (b) The particular provision of the statute violated; and
- (c) The amount of the fine imposed.

14.5.4 Notification of violation will be sent by certified or registered mail, return receipt requested, to the last known address of the VRD organizer.

14.5.5 The VRD organizer may appeal a fine by requesting a hearing within 60 days following receipt of notification of the fine. See 8 CCR 1505-3, Rule 3, for additional information regarding the administrative hearing process.

**Rule 15. Preparation, Filing, and Verification of Petitions**

15.1 The following requirements apply to candidate, statewide initiative, recall, minor party creation, and referendum petitions, unless otherwise specified.

**15.1.1 Petition template for state petitions**

- (a) Petition proponents or their designees must request their petition format by sending an email with the information requested by the Department to draft a petition format to [ballot.access@coloradosos.gov](mailto:ballot.access@coloradosos.gov). Once that information is provided, the Department of State will return a petition format with the information included in no smaller than ten-point font. Petition proponents must then print a physical copy of the petition provided by the Department of State and return a copy, scanned image, or picture of the printed format for final approval by the Department of State.
- (b) After approval of the petition format as to form, proponents must print all petition sections in accordance with the Secretary of State's petition-printing guidelines. The Department of State will reject any petition sections circulated prior to receiving a formal approval letter for the petition format.
- (c) Any signature affixed to a petition section that does not conform to the requirements of this Rule 15.1.1 is not valid.
- (d) Petition proponents for initiative petitions must provide a Word and PDF version of the final text of the measure to the Secretary of State.

**15.1.2 Petition submission**

- (a) The Department of State or DEO will not accept or count additional signatures after the initial submission of the petition, even if additional signatures are offered before the deadline.
- (b) The Department of State or DEO will inspect each petition section for evidence of disassembly. If it appears that the section was disassembled, the Secretary or DEO will reject all signatures in the section.

- (c) The Department of State or DEO will not consider a signer line as a reviewable line, if the line is incomplete or partially crossed out and the information missing or crossed out is the name, signature, or address of the signer. If a line contains a signature that is legible, but has no printed name, it is considered reviewable.
- (d) The Department of State or DEO will not review lines that are blank or completely crossed-out.
- (e) If the number of lines submitted is less than the number of signatures required to access the ballot, the Department of State or DEO will issue a statement of insufficiency and will not review signer lines or apply duplicates to future candidate petition submissions for the same office or recall petitions of the same officeholder.
- (f) The Department of State or DEO will review and process candidate petitions for the same office in the order in which they are received.

#### 15.1.3 Circulator affidavit

- (a) If a petition section does not have a completed circulator affidavit, the Secretary of State or DEO will reject the entire section.
- (b) If a petition section does not have a completed notary clause, or if the date of the notary clause differs from the date the circulator signed the affidavit, the Secretary of State or DEO will reject the entire section.
- (c) If a state candidate, recall proponent, or initiative proponent is curing a circulator affidavit under section 1-4-912(2), C.R.S., the candidate or proponent must use a form approved by the Secretary of State.

#### 15.1.4 Verifying individual entries

- (a) Staff will check each individual entry against the information contained in SCORE.
- (b) Staff will create and maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

- (c) If an entry does not match the signer's current information in SCORE, staff must check the signer's information in SCORE as of the date the signer signed the petition.
- (d) Secretary of State or DEO staff will reject the entry if:
  - (1) The name on the entry is not in SCORE;
  - (2) The middle initial or middle name on the entry does not match the middle initial or middle name in SCORE;
  - (3) The address on the entry does not match the residential address in SCORE;
  - (4) The entry address contains information, such as a number, apartment number, or street direction that contradicts the SCORE address;
  - (5) The signer completed the entry before the designated election official approved the petition format;
  - (6) The signer was not an eligible elector at the time he or she completed the entry;
  - (7) The signer completed the entry after the date on the circulator affidavit;
  - (8) Evidence exists that some other person assisted the signer in completing the entry but no statement of assistance accompanies the entry;
  - (9) The name and signature on the entry is illegible and cannot be verified in SCORE;
  - (10) The entry is a duplicate of a previously accepted entry on the same petition;
  - (11) For a candidate petition where an elector may sign only one petition for the same office, the entry is a duplicate of a previously accepted entry on a petition that was declared sufficient or insufficient after lines were reviewed for the same office;

- (12) The signer's information appears outside of a numbered signature block on a petition section;
  - (13) For a candidate petition, the address on the entry does not match the current residential or mailing address for the elector in SCORE; or
  - (14) For an initiative petition, a name suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry, and more than one person with that name is registered to vote at the same address.
- (e) The Department of State or DEO staff will not use any of the following discrepancies as the sole reason to reject an entry:
- (1) The name on an entry matches or is substantially similar to the information in SCORE, or if the signature on an entry is a common variant of the name;
  - (2) A middle initial or middle name is present on the entry but not in SCORE, or present in SCORE but not on the entry;
  - (3) A name suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry and only one person with that name is registered to vote at that address;
  - (4) For a candidate petition, a name suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry, more than one person with that name is registered to vote at the same address, but the signature matches for one person registered to vote at that address;
  - (5) The printed name is missing or illegible but the signature can be read;
  - (6) The address on the entry is missing an apartment letter or number or a street direction, or the address entry contains an apartment letter or number or a street direction that is missing in the voter registration record;
  - (7) The city or county name is missing, abbreviated, or wrong;

- (8) For candidate and recall petitions, the address provided did not match the current residence address information in SCORE, but did match the current mailing address information in SCORE;
- (9) On a signer line, the date is missing but a line above and below has an acceptable date;
- (10) For Secretary of State staff reviewed petitions only, the year of the date is missing or wrong; or
- (11) Information required for the signer is present on a petition line but is written in the wrong field.

## 15.2 Petition entity license, registration, filing, and circulation

15.2.1 A petition entity that intends to pay petition circulators must obtain a petition entity license, pay a fee, and register with the Secretary of State's Office before circulating initiative, referendum, minor party, candidate, vacancy candidate, and recall petitions. The license application must include:

- (a) The petition entity's name, address, telephone number, and email address;
- (b) The designated agent's name;
- (c) The name of all owners and chief officers of the entity;
- (d) The following information regarding petition circulators:
  - (1) The name, address, copy of identification each circulator will use for the purpose of having a petition section notarized, and signature of any petition circulators the entity has hired or contracted with to circulate a petition in Colorado;
  - (2) The petitions each circulator will circulate in Colorado; and
  - (3) A copy of the certificate of completion of the training offered by the Secretary of State within the last year as evidence that the circulator has read and understood laws pertaining to petition circulation; and
- (e) An affirmation that:

- (1) The designated agent has read and understands Article 4, Article 12, and Article 40 of Title 1, C.R.S.;
- (2) The designated agent has completed the Secretary of State's circulator training program;
- (3) The petition entity has or will provide to all circulators, paid or unpaid, the circulator training offered by the Colorado Secretary of State as one way for the circulator to comply with the requirement that a circulator read and understand the laws pertaining to petition circulation;
- (4) The entity, none of its owners or chief officers, and no entity or principal of a petition entity that the entity has or will contract with, has ever been found in a judicial or administrative hearing in Colorado or any other state of authorizing or knowingly permitting:
  - (A) Forgery of a registered elector's signature;
  - (B) Circulation of a petition section, in whole or in part, by anyone other than the circulator;
  - (C) Use of a false circulator name or address in a circulator affidavit;
  - (D) Payment of money or a thing of value to any person for the purpose of inducing the person to sign or withdraw his or her name from a petition; or
  - (E) A notary public's notarization of a circulator affidavit outside of the physical presence of the circulator or without the production of the required identification for notarization of a petition section; and
- (5) Neither the entity nor its owners or officers have been found in a judicial or administrative hearing in Colorado or any other state of:
  - (A) Violating a petition law;
  - (B) Committing election fraud;

- (C) Committing any other election offense; or
- (D) Committing an offense with an element of fraud.

15.2.2 Before compensating a circulator, the designated agent must register with the Secretary of State's Office by submitting a signed form that includes a list of the proposed initiatives, candidate or candidate committee's name, minor party petition, or recall petition the petition entity will circulate. For the purpose of this Rule, compensating a circulator includes providing compensation to a circulator for circulating a petition in Colorado or entering into an agreement with a circulator to provide compensation for circulating a petition in Colorado. The designated agent must complete the Secretary of State's circulator training program prior to applying for a license and once annually thereafter.

15.2.3 A petition entity license is only valid for two years from the date the license was approved by the Secretary of State. Once a license expires, a petition entity must submit a new license application and fee.

15.2.4 In accordance with sections 1-4-905.5(4)(a) and 1-40-135(5)(a), C.R.S., a petition entity must update their entity license no later than 20 days after a change to any information provided in their initial application. Beginning December 1, 2025, this includes the information required by Rule 15.2.1(d) for circulators hired by the entity after the entity has obtained their license.

### 15.3 Statewide initiative petition circulation

15.3.1 Petition circulation may begin after the title board's final decision, including disposition of any rehearing motion, after the time for filing a rehearing motion, and after the Secretary of State has approved the petition format.

15.3.2 The petition circulator must provide a permanent residence address on the circulator affidavit.

- (a) For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's permanent "residence" means their principal or primary home or place of abode in which a circulator's habitation is fixed and to which the circulator, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A permanent "residence" is a permanent building or part of a building and may include a house,

condominium, apartment, room in house, or mobile home. Except as provided in paragraph (b) of this Rule, a vacant lot, business address, or post office box is not a permanent "residence".

- (b) A homeless circulator must provide the address or location where they are living the date the affidavit is signed. The circulator must provide a physical location they return to regularly which may include a park, campground, vacant lot, business address or any other physical location; a post office box may not be provided.
- (c) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence address that does not comply with this Rule 15.3.2 is a "false address".

#### 15.4 Statewide initiative petition receipt by Secretary of State

15.4.1 The Department of State will not accept a petition that lists designated representatives other than those listed on the affidavit of designated representatives filed with the state title board.

15.4.2 Upon receipt of a petition, Secretary of State staff will consecutively number petition sections.

15.4.3 Staff will consecutively number each line on each petition section. For purposes of this Rule, "line" means the block of information where a signer could fill in the last name, first name, middle initial, county, signing date, street address, city, and signature of a petition signer.

#### 15.5 Statewide initiative petition verification

15.5.1 Verification by random sample.

- (a) Staff will create a record for each entry on the petition and tally the total number of entries.
- (b) The database will generate a series of random numbers equal to 4,000 signatures or five percent of the total number of signatures, whichever is greater. Staff will review the randomly selected signature lines in accordance with section 1-40-116, C.R.S., and this Rule. Staff will maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

## 15.6 Signature verification on state candidate and recall petitions

15.6.1 The Department of State will compare the signature on each petition entry with the elector's signature in SCORE in accordance with the Secretary of State's Signature Verification Guide. The Department of State may use an automated signature verification device.

- (a) If the signatures match and the entry is otherwise valid, the Department of State must accept the entry.
- (b) If upon initial review the signatures do not match, The Department of State must conduct further review of the entry. A team of two staff members who are not affiliated with the same political party, or who are unaffiliated, must review the signatures, conduct additional research in SCORE if necessary, and, unless both staff members agree that the signatures do not match, accept the entry if it is otherwise valid. In the event that a staff member is not registered to vote, that staff member will be considered unaffiliated for the purpose of this Rule.

## 15.7 Referendum petitions

15.7.1 This Rule applies to statewide referendum petitions under Article V, Section 1 (3) of the Colorado Constitution.

15.7.2 Except where this Rule states otherwise, any statutory or constitutional provision that applies specifically to initiative petitions also applies to referendum petitions.

15.7.3 Proponents may submit a referendum petition to the Secretary of State for approval at any time after the General Assembly has passed the bill. The Secretary of State will not issue final approval of the referendum petition form until the bill has become law under Article IV, Section 11 of the Colorado Constitution.

15.7.4 Each referendum petition section must consist of the following, in the order listed:

- (a) The warning as specified in section 1-40-110, C.R.S.;
- (b) The heading "Referendum Petition", followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:

“To: The Honorable \_\_\_\_\_, Secretary of State of the State of Colorado

We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled “Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation”, passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002, shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5<sup>th</sup> day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:”;

- (c) The name and mailing address of two persons who are designated to represent the signers thereof in all matters;
- (d) The ballot title and submission clause;
- (e) The text of the Act, or the item, section, or part of the Act, on which the referendum is demanded;
- (f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for signatures; and
- (g) A final page that contains the circulator’s affidavit required by section 1-40-111(2), C.R.S.

15.7.5 A referendum petition section must include only the matters required by Article 40, Title 1, C.R.S., and this Rule, and no extraneous material.

15.7.6 The ballot title must consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

“An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010.”

15.7.7 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause must consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

“Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved:” The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.

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**Rule 16. Military and Overseas Voters (UOCAVA)**

## 16.1 Voting by military and overseas electors

16.1.1 For the purposes of this Rule 16, elector means a covered voter as defined in section 1-8.3-102(2), C.R.S.

16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each county clerk's office must have a dedicated fax machine for the purpose of fax ballot transmission.

## 16.1.3 Covered voter status eligibility

- (a) An elector who requests covered voter status must submit an application affirming his or her eligibility to do so in accordance with section 1-8.3-108(5), C.R.S.
- (b) The county clerk must remove the covered voter status of any elector who:
  - (1) Votes in person in two consecutive elections; or
  - (2) Returns their ballot in a drop box, drop-off location, or in person in two consecutive elections;
- (c) Notwithstanding the provisions of this rule, the county clerk may retain the covered voter status of any elector who the clerk has a reasonable basis to believe remains a covered voter.
- (d) The county clerk must send correspondence by email, if available, and by mail 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.

16.1.4 If an unregistered elector submits a Federal Write-in Absentee Ballot (FWAB) by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the FWAB is a timely application for registration and ballot request.

## 16.1.5 Ballots received by the Secretary of State

- (a) If the Secretary of State timely receives a ballot under section 1-8.3-113, C.R.S., and Rule 16, the Secretary of State will immediately notify the appropriate county clerk and forward the

ballot by the most efficient means available no later than the next business day.

- (b) To ensure voter secrecy, any county notified that the Secretary of State has received a ballot must retain a minimum of ten voted ballots to be counted with the ballot received by the State.

16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the first primary or coordinated election each year to each covered voter. The correspondence must be sent by email, if available, and mail and, at a minimum, must notify the electors of:

- (a) The status of the elector's record and ballot request;
- (b) The upcoming federal and state elections;
- (c) How to update the elector's mailing information and request a ballot; and
- (d) Any other information the county clerk deems appropriate.

16.1.7 If a letter sent under Rule 16.1.6 is returned as undeliverable, the county clerk must mark the record inactive and send a confirmation card as defined by section 1-1-104(2.8), C.R.S.

16.1.8 No later than 45 days before an election, the county clerk must report to the Secretary of State the number of ballots transmitted to military and overseas electors by the 45-day deadline.

16.1.9 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-110, C.R.S.

- (a) If a county fails to meet the 45-day ballot transmission deadline provided for any state or federal election, the county clerk must immediately report the failure and reason for the failure to the Secretary of State.
- (b) The county clerk must provide a plan to the Secretary of State for complying with the deadline in the next state or federal election.
  - (1) The county must submit the plan to the Secretary of State no later than 60 days before the transmission deadline.

- (2) The county must provide a weekly progress report on implementing the plan to the Secretary of State beginning 50 days before the transmission deadline.
- (3) The county clerk must provide a daily progress report to the Secretary of State beginning five days before the transmission deadline.

## 16.2 Electronic transmission

16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

- (a) An elector who requests fax transmission must provide a fax number, including the international country code and local area, province, or city code, if applicable, where the ballot is to be faxed.
- (b) An elector who requests email transmission must provide a complete email address where the ballot is to be transmitted. In accordance with section 1-8.3-115, C.R.S., no election official may disclose the email address to the public.
- (c) In accordance with section 1-8.3-113(1), C.R.S., a covered voter who chooses to receive his or her unvoted ballot by electronic transmission may return his or her ballot by fax or email only if the covered voter reasonably determines that a more secure method, such as returning the ballot by mail, is not available or feasible. "Not feasible" means circumstances where the covered voter reasonably believes that if he or she mails the ballot the county clerk will not receive it by the close of business on the eighth day after an election.
- (d) To return a voted ballot and self-affirmation by email, the elector must scan and return the documents as an email attachment.
- (e) If an elector requests to receive his or her ballot by electronic transmission, the county clerk must transmit the elector's ballot electronically for all covered elections until the elector requests otherwise or the elector's electronic transmission method becomes undeliverable.

16.2.2 The electronic transmission must include:

- (a) Directions for the voter to access their ballot and materials online at the website approved by the Secretary of State;
- (b) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (c) Instructions for completing and returning the ballot; and
- (d) Any other information deemed necessary by the Secretary of State or the county clerk.

16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act, the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law requires that I return this ballot by a more secure method, such as mail, if available and feasible.

16.2.4 If the county clerk transmits a ballot packet to an elector by fax or email and the transmission is unsuccessful, the county clerk must attempt to fax or email the ballot at least two more times. If electronic transmission is unsuccessful, the county clerk must mail the ballot and remove the electronic transmission flag in SCORE under Rule 16.2.1(e).

16.2.5 A county clerk that has successfully transmitted a ballot packet to a covered voter by fax or email may not separately mail that elector a ballot unless later requested by that elector, or as a result of a change of that voter's status.

16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must verify the elector's signature in accordance with Rule 7.7. After the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.

16.2.7 A military or overseas elector whose registration record is inactive may download an application and ballot using the electronic ballot delivery system.

- (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.

- (b) Every county must use the approved electronic delivery system to implement this Rule.

16.2.8 Nothing in this Rule 16.2 permits internet voting. Internet voting means a system that includes remote access, a vote that is cast directly into a central vote server that tallies the votes, and does not require the supervision of election officials.

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**Rule 17. Provisional Voting**

## 17.1 Provisional voting in the voter service and polling center

17.1.1 The county clerk must use the approved provisional ballot affidavit form.

## 17.1.2 Issuance of mail ballots instead of provisional ballots

(a) If a voter service and polling center loses connectivity to SCORE an election judge must attempt to verify the elector's eligibility.

(1) Eligibility may be determined by reviewing or receiving information produced from the statewide voter registration system either in real-time or within the preceding 24 hours; except if the time for voting is extended beyond 7 p.m. on election day by a court order, in which case eligibility may be determined by reviewing or receiving information produced from the statewide voter registration system either in real-time or no earlier than the day prior.

(2) If the elector's eligibility can be determined, the judge must issue the elector a mail ballot or replacement mail ballot. If an elector's eligibility cannot be determined, the election judge must issue the voter a provisional ballot.

(b) Beginning the Friday before election day, a county clerk must keep a paper or electronic backup of the county's voter registration list produced from the preceding day for the purpose of determining eligibility under this rule.

17.1.3 The word "provisional" must be marked on the provisional ballot and on the signature card, if applicable, next to the elector's name.

17.1.4 A county clerk must have the ability to issue provisional ballots and envelopes equal to at least three times the number of provisional ballots and envelopes issued in the last election of the same type.

## 17.2 Verification of Provisional Ballots

17.2.1 The county clerk must process and tabulate all mail and in-person ballots before processing provisional ballots.

- 17.2.2 The county must process all mail ballots and signature cards in SCORE before processing provisional ballots.
- 17.2.3 Verification of an elector's eligibility to have his or her provisional ballot counted is limited to the following sources:
- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement;
  - (b) SCORE; and
  - (c) The information provided on the provisional ballot envelope, including the affidavit.
- 17.2.4 When verifying provisional ballots, the designated election official must check SCORE to determine whether the elector has already voted in the election.
- 17.2.5 If during verification it appears that the elector's record was cancelled or consolidated as a duplicate in error, the ballot must be counted so long as the elector has not cast a ballot in the election, the affidavit is complete, and the elector is otherwise eligible. The county clerk must reinstate or unconsolidate the elector's record and update the elector's record before marking the elector's provisional ballot as accepted or rejected in SCORE and before linking it to the elector's record.
- 17.2.6 When the county clerk receives both a mail ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned mail ballot envelope and the elector's signature stored in SCORE, the discrepancy must be resolved. Before the county clerk may verify the provisional ballot affidavit, the elector must affirm that the signature on the mail ballot envelope is not his or her signature. Sections 1-8.5-105(4) and (5), C.R.S.
- 17.2.7 If an elector whose voter registration record is tagged ID required casts a provisional ballot without providing valid identification, the county clerk must verify and count the provisional ballot as follows:
- (a) The county clerk must send the elector a letter within three days after the ballot is cast, and no later than two days after election day, explaining that he or she must provide the required identification. Nothing in this Rule prohibits the county clerk from calling the

elector; however, a phone call does not substitute for notification to the elector in writing. If the county clerk calls any elector he or she must call all electors who failed to provide required identification.

- (b) If the elector provides a copy of valid identification within eight days after election day, the county clerk must count the ballot so long as the elector has not cast another ballot in the election, the affidavit is complete, and the elector is otherwise eligible.

17.2.8 If the information contained in the provisional ballot affidavit provides adequate criteria so that the county clerk is able to confirm that the elector is eligible to cast a ballot, the provisional ballot must count.

17.2.9 Acceptance Codes (The county clerk must count all races.)

AOK Reviewed and confirmed voter's eligibility, including voters eligible to vote only for President in a Presidential General Election, as provided by 52 U.S.C. § 10502 (c).

ADB Election official issued the elector the wrong ballot style. The voted ballot will be duplicated and only races and issues for which the elector is qualified to vote may be counted.

ALC Elector voted a provisional ballot because the voter service and polling center lost connectivity and the voter's eligibility could not be otherwise determined. Elector's eligibility is confirmed.

17.2.10 Rejection Codes (The county clerk must not count a ballot given a rejection code):

RNS (Rejection not signed) Provisional Ballot Affidavit not signed.

RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.

REE (Rejection envelope empty) Provisional ballot envelope is empty.

RAB (Rejection voter voted mail ballot) Designated election official has confirmed that voter voted a mail ballot.

RED (Rejection based upon ballot cast in person) Voter voted in a Voter Service Center or Polling Center.

- RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- RFE (Rejection not eligible to vote due to felony incarceration) Individual was convicted of a felony and is serving a sentence of confinement or detention.
- RWC (Rejection elector not a resident of the district, county, or the State of Colorado) The individual does not reside within the district, county, or state, as applicable, and is not eligible to vote in the county where the provisional ballot was voted.
- RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter is tagged ID deficient, and did not provide ID at the time of voting.

- 17.3 The provisional ballot log required by section 1-8.5-110(4), C.R.S., may be prepared by the county clerk in handwritten or computer-generated form.
- 17.4 Recount procedures for provisional ballots are the same as the recount procedures for other ballots as directed by the Secretary of State.
- 17.5 Processing provisional ballot affidavits in SCORE. Before closing an election, the county clerk must:
- 17.5.1 Enter all provisional ballot affidavits into the SCORE provisional module;
  - 17.5.2 Process all voter registration updates; and
  - 17.5.3 Link all provisional ballot affidavits to the appropriate elector's record.
- 17.6 Public access to provisional ballot information
- 17.6.1 The list of voters who cast a provisional ballot and the accept/reject code for the ballot is available for public inspection.
  - 17.6.2 In accordance with section 24-72-204(8), C.R.S., the county clerk must not release an original or copy of the elector's:
    - (a) Month and day of date of birth;
    - (b) Driver's license or Department of Revenue identification number;

- (c) Social security number;
- (d) Email address; or
- (e) Signature.

17.6.3 If a voter has requested confidentiality under section 24-72-204(3.5), C.R.S., the county clerk must not release the elector's address or telephone number.

17.6.4 If a voter has requested confidentiality under section 24-30-2101, C.R.S., the county clerk must not release the provisional ballot affidavit.

## 17.7 Voter Access to Provisional Ballot Information

17.7.1 The Secretary of State will provide a provisional ballot lookup on the Secretary's website during the 45 days following election day.

17.7.2 The county clerk must number the provisional ballot envelope or affidavit stock using the standard numbering convention approved by the Secretary of State.

[Section 1-8.5-111, C.R.S.]

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**Rule 18. Uniform Counting Standards for Paper Ballots**

- 18.1 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who returns at least one page of a multiple page printed ballot will be considered to have voted and the county clerk or designated election official must count the votes on the submitted pages. The county clerk must not count votes on additional pages returned at a later time. The county clerk must appropriately mark, set aside, and preserve the ballots as election records in accordance with section 1-7-802, C.R.S.
- 18.2 Standards for hand counting paper ballots
- 18.2.1 In accordance with section 1-7-309, C.R.S., and Rule 18.5, judges counting ballots must consider the intent of the voter.
- 18.2.2 If a race or ballot measure is overvoted, the judges must not count any vote for that race or ballot measure.
- 18.2.3 If a race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure. But all other candidate races or ballot measures properly marked by the voter on the ballot must be counted.
- 18.2.4 A ballot which has no markings for any candidate races or ballot measures must be tallied as a blank ballot.
- 18.3 Procedures for counting paper ballots on ballot scanners at central count locations
- 18.3.1 Before tabulation, a resolution board must duplicate damaged ballots, and may duplicate ballots with marks that may identify the voter, in accordance with Rule 18.4. Election judges may visually inspect every ballot for the limited purpose of segregating damaged ballots and ballots with marks that may identify the voter.
- 18.3.2 A county must sort ballots requiring resolution according to the capabilities of its voting system. If a county's voting system supports digital ballot resolution, the county must program the voting system to digitally queue for resolution blank ballots, ballots with write-in votes, and ballots with overvotes. Ballots with marginal or ambiguous markings must be sorted according to the system provider's specifications, or, if different, the applicable Conditions of Use issued by the Secretary of State. The digitally

queued ballots must be resolved by election judges in accordance with Rule 18.5.

18.3.3 A resolution board must resolve ballots sorted or rejected for resolution.

- (a) In an election conducted with any partisan ballot content, a resolution board must consist of at least two election judges affiliated with different major political parties.
- (b) In an election conducted without any partisan ballot content, a resolution board must consist of at least two election judges.
- (c) A resolution board must work at each resolution workstation.
- (d) The members of a resolution board for an election may change, but all members of the resolution board at any particular time must satisfy the eligibility requirements specified in Rule 18.3.3.

#### 18.4 Ballot duplication

18.4.1 A resolution board must duplicate a voter's choices or selections on a damaged ballot onto a blank ballot of the same ballot style in accordance with Rule 18.4. During the duplication process, and to the extent necessary, the resolution board must also resolve overvotes, write-in votes, and ambiguous markings in accordance with Rule 18.5.

- (a) The county clerk must train resolution board members to resolve voter intent issues in accordance with the Secretary of State's voter intent guide.
- (b) The county clerk must periodically review duplicated ballots to ensure duplication is being conducted consistent with Colorado law and Rule 18.4.

18.4.2 A county conducting a general assembly or county commissioner vacancy election must duplicate the ballot of a voter who voted in the vacancy contest, but who, based on their affiliation as of 22 days before election day, was not eligible to vote in the contest. The ballot must be duplicated with the ineligible contest undervoted.

18.4.3 A resolution board must review the original ballot and the duplicated ballot, and consult the Voter Intent Guide if necessary, to ensure that each damaged ballot has been properly and accurately duplicated.

18.4.4 In order to match each damaged ballot to its corresponding duplicated ballot, the resolution board must identify and mark each damaged and duplicated ballot with the type of ballot and a unique number, similar to the following example: mark the damaged ballot “Orig 0001,” and the counterpart duplicated ballot “Dupe 0001.”

18.4.5 The resolution board must maintain a written log itemizing all damaged ballots that it duplicates. The duplication log must include at least each damaged and duplicated ballot’s unique number, the date on which it was duplicated, the reason for duplication, and the printed names and signatures of the members of the resolution board.

18.4.6 A county clerk must count duplicated ballots in the same manner as all other paper ballots.

18.4.7 A county clerk must batch duplicated ballots separately from all other ballots.

18.4.8 Before retention for storage, the resolution board must deposit all duplicated ballots and duplication logs in a sealable container that is clearly marked to identify its contents (e.g., “damaged ballots”). The county must maintain chain-of-custody and seal logs for the damaged ballot container at all times during the statutory election records retention period.

## 18.5 Ballot resolution

18.5.1 A resolution board must resolve all blank ballots and ballots with overvotes, write-in votes, and ambiguous markings in accordance with the Secretary of State’s Voter Intent Guide.

18.5.2 Resolution of blank ballots.

- (a) A resolution board must examine blank ballots to determine if the ballot is a true blank ballot or one that has been marked in a manner or medium that was not detected by the voting system.
- (b) If the ballot is truly blank, the resolution board must record the ballot as a blank ballot in the voting system’s resolution application.
- (c) If the ballot is marked in a manner or medium that can be discerned by the resolution board but cannot be tabulated by the voting system, the resolution board must resolve the ballot in the voting

system's resolution application in accordance with Rules 18.5.2(b) and 18.5.3.

### 18.5.3 Resolution of write-in votes

- (a) A resolution board must resolve all write-in votes in accordance with the Secretary of State's Voter Intent Guide.
- (b) In counties using voting systems featuring digital resolution capable of detecting voter markings on or in a write-in line or area, and if the voter does not mark any of the target areas in a particular contest, the resolution board must resolve during initial adjudication the written name of an eligible write-in candidate as a valid vote for that candidate even if the voter fails to mark the corresponding target area.
- (c) In counties using voting systems that are not capable of detecting voter markings on or in a write-in line or area if the corresponding target area is not also marked, and if the voter does not mark any other target area in a particular contest, the resolution board must count as valid votes for eligible write-in candidates those instances in which the voter both marks the applicable target area and writes in the name of a certified write-in candidate. During any recount, if the number of undervotes in a ballot contest could change the outcome if attributed to an eligible write-in candidate, votes for that candidate must be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided that the number of candidates chosen does not exceed the number permitted in that office.

## **Rule 19. Certification and Education of Designated Election Officials**

### **19.1 Purpose and Definitions**

19.1.1 The Secretary of State recognizes that the oversight of elections is a profession that requires thorough knowledge of complex state and federal election law and election procedures. Considering the complexity of state and federal law, voting equipment, and election procedures, extensive training is necessary. The certification program standardizes election procedures and education. The program also promotes Colorado voters' confidence in their election officials and the election process.

19.1.2 "Local election official" means a county clerk. (Section 1-1-301(1), C.R.S.)

19.1.3 "Persons required to complete certification" means:

- (a) The county clerk;
- (b) Employees in the county clerk's office who are directly responsible for overseeing election activities, including but not limited to: voter registration, candidate qualifications and ballot certification, poll worker training, ballot design and setup, ballot counting, and canvassing;
- (c) Other employees in the county clerk and recorder's office at the discretion of the clerk;
- (d) A designated election official for a county and a coordinated election official for a county; and
- (e) Employees in the Elections Division of the Department of State at the discretion of the Secretary of State.

### **19.2 Advisory Board**

19.2.1 The advisory board meets either in person or through electronic means at least twice each calendar year to approve the curriculum and make necessary changes.

19.2.2 The advisory board must recommend changes to the certification program or additional classes after reviewing evaluations, attendance numbers, and online trainings.

19.2.3 The Secretary of State will appoint the following as board members:

- (a) Four county clerks or designated staff members;
- (b) Two Secretary of State Office representatives; and
- (c) Any individual whom the Secretary of State believes could make a valuable contribution to the board.

19.2.4 Board members serve at least a two-year term.

19.2.5 The Secretary of State may terminate board members without cause. Failure to attend meetings or meaningfully contribute may result in termination.

### 19.3 Curriculum

19.3.1 The Secretary of State will develop the core and elective curriculum offered for certification and continuing elections education. The Secretary will post curriculum information on the Secretary of State's website.

19.3.2 The Secretary of State will develop and administer all training outlined in this Rule 19.

19.3.3 To obtain Colorado certification, a person must complete the following minimum curriculum prescribed by the Secretary of State:

- (a) Seven basic core courses;
- (b) One core course relevant to primary job duty; and
- (c) Six electives.

19.3.4 To maintain Colorado certification, a person must complete at least four Continuing Elections Education courses by July 31 of every year and complete at least one in-person class every two years.

### 19.4 Training Format

19.4.1 Web-based training may be conducted live or by reviewing material previously presented by the Secretary of State. In either case, participants must achieve a satisfactory score on assessments before receiving credit for the course.

19.4.2 The Secretary of State will provide classroom training. For certification, a person must complete at least one course in-person.

## 19.5 Credit

19.5.1 Individuals applying for certification must successfully complete the curriculum prescribed by the Secretary of State. If an applicant submits duplicate coursework, the Secretary of State may reject the application for certification.

### 19.5.2 Training assessment

- (a) To receive certification credit for any course presented by the Secretary of State under this Rule, a participant must successfully complete a training assessment with a minimum score of 85%.
- (b) A participant who fails to achieve a score of at least 85% may retake the assessment.
- (c) The Secretary of State may administer either paper or electronic assessments.

19.5.3 Credit for Teaching Classes. A person who teaches or substantially assists with preparation of a class offered for certification is excused from the assessment requirement outlined in Rule 19.5.2 and will receive credit for the course.

19.5.4 No election official may receive credit toward his or her Colorado certification for training offered by other agencies or organizations.

## 19.6 Application Review, Certification, and Maintenance of Records

19.6.1 When a person completes the required coursework, he or she must promptly submit an application for certification to the Secretary of State's office on the form approved by the Secretary of State.

19.6.2 The Secretary of State must review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State must issue a certificate that the person is a Certified Colorado Election Official.

19.6.3 The Secretary of State must track attendance at all classes and keep records of attendance, continuing elections education, and records of

those persons who are certified and persons who are in the certification process.

19.6.4 A person is recertified when they complete the classes required under Rule 19.3.4.

## 19.7 Decertification

19.7.1 A person who fails to satisfy continuing education requirements, or who the Secretary of State discovers failed to satisfy the requirements for initial certification will lose certification.

19.7.2 The Secretary of State will notify a person in writing via email or mail if the Secretary believes that person should be decertified because they failed to satisfy the requirements for initial certification under this Rule.

19.7.3 A person who is notified in writing that they will be decertified because they failed to satisfy the requirements for initial certification under this Rule has 15 business days to provide a response to the Secretary describing why they should not be decertified.

19.7.4 After receiving a response, or upon a person's failure to timely respond, the Secretary will make a final determination regarding decertification. The Secretary may request additional information as necessary to make that determination.

**Rule 20. County Security Procedures****20.1 Security plan**

20.1.1 The county clerk must submit their county security plan on the form prescribed by the Secretary of State in accordance with section 1-5-616(5), C.R.S., no less than 60 days before an election. A county clerk may amend their county security plan within 60 days of an election as a result of an unforeseen circumstance. The county clerk must document the changes and file the revisions with the Secretary of State within five days of the change.

20.1.2 In the security plan, the county clerk must provide the following information:

- (a) Sample copies of all security forms, schedules, logs, and checklists they will use in the upcoming election;
- (b) Detailed plans regarding the transportation of equipment and ballots to remote voting sites and back to the central elections office or storage facility;
- (c) The details of the security training it will provide, including the time and location, in accordance with Rule 20.3;
- (d) The name, title, and date a background check was conducted for each employee for whom the county clerk is required to perform a background check under Rule 20.2.3;
- (e) All voting system acceptable use policy agreements signed by county staff which had not previously been provided in a security plan that calendar year, except as provided in Rule 20.5.2(a)(1);
- (f) A description of the environment in which voting system components will be kept in accordance with Rule 20.5.5;
- (g) The names of employees with administrative privileges to the voting system as required by Rule 20.5.2(c)(5);
- (h) The number of surveillance cameras for the upcoming election; and
- (i) Any other information required in the published security plan.

**20.2 Background checks**

### 20.2.1 Background checks generally

- (a) A person may not access the systems, information, or access controls outlined in this Rule 20.2 until a background check of that person has been performed and passed.
- (b) A background check that is required by this Rule 20.2 must be run at least once per calendar year, prior to the first election of the year. In a year in which a presidential primary will be held, the background check may be performed in December in the year prior to the presidential primary.
- (c) Unless otherwise noted, a background check required by this Rule must be requested from the Colorado Bureau of Investigation.
- (d) A background check may only be considered to have passed if the check finds that the person has not been convicted of:
  - (1) An election offense; or
  - (2) An offense with an element of fraud.

20.2.2 The county clerk must perform a background check for all election judges. In accordance with section 1-6-101, C.R.S., an individual convicted of election fraud, any other election offense, or fraud may not serve as an election judge.

20.2.3 The county clerk must perform a background check in accordance with this Rule for each permanent or temporary staff member with access to:

- (a) The statewide voter registration database;
- (b) Elector's confidential or personally identifiable information;
- (c) Voter registration applications or other list maintenance activities;
- (d) A component of the county's voting system while at a location or during transport;
- (e) Removable media that contains an election project backup; or
- (f) A code, lock, combination, password, or encryption key for:
  - (1) Voting equipment;

- (2) Ballot storage area;
- (3) Counting room;
- (4) Location of adjudication workstations; or
- (5) Location of tabulation workstation.

20.2.4 A voting system provider must arrange for a national background check, sufficient to determine if the individual has ever been convicted of an election offense or an offense with an element of fraud for each employee or contractor who conducts work on any component of a county's voting system. The provider must affirm that the check was conducted in writing to the Secretary of State prior to the employee conducting any work.

20.2.5 The Department of State must perform a criminal background check for each staff member who conducts work on any component of a county's voting system, and the staff member must pass the background check prior to conducting that work.

### 20.3 Security training

20.3.1 The county clerk must conduct security training for all field technicians who work on voting system components, contractors who work on voting system components or in a voter service and polling center, and election officials, if those technicians, contractors, or election officials are contracted with or otherwise work under the direction of the county clerk.

20.3.2 The security training required by this Rule must include the following components:

- (a) Proper application and verification of seals and chain-of-custody logs;
- (b) How to detect tampering with voting equipment, memory cards, or election data on the part of anyone coming in contact with voting equipment, including election officials, vendor personnel, or voters;
- (c) Ensuring privacy in voting booths;
- (d) Chain-of-custody requirements for voting equipment, activation cards, and other election materials;
- (e) Ballot security;

- (f) Voter anonymity; and
- (g) Recognition and reporting of security incidents.

## 20.4 Physical security

### 20.4.1 Requirements for codes, locks, and combinations

- (a) The county clerk must maintain restricted access to secure ballot areas and secure equipment areas as defined by Rules 1.1.48 and 1.1.49, by use of a code, lock, or other combination. This may include the use of a key card access system which also logs entry into the secure area.
- (b) The county clerk may only give the code, lock, or combination required by this Rule to employees who have passed a background check in accordance with Rule 20.2.
- (c) The county clerk must change the code, lock, or combination required by this Rule at least once per calendar year prior to the first election of the year.

### 20.4.2 Surveillance of secure areas

- (a) The county clerk must make video security surveillance recordings of secure equipment areas in accordance with the requirements of section 1-7-513.5, C.R.S.
- (b) The county clerk of a county with 50,000 or more registered voters must also make video security surveillance recordings of secure ballot areas if those areas do not contain any components of a voting system, beginning at least 35 days before election day and continuing uninterrupted through at least 30 days following election day. If a recount or contest occurs, the recording must continue through the conclusion of all related activity.
- (c) The video security surveillance recording system must:
  - (1) Ensure that records are not written over when the system is full;
  - (2) Provide a method to transfer the video records to a different recording device or to replace the recording media; and

- (3) If replaceable media is used, provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available.
- (d) The county clerk must adequately light the areas subject to video surveillance in this Rule to ensure visibility for video recording.
- (e) Planned maintenance of video surveillance
  - (1) If 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, on a form prescribed by the Department 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. Those plans must include, at a minimum, an agreement by the county clerk that:
    - (A) The county will review key card system access logs after the surveillance system maintenance is complete to verify that no unexplained or unauthorized access occurred. If the county discovers unexplained or unauthorized access occurred during the outage, the county will notify the Department of State's Elections Security Team within two business days;
    - (B) If physical access to a secure equipment or secure ballot area is necessary during the outage, at least two county staff members authorized by Rule 20.4.1 will be present; and
    - (C) The county will implement temporary surveillance systems during planned outages, including use of portable recording devices such as cameras, phones, or tablets unless an exception to this rule is requested and granted by the Secretary of State.

- (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.

#### 20.4.3 Access logs to secure areas

- (a) The county clerk must maintain a log of each person who enters a location which contains components of a voting system in accordance with the requirements of section 1-7-513.5, C.R.S.
- (b) The county clerk must otherwise maintain a log of each person who enters a secure ballot area if that area does not contain any components of a voting system. This does not include members of the public who access areas of a county clerk's office that are regularly available to the public outside of an election.
- (c) A log required under this Rule must contain the:
  - (1) Name of the person accessing the area; and
  - (2) Year, month, day, hour, minute, and whether the time is a.m. or p.m. that the area was accessed.
- (d) If a log is generated by use of a key card or similar door access system, that system must be capable of producing a printed paper log that meets the requirements of this Rule.

#### 20.4.4 Restrictions on physical access

- (a) General restrictions
  - (1) No person may be present in a secure ballot area or secure equipment area unless:
    - (A) They are employees authorized to have a code, lock, or combination to the area under Rule 20.4.1;
    - (B) They are supervised by employees authorized to access that area; or
    - (C) They are emergency personnel responding to an emergency situation. In the event emergency personnel access this area without supervision, the

county clerk must inform the Department of State as soon as they have knowledge of the event, and it is reasonably safe to do so.

(2) In extreme circumstances, the county clerk may request, and the Secretary of State may grant, an exemption from the requirements of this Rule.

(b) Beginning 60 days before election day and continuing until 30 days after election day, individuals performing election-related duties must wear county-issued identification.

#### 20.4.5 Physical security assessment

(a) Every county clerk must request a physical security assessment of their central count facility, and if separate, the clerk's main office.

(b) The physical security assessment requested under this Rule must be conducted by an individual or entity provided by the Department of State.

(c) A request under this Rule must be made, at a minimum, once every three years, or within six months of the completion of a significant alteration made to a central county facility or clerk's main office.

#### 20.4.6 Remedies

(a) In the event that a county clerk discovers that a violation of Rule 20.4 has occurred, they must file an incident report required by Rule 20.12.2(a).

(b) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.4.

### 20.5 Security of voting system

#### 20.5.1 Chain-of-custody requirements

(a) County clerks must continuously comply with the seal requirements of the most recent conditions of use issued by the Secretary of State for the county's voting system. County clerks may not allow any unattended voting system component to remain unsealed at any point after the trusted build has been installed on a component.

A county clerk may not remove a seal to allow access to the interior of the physical computer or hard drive slot without the express written permission of the Secretary of State.

- (b) The county clerk must maintain and document uninterrupted chain-of-custody for each voting system component from the installation of trusted build to the present, throughout the county's ownership or leasing of the device.
- (c) To maintain uninterrupted chain-of-custody for each voting system component the county clerk must:
  - (1) Record the serial number of every seal required by the conditions of use on the appropriate chain-of-custody log; and
  - (2) When removing or replacing seals, use two election officials to verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. The election officials should be of different party affiliations whenever possible.

#### 20.5.2 Accessing the voting system

- (a) Acceptable use policy agreement
  - (1) All election officials, who as part of their duties may be required to access any component of the voting system, must sign the voting system acceptable use policy agreement provided by the Secretary of State every year prior to using the system. In years in which there will be a presidential primary election, an election official may sign the voting system acceptable use policy agreement the December immediately prior to the presidential primary.
  - (2) The county clerk must submit copies of all newly signed acceptable use policy agreements signed by election staff with the county's security plan.
- (b) Except for voters using a voting system component to vote during an election, a county clerk may not allow any person to access any component, including the hard drive(s) or copies of any part of the

hard drive(s) for any component, of a county's voting system unless:

- (1) That person has passed the background check required by this or any other Rule or law; and
- (2) That person is performing a task permitted by the county clerk or the Secretary of State that is permitted by statute or rule, and is:
  - (A) An employee of the county clerk;
  - (B) Appointed as an election judge by the county clerk in accordance with Article 6 of Title 1, C.R.S.;
  - (C) An employee of the voting system provider for the county's voting system; or
  - (D) An employee or designee of the Secretary of State.

(c) Accounts and passwords

- (1) The county clerk must change all passwords associated with a voting system according to the schedule required by the most recent conditions of use for that voting system.
- (2) The county clerk may use the administrative user account for the election management system only to create individual user accounts for each election project.
- (3) The county clerk must create individual user accounts that are associated and identified with each individual authorized user of the operating system of the voting system, election management system, or election project. If a particular election activity involves two election judges interacting with a voting system on the same activity, then the county may assign a single user account to both election judges for that activity. Both election judges must still comply with the log requirements of Rule 20.5.2(d).
- (4) The county clerk must restrict access to each individual user account with a unique password known only to each individual user. Authorized users must access the operating

system of the voting system, election management system, and election project using their individual user account and unique password.

- (5) The county clerk may grant administrative privileges to no more than four individual user accounts per election unless the county clerk has requested and been authorized by the Secretary of State to grant more. The county clerk must identify the employees with administrative privileges in the security plan filed with the Secretary of State.
- (6) The county clerk may only grant administrative privileges for the operating system of the voting system to the county clerk, employees of the county and the county clerk, and any person appointed by the Secretary of State to assist in the administration of an election, subject to the restrictions of Rule 20.5.2(c)(9). The county clerk may only grant administrative privileges to the election management system or the election project to the county clerk, employees of the county clerk's office, and any person appointed by the Secretary of State to assist in the administration of an election, subject to the restrictions of Rule 20.5.2(c)(9).
- (7) Authorized users with administrative privileges of the operating system, election management system, or election project may not share their accounts or passwords with anyone.
- (8) The county clerk must disable all accounts to access the operating system for individuals who are no longer employed by the county or are no longer employed in a role that requires access to the voting system.
- (9) Any individual who is prohibited from having physical contact with any voting equipment under section 1-5-607(1), C.R.S., may not grant themselves or be granted with an account or password for the operating system of the voting system, the election management system, or an election project.
- (10) The voting system provider may not have administrative or user access to the county's election management system.

- (11) The civil servants at the Department of State will securely and confidentially maintain all BIOS passwords for voting system components.
- (d) In addition to the audit logs generated by the election management system, the county clerk must maintain contemporaneous manual access logs that accurately record the date, start and end time, user's name, and purpose for each beginning and end of access of a component or application of the voting system.

### 20.5.3 Connecting to the voting system

- (a) System settings
  - (1) If any component of the voting system is equipped with Wi-Fi capability or a wireless device, the county clerk must ensure that the wireless capability or device is disabled before use in an election.
  - (2) The county clerk may not alter, or grant permission to anyone else to alter, except during the trusted build process, the pre-boot settings for any voting system component, including altering the boot path.
- (b) External network connection forbidden
  - (1) The county clerk must use the voting system only on a closed network or in a standalone fashion.
    - (A) Any network switch used within the closed network for the voting system may not have previously been used for another network.
    - (B) Any network switch used within a closed network for the voting system may only be managed from a component of the voting system with an intact chain-of-custody or using the switch's console port.
  - (2) The county clerk may not connect or allow a connection of any voting system component to the internet.
  - (3) The county clerk may not connect any component of the voting system to another device by modem.

- (c) Removable storage device
  - (1) The county clerk must reformat all removable storage devices immediately before connecting them to any component of the voting system, except as provided in Rule 20.5.3(c)(2)-(5), or in the conditions of use.
  - (2) The county clerk may connect to the election management system, without first reformatting, a removable storage device containing only election definition data files downloaded from SCORE if:
    - (A) The county clerk reformats the removable storage device immediately before inserting it into the SCORE workstation and downloading the election definition data files; and
    - (B) Before and while downloading the SCORE election definition data, the county clerk installs and operates the advanced network monitoring and threat detection applications provided or approved by the Secretary of State.
  - (3) The county clerk may insert, without first reformatting, a removable storage device into a BMD, if:
    - (A) The removable storage device contains only election and ballot style data files necessary to program the BMD for testing or use in an election;
    - (B) The county clerk downloaded the election and ballot style data files directly from the election management system workstation;
    - (C) The county clerk did not expose the removable storage device to the internet or insert it into an internet-connected device after downloading the election and ballot style data files from the election management system; and
    - (D) The county clerk reformatted the removable storage device immediately before inserting it into the election

management system and downloading the election and ballot style data files.

- (4) The county clerk may insert a removable storage device into the election management system without first reformatting it, if the removable storage device contains only election database or project files remotely programmed by the voting system provider, in accordance with Rule 20.8.1.
  - (5) The county clerk may insert a removable storage device into the election management system without first reformatting it, if the removable storage device contains only election database backup files created by the county clerk and:
    - (A) The county clerk submits an attachment with their security plan stating security procedures for the removable storage device that addresses storage of the device when not in use; and
    - (B) The plan in the attachment is approved by the Secretary of State.
  - (6) No one may insert a removable storage device into any component of the voting system during a trusted build unless that device has a verifiable chain of custody.
- (d) The county clerk may not install any software on any component of the voting system unless directed to, or approved by, the Department of State.
- (e) Activation cards
- (1) The county clerk must assign and securely affix a permanent unique identifier to each removable card or activation card. The county clerk may use the manufacturer assigned serial number for this purpose.
  - (2) The county clerk must handle activation cards in a secure manner at all times. The county clerk must transfer and store any card or activation card in a secure container with at least one seal. Upon delivery and receipt, election judges or county personnel must verify, and indicate by signing and

dating the chain-of custody log, that all seal numbers match those listed in the log.

- (3) The county clerk must maintain a written or electronic log to record activation card seals and track seals for each voting unit.
  - (4) The county clerk must maintain a complete inventory of activation cards, including which VSPC they are assigned to during an election. Before and after a VSPC opens and closes each day, the supervisor judge must verify that all cards issued to the VSPC are present. If at any time the supervisor judge cannot account for all activation cards issued to the VSPC, the county clerk must immediately submit an incident report to the Secretary of State under Rule 11.7.
- (f) No person may manually connect anything to a voting system component that enables a wireless connection. This includes, but is not limited to, external or additional network interface cards, other wireless antennas, or USB mice or keyboards that utilize wireless communication.

#### 20.5.4 Transporting voting system

- (a) The county clerk must submit detailed plans to the Secretary of State before the transportation of voting system components from a county election facility to another location, including a voter service and polling center. 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 during transit.
- (b) During or after transportation, if there is any evidence of possible tampering with a seal, or if the seal numbers do not match those listed in the chain-of-custody log, the county clerk must be immediately notified and must file an incident report required by Rule 20.12.2(a).
- (c) Voting system components are not required to be under video security surveillance while in transit. In the plan required by Rule 20.5.4(a), the county clerk must describe how they will maintain

bipartisan chain-of-custody while the components are not under video surveillance.

- (d) Personnel requirements for transportation
  - (1) Transportation by county personnel
    - (A) County personnel must at all times display identification provided by the county.
    - (B) Two employee signatures and the date are required at the departure location verifying that the equipment is sealed to detect tampering. Upon delivery of equipment, at least two election officials must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the seal numbers match the logged seal numbers.
  - (2) Transportation by election judges. Two election judges of different party affiliations that are receiving or transporting equipment must inspect all voting devices and verify the specific seal numbers by signature and date on the chain-of-custody log for the device.
  - (3) Transportation by contract
    - (A) If a county clerk contracts for the delivery of equipment, each individual delivering equipment must successfully pass a criminal background check as required by Rule 20.2.1.
    - (B) Two election officials must verify the specific seal numbers by device, sign, and date the chain-of-custody log upon release of the equipment to the individuals delivering the equipment. If the equipment is delivered by a truck capable of being locked by using a padlock or other similar device from the outside, the county clerk must provide a lock for the truck to be used during delivery. The county clerk must maintain the key or combination to the lock to be used to open the truck upon delivery. Upon delivery of equipment, at least two election officials must verify,

and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the seal numbers match the logged seal numbers.

- (C) A county clerk must require a contractor to deliver equipment on the day the equipment is picked up from the county clerk.

#### 20.5.5 Storage of voting system

- (a) The county clerk must keep all components of a voting system in a temperature-controlled storage environment that:
  - (1) Maintains a minimum temperature of 50 degrees Fahrenheit and a maximum temperature of 90 degrees Fahrenheit; and
  - (2) Is dry with storage at least four inches above the floor.

#### 20.5.6 Retention of voting equipment

- (a) If a county retains voting system components after the termination of a license agreement with a vendor, the county clerk must reformat any of those voting system components as directed by the Secretary of State, and the county clerk may not:
  - (1) Use the equipment for any other purpose until the components have been reformatted; or
  - (2) Transfer the components to any other department within the county or any party outside the county until the computers have been reformatted.
- (b) All security standards in this Rule 20 are still applicable to voting system equipment until the components have been reformatted.
- (c) Before the components are reformatted, the county clerk must preserve all election records required to be preserved by Rule 20 found on the voting system.
- (d) These requirements also apply to any equipment that a county clerk no longer uses as voting system equipment but retains while a license agreement with a vendor is in force.

#### 20.5.7 Use of voting equipment by other jurisdictions

- (a) A county clerk may not transfer any voting system components to any municipality, special district, or another local jurisdiction, except to another county clerk and recorder.
- (b) If a county clerk transfers any voting system components to another county clerk within the state, the receiving county clerk must follow all security procedures required by statute or these rules throughout the time they have custody of the components.
- (c) A county clerk who is transferring voting system components to another county clerk must notify the Secretary of State of the transfer by filling out an acquisition/disposition form and transmitting it to the Secretary of State. The form must be filled out at both the time of the transfer to and transfer from the county clerk receiving the components.

#### 20.5.8 Remedies

- (a) Generally
  - (1) In the event that a county clerk discovers that a violation of Rule 20.5 has occurred, they must file an incident report required by Rule 20.12.2(a).
  - (2) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.5.
- (b) In the event that an election official knows, or reasonably should know, that the county's voting system was accessed by any individual not permitted access by these Rules or is made aware that the system has been tampered with, they must immediately notify the Secretary of State.

#### 20.6 Trusted build procedures at a county

##### 20.6.1 When trusted build required

- (a) In the event that the Secretary of State determines a trusted build is required in a county, including due to a new certification, modification, or other security issue, the county clerk and voting system provider must coordinate with the Secretary of State to install trusted build on a schedule determined by the Secretary of State's office.

- (b) At the time that the Secretary of State determines a trusted build is required, the Secretary of State will provide the reason to the county clerk for the required trusted build.

#### 20.6.2 Attendance at trusted build

- (a) The only individuals who may be present at a trusted build in a county include:
  - (1) Secretary of State staff, designees of the Secretary of State, or other individuals approved by the Secretary of State;
  - (2) Voting system vendor staff for the voting system for which trusted build is being installed. At least one individual listed in Rule 20.6.2(a)(2) must be present during the trusted build, unless exempted by the Department of State; and
  - (3) The county clerk, employees of the county clerk, or the designated election official of the county, as long as those individuals are authorized to access the voting system under Rule 20.5.2(b) have signed the voting system acceptable use policy agreement, and subject to the restrictions of Rule 20.4.4(b). At least one individual listed in this Rule 20.6.2(a)(3) must be present during the trusted build.
- (b) The county clerk and voting system vendor must provide the name and position of individuals who will attend the trusted build in a county at the time of scheduling the trusted build with the Secretary of State.
- (c) Background check
  - (1) Any individual present at the trusted build must have had a background check conducted in accordance with Rule 20.2.
  - (2) The county clerk and voting system vendor must provide proof that a background check was conducted and passed on individuals who will be present to the Secretary of State at the time of scheduling the trusted build with the Secretary of State's office.

- (d) The county clerk and voting system vendor may only allow the number of people designated by the Secretary of State for that county to attend the trusted build.
- (e) If, due to an unforeseen circumstance, the county clerk or voting system vendor must send an individual not previously identified to the trusted build, the county clerk or vendor must immediately contact the Secretary of State and provide the information otherwise required by this Rule to the Secretary of State for the substitute individual.

#### 20.6.3 Security at trusted build

- (a) The county clerk must ensure that the location where the trusted build will be conducted does not allow for individuals who are not permitted to attend to be present or to otherwise disrupt the trusted build process.
- (b) Video surveillance recording
  - (1) The county clerk must ensure that the trusted build is conducted under video security surveillance recording.
  - (2) The county clerk must identify the video surveillance equipment that will be used to comply with this Rule to those attending the trusted build.
  - (3) Video surveillance of the trusted build must be maintained as an election record under section 1-7-802, C.R.S.
  - (4) No one may surreptitiously record the trusted build by video or audio.

#### 20.6.4 Completion of trusted build

- (a) The county clerk must seal all voting system components in accordance with the most recent conditions of use issued by the Secretary of State for the county's voting system immediately upon conclusion of the trusted build unless the county clerk proceeds to and completes acceptance testing on the same day that trusted build is completed.

- (b) In the event that the conditions of Rule 20.6.4(a) are met, the county clerk must seal all voting system components in accordance with the most recent conditions of use issued by the Secretary of State for the county's voting system upon conclusion of the acceptance testing.
- (c) The county clerk must submit a copy of the signed trusted build affidavit to the Secretary of State following the completion of acceptance testing.

20.6.5 In the event that a trusted build cannot be scheduled or completed due to a county clerk's violation of these Rules or in the event that a county clerk is found to have violated these Rules following a trusted build, the Secretary of State may take any of the actions listed in Rule 20.12.2(b).

## 20.7 Security of ballots

### 20.7.1 Unvoted ballots

- (a) The county clerk must secure unvoted paper ballots during pre-election storage, transportation, and at polling locations.
  - (1) Except when election judges are actively issuing ballots the ballot containers must be sealed.
  - (2) The county clerk must maintain chain-of-custody logs for all ballot containers.
- (b) Unvoted paper ballots must be transported to polling locations in sealed containers. The county clerk must record the seal number on a chain-of-custody log for verification by the receiving election judges. The receiving election judges must verify the ballot container seal number before issuing ballots.
- (c) When election judges are actively issuing ballots, the unvoted ballots must be in clear view of a minimum of two election judges of different party affiliations and one of the election judges must actively monitor the ballots unless the ballots are stored in a locked location accessible only to election officials.
- (d) A minimum of two election judges of different party affiliations must reconcile and document all unvoted, issued, and spoiled paper

ballots at the end of each day the polling center is open and immediately report any inventory discrepancies to the county clerk.

- (e) If unvoted paper ballots are stored overnight at the polling location, the ballots must be sealed in containers and stored in a locked location accessible only to election officials.

#### 20.7.2 Voted ballots

- (a) Voted ballots may only be handled by the following individuals:
  - (1) County clerks;
  - (2) County clerk staff engaged in the performance duties for the county clerk;
  - (3) Election judges from the time ballots are returned until all required or requested recounts have concluded; and
  - (4) Canvass board members sworn under oath from the time ballots are returned until all required or requested recounts have concluded.
- (b) When ballot processing is not actively occurring, the designated election official must seal and store ballots and opened and unopened return envelopes in a secure ballot area.
- (c) Transportation of ballot boxes with voted ballots from VSPCs and ballot drop boxes to central count facilities:
  - (1) A bipartisan team, of election judges and/or staff, must seal all ballot boxes that contain voted ballots so that no person can access the ballots without breaking a seal. The team must record all seals in the chain-of-custody log, verify that the required seals are intact, and sign and date the log.
  - (2) A bipartisan team, of election judges and/or staff, must accompany all ballot boxes that contain voted ballots at all times except when the ballot box is located in a vault or secure physical location.

#### 20.7.3 Remedies

- (a) In the event that a county clerk discovers that a violation of Rule 20.7 has occurred, they must file an incident report required by Rule 20.12.2(a).
- (b) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.7.

## 20.8 Security for voting system providers and vendors

### 20.8.1 Vendor-provided election programming services

- (a) A county clerk may not install or import into its voting system an election database or project programmed or created by the voting system provider using voting system components other than those owned or leased by the county and situated in the county's secure elections facility.
- (b) Rule 20.8.1(a) does not apply if the voting system provider first affirms on a form provided by the Secretary of State that:
  - (1) At all times during the election database or project programming, the voting system provider used only hardware and software certified for use in Colorado, as configured and verified during trusted build by the Secretary of State;
  - (2) At all times after installation of trusted build, the voting system provider operated all hardware utilized to program the election on a closed network and did not connect the hardware to the internet or any internet-connected device;
  - (3) At all times during the election programming process, the voting system provider complied with the security protocols for removable storage devices in Rule 20.5.3(c); and
  - (4) The voting system provider physically delivered to the county clerk removable storage media containing the finished election database or project and did not transmit using any method connected or exposed to the internet.
- (c) The form must be specific to each county and include the name of all employees directly involved in the programming for that individual county, including their responsibilities, if applicable.

However, prior to any project programming, a vendor may propose an alternative to this requirement that allows the Secretary of State to identify all employees involved in project programming for all counties upon completion of programming. The vendor may not commence project programming for an election until the alternative method is approved by the Secretary of State.

#### 20.8.2 Voting system component replacement or repair

- (a) A county clerk that sends a voting system component to a voting system provider for repair must submit an incident report to the Department as required by Rule 11.7.2 and an equipment acquisition/disposal form to the voting systems team at the Department.
- (b) When the county clerk receives the repaired component, or receives a replacement component, the county clerk must verify the serial number on the component and seal numbers on the shipping container match the numbers listed on the trusted build affidavit included in the container, or if that is not possible, must arrange with the Department to have trusted build installed on the component. The county clerk must also submit a completed acquisition/disposal form to the Department at the time it receives the equipment before it can be used in any capacity during an election.
- (c) If equipment is repaired by a vendor on-site, the county clerk must keep a maintenance log for the device that must contain the following:
  - (1) The model number, serial number, and the type of device;
  - (2) The software version, as applicable;
  - (3) The printed name and signature of the vendor repairing the equipment; and
  - (4) The date the vendor was on-site.
- (d) A county clerk may not allow for the on-site repair or maintenance of a voting system component that has trusted build software installed except that a county may work with a voting system provider to replace a hard drive in a RAID configured voting system

component on-site according to the published conditions of use for the voting system with the written approval of the Secretary of State.

- (e) The county clerk or an election employee of the county clerk who is authorized to access a secure equipment area must escort the vendor's representative at all times while in a secure equipment area. At no time may the voting system vendor have access to any component of the voting system without supervision by the county clerk or an employee of the county clerk who is authorized to access a component of the voting system.
- (f) Upon return of any voting system component sent for off-site maintenance, the county clerk must perform an acceptance test following the written procedures provided by the voting system vendor. The county clerk must maintain all documentation of the results of the acceptance testing on file with the specific device.
  - (1) If the maintenance was performed on a BMD, that BMD must be used to generate five ballots for use in the acceptance testing.
  - (2) If the maintenance was performed on a ballot scanner, then at least five ballots (a combination of BMD-generated ballots and non-BMD-generated ballots—at least one of each) must be tabulated on the scanner.

### 20.8.3 Remedies

- (a) In the event that a county clerk or voting system provider discovers that a violation of Rule 20.8 has occurred, they must file an incident report required by Rule 20.12.2(a).
- (b) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.8.

## 20.9 Security of other election systems

### 20.9.1 Statewide voter registration database (SCORE)

- (a) SCORE username and password administration

- (1) The SCORE customer support assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk or election administrator must submit a request for county user administrator privilege to SCORE customer support in writing. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.
- (2) Each county is limited to two county user administrators, but a county clerk may apply to the Department for an additional county user administrator.
  - (A) The application must be submitted by the county clerk in writing to SCORE customer support and must state the full name of the county employee for which county user administrator privilege is being sought. The application must also state the specific reasons the county clerk is requesting the additional user administrator.
  - (B) SCORE customer support will notify the county clerk in writing whether the request is approved within five business days after receiving the application.
- (3) The county user administrator is responsible for security administration and must assign all access privileges, as well as usernames and passwords for county employees and temporary election workers.
  - (A) For county employees, the county user administrator must assign a unique username in accordance with the naming conventions provided by the Secretary of State.
  - (B) Passwords must be assigned by the county user administrator upon initial authorization and must be changed by users and maintained confidentially.
- (4) If a county employee or temporary election worker is no longer employed by the county, the county user administrator must immediately inactivate the username.

- (b) SCORE network security requirements
  - (1) The county clerk must use only county-controlled access to networks with proper network security controls in place to access SCORE. The county may never use an open or shared public-use network to access SCORE.
    - (A) All wireless networks must meet the following minimum requirements:
      - (i) WPA2, or above, security must be enabled;
      - (ii) Shared wireless passwords or secrets must be changed every three months, at a minimum; and
      - (iii) Wireless keys must be a minimum of 14 characters in length and must include at least one number and mixed case letters.
    - (B) All networks must employ proper security controls to ensure malicious users cannot connect to the network, intercept SCORE communications, or otherwise attack the SCORE system. These controls must include, at a minimum, network firewalls and securely configured network equipment to prevent common attack mechanisms.
  - (2) All individuals who access the SCORE system must sign a SCORE Acceptable Use Policy (AUP) before the county provides a SCORE username.
    - (A) The county clerk, county SCORE user-administrator, and county elections IT manager, if applicable, must submit their signed AUP to the Secretary of State.
    - (B) The county clerk must retain the AUP for each individual who is assigned a SCORE username.
      - (i) The Secretary of State will audit the county AUP records for each county selected for annual inspection of its voting system maintenance records under Rule 20.12.1(a).

- (ii) The Secretary of State will suspend access to SCORE for any individual whose AUP is not on file with the county clerk.
- (3) If a government agency notifies a county clerk or if the county clerk otherwise knows of an attack, potential attack, or data breach on critical infrastructure in the clerk's office, SCORE, or any other county network or system that may impact the election or election equipment, the county clerk must notify the Secretary of State's office immediately using the contact information provided by the Secretary of State's office for this purpose.

#### 20.9.2 Ballot-on-demand and mobile ballot production printers

- (a) Software access, security, and storage
  - (1) The county clerk must change all Windows, and ballot-on-demand and mobile ballot production application passwords at least once per calendar year.
  - (2) Only election officials or authorized vendor representatives may operate the ballot-on-demand system or mobile ballot production printers.
  - (3) The county clerk may connect the ballot-on-demand or mobile ballot production laptop to an external network for the purpose of connecting to SCORE only if the county clerk maintains current virus protection, current operating system security patches, and implements firewalls to prevent unauthorized access.
  - (4) The county clerk must store the ballot-on-demand and mobile ballot production printer, laptop, and unused paper ballot stock in a locked storage area which is accessible only to election officials when the printer is not in use.
  - (5) The county clerk must ensure before use during an election that any wireless connectivity associated with a mobile ballot production printer or laptop or ballot-on-demand laptop is disabled.
- (b) Ballot reconciliation

- (1) The county clerk must reconcile ballots printed on demand in accordance with Rules 10.1.1 and 10.1.2.
- (2) The county clerk must maintain damaged, misprinted, or unusable ballots as election records.

### 20.9.3 Remedies

- (a) In the event that a county clerk discovers that a violation of Rule 20.9 has occurred, they must file an incident report required by Rule 20.12.2(a).
- (b) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.9.

## 20.10 Retention and election project backups

### 20.10.1 Election project backup security

- (a) To ensure election project backups have not been altered, a county clerk must store any media that contains an election project backup in a sealed container in a secure equipment area. The container must be sealed by at least one tamper-evident seal and have a chain-of-custody log.
- (b) When accessing the sealed container containing any media that contains election project backups two election officials must verify the seal number(s) and sign and date the chain-of-custody log.
- (c) Removeable media used to store election project backups must conform to the removeable media security standards in Rule 20.5.3(c). The media may only be connected to a component of a voting system with an intact trusted build.
- (d) Any media that contains election project backups may not contain any data that is not exported by the voting system.
- (e) Only employees of the county clerk's office that have passed a criminal background check according to Rule 20.2.1 may access any media that contains an election project backup, except any individual who is prohibited from having physical contact with any voting equipment under section 1-5-607(1), C.R.S., may not access any media that contains an election project backup.

**20.10.2 Retention of voting system security records**

- (a) The county clerk must maintain all documentation of seals, chain-of-custody, trusted build, acceptance testing, transfer of equipment between parties, or any other documents related to the physical security of voting system components for 25 months after that component is no longer in the possession of a county.
- (b) The county clerk must maintain the following as election records under section 1-7-802, C.R.S.:
  - (1) Access logs to secure ballot and secure equipment areas;
  - (2) Access logs for voting system component access;
  - (3) Video footage created under Rule 20.4.2;
  - (4) Election project backups required to be made under Rule 11.4.1(a), (b), (d), and (e);
  - (5) Logs generated by the election management system software of the voting system if those logs are not contained in the election project backup. This does not include logs generated outside of the election management system software; and
  - (6) Any other documents created by the county clerk to ensure the physical security of the voting system.
- (c) All written entries in logs and other documentation must be in permanent ink and legible.

**20.10.3 Retention of voted ballots**

- (a) To preserve and maintain ballots as an election record, a county clerk must follow the requirements of this Rule when removing ballots from their sealed containers. However, this Rule 20.10.3 does not apply to any activity to be conducted by Title 1, Colorado Revised statutes, or to the destruction of ballots following the twenty-five month retention period required by law.

- (b) Removal of ballots from their containers under this rule must be completed through a precise, controlled process. The process must include:
  - (1) Confirming the seal log on or in a container of ballots before removing ballots from the container;
  - (2) Opening and removing ballots from the container in an orderly fashion;
  - (3) Maintaining the order and integrity of each ballot batch; and
  - (4) Returning and resealing ballots inside a container before opening the next container of ballots.
- (c) A county clerk may allow multiple teams of election workers to remove ballots from their containers simultaneously following the process described in this Rule.
- (d) Ballots and ballot containers may only be handled by county election staff or election judges.
- (e) Any room in which a county clerk conducts the activities described in this Rule is a secure ballot area.
- (f) The county clerk must operate video security surveillance recordings of the activities described in this Rule. Those recordings must be maintained as an election record for 25 months following the conclusion of the ballot removal process.
- (g) A county clerk may not remove ballots from their containers for any activity not required by law until the conclusion of the canvass or requested or required recount, whichever is later.
- (h) A county clerk who is removing ballots from their containers must notify the Secretary of State within three business days after the removal has been scheduled, or otherwise determined by the clerk to take place. The clerk must allow observers from the Secretary of State to be present to observe all activities associated with the removal of ballots.

#### 20.10.4 Remedies

- (a) In the event that a county clerk discovers that a violation of Rule 20.10 has occurred, they must file an incident report required by Rule 20.12.2(a).
- (b) The Department of State may take any action under Rule 20.12.2(b) to remedy a violation of Rule 20.10.

## 20.11 Security of operations

### 20.11.1 Contingency plans

- (a) The county clerk must develop emergency contingency plans for voting equipment and voting locations in accordance with this Rule.
- (b) In the event of a serious or catastrophic equipment failure, or when equipment is removed from service, or there is not adequate backup equipment to meet the requirements of section 1-5-501, C.R.S., the county clerk must notify the Secretary of State that the county clerk is using provisional ballots as an emergency voting method.
- (c) The county clerk contingency plans and evacuation procedures must address emergency situations including fire, severe weather, bomb threat, civil unrest, electrical blackout, equipment failure, and any other emergency situations the county clerk identifies.
- (d) The county clerk must develop procedures to address failures of SCORE continuity, which includes:
  - (1) Network failure,
  - (2) Power failure that lasts less than one hour, and
  - (3) Power failure that lasts more than one hour.
- (e) At least one BMD in each voter service and polling center must have a backup battery, or be connected to an uninterruptible power supply, sufficient to sustain continuous operation for a minimum of two hours in the event of power loss.
- (f) The county clerk must develop contingency plans which address an unexpected outage of any required video surveillance. The plan must include regular intervals, including those intervals required by

Rule 7.4.1, at which the county will confirm that all required video surveillance is operational.

- (g) The county clerk must include a contact information sheet that identifies the contact information for any government agency the clerk would contact in the event of an emergency or incident contemplated in the clerk's contingency plan.

#### 20.11.2 Closure of VSPCs due to emergency condition

- (a) If as a result of an extreme weather event, natural disaster, act of God, human made incident, or disruption to, or threat of disruption to critical infrastructure, a county government or other entity closes all day, closes early, or delays the opening of a building where a voter service and polling center is located, then the county clerk may close for the day, close early, or delay the opening of any voter service and polling center located in those buildings affected.
- (b) The county clerk must immediately notify the Secretary of State and the public of any closure or delayed opening of a voter service and polling center under this Rule.
- (c) A county clerk must relocate VSPC operations to a backup location in the event a closure would result in the county not meeting their statutory minimum VSPCs. A county clerk must immediately notify the Secretary of State of the backup location that they will relocate to.
- (d) The Secretary of State may petition a court under section 1-7-101 (1)(b), C.R.S., to extend the polling hours in a county or statewide if voter service and polling centers are closed or delayed opening under this Rule.
- (e) If a county clerk closes or delays the opening of a voter service and polling center under this Rule, then the Secretary of State and county clerk must issue an emergency ballot available under section 1-7.5-115, C.R.S., to any voter who requests it due to the delay or closure.

### 20.12 Secretary of State inspections and remedies

#### 20.12.1 Inspections

- (a) A county clerk must make available to the Secretary of State, upon request, county documents and equipment, including, but not limited to:
  - (1) County maintenance records;
  - (2) Chain-of-custody logs;
  - (3) Trusted build integrity;
  - (4) Wireless status;
  - (5) Virus protection status;
  - (6) Password status (Bios, operating system, and applications);
  - (7) Access logs;
  - (8) Background check documents;
  - (9) Signed acceptable use policy agreements; and
  - (10) Video surveillance.
- (b) In addition to the documentation listed in Rule 20.12.1(a), the county clerk must make all documentation related to the voting system and for every device used in the election available for Secretary of State inspection.

#### 20.12.2 Remedies

- (a) Incident report
  - (1) If a county clerk discovers or determines that a violation of any provision of Rule 20 has occurred, they must file an incident report with the Department of State as soon as feasible, but not later than two business days, following discovery or determination of the incident. The incident report must describe in detail the incident and the rule that may have been violated and any other information the Department may require. If an issue arises that does not constitute a violation of Rule 20, but the county clerk or Department believes an incident report should be filed, the clerk must file an incident report as soon as feasible. The

incident report must be filed on a form prescribed by the Department of State.

- (2) After an incident report is filed under this Rule, the Department will investigate and determine what additional action or information, if any, is required.
- (3) A county clerk must cooperate with the investigation of a violation of Rule 20 or separate issue that results from a filed incident report. This includes providing any documentation or answers requested by the Department during the course of the Department's investigation.
- (4) Based on the information gathered, the Department may take further action, including but not limited to, those actions described in Rule 20.12.2(b) to remedy the violation and to ensure future compliance with Rule 20.
- (5) A county clerk's intentional failure to file an incident report required by this Rule or failure to cooperate with an investigation conducted by the Department of State may also result in any of the remedies listed in Rule 20.12.2(b).

(b) Remedies

- (1) Upon discovering and investigating a violation of Rule 20, the Department may require a county clerk to take further action to remedy any violation and ensure future compliance with Rule 20.
- (2) Any violation of Rule 20 may result in the prohibition or limitation on the use of, as well as decertification of, a county's voting system or components in accordance with section 1-5-621, C.R.S., and Rule 21.7.3.
- (3) In the event that the Secretary of State determines that an election official has shown a serious or patterned failure to comply with any security requirements found in statute, these rules, the conditions of use of the voting system, or the acceptable use policy agreement for the voting system, the Secretary of State may take any or all of the following actions, including but not limited to:

- (A) Requiring the county clerk to submit a security remediation plan no later than 90 days before the next election outlining the procedures the county clerk will follow to ensure compliance with the security requirements that were not followed;
- (B) Prohibiting or limiting the use of, as well as decertification of, a county's voting system or components in accordance with section 1-5-621, C.R.S., and Rule 21.7.3;
- (C) In accordance with section 1-1.5-104(2)(a)(II), C.R.S., appointing observers at the county expense to be present with the county clerk to ensure compliance with the security requirements; or
- (D) Referring the matter to the Attorney General or District Attorney for potential investigation and prosecution under section 1-13-114, C.R.S., or any other applicable provision.

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## Rule 21. Voting System Standards for Certification

### 21.1 Introduction

21.1.1 The standards for certifying a voting system in this Rule apply to applications for new certifications. Voting system providers may submit an application to modify a system previously certified by the Secretary of State in accordance with section 1-5-618, C.R.S.

- (a) The Secretary of State will only approve an application for modification if testing determines that the changes proposed do not adversely affect any one or more of the following:
  - (1) Performance of voting system functions;
  - (2) Voting system security and privacy;
  - (3) Overall flow of system control; or
  - (4) The manner in which ballots are defined and interpreted, and voting data is processed.
- (b) The Secretary of State may approve a test plan for a modified voting system limited to the correction of defects; the incorporation of improvements; the enhancement of portability and flexibility; and the integration or compatibility of data exported from the voting system with other elections systems.
- (c) A voting system provider may apply for modification to a currently certified voting system to address de minimis commercial off-the-shelf hardware changes using the process laid out in this Rule.
  - (1) The provider must submit an application package that includes an application for modification provided by the Secretary of State, internal testing documentation, VSTL determination of de minimis changes, specification documents for existing and new equipment, and any of the following supporting documentation as applicable: updated TDP documents, other engineering change order documents, an integration testing plan, hardware manufacturer specification changes, and any other documentation requested by the Secretary of State. If the submitted application package is incomplete the Secretary of

State will identify the deficiencies and the voting system provider must remedy the deficiencies within ten days.

- (2) If the Secretary of State reviews the application package and determines that the modification requires any additional testing from the VSTL, the provider will work with the Secretary of State to create a test plan for the modification. The Secretary of State makes the final determination as to whether the change is de minimis or not.
- (3) If the Secretary of State reviews the application package and determines that the modification does not require testing by the VSTL, the provider will coordinate with the Secretary of State to perform integration testing overseen by the Secretary of State using the plan provided in the application package, if the Secretary of State determines that an integration test is required.
- (4) Upon completion of testing the Secretary of State will review the outcomes of the integration testing and determine if the modification complies with section 1-5-618(1.5), C.R.S., and approve or deny the modification request.
- (5) A voting system provider must notify the Secretary of State of changes to system peripherals such as monitors, keyboards, mice, card readers, routers, switches, etc. The Secretary of State may require the provider to submit supporting documentation before allowing a county clerk to use the new peripheral.

21.1.2 Sufficient components must be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this Rule.

21.1.3 The certification of a voting system is not a requirement that a county purchase or lease all of the components of the voting system. Counties may choose to configure and use a subset of the certified voting system and may use the services of a vendor or third party to provide ballot definition and election programming of memory cards. Counties are not required to use a paper ballot tabulation device if they are exempted by law and choose to manually tabulate the election results.

21.1.4 A voting system vendor applying for certification or modification must notify the Secretary of State at the time of application if any component previously certified for use in Colorado is not included in the application for certification or modification.

## 21.2 Certification process overview and timeline

21.2.1 The voting system will be considered as a unit, and all components tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system will require the entire voting system to be recertified unless the change is a modification that can be approved under section 1-5-618(1.5), C.R.S.

21.2.2 For a voting system to be certified, the voting system provider must successfully complete all phases of the certification process. The certification process includes: submission of a complete application, a documentation review, a public demonstration of the system, -functional testing, and escrow of state certified election software.

21.2.3 The flow of each phase of certification is as follows:

- (a) Phase I – The voting system provider must submit an application with all documentation required in Rule 21.3 and a completed requirements matrix provided by the voting systems team. The Secretary of State will review the application and inform the voting system provider whether or not the application is complete. If the application is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. When the application is complete, the Secretary of State will make arrangements with the voting system provider for a public demonstration.
- (b) Phase II – The Secretary of State will review the submitted documentation, Colorado requirements matrix, VSTL reports from previous testing, and evaluations provided by other states. If the submitted documentation or requirements matrix is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make them complete.

- (c) Phase III – The Secretary of State must approve a certification test plan. If a VSTL is contracted to test the voting system, the VSTL will work with the voting system provider to prepare a certification test plan. The certification test plan will be presented to the Secretary of State for review and approval.
- (d) Phase IV– Upon receipt of the Secretary of State’s approval of the certification test plan, the VSTL will execute the test plan.
- (e) Phase V – The Secretary of State will review the test results and determine whether the voting system substantially meets the requirements for certification. Before the Secretary of State will make a final determination of whether the system substantially meets the requirements, the voting system provider must escrow in compliance with section 1-7-511, C.R.S. Within 30 days of a decision, the Secretary of State will post the certification test report for the voting system on its website.

21.2.4 The Secretary of State will certify voting systems that substantially comply with the requirements in this Rule 21, and any additional testing the Secretary of State finds necessary.

### 21.3 Application procedure

21.3.1 Any voting system provider that wants to apply for certification or modification of a certified voting system must request a meeting with the Secretary of State’s voting system team to communicate their timing and intent to apply prior to submitting a complete application package. If the proposed timeline presented for the submission would present a hardship for the Secretary of State or counties, the Secretary may require the provider to delay submission of the application to a later date agreed upon by all parties.

- (a) The Secretary of State will not consider submissions for that year that have not been communicated with a meeting mentioned in Rule 21.3.1 before January 15th. No submission will be considered in a year that includes a Presidential Election. This does not include de minimis modifications as outlined in Rule 21.1.1(c).
- (b) If during the certification process a vendor is substantially unable to meet the deadlines laid out during the meeting as required in Rule 21.3.1, the Secretary of State may halt the voting system

certification or modification. The provider may restart the certification or modification process at an appropriate time according to subsection (a) of this Rule.

- (c) The Secretary of State may waive the restriction provided in Rule 21.3.1(a), if a serious defect or vulnerability requires a modification of a voting system for its continued use.

21.3.2 A voting system provider that desires to submit a voting system for certification must complete the Secretary of State's "Application for Certification of Voting System" that is available upon request from the Secretary of State.

21.3.3 Along with the application, the voting system provider must submit all documentation required in the application for certification in a searchable electronic format. The Secretary of State may delay the certification process if the documentation is insufficient or incomplete until remedied by the voting system provider.

21.3.4 The voting system provider must submit the completed Colorado requirements matrix to the Secretary of State in a timely manner after submission of the application for certification.

- (a) The voting system provider must specify where each requirement is met in the documentation, including section or page number.
- (b) The voting system provider must specify which requirements will be fulfilled by testing instead of documentation.
- (c) All requirements in the Colorado requirements matrix must be addressed.

21.3.5 The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase V of the certification process.

21.3.6 Any material that is submitted as part of the technical data package that is not exempt from public disclosure and is created by the voting system provider must be submitted to the Secretary of State in an accessible format.

21.3.7 The voting system provider must coordinate with the Secretary of State for the establishment of the trusted build. The voting system provider must submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. At a minimum, the trusted build must include a compilation of files placed on write-once media, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. The trusted build disks should all be labeled with identification of the voting system provider's name and release version. Once established, the trusted build may only be installed on a voting system component by Secretary of State staff members who have passed a background check as required by Rule 20.2.5.

21.3.8 All materials submitted to the Secretary of State must remain in the custody of the Secretary of State as follows:

- (a) For certified systems, until the certification is permanently revoked, or until no components of the certified system are used in the State of Colorado; and
- (b) For systems that are not certified, a period of 25 months.

#### 21.4 Voting system standards

##### 21.4.1 Materials incorporated by reference

- (a) The 2002 Voting Systems Standards, as adopted April 30, 2002, by the Federal Election Commission, are incorporated by reference. Material incorporated by reference in the Election Rules does not include later amendments or editions of the incorporated material. Copies of the 2002 Voting Systems Standards may be obtained at no cost in electronic form on the United States Election Assistance Commission's website: <https://www.eac.gov/>.
- (b) The Voluntary Voting System Guidelines 2.0 (VVSG 2.0), as adopted on February 10, 2021, by the United States Election Assistance Commission, and updated July 10, 2023, are incorporated by reference. No future changes to the VVSG 2.0 are incorporated by reference in these Election Rules. Copies of the VVSG 2.0 may be obtained at no cost in electronic form on the United States Election Commission's website:

<https://www.eac.gov/voting-equipment/voluntary-voting-system-guidelines>.

- (c) The Department of State also maintains a copy of the materials incorporated by reference into these Election Rules available for public inspection, and can provide copies at a reasonable cost, during regular business hours at the Department's office at 1700 Broadway, Suite 550, Denver, CO 80290.

21.4.2 All voting systems submitted for certification must meet the requirements of the Voluntary Voting System Guidelines 2.0, as adopted on February 10, 2021 and updated on July 10, 2023, instead of the 2002 Voting Systems Standard.

- (a) Any system that has been certified under a legacy standard does not lose its current certification.
- (b) No modification will be considered for a system that was certified using the 2002 Voting System Standards unless it is a de minimis hardware modification or addresses a serious defect or vulnerability.

21.4.3 The voting system provider must document that all voting system software, hardware, and firmware meet all requirements of federal law that address accessibility for the voter interface of the voting system. These laws include:

- (a) The Help America Vote Act,
- (b) The Americans with Disabilities Act, and
- (c) The Federal Rehabilitation Act.

21.4.4 Independent Analysis. Before completion of functional testing, all voting system providers submitting a voting system must complete an independent analysis of the system, which includes:

- (a) An application penetration test conducted to analyze the system for potential vulnerabilities that may result from poor or improper system configuration, known or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test must involve active exploitation of security vulnerabilities of the voting system according to a

penetration test plan approved by the Secretary of State, whether or not the vulnerabilities can be mitigated through compensating controls.

- (b) A source code evaluation conducted in accordance with the Voluntary Voting System Guidelines 2.0, as incorporated by reference in Rule 21.4.1(b).
- (c) A complete report detailing all findings and recommended compensating controls for vulnerabilities and deficiencies identified.
- (d) The voting system provider must use at least one of the following to perform the independent analysis:
  - (1) An EAC approved VSTL;
  - (2) An independent testing organization approved by the Secretary of State; or
  - (3) Testing conducted in another state.
- (e) The Secretary of State or VSTL will conduct a quality review of all work under this section. The review may include an examination of the testing records, interviews of the individuals who performed the work, or both. Review of testing records may be conducted at the VSTL, the state in which the testing was conducted, or at the site of any contractor or subcontractor utilized by another state to conduct the testing.
- (f) The Secretary of State may reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

#### 21.4.5 Functional requirements

- (a) Functional requirements must address all detailed operations of the voting system related to the management and controls required to successfully conduct an election.
- (b) The voting system must provide for appropriately authorized users to:
  - (1) Set up and prepare ballots for an election;

- (2) Lock and unlock system to prevent or allow changes to ballot design;
  - (3) Conduct hardware diagnostic testing;
  - (4) Conduct logic and accuracy testing;
  - (5) Conduct an election and meet requirements as identified in this Rule 21 for procedures for voting, auditing information, inventory control where applicable, counting ballots, opening and closing polls, recounts, reporting and accumulating results;
  - (6) Conduct the post-election risk-limiting audit; and
  - (7) Preserve the system for future election use.
- (c) The election management system must provide authorized users with the capability to produce electronic files including election results in either ASCII (both comma-delimited and fixed-width) or web-based format. The software must provide authorized users with the ability to generate these files on an “on-demand” basis. After creating such files, the authorized users must have the capability to copy the files to CD-ROM or removable media.
- (1) Exports necessary for the Secretary of State must conform to a format approved by the Secretary of State. The format must be compatible with a commercially available data management program such as a spreadsheet, database, or report generator.
- (d) The election management system must ensure that an election setup record may not be changed once ballots are printed and/or election media devices are downloaded without proper authorization and acknowledgement by the application administrative account. The application and database audit transaction logs must accurately reflect the name of the system operator making the changes and the date and time of the changes. The application and database audit transaction logs must support user’s ability to examine the “old” and “new” values of the changes.

- (e) All BMD voting devices must use technology providing visual or auditory ballot display and selection methods used by people with disabilities.
- (f) All BMD voting devices must be able to produce a ballot that is identical to a hand marked paper ballot.
- (g) All electronic voting devices supplied by the voting system provider and used at voter service and polling centers must have the capability to continue all normal voting operations and provide continuous device availability during a 2-hour period of electrical outage without any loss of election data.

#### 21.4.6 Physical and design characteristics

- (a) Physical and design characteristics must address any and all external or internal construction of the physical environment of the voting system.
- (b) The voting system provider must submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

#### 21.4.7 Ballot Definition Subsystem

- (a) The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule.
- (b) The ballot definition subsystem must be capable of handling at least 200 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.
- (c) The voting system must accommodate single page ballots (races on one face or both faces) and two page paper ballots (races on three or four faces).
- (d) The ballot definition subsystem must:

- (1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates;
  - (2) Generate all required masters and distributed copies of the ballot definition files; and
  - (3) Permit a user to program the election, build the election database, generate and layout ballots, and report results, by ballot style or precinct, as permitted or required by section 1-7.5-208, C.R.S.
- (e) Data management applications that collect, convert, manage or export election definition information in one or more formats suitable for import into the election management system, are an essential component of, and must be integrated with and operate in the same user interface and on the same server or workstation, as the election management system.
- (f) The voting system may not add any caption or endorsement to ballot artwork generated by the voting system, including without limitation copyright notices or the name of the voting system provider. The county must have the ability to suppress any captions and endorsements generated by the voting system that are not authorized by section 1-5-407(1), C.R.S.

21.4.8 Trusted Build. The voting system must allow the operating system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

#### 21.4.9 Audit capacity

- (a) The voting system must track and maintain read-only audit information of the following election management system events:
- (1) Log on and log off activity;
  - (2) Application start and stop;
  - (3) Printing activity, where applicable;

- (4) Election events – set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create voter service and polling centers, initialize devices, backup devices, and voting activity; and
  - (5) Hardware events – add hardware, remove hardware, initialize hardware, and change hardware properties.
- (b) All transaction audit records of the election databases must be maintained in a file outside of or separate from the database in a read-only format.

21.4.10 Security requirements. All voting systems must meet the following minimum system security requirements:

- (a) The voting system must meet the following requirements to accommodate a general system of access by least privilege and role-based access control:
  - (1) Operating system administrative accounts may not have access to read or write data to the database;
  - (2) Operating system user/operator accounts must be able to be created that are restricted from the following aspects of the operating system:
    - (A) No access to system root directory;
    - (B) No access to operating system specific folders;
    - (C) No access to install or remove programs; and
    - (D) No access to modify other user accounts on the system.
  - (3) Application administrative accounts must have full access and rights to the application and database;
  - (4) Application user/operator accounts must have limited rights specifically designed to perform functional operation within the scope of the application. This user/operator must be

restricted in the creation or modification of any user/operator accounts.

- (b) The voting system must meet the following requirements for network security:
  - (1) All network-applicable components of the voting system must have the ability to operate on a closed network dedicated to the voting system;
  - (2) All network-applicable components of the voting system must include the limited use of non-routable IP address configurations for any device connected to the closed network. For the purposes of this requirement, non-routable IP addresses are those defined in the RFC 1918 Address base; and
  - (3) The voting system must include provisions for updating security patches, software and/or service packs without access to the open network.
- (c) All voting systems that use databases must: Have databases hardened to specifications developed by the voting system provider. Documentation included with the application must provide a detailed procedure for hardening according to current industry standards. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
- (d) The voting system must meet the following requirements for operating system security:
  - (1) All voting systems must have all operating systems hardened to specifications developed by the voting system provider according to current industry standards. Documentation included with the application must provide a detailed procedure for hardening. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
  - (2) The voting system provider must configure the voting system operating system of the workstation and server used for the election management software to the following requirements:

- (A) The ability for the system to take an action upon inserting a removable media (auto run) must be disabled; and
  - (B) The operating system must only boot from the drive or device identified as the primary drive.
- (3) The voting system provider must use a virus protection/prevention application on the election management server/workstations which must be capable of manual updates without the use of direct connection to the internet.
- (e) The voting system must meet the following requirements for password security:
- (1) All passwords must be stored and used in a non-reversible format;
  - (2) Passwords to the database must not be stored in the database;
  - (3) Password to the database must be owned and only known by the application;
  - (4) The application's database management system must require separate passwords for the administrative account and each operator account;
  - (5) The system must be designed in such a way to ensure that the use of the administrative account password is not required for normal operating functions;
  - (6) The system must allow users to change passwords;
  - (7) The use of blank or empty passwords must not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and
  - (8) All voting systems must have all components of the voting system capable of supporting passwords of a minimum of 15 characters, and must be capable of including numeric, alpha

and special characters in upper case or lower case used in any combination.

- (f) All modules of the system must meet the following requirements for installation of software, including hardware with embedded firmware:
  - (1) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-readable source information must be made available as part of a source code review.
  - (2) Security features and procedures must be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition. Replacement of the interpreted data files with tested and approved files from the trusted build must be by authorized personnel before the election definition is finalized for an election.
  - (3) The introduction of interpreted data during execution must not be permitted unless defined as a predefined set of commands or actions subject to security review and the interpretation function provides security edits on input to prevent the introduction of other commands or the modification or replacement of existing code.
  - (4) The application must not allow users to open database tables for direct editing.
- (g) All voting systems must meet the following minimum requirements for removable storage media with data controls:
  - (1) All data stored that includes ballot images, tally data, and cast vote records must be authenticated, encrypted or secured against tampering, and validated.
  - (2) All removable media, upon insertion on server and workstations hosting the elections management software, must automatically be scanned by antivirus software or secured against execution of unauthorized software.

## 21.4.11 Documentation Requirements

- (a) The Secretary of State may rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:
  - (1) The Secretary of State has access to any documentation, data, test case reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and
  - (2) The Secretary of State has determined that the tests were conducted in accordance with appropriate engineering standards, and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all Rules promulgated under those sections.
- (b) In addition to other documentation requirements in this Rule, the voting system provider must provide the following documents:
  - (1) Standard issue users/operator manual;
  - (2) System administrator's/application administration manual;
  - (3) Training manual and related materials;
  - (4) Election definition programming and diagnostics manuals; and
  - (5) A list of minimum services needed for the successful, secure and hardened operation of all components of the voting system.
- (c) For the review of VSTL or other state testing copies of all VSTL or state qualification reports, test logs and technical data packages must be provided to the Secretary of State.
  - (1) The voting system provider must execute and submit any necessary releases for the applicable VSTL, state or EAC to discuss any and all procedures and findings relevant to the voting system with the Secretary of State and allow the review by the Secretary of State of any documentation, data,

- reports, or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider must provide a copy of the documentation to the Secretary of State.
- (2) The voting system provider, the VSTL, the state or the EAC will identify to the Secretary of State any specific sections of documents for which they assert a legal requirement for redaction.
- (d) The voting system provider must provide documentation specifying the steps and times required for charging batteries, and the time of battery operation for each type of device they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power.
- (e) The Secretary of State will review submitted documentation to determine the extent to which the voting system has been tested to federal standards.
- (f) Failure by the voting system provider to provide any documentation will delay processing the application and may be cause for denial of certification.
- (g) The voting system must include detailed documentation, which includes the location and a description of the content of the of audit trail information throughout the system. The audit information applies to:
- (1) Operating Systems (workstation, server, ballot scanner, and BMD);
  - (2) Election management system; and
  - (3) Election Tabulation Devices – ballot scanner.
- (h) The voting system provider must provide documentation detailing voting system security. The documentation must contain configurations, properties and procedures to prevent, detect, and log changes to system capabilities for:
- (1) Defining ballot formats;

- (2) Casting and recording votes;
  - (3) Calculating vote totals consistent with defined ballot formats;
  - (4) Reporting vote totals;
  - (5) Altering of voting system audit records;
  - (6) Changing or preventing the recording of a vote;
  - (7) Introducing data for a vote not cast by a registered voter;
  - (8) Changing calculated vote totals;
  - (9) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and
  - (10) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.
- (i) The voting system provider must provide documentation detailing the security measures it has in place for all systems, software, devices that act as connectors (upload, download, and other programming devices) and any additional recommended security measures.
  - (j) For the purpose of evaluating software, the voting system provider must provide detailed information as to the type of hardware required to execute the software.
  - (k) The documentation supplied by the voting system must include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.
  - (l) The voting system provider must submit documentation containing a list of minimum equipment, services, and executables required to run the election management system.

21.4.12 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado must meet the following requirements for ballot-level cast vote records and exports:

- (a) The voting system must capture a ballot-level cast vote record (CVR).
- (b) The voting system must be able to aggregate in a single file and export all CVRs in comma-separated value (CSV) text format.
- (c) The CVR export must be compatible with the Secretary of State's post-election audit software.
- (d) The header or field names in the CVR export must unambiguously correspond to names of the contests and choices on the paper ballots.
- (e) The contests and choices must be listed in the same order as they appear on the ballots.
- (f) A vote for a choice must be indicated by a "1." No vote for a choice or an overvoted condition must be indicated by a "0." Choices that are not applicable to the CVR must be left blank.

21.4.13 Election Night Reporting data and exports. All voting systems certified by the Secretary of State for use in Colorado after January 1, 2016 must meet the following requirements for Election Night Reporting data and exports:

- (a) The voting system must be able to generate and export results data suitable for use in the Secretary of State's Election Night Reporting (ENR) system, as specified in the remaining subsections of this Rule.
- (b) The ENR export file must be in a tabular format that uses comma-separated value (CSV) format, or a format based on a range of character positions within a line.
- (c) The ENR export file must contain a header line that defines all of the fields contained in the export file.
  - (1) The header names need not exactly correspond to the field names specified subsection (d) of this Rule, but must unambiguously identify the content of each field.
  - (2) The order of the fields within the export file may deviate from the order specified in subsection (d) of this Rule.

- (3) Additional fields contained in the ENR export file but not specified or addressed in subsection (d) of this Rule must not contain only alphanumeric characters.
- (d) The ENR export file must include the following items or fields:
- (1) Precinct Name. If the county defines the election to report results by precinct, an alphanumeric string consisting of a 10-digit precinct code.
  - (2) Ballot Style Name. If the county defines the election to report results by ballot style or district, a unique, alphanumeric string for each ballot style.
  - (3) Precinct ID. If the county defines the election to report results by precinct, a unique integer for each precinct or precinct split.
  - (4) Registered Voters. The number of registered voters eligible to vote each unique ballot style, or in each precinct or precinct split, as applicable.
  - (5) Ballots counted. The number of ballots counted for each unique ballot style, or each precinct or precinct split, as applicable.
  - (6) Contest Name. The contest name as it appears on the ballots. If the contest name contains a carriage return for ballot formatting purposes, then the carriage return must not appear in the export.
  - (7) Contest ID. A unique integer for each contest.
  - (8) Contest Sequence Number. A unique integer that defines the sequence of contests as they appear on the ballots.
  - (9) Votes Allowed. The maximum number of choices that a voter may select in each contest (e.g., "Vote for 2").
  - (10) Choice Name. The choice name as it appears on the ballots. Party affiliation may not be included in the choice name.
  - (11) Choice ID. A unique integer for each choice within a contest.

- (12) Party Code. An indicator of party affiliation for each choice, if applicable.
- (13) Vote Count. The total number of votes for each choice.
- (14) Reporting Flag. The reporting flag field must contain a value of "0".
- (15) Precinct Sequence Number. A unique integer that defines the sequence of precincts.
- (16) Choice Sequence Number. A unique integer that defines the sequence of candidates as they appear on the ballot.

21.4.14 Central Ballot Counting Functionality. All voting systems certified for use in Colorado by the Secretary of State after January 1, 2016, must meet the following functional requirements for centrally counting ballots:

- (a) Digital Ballot Adjudication: The voting system must include a digital ballot adjudication software application, enabling election judges to resolve, adjudicate, and duplicate ballots with marginal or ambiguous voter markings digitally rather than manually.
- (b) Ballot Scanners. The voting system must include central count ballot scanners equipped with automatic document feeders, enabling election judges to scan multiple ballots rather than a single ballot at a time.

## 21.5 Testing preparation procedures

### 21.5.1 Voting system provider demonstration

- (a) The voting system provider must demonstrate the submitted voting system to the Secretary of State prior to certification of the voting system.
- (b) The demonstration period does not have a predetermined agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate the following items as they pertain to each area and use within the voting system, if applicable:
  - (1) System overview;

- (2) Verification of complete system matching the Application for Certification of a Voting System;
- (3) Ballot definition creation;
- (4) Hardware diagnostic testing;
- (5) Programming election media devices;
- (6) Sealing and securing system devices;
- (7) Logic and accuracy testing;
- (8) Processing ballots;
- (9) Accessible use, including a full demonstration of all functionality using accessible voter interface devices and the audio ballot. This includes a video submitted with the demonstration which shows:
  - (A) A demonstration of the full functionality of the voter interface devices available for use with a ballot marking device; and
  - (B) A demonstration of a voting session from beginning to end, which includes the audio which will accompany voting on a ballot marking device, and which describes the actions available to the voter to take at every step on the device. The demonstration must allow for an individual who is visually impaired to follow each step taken during a voting session.
  - (C) The Secretary of State may require a voting system which has been adopted for use to provide a demonstration which follows the requirements of this Rule.
- (10) Accumulating results;
- (11) Post-election audit;
- (12) Audit steps and procedures throughout all processes; and
- (13) Troubleshooting.

- (c) At the time of application, the voting system provider must arrange a time with the Secretary of State to access the demonstration room to setup the voting system if the demonstration is to be in-person.
- (d) A maximum of one business day is normally allowed for a in-person demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.
- (e) An in-person demonstration will be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space.
- (f) The Secretary of State will post notice of the fact that the in-person demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice must indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.
- (g) The Secretary of State may allow a virtual demonstration in lieu of the in-person demonstration. A virtual demonstration may be livestreamed or a submitted video.
- (h) If the Secretary of State allows a livestream virtual demonstration in lieu of an in-person demonstration, then the Secretary will post notice of the livestream demonstration at least seven days prior to the demonstration. The notice must indicate the time and link for the demonstration.
- (i) If the Secretary of State allows a submitted video demonstration in lieu of an in-person demonstration, then the Secretary of State will post notice and provide a link to the submitted video prior to certification of the voting system.

#### 21.5.2 Certification testing

- (a) The voting system provider must provide the same class of workstation and/or server for testing the voting system as the normal production environment for the State of Colorado.
- (b) Based upon the review of VSTL or other state reports and test records, the Secretary of State will prepare a test plan. The test plan will be designed to test for any requirements specific to Colorado law which were not addressed in prior testing and for any federal or Colorado requirements which were not addressed to the satisfaction of the Secretary of State in the reports and records from prior testing.
- (c) The test plan must include the election definitions to be used in testing and specifications for test ballots. Test ballots and election definitions must generally follow all requirements for election definitions, ballot layout and printing to verify the system's ability to meet those requirements. Some election definitions and ballots may depart from the requirements in order to test specific functions.
- (d) For each system tested, a requirements matrix must be prepared to identify those requirements satisfied by the review of VSTL or other state reports and test data and how those requirements not satisfied are to be tested or otherwise satisfied. If during test planning or testing one of the requirements in the voting systems standards or in this Rule are determined to be not applicable to the system under test, the reason for the determination will be documented.
- (e) The voting system provider must submit for testing the specific system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the system be used.
- (f) The voting system provider is not required to have a representative present during the functional testing, but must provide a point of contact for technical support. After the delivery, unpacking, and initial inspection of the equipment for shipping damage and missing components, a vendor representative will only be allowed to operate or touch the equipment when approved by the Secretary of State.

- (g) The proprietary software must be installed on the workstation/server and all applicable voting system components by the Secretary of State or the VSTL using the trusted build following the installation procedures provided by the voting system provider. After installation, hash values for the software and firmware must be compared to any published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.
- (h) All equipment must be hardened using the voting system provider's procedures and specifications.
- (i) Testing must be performed with test election definitions and test ballots as required in the test plan.
- (j) The results of all testing must be recorded in the requirements matrix. The requirements matrix will be the primary record describing which requirements were met and specifying which were not. It must be supplemented as necessary to support the findings with test team notes and system reports. Supplemental information may include photographs and audio or video recordings.
- (k) Functional testing must be completed according to the phases identified in Rule 21.2.3.
- (l) The Secretary of State or the VSTL must conduct functional testing on the voting system based on this Rule.
- (m) The voting system must receive a pass, fail or not applicable for each requirement with appropriate notation in the requirements matrix.
- (n) The Secretary of State will maintain records of the test procedures in accordance with Rule 21.3.8. The records must identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test number, test plan, requirements matrix, test team notes, and other supplemental information, and results of test. The test environment conditions must be described.
- (o) In the event that a deviation from the test plan is required, it must be documented in a test team note. The note must provide a

description of the deviation, the reason for the deviation and effect of the deviation on testing and determining compliance with requirements.

### 21.5.3 General testing procedures and instructions

- (a) Certification tests must be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests will:
  - (1) Verify, by means of the voting system provider's standard operating procedure, that the device is in a normal condition and status;
  - (2) Establish the standard test environment or the special environment required to perform the test;
  - (3) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested;
  - (4) Measure and record the value or the range of values of the performance characteristic to be tested; and
  - (5) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
- (b) All tests will be generally conducted in regular election mode. Tests of test mode and diagnostic functions may be conducted in the appropriate test mode.
- (c) The voting system provider must produce ballots and assemble marked test decks and spare ballots as specified in the test plan.
- (d) For mark-sense or ballot scanner devices, the Secretary of State or the VSTL will prepare 100 or more test ballots with marking devices of various color, weight and consistency to determine the range of marks that can be read and the range and consistency of reading marginal marks.
- (e) The requirements matrix must include the following requirements for election definitions and ballots to simulate and test "real world"

situations in the State of Colorado. Election definitions and ballots must include the following minimum contest criteria:

- (1) Parties for different races;
  - (2) Selection of a pair of candidates, such as President and Vice-President;
  - (3) In a primary election, allow voters to vote for the candidates of the party for which they are eligible and for any and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;
  - (4) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to vote for any measure on the ballot that the voter is allowed to vote in, regardless of party;
  - (5) Allow for programming to accommodate Colorado recall questions as prescribed in Article 12 of Title 1, C.R.S.;
  - (6) A minimum of 20 pairs of "yes" and "no" positions for voting on ballot issues; and
  - (7) Ability to contain a ballot question or issue of at least 200 words.
- (f) A county clerk or his or her designated representative must be able to observe the functional testing of a voting system. The representative may assist at the request of the Secretary of State.
- (g) The public must be allowed to view all functional testing conducted by the Secretary of State. However, legal limitations may require that certain testing, including but not limited to proprietary information and system security, be done outside the view of the public. If the functional testing is outsourced to a VSTL or contractor, public viewing is subject to limitations set forth by the VSTL or contractor.
- (h) If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it must be recorded for inclusion in the analysis.

## 21.6 Temporary use

21.6.1 If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.

21.6.2 Temporary use does not supersede the certification requirements or process, and may be revoked at any time at the discretion of the Secretary of State.

21.6.3 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time may a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.

## 21.7 Decertification

21.7.1 If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule 21, the Secretary of State will notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.

21.7.2 Certification of a voting system may be revoked or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:

- (a) The Election Assistance Commission (EAC);
- (b) Voting System Test Laboratory (VSTL);
- (c) The Federal Election Commission (FEC);
- (d) The National Software Reference Library (NSRL);
- (e) National Association of State Election Directors (NASSED);
- (f) The National Association of Secretaries of State (NASS);

- (g) Information from any state elections department or Secretary of State;
- (h) Information from Colorado county clerks or their association; or
- (i) Any other source the Secretary of State finds reliable.

21.7.3 The Secretary of State may investigate a complaint filed by any person, and, upon any findings as outlined in (a) through (e) below, may prohibit, limit or decertify use of a voting system, in whole or in part. An investigation by the Office of the Secretary of State may include, but is not limited to, the review or inspection of the voting system component at issue.

- (a) Any person installed any uncertified or decertified voting system component;
- (b) A county breaks the chain-of-custody for any component of a voting system by allowing any individual not authorized by Rule 20.5.2(b) access to that component;
- (c) A county submits an incident report regarding a component of a voting system and the Secretary of State finds that the chain-of-custody cannot be reestablished securely;
- (d) A component of a voting system experiences repeated hardware failures or malfunctions of a similar nature; or
- (e) The Secretary determines that the integrity or security of a voting system component cannot be verified and that chain-of-custody cannot be reestablished securely.

21.7.4 The Secretary of State will notify a county of the prohibition or limitation on use or decertification of a component of a voting system under Rule 21.7.3 and the county must immediately cease using that component.

21.7.5 In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public hearing to consider the decision to decertify a voting system if a political subdivision or provider of a voting system that is decertified has requested in writing that the Secretary of State reconsider.

- 21.7.6 If any voting system currently certified in Colorado is not used by any political subdivision for two consecutive general elections, the system may be decertified for use.
- 21.8 Modifications and reexamination. Any modification, change or other alteration to a certified voting system requires certification or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule.
- 21.9 Acceptance Testing by Jurisdictions
- 21.9.1 Whenever a jurisdiction acquires voting equipment, the jurisdiction must perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system must be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and must be identical to the voting system certified by the Secretary of State.
- 21.9.2 The voting system provider must provide all manuals and training necessary for the proper operation of the system to the jurisdiction.
- 21.9.3 The election jurisdiction must perform functional and programming tests for all functions of the voting system at their discretion.
- 21.10 Escrow of voting system software and firmware by voting system provider. The voting system provider must meet the requirement for election management software escrow per the following:
- 21.10.1 The voting system provider must place in escrow a copy of the election management software, firmware, and supporting documentation being certified with an independent agent approved by the Secretary of State.
- 21.10.2 The voting system provider must sign a sworn affidavit that the election management software in escrow is the same as the election management software used in its voting systems in this state.
- 21.10.3 A complete copy of the certified election management software including any and all subsystems of the certified software will be maintained in escrow.
- 21.10.4 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.

- 21.10.5 In addition to the requirements listed below, the voting system provider must include a cover/instructions sheet for any escrow material to include the voting system provider, address and pertinent contact information, software version, hardware version, firmware revision number, and other uniquely identifying numbers of the software submitted for certification.
- 21.10.6 Election management software source code, maintained in escrow, must contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the source code should it be removed from escrow for any reason.
- 21.10.7 System documentation will include instructions for converting the escrowed source code into object code, organized and configured to produce an executable system, if warranted.
- 21.10.8 All parties must treat as confidential the terms of this Rule including all escrow materials and any other related information that comes into their possession, control or custody in accordance with this section.
- 21.10.9 The provider must notify that Secretary of State via email that the election management software being certified has been placed in escrow.
- 21.10.10 Any cost of using an alternative third party escrow agent must be borne by the voting system provider.
- 21.11 Standards for certifying instant runoff voting functionality
- 21.11.1 Results reporting requirements
- (a) The voting system must be capable of generating a summary report that lists the total number of votes for each candidate in each round. The report must include:
- (1) The number of overvotes;
  - (2) Duplicate rankings;
  - (3) Skipped rankings; and

- (4) Ballots with fewer rankings than the maximum permitted in the race.
  - (b) The voting system must generate a ballot image report, which can be fulfilled by exporting a cast vote record, that lists the order in which the elector ranked the candidates for each ballot.
  - (c) The voting system must generate a comprehensive report listing the results in the summary report by precinct or ballot style as required or permitted by section 1-7.5-208(3)(a), C.R.S.
- 21.11.2 Data export formats
- (a) The voting system must accurately export complete round by round results data for use with an election night reporting system in .csv, .json, and .xml formats.
  - (b) The voting system must accurately export a cast vote record in .csv, .json, and .xml formats.
- 21.11.3 Ballot layout requirements
- (a) The voting system must permit the user to lay out ballot cards containing both plurality and instant runoff voting contests on the same ballot card or separate ballot cards.
  - (b) The voting system must permit a user to input ranked voting specific voter instructions immediately preceding instant runoff voting contests.
  - (c) The voting system must be able to support ranking at least ten named candidates including up to two write-in candidates per instant runoff contest.
  - (d) The voting system must allow the ranked voting contests to be formatted on paper ballots with rankings listed in columns and candidates listed in rows.
- 21.11.4 Tabulation requirements
- (a) The voting system must record all voter rankings.
  - (b) During the first round of tabulation, the voting system must tabulate the first-choice ranks on each ballot.

- (1) A candidate who receives over 50 percent of the first-choice ranks for a contest across all ballots tabulated is the winning candidate, and the voting system must stop tabulating any further rounds.
  - (2) If no candidate receives over 50 percent of the first-choice ranks for a contest across all ballots tabulated, the voting system must continue to the next round of tabulation
- (c) During the next round of tabulation, the voting system must ensure that the candidate with the fewest first-choice ranks in the first round is eliminated, and the eliminated candidate's votes are transferred to each ballot's next-ranked continuing candidate.
- (1) If, after receiving the transferred votes, a continuing candidate receives over 50 percent of the votes cast on active ballots, that candidate is the winning candidate, and the voting system must stop tabulating any further rounds.
  - (2) If no candidate has over 50 percent of the votes cast on active ballots after the second round, the voting system must repeat additional rounds of tabulation as described in this Rule, until there is a winning candidate.
- (d) If the combined votes of two or more candidates with the lowest vote totals in the current round are less than the number of votes for the continuing candidate with the next-highest number of votes, then the voting system must be capable of eliminating the group of lowest-vote candidates simultaneously, if the user chooses.
- (e) In any round, if two or more candidates tie for the lowest number of votes, and the voting system cannot eliminate the candidates according to the criterion in subsection (d), then the voting system must allow the user to determine by lot which candidates are eliminated in accordance with Rule 26.5.5.
- (f) The voting system must allow the user to decide whether to allow skipped rankings or to exhaust the ballot when a ranking is skipped.
- (g) The voting system must allow the user to decide if a vote for a non-certified write-in will exhaust the ballot or be resolved as a skipped ranking.

- (h) The voting system must allow the user to decide whether to pause the tabulation session after each round or to continue until a winner is determined or a manual tie break for elimination is required.
- (i) The voting system must allow the user to decide whether or not to include as an overvote ranks for candidates for whom votes may not be counted, in accordance with section 1-4-1001, C.R.S.
- (j) The voting system must allow the user to decide whether to count a ranking for a candidate for whom votes may not be counted, in accordance with section 1-4-1001, C.R.S., as a skipped ranking or to elevate lower rankings.

#### 21.11.5 Ballot marking device requirements

- (a) Ballot marking devices must prohibit voters from overvoting any ranking.
- (b) Ballot marking devices must prohibit voters from skipping rankings.
- (c) The voting system must present clear audio and visual notifications if the voter has ranked fewer candidates than the contest's maximum permitted number of rankings but will allow the voter to proceed with their voting session if the voter chooses to do so.

#### 21.11.6 Ballot adjudication requirements

- (a) The voting system must allow the user to queue ballots with the following conditions for adjudication by election judges:
  - (1) Any ambiguous mark in any ranking;
  - (2) Any ranking that results in an overvote;
  - (3) Any skipped ranking;
  - (4) Any duplicate ranking; and
  - (5) Any contest in which a voter has ranked fewer candidates than the contest's maximum permitted number of rankings.

### 21.12 Amendments to certifications for instant runoff voting functionality for instant runoff voting contests contained in more than one county

- 21.12.1 The Department of State may submit a third-party software component to a federally certified voting system test laboratory for certification for use with another previously certified voting system or as part of a system that is under consideration for certification.
- (a) Only software components whose purpose is to aggregate and resolve instant runoff voting contests that take place across more than a single jurisdiction may be submitted according to this Rule.
  - (b) A voting system vendor may not prohibit an amendment to the certification in accordance with this Rule.
  - (c) A voting system vendor is not responsible for integrating software that is submitted as an amendment into their voting system.
  - (d) A voting system vendor is not responsible for the costs associated with amending a certification.
  - (e) At the request of the Department of State, a voting system vendor that has a system that has instant runoff voting functionality, or is undergoing certification for instant runoff voting functionality, must provide files required by the Department for an amendment to their system in accordance with this Rule.
- 21.12.2 Functional requirements of third-party amendment certifications
- (a) The software must be able to import data ranking files from all voting systems that are certified for use for instant runoff voting capability under Rule 21.11.
  - (b) The software must allow a user to standardize the names of contests and choices across jurisdictions.
  - (c) The software must meet the requirements of Rule 21.11.4, with the exception of Rules 21.11.1(a) and 21.11.4(a) and (g).
  - (d) The software must export data in the formats specified in Rule 21.11.2(a).
- 21.12.3 Upon submission of an amendment under this Rule, the Department of State will consult with the voting system test laboratory to determine which security requirements are applicable to the third-party software.

## 21.12.4 Testing

- (a) For software amendments that are submitted with a voting system currently under consideration, the test plan must include an appendix addressing the third-party software amendment. Upon completion of testing, the test report must include an appendix addressing the third-party software amendment.
- (b) For amendments that are submitted for a voting system that has been previously certified, the Department of State will work with the voting system test laboratory to develop a separate test plan for the amendment. Upon conclusion of testing, the laboratory must produce a test report.
- (c) If the third-party software meets the requirements in Rule 21.12, the Department of State will certify the third-party software as part of an amendment to a voting system. If the requirements are not met sufficiently for certification of the third-party software with the amendment, it does not preclude the voting system from being certified without the amendment.
- (d) The Department of State will publish its determination of certification for the amendment on its public website along with the test report and any other appropriate certification artifacts.

21.12.5 Once software has been certified as a third-party amendment, the Department of State must hold a copy of that software in escrow until such time that the software has been decertified.

21.12.6 Third-party software components that are certified as amendments must only be installed on a computer workstation that has no wireless connectivity enabled.

21.12.7 The Department of State may decertify software that has been certified as an amendment to a certified voting system at any time.

- (a) When software that is certified using this Rule is decertified, the Department of State must publish the decertification on its public website along with any reasons for decertification.
- (b) In the event the Department of State decertifies software that has been certified as an amendment to a fully certified voting system,

that decertification shall only apply to the amendment and shall not apply to the otherwise fully certified voting system.

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**Rule 22. Use of approved and recommended election forms**

22.1 Where the Secretary of State issues an approved election form, notice, application, or correspondence, all designated election officials and registration offices must use the approved form.

22.1.1 A designated election official or registration office that wishes to substantively modify the content of any form approved by the Secretary of State must submit a written request via email to the Secretary of State's office stating the requested modification and the reasons it is needed.

(a) The Secretary of State will approve or deny a request to modify an approved form within five business days. Failure of the Secretary of State to issue a decision within five business days does not constitute an approval of the request. If the modification request is denied, the Secretary of State will explain the reason for denying the request.

(b) A non-substantive customization of an approved form, such as placing the form on county letterhead or language translation, does not require the Secretary of State's approval.

22.2 The Secretary of State will approve standard voter registration and ballot application forms for use by political parties and organizations that provide such forms to the public. The Secretary of State will publish on the department's website the current approved registration forms.

22.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all information specifically required by Colorado law, the applicants and the organization are afforded greater protection by distributing or using the state forms approved by the Secretary of State.

22.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public must identify themselves by printing the organization name and contact information on the form.

22.2.3 Any political party or organization may contact the Secretary of State before sending a mailing to request a review of the form and information to be mailed.

22.3 Under section 1-1-107(2)(d), C.R.S., the Secretary of State will seek injunctive action or other remedies for violations of this Rule.

- 22.4 If an elector's eligibility to vote at a precinct caucus cannot be verified upon examination of the list of registered electors, the elector must complete the Secretary of State's approved form attesting to the elector's eligibility.

**Rule 23. Commissions****23.1 Bipartisan Election Advisory Commission**

23.1.1 The Secretary of State finds and declares that open discussion about the administration and conduct of elections in Colorado is necessary to ensure that every eligible citizen has the opportunity to participate in fair, accessible, and impartial elections, and has the assurance that elections are conducted with integrity and his or her vote will count. Because the Colorado General Assembly discontinued the Colorado Voter Access and Modernized Election Commission, the Secretary of State will establish a Bipartisan Election Advisory Commission (the Commission) to identify processes for improvement and work to obtain bipartisan support in the administration of elections. The Commission will make recommendations to the Secretary of State regarding the development and implementation of best practices, administrative rules and suggestions for legislation.

**23.1.2 Membership of the Commission**

- (a) The Secretary of State will appoint at least 13 members to the Commission. The Commission may include:
- (1) A Representative of an organization that advocates on behalf of people with disabilities;
  - (2) A member of the executive branch and at least one legislator from each party;
  - (3) Two County clerk and recorders representing the Colorado County Clerks Association presidential line of leadership;
  - (4) If both clerks in (3) are from the same party or if not all counties are members of the CCCA, additional clerks may be appointed;
  - (5) Two representatives of organizations that advocate on behalf of local governments, including counties, municipalities, and special districts;
  - (6) Chair, party officer, or legal counsel for each major political party; and

- (7) Two members with expertise on voting rights and/or election integrity.
- (b) The Secretary of State or his or her designee, will be a member and serve as chair of the Commission.
- (c) The Secretary of State's office will provide staff support to the Commission as may be directed by the Secretary of State.

### 23.1.3 Meetings

- (a) The Commission must meet no fewer than three times annually.
- (b) The meetings will be held at the office of the Secretary of State, regional locations throughout the state, or virtually as the Commission determines appropriate.
- (c) Meetings must comply with Colorado Open Meetings Law and will permit an opportunity for public comment.
- (d) Notices, records of meetings, written comments, and documents submitted to the commission will be published on the official website of the Secretary of State. Documents that are otherwise publicly available need not be posted. Any submission containing inflammatory or otherwise inappropriate content will not be posted, including any material that is defamatory, irrelevant, duplicative, or obscene.

**Rule 24. Presidential Electors****24.1 Oath**

24.1.1 As used in section 1-4-304 (1), C.R.S., “the oath required by law for presidential electors” must be in substantially the following form:

“I, ....., do solemnly swear or affirm that I will support the constitution of the United States and of the state of Colorado, that I will faithfully perform the duties of the office of presidential elector that I am about to enter, and that I will vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state.”

24.1.2 If a presidential elector-elect refuses or otherwise fails to take and subscribe the oath in Rule 24.1.1, the refusal or failure creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

**24.2 Voting**

24.2.1 As specified in section 1-4-304 (5), C.R.S., each presidential elector must vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state.

24.2.2 If a presidential elector-elect refuses or otherwise fails to vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state, the refusal or failure constitutes a “refusal to act” as that term is used in section 1-4-304 (1), C.R.S., and creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

**24.3 Filling Vacancies**

24.3.1 As specified in section 1-4-304 (1), C.R.S., the presidential electors present must immediately proceed to fill any vacancy in the electoral college. A quorum is not required to fill a vacancy. In the event of a tie vote, the vacancy will be filled by lot.

24.3.2 If a remaining presidential elector refuses to fill a vacancy in the electoral college, the refusal constitutes a “refusal to act” as that term is used in section 1-4-304 (1), C.R.S., and creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

24.3.3 Nominees to fill vacancies must be selected in accordance with section 1-4-302 (2), C.R.S.

**Rule 25. Post-election audit**

25.1 Definitions. As used in this rule, unless stated otherwise:

25.1.1 “Audit Center” means the page or pages of the Secretary of State’s website devoted to risk-limiting audits.

25.1.2 “Ballot cards” means the individual pieces of paper that together constitute a single ballot containing all of the contests an elector is eligible to vote. For example, a ballot consisting of a single piece of paper with content printed on the front or the front and back contains one ballot card, and a ballot consisting of two pieces of paper with content printed on the front and back of the first page and the front or front and back of the second page contains two ballot cards.

25.1.3 “Ballot polling audit” means a type of risk-limiting audit in which the audit board examines and reports to the Secretary of State voter markings on randomly selected ballot cards seeking strong evidence that the reported tabulation outcome is correct.

25.1.4 “Comparison audit” means a type of risk-limiting audit in which the audit board examines and reports to the Secretary of State voter markings on randomly selected ballot cards, then compares them to the voting system’s tabulation as reflected in the corresponding cast vote records.

25.1.5 “Reported tabulation outcome” means the presumed winning and losing candidates or voting choices of a ballot contest as reflected in preliminary results.

25.1.6 “Risk limit” means the largest statistical probability that an incorrect reported tabulation outcome is not detected and corrected in a risk-limiting audit.

25.1.7 “Risk-limiting audit” or “RLA” means a post-election audit of votes on paper ballot cards conducted in accordance with section 1-7-515, C.R.S., and Rule 25.2, which has a pre-specified minimum chance of requiring a full hand count if the outcome of a full hand count would differ from the reported tabulation outcome.

25.1.8 “RLA tabulation” means the tabulation of all in-person and accepted mail ballots cast by electors registered in the county, and any accepted provisional and property owner ballots that the county opts to include on the ninth day after election day.

25.1.9 “RLA Tool” means the software and user interfaces provided by the Secretary of State in order to conduct RLAs.

25.1.10 “Target contest” means a contest selected by the Secretary of State for a risk-limiting audit. The target contest with the closest diluted margin determines the number of ballot cards that must be examined during the RLA.

25.2 Risk limiting audit. The designated election official must conduct a risk-limiting audit in accordance with section 1-7-515, C.R.S., and this Rule.

#### 25.2.1 RLA methods

- (a) Counties that use a voting system capable of exporting CVRs must conduct a comparison audit.
- (b) Counties that use a voting system incapable of exporting CVRs must conduct a ballot polling audit.

#### 25.2.2 Preparing for the audit

- (a) Risk limit. No later than 32 days before election day, the Secretary of State will establish and publish on the Audit Center the risk limits that will apply in RLAs for that election. The Secretary of State may establish different risk limits for comparison audits and ballot polling audits, and for audits of statewide and countywide contests. In comparison audits the risk limit will not exceed five percent for statewide contests, and ten percent for countywide contests.
- (b) Practice period. Upon completion of the logic and accuracy test, counties may practice conducting the audit. The county must, at a minimum, hash and upload the ballot manifest and CVR file from the logic and accuracy test to the RLA software.
- (c) Audit board. No later than 15 days before election day, the designated election official must appoint audit board members to conduct the risk-limiting audit. The audit board must consist of electors nominated by the major political party county chairpersons. The designated election official must give written notice to the county chairpersons of their obligation to nominate audit board members and may designate appropriately affiliated electors as audit board members if one or both county chairpersons fail to do so in a timely manner.

- (1) At least two canvass board members must observe at least the first round of the RLA, and members of the canvass board may serve as members of the audit board. The designated election official, members of his or her staff, and other duly appointed election judges may assist the audit board in conducting the audit. Unless given permission by the Department of State, the audit board must not consist of county clerk staff or individuals who participated in ballot resolution or adjudication during the election being audited. Each member of the audit board must take the election judge oath.
  - (2) If the Secretary of State randomly selects five or fewer ballots for any audit round after the first, the designated election official may appoint as the audit board members of staff of different party affiliations to conduct and sign off on the audit round in question. The designated election official must get approval from the Secretary of State before appointing staff as the audit board. The designated election official may not appoint themselves to conduct any audit round.
- (d) Sample size estimates. Upon completion of tabulation on election night, counties are required to export an initial CVR export from their voting system and hash and upload the export and hash value to the RLA tool. Counties are not required to upload a ballot manifest to the RLA tool for the purposes of creating sample size estimates.
- (1) The Department of State will use the election night CVRs to create sample size estimates to facilitate the selection of target contests.
  - (2) Counties are not required to upload a CVR export multiple times during the same election to the RLA tool unless requested to do so by the Department to facilitate an updated sample size estimate.
- (e) Ballot manifest. The county must maintain an accurate ballot manifest in a form approved by the Secretary of State and independent of the voting system.

The ballot manifest must uniquely identify for each tabulated ballot the scanner on which the ballot is scanned, the ballot batch of which the ballot is a part, the number of ballot cards in the batch, and the storage container in which the ballot batch is stored after tabulation. The county must secure and maintain in sealed ballot containers all tabulated ballots in the batches and order they are scanned. The county must maintain and document uninterrupted chain-of-custody for each ballot storage container.

- (f) RLA tabulation. On the tenth day after election day, the county must finish tabulating all in-person and accepted mail ballots cast by voters registered in the county. The county may but is not required to include in the RLA tabulation any provisional ballots and property owner ballots that have been verified and accepted on or before the ninth day after election day. Immediately after completing the RLA tabulation, and to the extent permitted by its voting system, the county must also generate and preserve:
  - (1) A summary results report, showing overvotes, undervotes, blank-voted contests, and valid write-in votes;
  - (2) A results file export suitable for uploading to the Secretary of State's election night reporting system; and
  - (3) A CVR export.
- (g) CVR export verification. Counties conducting a comparison audit must verify that:
  - (1) The number of individual CVRs in its CVR export equals the aggregate number of ballot cards reflected in the county's ballot manifest as of the tenth day after election day; and
  - (2) The vote totals for all choices in all ballot contests in the CVR export equals the vote totals in the summary results report for the RLA tabulation.
  - (3) After verifying the accuracy of the CVR export, the county must apply a hash value to the CVR export file using the hash value utility provided by the Secretary of State.

- (h) Comparison audit uploads. No later than 2:00 p.m. MT on the tenth day after election day, each county conducting a comparison audit must upload:
  - (1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, to the Secretary of State's office;
  - (2) Its verified and hashed CVR export, and the CVR export's hash value, to the Secretary of State's office; and
  - (3) Its RLA tabulation results export to the Secretary of State's election night reporting system.
- (i) Ballot polling audit uploads. No later than 2:00 p.m. MT on the tenth day after election day, each county conducting a ballot polling audit must submit or upload:
  - (1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, by email to the Secretary of State's office;
  - (2) Its cumulative tabulation report, by email to the Secretary of State's office; and
  - (3) Its RLA tabulation results export to the Secretary of State's election night reporting system.
- (j) Random seed. The Secretary of State will convene a public meeting on the thirteenth day after election day to establish a random seed for use with the Secretary of State's RLA tool's pseudo-random number generator based on Philip Stark's online tool, *Pseudo-Random Number Generator using SHA-256*. This material is incorporated by reference in the Election Rules and does not include later amendments or editions. The following material incorporated by reference is posted on the Secretary of State website and available for review by the public during regular business hours at the Colorado Secretary of State's office: *Pseudo-Random Number Generator using SHA-256* available at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>. The Secretary of State will give public notice of the meeting at least seven calendar days in advance. The seed is a number consisting of at least 20 digits, and each digit will be

selected in order by sequential rolls of a 10-sided die. The Secretary of State will randomly select members of the public who attend the meeting to take turns rolling the die, and designate one or more staff members to take turns rolling the die in the event that no members of the public attend the meeting. The Secretary of State will publish the seed on the Audit Center immediately after it is established.

- (k) Selection of target contests. No later than 5:00 p.m. MT on the Friday after election day, the Secretary of State will select the target contests. In a general or coordinated election, the Secretary of State will select at least one statewide contest, and for each county at least one other contest. The Secretary of State will select other ballot contests for audit if in any particular election there is no statewide contest. In a primary election, the Secretary of State will select at least one contest of each major political party in each county. The Secretary of State will publish a complete list of all target contests on the Audit Center. The Secretary of State will consider at least the following factors in selecting the target contests:
- (1) The closeness of the reported tabulation outcome of the contests;
  - (2) The geographical scope of the contests;
  - (3) The number of ballots counted in the contests;
  - (4) Any cause for concern regarding the accuracy of the reported tabulation outcome of the contests;
  - (5) Any benefits that may result from auditing certain contests;
  - (6) The ability of the county clerks to complete the audit before the canvass deadline; and
  - (7) Any recommendations provided by county clerks or the public regarding which contest should be targeted.
- (l) Number of ballot cards to audit. The Secretary of State will determine the number of ballot cards to audit to satisfy the risk limit for the target contests based on the ballot manifests submitted by the counties. The number of ballot cards to audit will be determined

according to the formulas and protocols published by Mark Lindeman and Philip B. Stark in *A Gentle Introduction to Risk-limiting Audits*, as applied in Philip Stark's *Tools for Comparison Risk-Limiting Election Audits*, and *Tools for Ballot-Polling Risk-Limiting Election Audits*. The publications cited in this Rule are incorporated by reference in the election rules and do not include later amendments or editions of the incorporated material. The following materials incorporated by reference are posted on the Secretary of State website and available for review by the public during regular business hours at the Colorado Secretary of State's office:

- (1) Mark Lindeman and Philip B. Stark, *A Gentle Introduction to Risk-limiting Audits*, IEEE Security and Privacy, Special Issue on Electronic Voting, (Mar. 16, 2012), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.
- (2) Philip B. Stark, *Tools for Comparison Risk-Limiting Election Audits*, (Feb. 26, 2017), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.
- (3) Philip B. Stark, *Tools for Ballot-Polling Risk-Limiting Election Audits*, (Feb. 16, 2017), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.

- (m) Random selection of ballot cards for audit. The Secretary of State will randomly select the individual ballot cards to audit. The Secretary of State will use a pseudo-random number generator with the seed established under subsection (h) of this Rule to identify individual ballot cards as reflected in the county ballot manifests. The Secretary of State will notify each county of, and publish on the Audit Center, the randomly selected ballot cards that each county must audit no later than 11:59 p.m. MT on the thirteenth day after election day.

### 25.2.3 Conducting the audit

- (a) At least two members of different parties of the audit board must locate and retrieve, or observe the location and retrieval by county

election staff, of the randomly selected ballot card from the appropriate storage container. The audit board must verify that the seals on the appropriate storage containers are those recorded on the applicable chain-of-custody logs.

- (1) In counties conducting comparison audits, the audit board must examine each randomly selected ballot card and report the voter markings or choices in all contests using the RLA Tool or other means specified by the Secretary of State. The audit board may refer to the digital image of the audited ballot card captured by the voting system in order to confirm it retrieved the correct ballot card randomly selected for audit. If the scanned ballot card was duplicated prior to tabulation, the audit board must retrieve, compare, and report the markings on the original ballot card rather than on the duplicated ballot card. The audit board must complete its reports of all ballot cards randomly selected for audit no later than 5:00 p.m. MT one business day before the canvass deadline.
  - (2) In counties conducting ballot polling audits, the audit board must examine and report the voter markings or choices in only the target contest on each randomly selected ballot card in a form approved by the Secretary of State. The audit board may refer to the digital image of the audited ballot card captured by the voting system in order to confirm it retrieved the correct ballot card. If a randomly selected ballot card was duplicated prior to tabulation, the audit board must retrieve, compare, and report the voter markings in the target contest from the original ballot card rather than the duplicated ballot card. The audit board must complete its reports of all ballot cards randomly selected for audit no later than 5:00 p.m. MT one business day before the canvass deadline.
- (b) The audit board must interpret voter markings on ballot cards selected for audit in accordance with the Secretary of State's Voter Intent Guide. If the audit board members cannot unanimously agree on the voter's intent, they must indicate that in the appropriate contest in the RLA tool's audit board user interface, or the ballot polling audit form approved by the Secretary of State.

- (c) To the extent applicable, the Secretary of State will compare the audit board's reports of the audited ballot cards to the corresponding CVRs and post the results of the comparison on the Audit Center. The RLA will continue until the risk limit for the target contests is met or until a full hand count results. If the county audit reports reflect that the risk limit has not been satisfied in a target contest, the Secretary of State will randomly select additional ballots for audit.
- (d) The audit board must sign, date, and submit to the Secretary of State a report of the results of the risk-limiting audit on the approved form no later than 5:00 p.m. MT on the business day before the canvass deadline. The report must include any discrepancies found and the corresponding ballot images.
- (e) 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, a full hand count, or other action. The Secretary of State may instruct the county to delay canvass until it completes any additional audit or other action.

25.2.4 No later than the third business day 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, a county that conducted a comparison audit must review its CVR file and redact voter choices corresponding to any ballot card susceptible to being personally identified with an individual voter, as required by section 24-72-205.5(4)(b)(iii), C.R.S.

25.2.5 If a county clerk fails to follow the procedures for a risk limiting audit as outlined in this Rule, the Secretary of State will direct the county clerk on the steps to take to complete a post-election audit. In addition, no later than 90 days before the next election, the county clerk must submit a written RLA remediation plan outlining the procedures the county will follow to ensure compliance with this Rule.

25.2.6 The Secretary of State may, by order, alter any of the requirements outlined in Rule 25.2.

25.3 Removal and replacement of audit board members. The county clerk may remove for cause any member who fails or refuses to perform any of the functions he or she is charged with under these Rules. If the county clerk

removes an audit board member for cause, he or she must notify the Secretary of State and consult with the county chairperson of the removed member's political party to appoint a replacement.

**Rule 26. Ranked Voting Method**

- 26.1 A local government may only conduct a ranked voting election if there are three or more candidates who have qualified for the ballot for that contest, or when there is a combination of at least two candidates who have qualified for the ballot for that contest plus at least one qualified write-in candidate.
- 26.2 A local government conducting a ranked voting contest in an election that is coordinated with the county clerk must give notice to the county clerk no later than 100 days before that election. If any county's voting system in which the local government is located is not capable of conducting a ranked voting election, then none of the counties in which that local government is located are required to coordinate.
- 26.3 The designated election official of a jurisdiction that will conduct an election using a ranked voting method must provide voter instructions.
- 26.3.1 The voter instructions must include, at a minimum:
- (a) A brief explanation of ranked voting;
  - (b) Instructions on how to properly mark a ballot;
  - (c) A description of how ballots will be counted;
  - (d) An example of a properly marked paper ballot;
  - (e) For instructions that will be posted at a polling location, an example of how to properly vote an in-person ballot; and
  - (f) Contact information for the designated election official of the election.
- 26.3.2 In a coordinated election, the county clerk must include the instructions in the county's election plan.
- 26.4 The designated election official of a jurisdiction conducting a ranked voting election must include instructions on the ballot showing how to properly mark the ballot. For elections in which ranked voting is not the only voting method used, the designated election official must format the ballot in a way that will allow the county to conduct all audits and reporting required by law and rule, including reporting results of ranked voting races by precinct, and may place the ranked voting races on a separate ballot card.

## 26.5 Tabulation of instant runoff contests

26.5.1 In any ranked voting contest in which only one candidate will be elected to office, the runoff tabulation entity must follow the tabulation procedures described in this Rule.

26.5.2 During the first round of tabulation, the runoff tabulation entity must tabulate the first-choice ranks on each ballot.

- (a) A candidate who receives over 50 percent of the first-choice ranks for a contest across all ballots tabulated is the winning candidate and no further rounds of tabulation will take place.
- (b) If no candidate receives over 50 percent of the first-choice ranks for a contest across all ballots tabulated, the runoff tabulation entity must continue to the next round of tabulation.

26.5.3 At the beginning of the next round of tabulation, the candidate with the fewest first-choice ranks in the prior round is eliminated. The eliminated candidate's votes are transferred to each ballot's next-ranked continuing candidate and tabulated.

- (a) If, after receiving the transferred votes, a continuing candidate receives over 50 percent of the votes cast on active ballots, that candidate is the winning candidate and no further rounds will take place.
- (b) If no candidate has over 50 percent of the votes cast on active ballots after the second round, then the runoff tabulation entity must repeat additional rounds of tabulation, as described in this Rule, until there is a winning candidate.

26.5.4 At the end of Round one and in any subsequent rounds, if the combined votes of two or more candidates with the lowest vote totals in the current round are less than the number of votes for the continuing candidate with the next-highest number of votes, then the candidates in the lowest-vote group may all be eliminated.

26.5.5 For any instant runoff voting contest, the designated election official certifying content to the county clerk conducting the election with that contest, or their designee, must randomly determine the tie-breaker elimination order for all candidates and include that tie-breaker elimination order as a part of the certification.

- (a) The tie-breaker elimination order must consist of a list of all candidates with each candidate assigned a unique ranking.
- (b) In any round of tabulation, if there is a tie that needs to be resolved to determine which candidate or candidates will be eliminated, including the round that determines the winner, the runoff tabulation entity must eliminate the candidate or candidates according to the tie-breaker elimination order.

## 26.6 Tabulation of ranked voting contests using the single transferable vote method

26.6.1 In any ranked voting election where more than one candidate will be elected to an office, the designated election official must follow the tabulation procedures described in this rule.

26.6.2 During the first round of tabulation, the runoff tabulation entity must tabulate the first-choice ranks on each ballot.

- (a) If the number of winning candidates is equal to the number of seats to be filled, then no further rounds will take place.
- (b) If the number of winning candidates is less than the number of seats to be filled, the designated election official continues to the next round.

26.6.3 During the second round of tabulation, the runoff tabulation entity must calculate each winning candidate's surplus votes, as described in Rule 26.6.4, and transfer those votes proportionately to any continuing candidate.

- (a) After the votes are transferred, if the number of winning candidates is equal to the number of seats to be filled, no further rounds will take place.
- (b) After the votes are transferred, if the number of winning candidates is less than the number of seats to be filled, the runoff tabulation entity must eliminate the continuing candidate with the fewest first-choice votes, surplus votes from winning candidates, and, when applicable, votes transferred from eliminated candidates. The eliminated candidate's votes must then be transferred to each active ballot's next-highest-ranked continuing candidate.

- (c) After each eliminated candidate's votes are transferred, if the number of winning candidates is equal to the number of seats to be filled, no further rounds will take place.
- (d) After each eliminated candidate's votes are transferred, if the number of winning candidates is less than the number of seats to be filled, the designated election official must conduct additional rounds of tabulation as described in this rule until all seats are filled.

26.6.4 To calculate a winning candidate's surplus votes in any round, the runoff tabulation entity must:

- (a) Determine which winning candidate received the most votes in any round.
  - (1) In the first round, this will only include first-choice votes cast for the winning candidate.
  - (2) In subsequent rounds, this will include first-choice votes cast for the winning candidate, votes transferred from eliminated candidates, and surplus votes from other winning candidates.
  - (3) If two or more winning candidates tie for the most votes in any round, the designated election official must first count the surplus votes of the candidate chosen by lot.
- (b) After determining which winning candidate received the most votes in any round, calculate that candidate's surplus fraction.
- (c) After calculating a winning candidate's surplus fraction, tabulate the number of votes cast for the next-highest-ranked continuing candidate on every ballot cast for the winning candidate. Then multiply each of those votes cast by the winning candidate's surplus fraction and add the resulting transfer value to any continuing candidate's total as described in Rule 26.6.3(b).
- (d) In any round with more than one winning candidate, repeat this process for each winning candidate in the order of highest votes received.

26.6.5 In any round, if two or more candidates tie for the lowest number of votes, the runoff tabulation entity must determine the eliminated candidate by lot.

- 26.6.6 The designated election official need not report election night results under Rule 11.9.4, unless directed by the Secretary of State.
- 26.7 After determining voter intent in accordance with the Secretary of State's Voter Intent Guide, the runoff tabulation entity must count improperly marked ballots as follows:
- 26.7.1 An overvote invalidates the overvoted rankings and all lower rankings marked for that contest on the ballot.
- 26.7.2 A skipped ranking and any lower ranking must be ignored.
- 26.7.3 A candidate who receives a duplicate ranking on a single ballot is credited with the highest ranking marked by the voter. All other rankings for that candidate must be ignored.
- 26.7.4 If a voter marked their ballot in a way that creates more than one type of improper mark as listed in Rules 26.7.1 to 26.7.3, the designated election official must first resolve skipped rankings, followed by duplicate rankings, and lastly resolve any remaining overvotes.
- 26.8 Consolidating data in multi-jurisdictional ranked voting contests
- 26.8.1 For ranked voting contests contained in more than one county, at least once on election night and once each day where ballots are being tabulated thereafter, each county clerk must transmit ranking data in an approved format to the runoff tabulation entity using a secure data transfer method provided by the Department of State.
- 26.8.2 As part of the ranking data transfer process, the county clerk must hash the results file using a SHA-256 algorithm. The generated hash value must be emailed to the runoff tabulation entity. The county clerk must not send the hash value to the runoff tabulation entity using the same data transfer method used to send the ranking data file.
- 26.8.3 Upon receipt of the ranking data file and associated hash value, the runoff tabulation entity must transfer the ranking data file to a workstation that contains software for conducting the round-by-round stages of tabulation.
- (a) The media that the runoff tabulation entity uses to transfer the ranking data file must conform with Rule 20.5.3(c).

- (b) The runoff tabulation entity must verify that the hash value of the received ranking data file matches the hash value transmitted by the county clerk on the workstation that contains software for conducting the round-by-round stages of tabulation.
- (c) The runoff tabulation entity must only use ranking data files that have been verified by the method in Rule 26.8.3(b) to conduct round-by-round stages of tabulation.

## 26.9 Reporting results of a ranked voting contest

26.9.1 For a ranked voting contest contained in more than one county, the clerk and recorder of each participating county that is not the runoff tabulation entity may choose to only publicly report first-choice ranks, rather than all ranks.

26.9.2 The runoff tabulation entity must ensure anonymity of a voter's rankings in the ballot image report required by section 1-7-1003(7)(a)(II), C.R.S. In precincts with ten or fewer voters, the ballot image reports must be combined with another precinct.

26.9.3 For any ranked voting contest, if the state election night reporting website in Rule 11.9 lacks functionality to report the results of a ranked voting contest, the runoff tabulation entity is responsible for posting results to a public website. If the website used to report results is not the election night reporting website in Rule 11.9, the runoff tabulation entity must provide to the Secretary of State the website where results will be posted no later than a week before election day.

26.9.4 The schedule to post results on election night for a ranked voting contest is exempt from the requirements of Rule 11.9. Instead, the runoff tabulation entity must report results at least once on election night and at least once each day when ballots are tabulated thereafter. All counties conducting an instant runoff voting contest that are not the runoff tabulation entity must provide the runoff tabulation entity with an updated ranking data file at least once per day while ballot tabulation is still occurring.

## 26.10 Auditing a ranked voting contest

26.10.1 Instant runoff contests tabulated in accordance with Rule 26.5 are eligible to be targeted, as described in Rule 25.2.2(j), in the state-

administered risk-limiting audit, if the election that includes instant runoff contests is covered by section 1-7-515(2)(a), C.R.S.

- 26.10.2 Any jurisdiction that conducts an election that includes a ranked voting contest in a manner other than the instant runoff method in Rule 26.5 must conduct an independent audit of the contest that does not interfere with the state-administered audit before the canvass board certifies official election results, if the election is covered by section 1-7-515(2)(a), C.R.S.