

**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.