

## Colorado Republican Party

### Election Watcher Rights and Responsibilities 2015 Secretary of State Watcher Advisory Panel

The Colorado Republican Party appreciates the opportunity to contribute to the work of the Secretary of State and the Watcher Advisory Panel on the subject of transparency and oversight of Colorado's elections. In this document, we share with our fellow panel members the principles and policies that will guide our input into the panel's discussion. We encourage the panel's support of these principles and supporting policies.

#### **Fundamental Principles**

The Colorado Republican Party fully supports the fundamental positions of the Republican National Committee as expressed in the 2012 platform:

*"We recognize that having a physical verification of the vote is the best way to ensure a fair election. 'Let ambition counter ambition,' as James Madison said. When all parties have representatives observing the counting of ballots in a transparent process, integrity is assured."*

and

*"States or political subdivisions that use all-mail elections cannot ensure the integrity of the ballot. When ballots are mailed to every registered voter, ballots can be stolen or fraudulently voted by unauthorized individuals because the system does not have a way to verify the identity of the voter. We call for States and political subdivisions to adopt voting systems that can verify the identity of the voter."*

These concise platform statements (with our supplied emphasis) inform our positions on all matters before the advisory panel.

Also informing all of our views is a fundamental election principle that we embrace from the South Carolina Constitution:

*All elections by the people shall be by secret ballot, but the ballots shall not be counted in secret. (Article II, Section I)*

## **Governing Statute**

We believe that the long-standing Colorado watcher statute clearly codifies these fundamental principles.

*Each watcher shall have the right to maintain a list of eligible electors who have voted, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies. CRS 1-7-108 (3)*

## **Guiding Principles**

Our party's relevant fundamental principles combined with Colorado's watcher statute results in the following more specific principles that will inform the views we express in the Watcher Advisory Panel:

1. Elections belong to the people, not the government. Citizens conduct the work, determine the results, and report them to the government. Under Colorado's election code, elections are conducted by citizen judges, who are overseen by citizen watchers appointed by interested parties. Citizen judges are to be the decision makers. They, not the government, determine who was elected and what ballot measures passed. The concepts of separation of powers and independent oversight are essential foundations of the election scheme.
2. Equal access for all interested parties. Voter confidence in the election process depends on total transparency and fair and equal access to verify the election. Minor party and unaffiliated candidates and ballot issue committees should be granted full, equal access to verify all aspects of the election. Equal right of oversight is particularly important given that the two major parties supply the election judges, yet 38% of the voters are not associated with either major party. Only through robust watcher participation can unaffiliated and minor party candidates gain adequate access to verify the fairness of the election conducted by judges of the two major parties. We encourage active election oversight by all parties and political organizations through watcher representatives.
3. Traditional oversight principles are essential to voter confidence and should be maintained. The adoption of high-risk all-mail ballots in

Colorado has heightened the importance of vigorous watcher involvement and verification activities. Election logistics have transitioned from decentralized neighborhood precinct polling places with local checks and balances to highly centralized and automated ballot processing. Robust watcher activities with full access to verify all steps and results should help mitigate the loss of the organic controls present in the polling place.

4. Election verifiability. All aspects of the election from registration of electors to issuance of ballots through final certification of the election should be independently verifiable by authorized watchers during the conduct of the election. Otherwise, the process allows insider manipulation and improper secrecy. Colorado voters need assurance that independent verification of election details is available and effective. Republicans comprise 50% of the judges in partisan elections, and we enthusiastically encourage oversight and verification of all judges' activities by authorized watchers representing our party and our candidates as well as watchers representing all other interested parties.

Watchers' verification activities should be facilitated on a timely and effective basis and understood as a critical part of the process—not as a distraction. The logistics in the conduct of the election must be designed with watcher verification as an essential element of the process. The decisions and activities of each and every election judge at all times should be observable and verifiable by the authorizing organization's watchers.

5. Right to challenge and request correction of errors. To be effective, watchers must be able to exercise their statutory rights to challenge ineligible voters and incorrect decisions, tabulations, or other errors that are unavoidable in the election process. Processes and facilities—including those of ballot printers and mailers and including those involving election equipment such as ballot sorters, counters, and tabulators—should be designed to allow routine and easily administered and documented watcher challenges to any decision or result, without obstruction by judges or other election officials. Only through the free exercise of right to challenge and inquire can the voters have confidence that the election results are fair.

Watchers must be able to reasonably challenge decisions either while they are being made or before they become irreversible. Logistical accommodations should be created for watchers to effectively challenge any decision, analysis, or tabulation that could have an impact on the election results.

6. Mail ballot impact on election verification. As our national party platform states, mail ballot elections cannot be adequately verified. Colorado attempts to rely on only the weak system of signature verification. The inherent risks of mail ballot elections call for more, not less, oversight than in-person voting in precinct polling places. Watchers should be permitted thorough reviews to verify or challenge signatures and any other verifying election data at any stage of the election. Just as a watcher is permitted the time to challenge any voter at a polling place, voters' signatures should be available for a reasonable level of scrutiny and challenge if necessary.

All information available to the judges in registering a voter, issuing a ballot, challenging a voter, verifying the signature or identification, and checking that the ballot is the correct style should be available for verification to the authorized watchers. Otherwise the verifiability of the full election process is flawed and becomes impossible.

It should be noted that in 2002 the Republican State Party platform opposed compulsory mail ballots and all mail ballot elections. In addition, a 2002 ballot measure to require all voters to receive mail ballots was rejected by voters (40/60). Nevertheless, the legislature adopted those unpopular requirements in 2013, counter to the voters' mandate.

**Colorado Republican Party**  
**Watcher Rule Content Recommendations**

Our guiding principles translate into policies that we recommend as conceptual content for rule making:

1. Credentials for watchers should be issued by the party/candidate/issue committee appointing them and accepted by election judges without delay. The appointing body is responsible for verification that the watcher is an eligible elector and qualified to undertake watcher duties. Credentials or qualifications of watchers may be challenged by any elector or official, but an authorized watcher should not be delayed in accessing the election processes unless their eligibility is challenged. No background checks should be required of watchers; a more complete oath should be sufficient.
2. Watchers should have visual access to all data that is available to the election judges used in the conduct of their duties.
3. Watchers should be able to review all data in the voter registration record from the time it leaves the voter's possession and throughout the conduct of the election.
4. Watchers should have access to issuance of all ballots to verify the name, address, proper ballot style, and eligibility of the voter. This concept applies to ballots of vote center in-person voters and mail ballot voters alike. Watchers should be permitted to witness and verify the processes of ballot and mail ballot packet creation, make sample checks, and assist in the correction of discrepancies, whether the processes are in-house or in printing companies and/or mailing houses.
5. For each mail ballot returned, watchers should be permitted to spend adequate time reviewing the ballot envelope signature, including all available exemplars, prior to the ballot being dissociated from the return envelope.
6. Signature challenges made by watchers should give the voter the opportunity to resolve them via normal signature discrepancy procedures rather than voter eligibility challenge procedures. During document processing, watchers should be permitted visual access to all documents and screens available to judges at a distance, angle, and sight line that the documents and screens can be comfortably read.
7. Authorizing candidates/organizations should have the right to assign watchers to every workstation where decisions are being made, or activities are being performed, by election judges or election staff. Limiting

- the number of watchers by ratio to number of judges or other restrictive methods undermines transparency and makes complete verification impossible.
8. Ballot processing locations should be planned for watcher access. Space constraints that would limit the number of watchers of any particular activity should be avoided. Space constraints would be anticipated to be rare occurrences.
  9. Watchers should be able to lodge “real-time” challenges if irreversible errors are possible in a judge’s work. For other situations, “near-time” verification activities should be used when feasible to avoid unnecessary inefficiencies in judge’s work.
  10. Watchers should have the right to reasonably request (directly from the processing judge) and receive a momentary pause in processing to make an inquiry or review a record for purposes of a possible challenge.
  11. Watchers should be able to challenge judges’ decisions without going through intermediaries if challenges are required to be made immediately to be effective.
  12. All information related to and supporting the online transmission and return of electronic ballots from UOCAVA voters should be available for inspection by watchers. The particularly high risk of manipulation of online voting merits particularly thorough oversight.
  13. Judges and staff training should include the roles and rights of watchers in accessing data and review of judges’ work.
  14. Watchers should take an oath of confidentiality that includes nondisclosure of all private data of voters.
  15. Watchers should be promptly provided with requested information and files as the information is being used in the election process.
  16. Watchers should be given immediate access to election activities when they arrive and present their credentials.
  17. Watchers should not be charged for inspecting election records. Copies requested to be retained by watcher should be provided in the most cost-effective manner.
  18. Authorized watchers need not be on site in order to exercise their rights to review and verify election records. If electronic transmission of requested records is practical, authorized watchers may access such data on a “near-time” basis via email requests of the clerks.

19. To facilitate the efficient work of watchers, all scheduled election activities and their times and locations should be posted on the designated election official's website.
20. Watchers' rights to verify documents, challenge decisions and results, and assist in the correction of discrepancies should continue through the canvass board certification and any recount activities.
21. Disputes concerning watchers' access to activities and records should be attempted to be resolved first with the watcher, then with the authorizing organization, and then with the canvass board before involving the Secretary's Office. The last resort should be the District Attorney.
22. We suggest that a statute change be recommended to permit any Colorado elector, regardless of affiliation, to be appointed by an authorized candidate, party, or political organization. Every candidate or party should be able to appoint the person they feel best qualified to represent them.
23. Parties and candidates should encourage watchers to obtain training through party sources and the Secretary's office. However, the statutes contemplate no required training and training should not be a prerequisite to be a watcher, particularly given the emergency needs that sometimes arise for additional watchers.

## **Summary**

Our principles and the resulting proposed policies are not intended to address all potential issues, but to guide our input into the Watcher Advisory Panel process. In short, total transparency is our default position when in doubt. Truly verifiable elections can assure the voters that the process is fair and consistent with the principles of self-governance.

Accuracy, fairness, and transparency should be prioritized over speed of processing and time of results reporting. Public and media pressure for rapid election-night results should not be subordinated to fairness and transparency. A proper balance should be created that permits watchers' verifiability of the election in all material respects.

We encourage the collaboration of the interested parties in this effort to ensure that Colorado's elections are fair and transparent so that they build voters' confidence and enthusiasm for the process of self-governance.