

Election Watcher Advisory Panel

Eligibility, Appointment, & Oath- May 15, 2015

Recommendations Based on Consensus or Majority Votes:

1. Establish mandatory Secretary of State-authorized watcher training; and allow appointing entities to incorporate approved material into their existing training, where applicable.
2. Establish a process by which a watcher may provide his or her voter registration record with the certificate of appointment to bypass an eligibility check by the county clerk. This process would be optional, not mandatory. If the watcher does not provide the voter registration record, the county clerk will confirm his or her eligibility in SCORE.
3. The county clerk has the authority to confirm a watcher's eligibility prior to allowing the watcher to watch election activities.

Panel Discussion:

- Panel members discussed a statutory change to give the state party chair or “other authorized official” appointing authority in the absence of county party governing structure. Note: may also require change to political party bylaws.
- Panel members discussed a statutory change to expand or require earlier notification of appointments to county clerk (currently “to the extent possible” on the Friday before the election).
- There was general agreement that a watcher information page on the Secretary of State website would be helpful.
- Panel members discussed that interested appointing entities should have the opportunity to collaborate on watcher training course content.
- Panel members discussed the following changes to the certificate of appointment form:
 - Add year of birth so county clerks can more easily confirm eligibility;
 - Enhance the form to allow users to select election type from a drop-down menu;
 - Enhance the form to provide a fillable information box, allowing counties to provide location-specific information.
- Panel members discussed a statutory requirement that an issue committee's registered agent be the authorized representative to appoint.
 - Require that the certificate of appointment allow space for the name of the issue committee so the county clerk can look up the committee in TRACER and confirm its authority to appoint.
 - Allow watchers to provide a TRACER print-out of registration information with certificate of appointment in lieu of county clerk confirmation of eligibility.

Accommodation – May 29, 2015

Recommendations Based on Consensus or Majority Votes:

1. Election Rule 8.4.2: For purposes of watchers, “election activity” generally means the time when electors are voting and/or when election judges (including sworn-in staff members) are present and doing something. “Election activity” also includes post-election activities, such as canvass.
2. Healthcare facilities: Watchers should be required to arrange watching at healthcare facilities beforehand at the Clerk’s office; watchers should be required to maintain adequate distance from the elector so that the elector is able to mark his or her ballot in private.
3. Watcher to Election Judge ratio (per appointing entity):
 - a. Central Count
 - i. 1 watcher per Central Count process
 - ii. 1 watcher for every 10 election judges
 - b. Signature Verification
 - i. 1 watcher for every 4 election judges
 - c. VSPC
 - i. 1 watcher per VSPC; or
 - ii. 1 watcher per VSPC process
 - d. Watcher accommodation is subject to space considerations (as outlined in required Watcher Accommodation Plan—explained below)
 - e. Best Practice: The county clerk should allow as many watchers as can be accommodated, with consideration given to equal representation where no cap is imposed.
4. Election Rule 8.6.7: Video recording rule should remain the same.

Panel Discussion:

- Panel discussion on categories of election activities – “processes”:
 - Central Count
 - Signature verification
 - Ballot sorting
 - UOCAVA
 - Tabulation
 - Duplication
 - Scanning
 - Resolution
 - VSPC
 - Registration
 - Check-in
 - Ballot drop-off

- Panel discussion regarding proximity to election activities:
 - The six foot limit applies only to voting (e.g.: Six feet from voting booth).
 - Watchers should have sufficient access to “witness and verify.”
 - Best Practice: Counties should not place tape on the floor or other artificial barriers; the Secretary of State should establish a set standard for the room/process for the Watcher Accommodation Plan.
- Panel discussion on SCORE reports:
 - Timely delivery of available SCORE reports is a problem – if watchers could get reports on their own (e.g., if the SOS provided reports), it would help both watchers and county clerks.
 - Additional report information, such as rejected ballots, status of ballot, and undeliverable ballots would be useful.
- Panel discussion on CORA (Colorado Open Records Act):
 - Watchers are looking for more time-sensitive information, and should be given election-related information outside of the CORA process.
 - There should be an exception that allows watchers access to any records produced in the ordinary course of the election.
- Panel discussion on video recording by watchers:
 - Panel members expressed voter and judge intimidation concerns.
 - Panel members expressed confidential voter information exposure concerns.

Signature Verification – June 12, 2015

Recommendations Based on Consensus or Majority Votes:

1. Promulgate a rule that the county clerk must provide at least one primary or alternate contact for watchers at each location/process when watchers are present.
2. First Tier Escalation: Promulgate a rule requiring a method (e.g., cards) for the watcher to request automatic escalation (outside the statutory challenge process) of ballot-envelope signatures to a bipartisan team of election judges for review.
 - a. Limit the number of escalations allowed to 10 per hour per election judge; at that point, the watcher should address the issue with a supervisor judge as a potential process issue.

Panel Discussion:

- Panel members discussed that the role of the watcher is to protect the appointing candidate, party, or issue committee; not to protect overall integrity of process.
- Panel members discussed the following interpretation of “assist in the correction of discrepancies”: To help or support election judges; no authority for watchers to make corrections.
 - If a watcher sees a discrepancy, he or she has right to make contact with the supervisor judge or watcher contact and ask that the discrepancy be corrected.

- If the supervisor judge reviews and disagrees, the watcher’s remedy is to inform his or her appointing entity of discrepancy.
- The appointing entity then may contact the county clerk or Secretary of State to resolve the issue; file an action under section 1-1-113, C.R.S.; or take other actions it deems appropriate.
- The panel generally agreed that a Watcher Accommodation Plan would be beneficial.
 - The plan should require the county to confirm that it has designated a judge at each location/process to be the point of contact for watchers.
 - This may require amendment to Election Rule 8.6.5.
 - Disputed decisions (or discrepancies) should be held until the watcher has had an opportunity to alert the watcher contact person.
 - Best practice: The county should post who the contact person is at each location/process daily; that person should wear a nametag identifying him or her as the watcher contact; additional contacts should be available if conditions require them.
- Panel members discussed whether off-line review of signatures by watchers could be beneficial.
 - The Secretary of State could provide report with last SCORE signature or do future SCORE development to provide public module with this information; county clerk could provide scanned envelope signature or actual envelope for comparative review outside of election judge signature verification process.

Post-Election Activities (and Signature Verification, cont’d.) – June 26, 2015

Recommendations Based on Consensus or Majority Votes:

1. Title 1 should be amended to allow watchers access to signatures during election activities outside the normal CORA process.
2. §1-7-108, C.R.S.: The phrase “witness and verify” applies to times when election activities are occurring (as defined in Rule 8.4.2) and judges are present and should extend through canvass and the conclusion of any recount.
 - a. Vote count:
 - (11) Yes: Staiert, Wilson, Goldman, McReynolds, Tierney, Weston, Alberico, Candelarie, Sen. Ulibarri, Nunez, Wilseck
 - (6) No: Marks, Branscomb, Cyriacks, Sen. Woods, Madsen, Brown
 - b. Based on this decision, Rule 8.4.2 should be modified to include canvass and recount as “election activities.”

Panel Discussion:

- Panel members discussed that the public would be more comfortable if everyone with access to confidential information was background checked.
 - The appointing authority should have financial responsibility for the check.

- Background checks for watchers would require a statutory change and a specific provision that the Colorado Bureau of Investigation would provide the information.
- Panel members discussed whether a background check requirement could hinder efforts to get watchers access late in the election.
 - Only require background checks for watchers who will have access to confidential information.
 - Create a color-coded badge system.
 - Create way for watchers to provide a recent background check to the clerk.
 - Watchers would need to consent to the background check.
- Election Rules 8.4.4 and 10.3.5 should also be changed from “observe” to “witness and verify.”
- Panel members discussed whether the Certificate of Appointment oath should be amended to require watchers to affirm that they have not been convicted of an election offense or an offense with an element of fraud.