



Notice of Temporary Adoption

Office of the Secretary of State
Election Rules
8 CCR 1505-1

July 31, 2018

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a temporary basis and immediately effective. (SMALL CAPS indicate proposed additions to the current rules. Stricken type indicates proposed deletions from current rules. *Annotations* may be included):

Amendments to Rule 2.3.2 concerning acceptable identification:

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:

(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.

New Rule 2.19 concerning voter registration at county jails:

2.19 REGISTRATION OF ELECTORS WHO ARE CONFINED IN A COUNTY JAIL OR DETENTION FACILITY

2.19.1 BEFORE EACH ELECTION, BEGINNING WITH THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER IN THE COUNTY TO PROVIDE CONFINED ELIGIBLE INDIVIDUALS AN OPPORTUNITY TO REGISTER TO VOTE.

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2017).

² Section 24-4-103, C.R.S. (2017).

³ 8 CCR 1505-1.

New Rule 7.17 concerning ballot transmission to county jails and detention facilities:

7.17 BEGINNING IN THE 2018 GENERAL ELECTION, THE COUNTY CLERK MUST MAKE EFFORTS TO COORDINATE WITH THE SHERIFF OR HIS OR HER DESIGNEE AT EACH COUNTY JAIL OR DETENTION CENTER TO FACILITATE VOTING FOR ALL CONFINED ELIGIBLE ELECTORS.

7.17.1 THE COUNTY CLERK MUST DESCRIBE THE FOLLOWING IN ITS MAIL BALLOT PLAN:

- (A) HOW THE COUNTY CLERK WILL PROVIDE EACH COUNTY JAIL OR DETENTION CENTER VOTER INFORMATION MATERIALS CONSISTENT WITH MATERIALS PROVIDED TO NON-CONFINED ELIGIBLE ELECTORS, INCLUDING AT A MINIMUM A LIST OF ACCEPTABLE FORMS OF IDENTIFICATION UNDER SECTION 1-1-104(19.5), C.R.S., AND THE INFORMATION REQUIRED BY SECTIONS 1-40-124.5 AND 1-40-125, C.R.S.
- (B) THE PROCESS BY WHICH THE COUNTY CLERK AND THE SHERIFF OR HIS OR HER DESIGNEE WILL FACILITATE VOTER REGISTRATION, AND DELIVERY AND RETRIEVAL OF MAIL BALLOTS FOR CONFINED ELIGIBLE ELECTORS.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

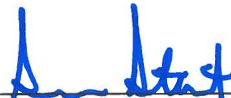
III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of this new rule on a temporary basis follows this notice and is incorporated by reference.⁴

IV. Effective Date of Adopted Rules

This new rule is immediately effective on a temporary basis.

Dated this 31st day of July, 2018,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State

⁴ Section 24-4-103(6), C.R.S. (2017).



Statement of Basis, Purpose, and Specific Statutory Authority

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I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

- Amendments to Rule 2.3.2(a) clarify acceptable government documents for identification. Specifically, new subsection (4) provides that a government document includes 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.
- New Rule 2.19 establishes rules concerning registration of electors who are confined in a county jail or detention facility.
- New Rule 7.17 establishes requirements concerning ballot transmission to county jails and detention facilities.

II. Rulemaking Authority

The constitutional and statutory authority is as follows:

- Section 1-1-107(2)(a), C.R.S., (2017), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
- Section 1-7.5-104, C.R.S. (2017), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”
- Section 1-7.5-105, C.R.S. (2017), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.

accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”



Statement of Justification and Reasons for Adoption of Temporary Rules

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New Rules 2.3.2(a)(4), 2.19, and 7.17

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws.

Temporary adoption is necessary both to comply with law and to preserve the public welfare given the close proximity of the mail ballot plan deadline; August 8, 2018. The Secretary of State must adopt rules to provide clear guidance the county clerks concerning acceptable identification, voter registration at county jails, and ballot transmission to county jails and detention facilities.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.²

¹ Sections 1-1-107 (1) (c), 1-1-107(2) (a), 1-7.4-104, C.R.S. (2017).

² Section 24-4-103(3) (6), C.R.S. (2017).