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**From:** Richard at Log Hill [REDACTED]  
**Sent:** Tuesday, July 30, 2013 2:58 PM  
**To:** SoS Rulemaking  
**Subject:** Comments: Election Rules Recodification  
**Attachments:** Comments on Draft Election Rules.docx

See attached

## Comments on Draft Election Rules

Page 4: the term “General election” should be defined.

page 10, line 36: reactivation of an inactive elector should require submission of legal full time residence and proof of residence at said address.

Page 11, line 27: in the example provided, “Jr.” and “III” are not equivalent; “Jr.” and “II” are equivalent.

Page 12, line 15: the phrase “until the elector establishes a new permanent residence” is wide open and would allow the elector to vote using the foreclosed residence as a “legal” residence for many years, even after moving out of state. Use of the address of a home that is in foreclosure should be restricted to such time as the elector still occupies the home, as foreclosure proceedings are protracted, but not beyond that time, as electors who resided in foreclosed homes frequently move to another jurisdiction, special district, etc., and thus should be eligible to vote only in the jurisdiction and special districts in which they actually reside. The ownership status of a residence is not relevant, as the elector could be renting from the new owner, or could have been renting from the pre-foreclosure owner, etc. The elector should be eligible to vote in whichever jurisdiction and district he or she actually resides, not in a jurisdiction and districts of prior residence. Foreclosure may be the reason an elector moves, but the reason for a change in primary or legal residence is irrelevant; only the locus at the time of an election of the primary or legal residence is relevant. Note that as drafted this language appears to conflict with §16.1.3 (page 108, line 33) which only makes such ballot option effective through the next regularly scheduled general election.

Page 12, line 23: the word “only” appears misplaced in the phrase “information from a local law enforcement only agency”. Is this intended to read “may cancel a registration record based upon information from a local law enforcement ~~only~~ agency ONLY if”

Page 15, lines 13 and 14: The way 2.13.2 is worded, the process of removing ineligible electors takes far too long. Because the process is described sequentially, first the elector must be marked as “inactive” then a confirmation card must be returned as undeliverable and only after that the elector fails to vote in two general elections. The way this is being administered, we have electors on the voter rolls who have moved out of state in 2004 or prior but have yet to be removed from the voter rolls, and we have other electors who moved to different districts (e.g. fire, library, special) but are still on the rolls as eligible voters in districts in which they have not resided for a number of years. Lines 13 and 14 should be changed to read

“(B) Who have been mailed a confirmation card BUT HAVE FAILED TO VALIDATE THEIR REGISTRATION; and”

“(C) Who have ~~since~~ failed to vote in THE two ~~consecutive~~ MOST RECENT General elections.”

Page 15: the numbering of rules on page 15 appears to be erroneous, e.g. rule 1.13.2 is followed by rule 2.13.5 which is followed by rule 2.13.4.

Page 15: There is a need for county clerks to consider and act on information from the public regarding apparent ineligibility of electors. A rule along the following lines should be included:

2.13.xx County clerks shall validate elector registration in accordance with the procedures of 2.13.2(B) and (C) when:

(A) A political party official or any member of the public provides a written statement, including e-mail, that an elector identified by name and address is believed to be ineligible to be registered at the specific address, provided

(i) The statement is received not less than 120 days prior to a primary or general election; and

(ii) The statement provides a reason why the elector does not appear qualified to be registered at the stated address, such as having moved out of the jurisdiction or death; and

(iii) The person submitting the statement provides their name and contact information.

(B) County clerks shall annotate the file of the elector whose eligibility is challenged with their actions and disposition of the challenge.

(C) County clerks need not process a challenge to an elector’s eligibility if such a challenge has been processed for that elector within the past six (6) months.

Page 22, line 34: incorrect grammar

Page 27, line 15-18: this requires a primary election for all major political parties even if only one party nominates more than one candidate for any office. It was my understanding legislation this past year eliminated this redundant and expensive process. If, for example, the Democrat party has two candidates, but the Republican party has only one, there is no reason for the counties to go to the expense of holding a primary election for the Republican nomination.

Page 27, line 21: This requires the printing of the names of all offices including the offices for which a party had not nominated any candidates. This is a waste of time, effort, paper, postage and is unnecessary. This requirement should be changed to read:

“(II) When there are no candidates for certain offices, the county clerk need not list those offices but may insert ‘There are no candidates for any other offices in this election.’ “

Page 36, LINE 23: substitute HANDLING for HANDLE

Page 37, paragraph 7.1 requires submission of a ballot plan within 5 days, and Secretary of State approval or disapproval of the plan within 5 days. This section fails to indicate how much time the submitter has to submit a corrected plan should the submitted plan be disapproved, or what happens if no plan is submitted or no plan is approved.

Page 39, line 17: §7.3.2 requires the county clerk to mail ballots to a different address than the registration address under the rubric of absentee ballots forever, until the elector advises otherwise. This is not consistent with good practice of ensuring voters are actually eligible to vote. A request for absentee ballot should only be valid for elections during one calendar year with possible exception for military personnel and their dependents.

Page 41, line 35, §7.5.3 requires the county clerk to collect ballots hourly from free standing drop-off locations. Free standing drop-off locations can be quite convenient in rural counties, but hourly collection may be high impractical, especially in sparsely populated counties with geographically wide-spread desirable locations for free standing drop-off locations. Secure metal containers such as surplus U.S. Postal Service mail boxes with additional locks could provide desirable free standing drop off locations in rural areas, but a collection requirement of only once per day would be more reasonable.

Page 42, line 13, §7.5.7 reflects a new prohibition on a single individual delivering more than ten ballots. That prohibition should be clearly spelled out on mailed ballots to avoid inadvertent violation.

Page 42, line 32: While this permits an election official to call electors whose signatures are missing, it also requires that if one is called, all are called. This fails to address attempted calls when no one answers the telephone. Does an attempted call, or does a message left on an answering system, meet the requirement?

Page 45, line 24: providing ALL the services at every polling station is totally unreasonable for counties with small populations and therefore small county clerk staffs. While volunteer election judges may staff various polling places, requiring them to provide all the services is not reasonable.

§8 – around page 50 – prohibits WATCHERS from having laptops, electronic devices, etc. yet in recent elections some political parties had up to date lists of who had voted and who had not.

How was that feasible in a timely manner absent lists and electronic devices? Page 53, §8.12 specifically requires election officials to make a list of all those who have voted available to all interested parties, but fails to indicate when such lists are to be made available? Is it every day at the end of the day, every half day?

Page 52, line 9 specifically addresses permitting media photographers to witness all election activities, yet §8.3 prohibits watchers from possessing cell phones, cameras and other electronic devices. Page 52 specifically addresses media photographer taking pictures and video recordings. If photography is prohibited, it should be prohibited for all, including the media.

Page 53, line 30, the reference to §8.8 needs to be updated.

Page 54: In this §9 in a number of sample answers that are unsatisfactory, e.g.

A. WILL YOU BE 18 YEARS OF AGE OR OLDER ON ELECTION DAY?

UNSATISFACTORY ANSWER: NO.

*IF THE PERSON CHALLENGED ANSWERS NO, AN ELECTION JUDGE MUST OFFER THE PERSON A PROVISIONAL BALLOT.*

The election judge is directed to issue a provisional ballot. If the person is ineligible to vote, e.g. will not be 18 years of age on election day, why is the system burdened with issuing a provisional ballot?

Page 89, line 22: §13.1.6(A) states the division staff will take one of the following actions but (B) indicates the SecState shall consider their recommendation and take action. Thus line 22 should read that the division staff will RECOMMEND THE SECRETARY OF STATE:

Page 108, line 29: this requires each county clerk to have a dedicated fax machine. Should this not include a dedicated telephone line that is dedicated for the appropriate voting period? A fax machine by itself, without a dedicated line, does not meet the objective.

Page 108, line 33, § 16.1.3 stipulates how long an absentee ballot request remains valid; this conflicts with a prior section that said such a request is valid forever.

Page 109, §16.1.6 while it may be convenient for us to set times as 7:00pm MT, for the military it would be much better to set the time in Greenwich Mean Time or GMT, e.g. 0200 GMT on the calendar day following the election date in Colorado.