

***Comments on Secretary of State  
Preliminary Draft Proposed Rules – Dated December 15, 2015  
Submitted by Larimer County  
January 21, 2016***

Larimer County respectfully submits the following comments regarding Preliminary Draft Proposed Rules dated December 15, 2015.

Larimer County is in support of the formal comments made by the Elections Statute Review Committee (ESRC) regarding these rules.

The following comments are made in addition to or in an effort to emphasize comments submitted by the ESRC.

1. Amend 4.1.3: Districts have different statutory requirements regarding who can vote in an election. Including all Districts in SCORE will set the stage for error if a District's qualifications are not the same as others that are included and in SCORE (i.e., some districts may apply to only landowners, not residents, etc.).
2. Amend/Strike 6.1:
  - a. Overall, this places a great deal of burden on the parties who have historically been challenged to provide judges under the current system – let alone placing additional expectation on them.
  - b. 6.1.3: What action will the SOS take upon receiving notification on the 60<sup>th</sup> day?
  - c. 6.1.4:
    - What is the purpose, what does this fix?
    - These lists are fluid through Election Day with respect to the addition of judges, placement of judges, judges who cannot meet their commitments, etc.
3. Amend 6.2.1:
  - a. Pursuant to statute, judge assignments are at the discretion of the County Clerk and Recorder without consent from the Political Parties (including the use of regular staff).
  - b. Suggest amending to read: "...Except that each major political party may SUGGEST which election judges from its list SHOULD be appointed as signature verification judges. Each signature verification judge SUGGESTED by the party is subject to..."
4. 6.3: How does this affect extremely small counties?
5. 6.4: Different rules of conduct in this area, based on county size, implies that any benefit of this rule is based on the number of electors in a county, rather than sound rationale behind the rule.
6. Strike 7.2.6 :
  - a. Statute is clear that the self-affirmation has to be signed in order to count the ballot.
  - b. There is no legal requirement for voters to tell us that someone else is dropping off their ballot – adding this language implies otherwise and creates voter confusion.
7. Strike 7.5.1(c):
  - a. C.R.S 1-13-714 prohibits electioneering within any "polling place" not drop boxes.

- b. This amendment would hamper the ability to place drop sites in grocery stores and permanent placement of 24-hour boxes for the long term.
  - c. Unenforceable – as these sites are often unmanned and are intended to be located conveniently in high-traffic areas throughout the counties.
  - d. In most cases, the voter has already marked and sealed their ballot envelope – electioneering at this point in time is unlikely and relatively unproductive.
  - e. Postal boxes do not and should not have these restrictions, for the same reasons.
6. 7.8.3: Strike the changes. There is no State Signature Guide, therefore there should be no rule – the guide should be available for review and comment before, not after, any requirement for use.
7. 7.8.11 (c): Current language should remain, due to the need for connectivity between the unit and signature verification PC's. Perhaps “secured network” versus “closed network” is more attainable.
8. 8.1.2:
- a. How is eligibility confirmed?
  - b. How do we inform the appointing entity (where is the contact information)?
9. 8.1.3: What constitutes a registration record – where do they get it – how is it verified?
10. 8.1.5: What are the training parameters/requirements for approval?
11. 8.8:
- a. These guidelines are impractical in their entirety
    - Watchers have an innate desire to move the election in their favor.
    - Watchers themselves are often brought in from other areas of the state and mobilized by other areas of the country – they are often not local to the county.
    - Watcher influence under these rules has the potential to denigrate local control.
    - Election judges are local citizens living within the county, essentially acting as watchers on a local level.
    - Any given ballot may contain an unlimited number of appointing entities.
    - In the aggregate, this may mean more watchers than election judges and becomes unmanageable, creating a very real opportunity for undue influence, intimidation of judges, group think, etc. – in several operational locations throughout the election – and all at the same time.
      - For example:
        - a. 100 election judges in a central count facility
        - b. Divided by 10 = 10
        - c. Times 10 entities on the ballot = 100 watchers.
    - A limit of fewer than three watchers in the aggregate at any given location/process should be required.
      - For example:
        - a. 7 processes in any given central count facility
        - b. Times one watcher at each process = 7 watchers
          - This is still too many, but a much better worst case scenario.
    - A singular contact person to handle an unknown and unmanageable number of watchers is problematic.

- All that is needed, with the rules as drafted, is for someone or some group to desire to disrupt an election – these rules make it very easy for them to do so and are dangerous.
- Limiting the number of watchers solely based on space limitations and/or “local safety codes” is subjective, difficult to define and does not consider the requirements of equipment and mobility necessary to successfully operate within the limited space.
- Worst case scenarios (the examples given are not considered worst case) must be determined and found to be manageable, or we endanger the entire process.

12. 8.9: These rules should be stricken:

- a. These facilities are essentially “home” for the electors living there.
  - These electors are being treated differently – who of us would wish to allow “watchers” in our homes as we vote?
  - A bi-partisan team of election judges is sufficient to ensure these electors are not being coerced.
  - Electors living in these facilities have the right to privacy with respect to the circumstances of their health.
  - Space limitations are very real in these facilities.

13. 8.13: When combined with 8.8, this provision is dangerous, unmanageable, allows for undue influence, etc.

- a. For example:
  - 10 signature verification judges and 10 entities on the ballot = 10 Watchers
  - 10 watchers x 10 escalations/hour = 100 escalations/hour
  - Times 10 hours on Election Day (at best) = 1000 escalations
- b. Worst case scenarios (the example given is not considered worst case) must be determined and found to be manageable, or we endanger the entire process.

14. 8.15.5: Contact with election judges, other than the designated watcher contact, is problematic and disruptive.

- a. 8.13 does not indicate who the “escalation” goes to and certainly does not indicate that contact with an election judge other than the designated watcher contact is allowed.
- b. 8.16 indicates that any discrepancies are to be brought to the attention of the designated watcher contact.

15. Amend 10.8.3: It is important that counties have discretion regarding when to conduct a recount, due to differing processes/procedures, tabulation equipment, timeline/availability of county clerk, staff, judges, canvass board, etc.

16. Amend 11.10.1(I): After abbreviation add: “at a minimum.” Larimer County prefers to use the full party name.

17. 11.10.4(b): Striking (b) would allow counties to continue the counting process and instead to post as timing allows, accommodating the various county sizes and needs. If some definition is required, request that it state something more like: “No less than two times before final unofficial results are posted.”

The opportunity to comment and consideration of the comments submitted is greatly appreciated.