

**Pitkin County supports Rule changes as recommended by the Colorado Election Statute Review Committee. The following comments are in addition to the ESRC, representing Pitkin County:**

Proposed Election Rules 8 CCR 1505-1, July 6, 2017

**New Rule 1.1.10:**

Should the definition for CVR include batch number and ballot number?

**New Rule 2.5.4:**

Pitkin County interprets this rule as defining how unaffiliated voter requests should be treated after 29 days before the primary election (see Rule 2.17 for behavior prior to 29 days). We have many questions about this rule.

- Does this eliminate the ability of an unaffiliated voter to affiliate up to and on Election Day in an office that only issues mail ballots (e.g. Clerk's office)? Or does "Appear in person to vote" include issuing mail ballots? We are concerned this is a departure from the spirit of the law that allows unaffiliated voters to affiliate up to and on Election Day because it treats mail ballot voters differently from in person voters.
- Will voters be able to affiliate online? We are concerned that if they affiliate online, but that affiliation is deferred, that they will not receive the correct mail ballot they wish to vote. If this voter makes this affiliation change online, they will be expecting us to mail them their party ballot. As long as their affiliation change is received before 8 days before Election Day (the ballot mailing deadline), why wouldn't we mail them the ballot of their party? Many of our voters live elsewhere seasonally and this will disenfranchise them if they cannot receive a mail ballot but must appear in person. We request clarification to treat an affiliation declaration as equivalent to a ballot preference request; this would allow us to defer the affiliation, but mail the proper ballot to the voter.
  - If the SOS is not amenable to our request, then we would procedurally expect correspondence to generate in SCORE to inform the voter of this deferral.
- Given that proposed Rule 2.17 refers to voters who have been mailed a party ballot based on their preference, is this rule meant to refer to unaffiliated voters who have not indicated a preference and therefore have received both party ballots? Or does it include unaffiliated voters who have indicated a preference? If it is the latter, then the voter who received a ballot for one party based on an earlier preference will not be able to affiliate and vote a mail ballot with the party they prefer.
- How are affiliated voters treated? Can they become unaffiliated up to and on Election Day?

**New Rule 2.14.4:**

Pitkin County opposes the proposed rule as written! Because the Pitkin Election Department runs reports throughout the day to assist in balancing election activity, handling multiple ballot exceptions, assisting with VSPC issues or errors, providing reports to watchers, etc., it is essential to have data to maintain operations throughout the day during the election cycle.

Consider removing until the working group has the opportunity to discuss and present findings.

**New Rule 2.14.5:**

Remove language. Who else would counties request for statewide reports but the SOS?

**New Rule 2.17:**

As with related Rule 2.5.4, we have many questions and concerns about this rule.

- The word “Next” is confusing. Perhaps say, “...ELECTOR IN SAID PRIMARY ELECTION”.
- What happens after 29 days? Can a new preference be dictated? Can they remove their preference and be sent a ballot packet with both ballots?
- Will voters be able to determine their ballot preference online?
- Can a voter change his/her ballot preference an unlimited number of times?
- Can a voter change his/her ballot preference at all after the 29 day period? With regards to voters who cannot appear in person to vote, if he/she cannot affiliate after 29 days, and cannot change their ballot preference, then they are restricted in which party ballot they may receive and vote. We think this is a departure from the spirit of the law that allows unaffiliated voters to affiliate up to and on Election Day.
- Will voters be able to determine a ballot preference for minor parties? If they are, then we recommend that this means they will receive the same packet as an unaffiliated voter with both major party ballots.

Pitkin suggests that this preference be determined online, or verbally, and may use, but not be required to use a form. Voter registration staff and election judges will mark their preference in SCORE and the in-person voter will sign their signature card showing their ballot style.

In summary, Pitkin suggests that the ballot preferences be treated similarly to an unaffiliated voter affiliating. A replacement ballot will be issued based on their preference update and it is the voter’s responsibility to return the ballot that they intend to vote.

**New Rule 7.2.12:**

- Must a ballot preference request be done by completing a form or online voter registration? Currently, replacement ballots can be issued when verbally requested over the phone, so long as there are not requested changes to the record. Pitkin additionally suggests that this preference be determined online, or verbally, and may use, but not require a form. Voter registration staff and election judges will mark their preference in SCORE and the in-person voter will sign their signature card showing their ballot style.
- When reading this rule alongside rules 2.5.4 and 2.17, does this mean that voters may change their ballot preferences as often as desired so long as they have not already voted a ballot? But the same voter may not affiliate after 29 days unless they vote in person? Why are affiliations and ballot preference declarations treated differently? We are concerned that an unrestricted number of ballot preference changes will complicate ballot inventory procedures.

**New Rule 7.5.5(A)(1):** – regarding drop box waivers, what is the date ballots are considered to be mailed? UOCAVA deadline or 22 day deadline?

**Amendment to Rule 7.5.11:** – Recommend that all counties turn ballots over to SOS for SOS to compile outgoing packets to counties.

**New Rule 7.5.14:** Regarding voter intent for two ballots in one envelope and retention of ballot as an election record:

- Does this ballot now need to be associated with the other ballot it was returned with? Does a new log need to be created? All other ballots which are reviewed for voter intent are tied back to their original. Or do we just end up with a box of blank ballots as a record?

Rejecting two blank ballots: In a coordinated or general election, if a voter returns two ballots we have to reject their voter credit.

- Therefore, then, doesn't this treat the voter differently in a primary where their voter credit would sustain and a blank ballot would be counted? Pitkin County objects to treating voters differently across elections.
- Additionally, how do we know which party to credit if two blank ballots, one from each party are returned?

**Amended Rule 7.6.1:**

Pitkin County strongly supports rule as written, as it assists to accommodate voters who have lost an envelope (or didn't receive one from printer) without having to issue replacement mail ballot packet.

**Amended Rule 7.7.3:** – change “...all similarly situated electors...” to “....all similarly affected electors...”

**New Rule 7.17:** – regarding the scanning of mail ballot return envelopes: Add "as is practicable" so as to allow for envelopes that are ripped/not scannable, or the signature is not on the line.

**Amended Rule 10.5.1 (I)** – regarding canvass procedures: Pitkin County requests that a report from SCORE be available to fulfill this requirement.

**Amended Rule 13.2.9 (a)** – regarding HAVA complaints: Will the form be updated to include a request for hearing?

**New Rule 25.2.2 (D)** – please confirm that this language does not exclude the casting of property owner and provisional ballots, the language “other than” is confusing. In very small districts, withholding property owner ballots could postpone the announcement of results until the election is certified. 25.2.2 (E)(3) below seems to indicate that property owner and provisional ballots should be cast.

**New Rule 25.2.2 (E)(3)**: – oppose inclusion of any reference to SCORE numbers in the CVR and RLA. Pitkin reiterates comments submitted by the ESRC: This is more of a canvass function and does not belong here. Sub-rule 2 is sufficient to verify that the number of ballots contained in the CVR is correct. Recommend striking this entire sub-rule. At a minimum, strike everything after "the number of mail ballots". Various issues cause cloudiness here that are accounted for/explained in the Canvas report:

- Ballot envelopes received but no ballot counted (spoiled/blank/two voted ballots).
- Empty envelopes.
- Wrong ballot in the envelope.

**New Rule 25.2.3 (D):**

- What are the definitions for overstatement and understatement?
- Regarding 'county audit reports' - Does this mean the sum of the counties at the state level or will the SOS examine each county individually?
- How will the second round of ballots be selected?

Respectfully submitted,

Janice K. Vos Caudill, Pitkin County Clerk and Recorder

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