

## Preliminary Draft of Proposed Rules

### Colorado Department of State Election Rules 8 CCR 1505-1

April 15<sup>th</sup>, 2022

#### Disclaimer:

In accordance with the State Administrative Procedure Act, this draft is filed with the Department of State and submitted to the Department of Regulatory Agencies.<sup>1</sup>

This is a preliminary draft of the proposed rules that may be revised before the [Date] rulemaking hearing. If changes are made, a revised copy of the proposed rules will be available to the public and a copy will be posted on the Department of State's website no later than **May 19<sup>th</sup>, 2022**.<sup>2</sup>

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
<del>Strikethrough</del>	Deletions
<i>Italic blue font text</i>	Annotations

*Amendments to 8 CCR 1505-1 follow:*

*Amendments to Rule 1, including insertion and re-codification of all definition rules from current Rule 26.1, repeal of current Rule 1.1.49, and necessary renumbering:*

*Rule 1.1.1 is re-codified from current Rule 26.1.1:*

~~26.1.11.1.1~~ "Active ballot" means a ballot properly marked and counted for either a winning candidate or a continuing candidate in a ranked voting election.

*[Not shown: renumbering current Rules 1.1.1 through 1.1.5 to Rules 1.1.2 through 1.1.6.]*

*[No changes to current Rules 1.1.7 through 1.1.9.]*

*[Not shown: renumbering current Rule 1.1.6 to Rule 1.1.10 and current Rules 1.1.10 through 1.1.14 to Rules 1.1.11 through 1.1.15.]*

*Rule 1.1.16 is re-codified from current Rule 26.1.2.*

~~26.1.21.1.16~~ "Continuing candidate" means a candidate who has not been eliminated but is not a winning candidate in a ranked voting election.

<sup>1</sup> Sections 24-4-103(2.5) and (3)(a), C.R.S. (2021). A draft must be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.

<sup>2</sup> Section 24-4-103(4)(a), C.R.S. (2021). "[A]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing...shall be made available to any person at least five days prior to said hearing."

*New Rule 1.1.17, concerning the definition of county throughout CCR 8 1505-1:*

1.1.17 "COUNTY" OR "COUNTY CLERK" MEAN THE ELECTED COUNTY CLERK AS CHIEF ELECTION OFFICIAL FOR THE COUNTY, AND OTHERS EMPLOYED OR APPOINTED BY THE COUNTY CLERK TO CARRY OUT THE DUTIES OF THE COUNTY CLERK IN THE ADMINISTRATION OF AN ELECTION.

*[Not shown: renumbering current Rules 1.1.15 through 1.1.17 to Rules 1.1.18 through 1.1.20.]*

*New Rule 1.1.21, concerning the definition of department throughout CCR 8 1505-1:*

1.1.21 "DEPARTMENT", "COLORADO DEPARTMENT OF STATE", "COLORADO SECRETARY OF STATE'S OFFICE," AND "COLORADO SECRETARY OF STATE" ALL MEAN THE COLORADO SECRETARY OF STATE AND PERSONNEL EMPLOYED BY THE SECRETARY OF STATE TO EFFICIENTLY CARRY OUT THE POWERS AND DUTIES PRESCRIBED BY TITLE 1, C.R.S AS AUTHORIZED BY SECTION 1-1-107(2)(c).

*[Not shown: renumbering current Rule 1.1.18 to Rule 1.1.22.]*

*Rule 1.1.23 is re-codified from current Rule 26.1.3.*

~~26.1.3~~1.1.23 "Duplicate ranking" means a voter marked more than one ranking for a candidate in a ranked voting election.

*[Not shown: renumbering current Rules 1.1.19 and 1.1.20 to Rules 1.1.24 and 1.1.25; renumbering current Rule 1.1.24 to Rule 1.1.26; and, renumbering current Rules 1.1.21 and 1.1.22 to Rules 1.1.27 and 1.1.28.]*

*New Rule 1.1.29, concerning the definition of election project backup throughout CCR 8 1505-1:*

1.1.29 "ELECTION PROJECT BACKUP" MEANS A SET OF FILES THAT IS GENERATED BY THE VOTING SYSTEM SOFTWARE'S DEDICATED BACKUP/EXPORT FUNCTIONS AND VENDOR DEFINED PROCEDURES AFTER THE INITIAL PROJECT IS CREATED THAT CAN BE USED TO RESTORE THE VOTING SYSTEM TO A PREVIOUS STATE. THIS DOES NOT INCLUDE A FULL OR PARTIAL HARD DRIVE IMAGE OR CLONE.

*[Not shown: renumbering current Rule 1.1.23 to Rule 1.1.30; renumbering current Rule 1.1.25 to Rule 1.1.31.]*

*Amendments to current Rule 1.1.26, renumbering to Rule 1.1.32 and fixing grammatical error:*

~~4.1.26~~1.1.32 "Electronic Transmission" means:

*[Not shown: renumbering current Rules 1.1.27 through 1.1.29 to Rules 1.1.33 through 1.1.35.]*

*Rule 1.1.36 is re-codified from current Rule 26.1.4.*

~~26.1.4~~1.1.36 "Instant run-off election" means a type of ranked voting election where only one candidate will be elected to the office.

*[Not shown: renumbering current Rule 1.1.30 to 1.1.37.]*

*Amendments to current Rule 1.1.31, renumbering to 1.1.38 and fixing grammatical error:*

~~4.1.31~~1.1.38 "Official Observer" means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process

and perform duties as may be assigned by the Secretary of State, but are subject to Rules and regulations as prescribed by the Secretary of State.

*Amendments to current Rule 1.1.32, renumbered to 1.1.39 and divided into sections for clarity. Section (b) is re-codified from current Rule 26.1.5 and amended:*

~~4.1.32~~1.1.39 “Overvote” means:

(A) an instance where the elector marked votes for more than the maximum number of candidates or responses for a ballot measure;

~~26.1.5~~(B) IN A RANKED VOTING ELECTION, “~~Overvote~~” means a voter marked more than one candidate with the same ranking.

*[Not shown: renumbering current Rules 1.1.33 and 1.1.34 to Rules 1.1.40 and 1.1.41.]*

*Rule 1.1.42 is re-codified from current Rule 26.1.6:*

~~26.1.6~~1.1.42 “Ranking” means the voter’s assigned number or the numeric position for a candidate to express the voter’s preference for that candidate in a ranked voting election. Ranking number one is the highest rank, ranking number two is the next-highest rank, and so on.

*[Not shown: renumbering current Rules 1.1.35 through 1.1.38 to Rules 1.1.43 through 1.1.46.]*

*New Rule 1.1.47:*

1.1.47 “SECURE BALLOT AREA” MEANS:

(A) ALL AREAS USED FOR PROCESSING BALLOTS, INCLUDING BUT NOT LIMITED TO:

- (1) SIGNATURE VERIFICATION;
- (2) BALLOT OPENING;
- (3) TABULATION; OR
- (4) STORAGE OF VOTED BALLOTS.

*New Rule 1.1.48:*

1.1.48 “SECURE EQUIPMENT AREA” MEANS:

(A) ALL AREAS IN WHICH ELECTION MANAGEMENT EQUIPMENT IS USED, INCLUDING BUT NOT LIMITED TO:

- (1) PROGRAMMING;
- (2) COPYING ELECTION FILES TO OR FROM MEMORY CARDS OR FLASH MEDIA;
- (3) ADJUDICATING BALLOTS;
- (4) TALLYING RESULTS;
- (5) RESULTS REPORTING; OR

## (6) THE STORAGE AREA FOR ALL VOTING SYSTEM COMPONENTS.

*Rules 1.1.49 and 1.1.50 are re-codified from current Rules 26.1.7 and 26.1.8.*

~~26.1.7~~1.1.49 “Single transferable vote election” means a type of ranked voting election where more than one candidate will be elected to the same office.

~~26.1.8~~1.1.50 “Skipped ranking” means a voter did not rank candidates in numerical order (e.g., voter ranks top candidate with a “1” and second candidate with a “3”, or leaves a ranking blank).

*[Not shown: renumbering current Rules 1.1.39 and 1.1.40 to Rules 1.1.51 and 1.1.52.]*

*Rules 1.1.53 and 1.1.54 are re-codified from current Rules 26.1.10 and 26.1.9.*

~~26.1.10~~1.1.53 “Surplus fraction” means a fraction calculated by dividing the surplus votes by the total votes cast for the winning candidate, calculated to four decimal places, ignoring any remainder. Surplus fraction = (surplus votes of a winning candidate)/(total votes cast for winning candidate), calculated to four decimal places, ignoring any remainder.

~~26.1.9~~1.1.54 “Surplus votes” means the votes cast for a winning candidate in excess of the winning threshold that may be transferred to a continuing candidate.

*[Not shown: renumbering current Rule 1.1.41 to Rule 1.1.55.]*

*Rules 1.1.56 and 1.1.57 are re-codified from current Rules 26.1.11 and 26.1.12.*

~~26.1.11~~1.1.56 “Transfer” means assigning the vote of an eliminated candidate or the surplus vote of a winning candidate to the next-highest-ranked continuing candidate.

~~26.1.12~~1.1.57 “Transfer value” means the fraction of a vote that a transferred ballot will contribute to the next ranked continuing candidate on that ballot. The transfer value of a vote cast for a winning candidate is limited to four decimal places, ignoring any remainder.

*[Not shown: renumbering current Rules 1.1.42 through 1.1.47 to Rules 1.1.58 through 1.1.63.]*

*Rules 1.1.64 and 1.1.65 are re-codified from current Rules 26.1.13 and 26.1.14.*

~~26.1.13~~1.1.64 “Winning candidate” means a candidate who is elected after receiving at least 50 percent plus one vote in an instant-run-off election, or after reaching the winning threshold required in a single transferrable vote election, or because the number of continuing candidates and other winning candidates is less than or equal to the number of seats to be filled.

~~26.1.14~~1.1.65 “Winning threshold” means the number of votes sufficient for a candidate to be elected. In any given election, the winning threshold equals the total votes counted in the first round of tabulation, divided by the sum of one plus the number of offices to be filled, then adding one, disregarding any fractions. Winning threshold = ((Total votes cast)/(Seats to be elected + 1)) + 1, with any fraction disregarded.

*[Not shown: renumbering current Rule 1.1.48 to Rule 1.1.66.]*

*Repeal of current Rule 1.1.49, definition of outdated equipment:*

~~1.1.49 “Zero tape” means a printout of the internal data registers in electronic vote tabulating equipment indicating a zero value before any ballots are tabulated on that machine~~

*[Not shown: current Rules 2.16 and 2.17 are re-codified to New Rule 20.9.1(a) and (b).]*

*[Not shown: renumbering current Rules 2.18 through 2.20 to Rules 2.16 through 2.18.]*

*Amendment to Rule 3.1, concerning cross-reference change:*

3.1 A qualified political organization, as defined in ~~Rule 1.1.41~~~~1.1.41~~ RULE 1.1.41, must file proof of organization with the Secretary of State. The proof must include, but is not limited to:

*Amendments to Rule 4.1.2, which include new subsections (a) and (b), concerning the responsibility and coordination of counties and districts to provide translations required by HB21-1011:*

4.1.2 A coordinating political subdivision must enter into an intergovernmental agreement with the county clerk that delineates which tasks are the responsibility of the designated election official of the political subdivision and which are the responsibility of the county clerk.

(A) A COUNTY REQUIRED TO PROVIDE TRANSLATIONS UNDER SECTION 1-5-905, C.R.S. MUST INCLUDE IN EACH INTERGOVERNMENTAL AGREEMENT RESPONSIBILITY FOR TRANSLATING COORDINATING DISTRICT CONTENT.

(B) IN THE EVENT THAT THE COORDINATING DISTRICT IS RESPONSIBLE FOR TRANSLATING CONTENT, THE INTERGOVERNMENTAL AGREEMENT MUST REQUIRE THE BALLOT CERTIFICATION FROM THE COORDINATING DISTRICT DESIGNATED ELECTION OFFICIAL THAT THE PRODUCED TRANSLATIONS ARE:

(1) LINGUISTICALLY ACCURATE;

(2) CULTURALLY APPROPRIATE; AND

(3) TECHNICALLY CONSISTENT WITH THE ORIGINAL DOCUMENTS.

*New Rule 4.8.8, concerning the Colorado Department of State’s oversight of the translation process, regarding the implementation of HB 21-1011:*

4.8.8 COUNTIES REQUIRED TO PROVIDE IN-PERSON AND SAMPLE BALLOT TRANSLATIONS UNDER SECTION 1-5-905, C.R.S. MUST AFFIRM IN THE ELECTION PLAN FOR THAT ELECTION THAT THEY ARE USING A TRANSLATOR OR INTERPRETER WHO:

(A) IS SCREENED AND TESTED FOR PROFICIENCY IN BOTH WRITTEN ENGLISH AND THE TARGET LANGUAGE WITH AFFILIATION OR ACCREDITATION BY A NATIONALLY RECOGNIZED ASSOCIATION OF TRANSLATORS OR HAVE OTHER CREDENTIALS OR CERTIFICATIONS THAT ARE COMPARABLE TO OR EXCEED THE STANDARDS USED BY A NATIONALLY RECOGNIZED ASSOCIATION OF TRANSLATORS; AND

(B) PRODUCES TRANSLATIONS THAT ARE LINGUISTICALLY ACCURATE, CULTURALLY APPROPRIATE, AND TECHNICALLY CONSISTENT WITH THE ORIGINAL DOCUMENTS.

*New Rule 4.8.9, concerning the ability of any individual to file a complaint with the Department of State regarding violations of New Rule 4.8.8:*

- 4.8.9 ANY INDIVIDUAL WHO BELIEVES A COUNTY HAS NOT USED A TRANSLATOR CONSISTENT WITH THE REQUIREMENTS OF RULE 4.8.8 MAY FILE AN ELECTION COMPLAINT WITH THE SECRETARY OF STATE.

*Repeal of current Rule 6.9:*

~~6.9 The county clerk must arrange for a criminal background check on each supervisor judge and each staff member with access to SCORE or electors' confidential or personally identifiable information.~~

~~6.9.1 The criminal background check must be conducted by or through the Colorado Bureau of Investigation, the county sheriff's department in accordance with section 24-72-305.6(3), C.R.S., or similar state or federal agency.~~

~~6.9.2 A person convicted of an election offense or an offense containing an element of fraud may not handle voter registration applications or conduct voter registration and list maintenance activities.~~

*New Rule 6.9, concerning a county informing the Colorado Department of State that an election judge is removed from their duties:*

- 6.9 THE COUNTY MUST IMMEDIATELY INFORM THE SECRETARY OF STATE'S OFFICE IN WRITING IN THE EVENT THAT AN ELECTION JUDGE IS REMOVED FROM DUTY BY THE COUNTY.

*Amendment to Rule 7.2.14, concerning a cross-reference change:*

7.2.14 The mail ballot return envelope for each unaffiliated voter in a primary election may provide a means for the county to determine, before opening the envelope, which party's primary election ballot the elector returned. If the mail ballot return envelope does not provide such a means, or the county cannot determine which party's ballot the elector returned before opening the envelope, the county must follow the process outlined in ~~Rule 7.4.15~~RULE 7.4.14. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

*Amendment to Rule 7.4.1, concerning cross-reference change:*

7.4.1 The county clerk must adequately light all drop box locations and use a video security surveillance recording system as defined in ~~Rule 1.1.44~~RULE 1.1.60 to monitor each location.

*[Not shown: current Rule 7.4.8 re-codified to New Rule 20.7.2(b).]*

*[Not shown: renumbering current Rules 7.4.9 through 7.4.16 to Rules 7.4.8 through 7.4.15.]*

*New Rule 7.8.12, concerning multilingual hotline operation, as required by HB 21-1011:*

7.8.12 IN ANY ELECTION IN WHICH THE MULTILINGUAL HOTLINE CREATED BY SECTION 1-5-904, C.R.S. IS IN OPERATION, THE COUNTY CLERK MUST PROVIDE THE FOLLOWING AT EACH VOTER SERVICE AND POLLING CENTER:

- (A) A SIGN APPROVED BY THE SECRETARY OF STATE THAT INDICATES THAT THE MULTILINGUAL HOTLINE IS AVAILABLE FOR USE;
- (B) A TELEPHONE THAT CAN BE USED BY A VOTER TO ACCESS THE MULTILINGUAL HOTLINE;

- (C) A DESIGNATED STAFF PERSON OR ELECTION JUDGE WHO CAN ASSIST THE VOTER TO ACCESS AND USE THE MULTILINGUAL HOTLINE; AND
- (D) TO THE EXTENT FEASIBLE, AN AREA WHERE THE VOTER MAY UTILIZE THE MULTILINGUAL HOTLINE WHILE PRIVATELY MARKING THEIR BALLOT.

*New Rule 7.8.13, concerning the fill-out requirement of the voter assistance form when staff members or election judges are assisting a voter with the multilingual hotline:*

7.8.13 A STAFF MEMBER OR ELECTION JUDGE WHO IS ASSISTING A VOTER TO ACCESS AND USE THE MULTILINGUAL HOTLINE MUST FILL OUT THE VOTER ASSISTANCE FORM REQUIRED BY SECTION 1-7-111, C.R.S.

*Amendment to Rule 7.10.3, concerning a cross-reference change:*

7.10.3 Every voter service and polling center designated by the county clerk must meet the minimum security procedures for transmitting voter registration data as outlined in section 1-5-102.9, C.R.S., and ~~Rule 2-17~~ RULE 20.9.1(B).

*[Not shown: current Rule 7.16 is re-codified within Rule 20.11.2(b).]*

*New Rule 7.16 is re-codified from current Rule 20.13:*

~~20-13~~ 7.16 Anonymity-

~~20-13-47~~ 7.16.1 Measures to protect anonymity include:

- (A) The county may not keep any record indicating the order in which people voted on the BMD.
- (B) When more than one BMD is available at a voting location, the county must, to the extent practicable, allow the voter to choose the BMD they wish to vote on.

~~20-13-27~~ 7.16.2 The county clerk may not release a report generated from SCORE that includes a date and time stamp that could potentially identify a voter who cast a specific ballot.

~~20-13-37~~ 7.16.3 The county must arrange voter service and polling center BMDs in a manner that prevents election officials and other voters from observing how a BMD voter marks or casts their ballot.

*Amendment to Rule 8.7.4, concerning a cross-reference change:*

8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in ~~Rule 1-1-30~~ RULE 1.1.37 applies only to voting.

*Amendment to Rule 8.8, pertaining to watchers and ballot drop boxes:*

8.8 The minimum number of watchers the county clerk must accommodate for each appointing entity is as follows:

*[No changes to Rules 8.8.1 through 8.8.3.]*

8.8.4 AT EACH BALLOT DROP BOX, ONE WATCHER.

*[Not shown current Rule 8.8.4 renumbered to 8.8.5.]*

*Amendment to Rule 8.10.2(a)(3), concerning watchers and their duties regarding ballot drop off boxes:*

8.10.2 Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities. This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors.

- (a) Election activities include:
  - (1) Setup and breakdown of Voter Service and Polling Centers.
  - (2) Voter check-in and registration activities.
  - (3) Ballot receipt and processing, INCLUDING BALLOT DROP-OFF AT A DROP BOX.

*Repeal of current Rules 11.1.1 and 11.1.2:*

~~11.1.1 The designated election official must securely store election setup records. Only persons with the clerk's written authorization may access the records.~~

~~11.1.2 The county clerk must deputize employees who are authorized to prepare or maintain the voting system or election setup records before the election.~~

*[Not shown: renumbering current Rule 11.1.3 to Rule 11.1.1.]*

*New Rule 11.2.4, concerning a county notifying the Secretary of State about the expiration of a voting system's license agreement:*

11.2.4 A COUNTY MUST NOTIFY THE SECRETARY OF STATE IF A LICENSE AGREEMENT WITH A VOTING SYSTEM VENDOR IS TERMINATED. A COUNTY MUST ALSO NOTIFY THE SECRETARY IF VOTING SYSTEM EQUIPMENT IS NO LONGER GOING TO BE USED AS PART OF THE VOTING SYSTEM, BUT THE EQUIPMENT WILL BE RETAINED BY THE COUNTY. THE COUNTY MUST FOLLOW THE REQUIREMENTS FOUND IN RULE 20.5.7 FOR ALL RETAINED EQUIPMENT.

*[Not shown: current Rule 11.4 is re-codified under New Rule 11.4.3.]*

*New Rule 11.4, pertaining to election database project backups:*

11.4 ELECTION DATABASE PROJECT BACKUPS

11.4.1 THE COUNTY MUST CREATE ELECTION PROJECT BACKUPS AT THE FOLLOWING TIMES AT A MINIMUM:

- (A) AT THE CONCLUSION OF THE LOGIC AND ACCURACY TEST WITH THE DATA FROM THE COMPLETED LOGIC AND ACCURACY TEST ACCORDING TO RULE 11.3.2(E)(1);
- (B) AFTER THE ELECTION PROJECT HAS BEEN RESET FOLLOWING THE LOGIC AND ACCURACY TEST ACCORDING TO RULE 11.3.2(E)(4). THE COUNTY MUST DESIGNATE THIS ELECTION PROJECT BACKUP AS THE ELECTION SETUP RECORDS AS DEFINED BY RULE 1.1.30 AND ACCORDING TO SECTION 1-7-510, C.R.S. THE COUNTY WILL SUBMIT A COPY OF THE ELECTION SETUP RECORDS TO THE DEPARTMENT OF STATE ACCORDING TO RULE 11.4.3;
- (C) WHEN A COUNTY CONCLUDES TABULATION FOR THE DAY, INCLUDING ELECTION NIGHT;

- (D) AFTER ALL TABULATION HAS CONCLUDED ON THE EIGHTH DAY AFTER THE ELECTION;  
AND
- (E) AFTER THE CANVASS BOARD HAS CERTIFIED THE RESULTS OF THE ELECTION.

11.4.2 IF THE COUNTY'S VOTING SYSTEM DOES NOT EXPORT LOGS FROM THE ELECTION MANAGEMENT SYSTEM WHEN AN ELECTION PROJECT BACKUP IS CREATED, THE COUNTY MUST ALSO EXPORT THE LOGS FROM THE ELECTION MANAGEMENT SYSTEM FOR RETENTION ACCORDING TO RULE 20.10.2 AT THE TIME THEY CREATE AN ELECTION PROJECT BACKUP ACCORDING TO THE PROCEDURES DEFINED BY THE VOTING SYSTEM VENDOR.

*New Rule 11.4.3, recodified from Rule 11.4. Rules 11.4.1 through 11.4.6 re-codified under subsections (a) through (f). Grammatical changes to subsection (b):*

11.4.3 A county that electronically tabulates election results must submit election setup records to the Secretary of State so that they are received no later than 5:00 p.m. on the seventh day before election day.

11.4.4(A) Election setup records must be in an electronic media format that is native to the jurisdiction's specific ballot creation and tabulation system. Acceptable media formats include CD-ROM, DVD-ROM, or flash media.

11.4.4(B) ~~the~~THE county must create a hash value using ~~an~~A SHA-256 algorithm of the setup records file and transmit the hash value to the Secretary of State by e-mail to ~~voting.systems@sos.state.co.us~~VOTING.SYSTEMS@COLORADOSOS.GOV.

11.4.4(C) The designated election official must include a point of contact and method of contact (phone, email, etc.).

11.4.4(D) Within one business day of receipt of the election setup records, the Secretary of State's office will contact the jurisdiction to confirm receipt.

11.4.4(E) The Secretary of State's office will store the election setup records in a secured, limited-access location.

11.4.4(F) All parties must treat as confidential all escrowed materials and any other related information that comes into their possession, control, or custody.

*Amendment to 11.7.3 (b) concerning a cross-reference change:*

- (b) If the malfunction requires a programming or election setup change to the database or other parts of the voting system, the designated election official must submit an updated election setup record to the Secretary of State's office as set forth in ~~Rule 11.4.~~RULE 11.4.3.

*[Not shown: repeal of current Rule 20 to re-codify security rules throughout 8 CCR 1505-1 to New Rule 20, clarify and update existing rules, and reorganize overall structure.]*

*New Rule 20, concerning the security procedures for counties:*

*New Rule 20.1, concerning security plans and the proposed permanent adoption of New Rule 20.6.2 (part of which is re-organized as Rule 20.1.2(e) for clarity) and amendments to Rule 20.7 (part of which is re-organized as Rule 20.1.2(f) for clarity) that were temporarily adopted on February 10, 2022:*

## 20.1 SECURITY PLAN

20.1.1 THE COUNTY MUST SUBMIT ITS SECURITY PLAN ON THE FORM PRESCRIBED BY THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 1-5-616(5), C.R.S., NOT LESS THAN 60 DAYS BEFORE AN ELECTION. A COUNTY MAY AMEND ITS SECURITY PLAN WITHIN 60 DAYS OF AN ELECTION AS A RESULT OF AN UNFORESEEN CIRCUMSTANCE. THE COUNTY MUST DOCUMENT THE CHANGES AND FILE THE REVISIONS WITH THE SECRETARY OF STATE WITHIN FIVE DAYS OF THE CHANGE.

20.1.2 IN THE SECURITY PLAN, THE COUNTY MUST PROVIDE THE FOLLOWING INFORMATION:

- (A) SAMPLE COPIES OF ALL SECURITY FORMS, SCHEDULES, LOGS, AND CHECKLISTS THEY WILL USE IN THE UPCOMING ELECTION;
- (B) DETAILED PLANS REGARDING THE TRANSPORTATION OF EQUIPMENT AND BALLOTS TO REMOTE VOTING SITES AND BACK TO THE CENTRAL ELECTIONS OFFICE OR STORAGE FACILITY;
- (C) THE DETAILS OF THE SECURITY TRAINING IT WILL PROVIDE, INCLUDING THE TIME, LOCATION, AND NUMBER OF ELECTION OFFICIALS RECEIVING THE TRAINING, IN ACCORDANCE WITH RULE 20.3;
- (D) THE NAME, TITLE, AND DATE A BACKGROUND CHECK WAS CONDUCTED FOR EACH EMPLOYEE FOR WHOM THE COUNTY CLERK IS REQUIRED TO PERFORM A BACKGROUND CHECK UNDER RULE 20.2.3;
- (E) ALL VOTING SYSTEM ACCEPTABLE USE POLICY AGREEMENTS SIGNED BY COUNTY STAFF WHICH HAD NOT PREVIOUSLY BEEN PROVIDED IN A SECURITY PLAN THAT CALENDAR YEAR;
- (F) A DESCRIPTION OF THE ENVIRONMENT IN WHICH VOTING SYSTEM COMPONENTS WILL BE KEPT IN ACCORDANCE WITH RULE 20.5.5; AND
- (G) ANY OTHER INFORMATION REQUIRED IN THE PUBLISHED SECURITY PLAN.

*New Rule 20.2, regarding background checks:*

20.2 BACKGROUND CHECKS

20.2.1 BACKGROUND CHECKS GENERALLY

- (A) A PERSON MAY NOT ACCESS THE SYSTEMS, INFORMATION, OR AREAS OUTLINED IN THIS RULE UNTIL A BACKGROUND CHECK OF THAT PERSON HAS BEEN PERFORMED AND PASSED.
- (B) A BACKGROUND CHECK THAT IS REQUIRED BY THIS RULE MUST BE RUN AT LEAST ONCE PER CALENDAR YEAR, PRIOR TO THE FIRST ELECTION OF THE YEAR. IN A YEAR IN WHICH A PRESIDENTIAL PRIMARY WILL BE HELD, THE BACKGROUND CHECK MAY BE PERFORMED IN DECEMBER IN THE YEAR PRIOR TO THE PRESIDENTIAL PRIMARY.
- (C) UNLESS OTHERWISE NOTED, A BACKGROUND CHECK REQUIRED BY THIS RULE MUST BE REQUESTED FROM THE COLORADO BUREAU OF INVESTIGATION.
- (D) A BACKGROUND CHECK MAY ONLY BE CONSIDERED TO HAVE PASSED IF THE CHECK FINDS THAT THE PERSON HAS NOT BEEN CONVICTED OF:
  - (1) AN ELECTION OFFENSE; OR

(2) AN OFFENSE WITH AN ELEMENT OF FRAUD.

20.2.2 THE COUNTY CLERK MUST PERFORM A BACKGROUND CHECK IN ACCORDANCE WITH THIS RULE FOR EACH ELECTION JUDGE IF THE JUDGE REQUIRES ACCESS TO:

- (A) THE STATEWIDE VOTER REGISTRATION DATABASE;
- (B) ELECTOR'S CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION; OR
- (C) VOTER REGISTRATION APPLICATIONS OR OTHER LIST MAINTENANCE ACTIVITIES.

20.2.3 THE COUNTY CLERK MUST PERFORM A BACKGROUND CHECK IN ACCORDANCE WITH THIS RULE FOR EACH PERMANENT OR TEMPORARY STAFF MEMBER WITH ACCESS TO:

- (A) THE STATEWIDE VOTER REGISTRATION DATABASE;
- (B) ELECTOR'S CONFIDENTIAL OR PERSONALLY IDENTIFIABLE INFORMATION;
- (C) VOTER REGISTRATION APPLICATIONS OR OTHER LIST MAINTENANCE ACTIVITIES;
- (D) A COMPONENT OF THE COUNTY'S VOTING SYSTEM WHILE AT A LOCATION OR DURING TRANSPORT;
- (E) REMOVABLE MEDIA THAT CONTAINS AN ELECTION PROJECT BACKUP; OR
- (F) A CODE, LOCK, COMBINATION, PASSWORD, OR ENCRYPTION KEY FOR:
  - (1) VOTING EQUIPMENT;
  - (2) BALLOT STORAGE AREA;
  - (3) COUNTING ROOM;
  - (4) LOCATION OF ADJUDICATION WORKSTATIONS; OR
  - (5) LOCATION OF TABULATION WORKSTATION.

20.2.4 A VOTING SYSTEM PROVIDER MUST ARRANGE FOR A BACKGROUND CHECK, SUFFICIENT TO DETERMINE IF THE INDIVIDUAL HAS EVER BEEN CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE WITH AN ELEMENT OF FRAUD FOR EACH EMPLOYEE OR CONTRACTOR WHO CONDUCTS WORK ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM. THE PROVIDER MUST AFFIRM THAT THE CHECK WAS CONDUCTED IN WRITING TO THE SECRETARY OF STATE PRIOR TO THE EMPLOYEE CONDUCTING ANY WORK.

20.2.5 THE DEPARTMENT OF STATE MUST PERFORM A CRIMINAL BACKGROUND CHECK FOR EACH STAFF MEMBER WHO CONDUCTS WORK ON ANY COMPONENT OF A COUNTY'S VOTING SYSTEM PRIOR TO CONDUCTING THAT WORK.

*New Rule 20.3, pertaining to security training:*

20.3 SECURITY TRAINING

20.3.1 THE COUNTY MUST CONDUCT SECURITY TRAINING FOR ALL ELECTION-RELATED FIELD TECHNICIANS, ELECTION-RELATED CONTRACTORS, AND ELECTION OFFICIALS.

20.3.2 THE SECURITY TRAINING REQUIRED BY THIS RULE MUST INCLUDE THE FOLLOWING COMPONENTS:

- (A) PROPER APPLICATION AND VERIFICATION OF SEALS AND CHAIN-OF-CUSTODY LOGS;
- (B) HOW TO DETECT TAMPERING WITH VOTING EQUIPMENT, MEMORY CARDS, OR ELECTION DATA ON THE PART OF ANYONE COMING IN CONTACT WITH VOTING EQUIPMENT, INCLUDING ELECTION OFFICIALS, VENDOR PERSONNEL, OR VOTERS;
- (C) ENSURING PRIVACY IN VOTING BOOTHS;
- (D) CHAIN-OF-CUSTODY REQUIREMENTS FOR VOTING EQUIPMENT, ACTIVATION CARDS, AND OTHER ELECTION MATERIALS;
- (E) BALLOT SECURITY;
- (F) VOTER ANONYMITY; AND
- (G) RECOGNITION AND REPORTING OF SECURITY INCIDENTS.

*New Rule 20.4, pertaining to physical security. Proposed permanent adoption of amendments to Rule 20.5.3(a) (re-organized New Rule 20.4.1(b) and amended for clarity):*

20.4 PHYSICAL SECURITY

20.4.1 REQUIREMENTS FOR CODES, LOCKS, AND COMBINATIONS

- (A) THE COUNTY MUST MAINTAIN RESTRICTED ACCESS TO SECURE BALLOT AREAS AND SECURE EQUIPMENT AREAS AS DEFINED BY RULES 1.1.47 AND 1.1.48, BY USE OF A CODE, LOCK, OR OTHER COMBINATION. THIS MAY INCLUDE THE USE OF A KEY CARD ACCESS SYSTEM WHICH ALSO LOGS ENTRY INTO THE SECURE AREA.
- (B) THE COUNTY CLERK MAY ONLY GIVE THE CODE, LOCK, OR COMBINATION REQUIRED BY THIS RULE TO EMPLOYEES WHO HAVE PASSED A BACKGROUND CHECK IN ACCORDANCE WITH RULE 20.2.
- (C) THE COUNTY MUST CHANGE THE CODE, LOCK, OR COMBINATION REQUIRED BY THIS RULE AT LEAST ONCE PER CALENDAR YEAR PRIOR TO THE FIRST ELECTION OF THE YEAR.

20.4.2 SURVEILLANCE OF SECURE AREAS

- (A) THE COUNTY MUST MAKE VIDEO SECURITY SURVEILLANCE RECORDINGS OF SECURE EQUIPMENT AREAS AS DEFINED BY RULE 1.1.48, EXCLUDING VOTING BOOTHS, BEGINNING AT LEAST 60 DAYS BEFORE ELECTION DAY AND CONTINUING THROUGH AT LEAST 30 DAYS AFTER ELECTION DAY. IF A RECOUNT OR CONTEST OCCURS, THE RECORDING MUST CONTINUE THROUGH THE CONCLUSION OF ALL RELATED ACTIVITY.
- (B) THE COUNTY MUST ALSO MAKE VIDEO SECURITY SURVEILLANCE RECORDINGS OF SECURE BALLOT AREAS AS DEFINED BY RULE 1.1.47, EXCLUDING VOTING BOOTHS, BEGINNING AT LEAST 35 DAYS BEFORE ELECTION DAY AND CONTINUING THROUGH AT LEAST 30 DAYS AFTER ELECTION DAY. IF A RECOUNT OR CONTEST OCCURS, THE RECORDING MUST CONTINUE THROUGH THE CONCLUSION OF ALL RELATED ACTIVITY.
- (C) THE VIDEO SECURITY SURVEILLANCE RECORDING SYSTEM MUST:

- (1) ENSURE THAT RECORDS ARE NOT WRITTEN OVER WHEN THE SYSTEM IS FULL;
  - (2) PROVIDE A METHOD TO TRANSFER THE VIDEO RECORDS TO A DIFFERENT RECORDING DEVICE OR TO REPLACE THE RECORDING MEDIA; AND
  - (3) IF REPLACEABLE MEDIA IS USED, PROVIDE A PROCESS THAT ENSURES THAT THE MEDIA IS REPLACED OFTEN ENOUGH TO PREVENT PERIODS WHEN RECORDING IS NOT AVAILABLE.
- (D) THE COUNTY MUST ADEQUATELY LIGHT THE AREAS SUBJECT TO VIDEO SURVEILLANCE IN THIS RULE TO PROVIDE VISIBILITY FOR VIDEO RECORDING.

*Proposed permanent adoption of amendments to current Rule 20.6.1(h) (re-organized within Rule 20.4.3, amended into subsections for clarity) temporarily adopted on February 10, 2022:*

#### 20.4.3 ACCESS LOGS TO SECURE AREAS

- (A) THE COUNTY MUST MAINTAIN A LOG OF EACH PERSON WHO ENTERS A SECURE BALLOT AREA AS DEFINED BY RULE 1.1.47 OR SECURE EQUIPMENT AREA AS DEFINED BY RULE 1.1.48.
- (B) A LOG REQUIRED UNDER THIS RULE MUST CONTAIN THE:
- (1) NAME OF THE PERSON ACCESSING THE AREA; AND
  - (2) YEAR, MONTH, DAY, HOUR, MINUTE, AND WHETHER THE TIME IS A.M. OR P.M. THAT THE AREA WAS ACCESSED.
- (C) IF A LOG IS GENERATED BY USE OF A KEY CARD OR SIMILAR DOOR ACCESS SYSTEM, THAT SYSTEM MUST BE CAPABLE OF PRODUCING A PRINTED PAPER LOG THAT MEETS THE REQUIREMENTS OF THIS RULE.

*Proposed permanent adoption of amendments to current Rule 20.5.3(a), (c), and (d) (re-organized within New Rule 20.4.4(a), amended into sub-subsections for clarity) and temporary New Rule 20.5.3(b) (re-organized as Rule 20.4.4(c)) that were temporarily adopted on February 10, 2022:*

#### 20.4.4 RESTRICTIONS ON PHYSICAL ACCESS

- (A) GENERAL RESTRICTIONS
- (1) NO PERSON MAY BE PRESENT IN A SECURE BALLOT AREA AS DEFINED BY RULE 1.1.47 OR SECURE EQUIPMENT AREA AS DEFINED BY RULE 1.1.48 UNLESS:
    - (A) THEY ARE EMPLOYEES AUTHORIZED TO HAVE A CODE, LOCK, OR COMBINATION TO THE AREA UNDER RULE 20.4.1;
    - (B) THEY ARE SUPERVISED BY EMPLOYEES AUTHORIZED TO ACCESS THAT AREA; OR
    - (C) THEY ARE EMERGENCY PERSONNEL RESPONDING TO AN EMERGENCY SITUATION. IN THE EVENT EMERGENCY PERSONNEL ACCESS THIS AREA WITHOUT SUPERVISION, THE COUNTY MUST IMMEDIATELY INFORM THE DEPARTMENT OF STATE.

- (2) IN EXTREME CIRCUMSTANCES, THE COUNTY MAY REQUEST, AND THE SECRETARY OF STATE MAY GRANT, AN EXEMPTION FROM THE REQUIREMENTS OF THIS RULE.
- (B) INDIVIDUALS DELIVERING BALLOTS BETWEEN SEPARATE ROOMS MUST WEAR DISTINGUISHING IDENTIFICATION.
- (C) ANY INDIVIDUAL WHO IS PROHIBITED FROM HAVING PHYSICAL CONTACT WITH ANY VOTING EQUIPMENT UNDER SECTION 1-5-607(1), C.R.S. MAY NOT ACCESS A ROOM WITH VOTING EQUIPMENT UNLESS ACCOMPANIED BY ONE OR MORE INDIVIDUALS WITH AUTHORIZED ACCESS.

#### 20.4.5 REMEDIES

- (A) IN THE EVENT THAT A COUNTY DISCOVERS THAT A VIOLATION OF RULE 20.4 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (B) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.4.

*New Rule 20.5 concerning the security of voting systems and including the proposed permanent adoption of amendments to current Rule 20.4.1(re-organized as New Rule 20.5.1(a)) that were temporarily adopted on February 10, 2022:*

### 20.5 SECURITY OF VOTING SYSTEM

#### 20.5.1 CHAIN-OF-CUSTODY REQUIREMENTS

- (A) COUNTY CLERKS MUST CONTINUOUSLY COMPLY WITH THE SEAL REQUIREMENTS OF THE MOST RECENT CONDITIONS OF USE ISSUED BY THE SECRETARY OF STATE FOR THE COUNTY'S VOTING SYSTEM. COUNTY CLERKS MAY NOT ALLOW ANY UNATTENDED VOTING SYSTEM COMPONENT TO REMAIN UNSEALED AT ANY POINT AFTER TRUSTED BUILD HAS BEEN INSTALLED ON A COMPONENT.
- (B) THE COUNTY MUST MAINTAIN AND DOCUMENT UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH VOTING SYSTEM COMPONENT FROM THE INSTALLATION OF TRUSTED BUILD TO THE PRESENT, THROUGHOUT THE COUNTY'S OWNERSHIP OR LEASING OF THE DEVICE.
- (C) TO MAINTAIN UNINTERRUPTED CHAIN-OF-CUSTODY FOR EACH VOTING SYSTEM COMPONENT THE COUNTY MUST:
  - (1) RECORD THE SERIAL NUMBER OF EVERY SEAL REQUIRED BY THE CONDITIONS OF USE ON THE APPROPRIATE CHAIN-OF-CUSTODY LOG; AND
  - (2) WHEN REMOVING OR REPLACING SEALS, USE TWO ELECTION OFFICIALS TO VERIFY, AND INDICATE BY SIGNING AND DATING THE LOG, THAT THE SEAL SERIAL NUMBERS MATCH THE LOGGED SERIAL NUMBERS. THE ELECTION OFFICIALS SHOULD BE OF DIFFERENT PARTY AFFILIATIONS WHENEVER POSSIBLE.

*New Rule 20.5.2, including the proposed permanent adoption of New Rule 20.6.2 (re-organized as New Rule 20.5.2(a), amended to sub-subsections for clarity) and amendments to current Rules 20.5.4(a) (re-organized as New Rule 20.5.2(b)) and 20.6.1 (re-organized as New Rule 20.5.2(c)) that were temporarily adopted on February 10, 2022:*

## 20.5.2 ACCESSING THE VOTING SYSTEM

- (A) ACCEPTABLE USE POLICY AGREEMENT
  - (1) ALL USERS WITH ACCESS TO THE VOTING SYSTEM MUST SIGN THE VOTING SYSTEM ACCEPTABLE USE POLICY AGREEMENT PROVIDED BY THE SECRETARY OF STATE EVERY YEAR PRIOR TO USING THE SYSTEM.
  - (2) THE COUNTY CLERK MUST SUBMIT COPIES OF ALL NEWLY SIGNED ACCEPTABLE USE POLICY AGREEMENTS SIGNED BY ELECTION STAFF WITH THE COUNTY'S SECURITY PLAN.
- (B) EXCEPT FOR VOTERS USING A VOTING SYSTEM COMPONENT TO VOTE DURING AN ELECTION, COUNTY CLERKS MAY NOT ALLOW ANY PERSON TO ACCESS ANY COMPONENT, INCLUDING THE HARD DRIVE(S) OR COPIES OF ANY PART OF THE HARD DRIVE(S) FOR ANY COMPONENT, OF A COUNTY'S VOTING SYSTEM UNLESS:
  - (1) THAT PERSON HAS PASSED THE BACKGROUND CHECK REQUIRED BY THIS OR ANY OTHER RULE OR LAW; AND
  - (2) THAT PERSON IS PERFORMING A TASK PERMITTED BY THE COUNTY CLERK OR THE SECRETARY OF STATE THAT IS PERMITTED BY STATUTE OR RULE, AND IS:
    - (A) AN EMPLOYEE OF THE COUNTY CLERK;
    - (B) APPOINTED AS AN ELECTION JUDGE BY THE COUNTY CLERK IN ACCORDANCE WITH ARTICLE 6 OF TITLE 1, C.R.S.;
    - (C) AN EMPLOYEE OF THE VOTING SYSTEM PROVIDER FOR THE COUNTY'S VOTING SYSTEM; OR
    - (D) AN EMPLOYEE OR DESIGNEE OF THE SECRETARY OF STATE.
- (C) ACCOUNTS AND PASSWORDS
  - (1) THE COUNTY CLERK MUST CHANGE ALL PASSWORDS ASSOCIATED WITH A VOTING SYSTEM ACCORDING TO THE SCHEDULE REQUIRED BY THE MOST RECENT CONDITIONS OF USE FOR THAT VOTING SYSTEM.
  - (2) THE COUNTY CLERK MAY USE THE ADMINISTRATIVE USER ACCOUNT FOR THE ELECTION MANAGEMENT SYSTEM ONLY TO CREATE INDIVIDUAL USER ACCOUNTS FOR EACH ELECTION PROJECT.
  - (3) THE COUNTY CLERK MUST CREATE INDIVIDUAL USER ACCOUNTS THAT ARE ASSOCIATED AND IDENTIFIED WITH EACH INDIVIDUAL AUTHORIZED USER OF THE OPERATING SYSTEM OF THE VOTING SYSTEM, ELECTION MANAGEMENT SYSTEM, OR ELECTION PROJECT.
  - (4) THE COUNTY CLERK MUST RESTRICT ACCESS TO EACH INDIVIDUAL USER ACCOUNT WITH A UNIQUE PASSWORD KNOWN ONLY TO EACH INDIVIDUAL USER. AUTHORIZED USERS MUST ACCESS THE OPERATING SYSTEM OF THE VOTING SYSTEM, ELECTION MANAGEMENT SYSTEM, AND ELECTION PROJECT USING HIS OR HER INDIVIDUAL USER ACCOUNT AND UNIQUE PASSWORD.

- (5) THE COUNTY CLERK MAY GRANT ADMINISTRATIVE PRIVILEGES TO NO MORE THAN FOUR INDIVIDUAL USER ACCOUNTS PER ELECTION UNLESS THE COUNTY HAS REQUESTED AND BEEN AUTHORIZED BY THE SECRETARY OF STATE TO GRANT MORE. THE COUNTY MUST IDENTIFY THE EMPLOYEES WITH ADMINISTRATIVE PRIVILEGES IN THE SECURITY PLAN FILED WITH THE SECRETARY OF STATE.
  - (6) THE COUNTY CLERK MAY ONLY GRANT ADMINISTRATIVE PRIVILEGES FOR THE OPERATING SYSTEM OF THE VOTING SYSTEM TO THE COUNTY CLERK, EMPLOYEES OF THE COUNTY, AND ANY PERSON APPOINTED BY THE SECRETARY OF STATE TO ASSIST IN THE ADMINISTRATION OF AN ELECTION, SUBJECT TO THE RESTRICTIONS OF RULE 20.5.2(c)(9). THE COUNTY CLERK MAY ONLY GRANT ADMINISTRATIVE PRIVILEGES TO THE ELECTION MANAGEMENT SYSTEM OR THE ELECTION PROJECT TO THE COUNTY CLERK, EMPLOYEES OF THE COUNTY CLERK'S OFFICE, AND ANY PERSON APPOINTED BY THE SECRETARY OF STATE TO ASSIST IN THE ADMINISTRATION OF AN ELECTION, SUBJECT TO THE RESTRICTIONS OF RULE 20.5.2(c)(9).
  - (7) AUTHORIZED USERS WITH ADMINISTRATIVE PRIVILEGES OF THE OPERATING SYSTEM, ELECTION MANAGEMENT SYSTEM, OR ELECTION PROJECT MAY NOT SHARE THEIR ACCOUNTS OR PASSWORDS WITH ANYONE.
  - (8) THE COUNTY CLERK MUST DISABLE ALL ACCOUNTS TO ACCESS THE OPERATING SYSTEM FOR INDIVIDUALS WHO ARE NO LONGER EMPLOYED BY THE COUNTY OR ARE NO LONGER EMPLOYED IN A ROLE THAT REQUIRES ACCESS TO THE VOTING SYSTEM.
  - (9) ANY INDIVIDUAL WHO IS PROHIBITED FROM HAVING PHYSICAL CONTACT WITH ANY VOTING EQUIPMENT UNDER SECTION 1-5-607(1), C.R.S. MAY NOT GRANT THEMSELVES OR BE GRANTED WITH AN ACCOUNT OR PASSWORD FOR THE OPERATING SYSTEM OF THE VOTING SYSTEM, THE ELECTION MANAGEMENT SYSTEM, OR AN ELECTION PROJECT.
  - (10) THE VOTING SYSTEM PROVIDER MAY NOT HAVE ADMINISTRATIVE OR USER ACCESS TO THE COUNTY'S ELECTION MANAGEMENT SYSTEM.
  - (11) THE CIVIL SERVANTS AT THE DEPARTMENT OF STATE WILL MAINTAIN ALL BIOS PASSWORDS FOR VOTING SYSTEM COMPONENTS.
- (D) IN ADDITION TO THE AUDIT LOGS GENERATED BY THE ELECTION MANAGEMENT SYSTEM, THE COUNTY MUST MAINTAIN CONTEMPORANEOUS MANUAL ACCESS LOGS THAT ACCURATELY RECORD THE DATE, TIME, AND USER'S NAME, AND PURPOSE FOR EACH INSTANCE THAT A USER ENTERS OR EXITS THE SYSTEM.

*New Rule 20.5.3, including the proposed permanent adoption of amendments to current Rule 20.6.1(e) (re-organized as New Rule 20.5.3(a)(1)), temporary New Rule 20.6.1(g) (re-organized as New Rule 20.5.3(a)(2)), current temporary Rule 20.6.1(d) (re-organized as New Rule 20.5.3(b)(2)), amendments to current Rule 20.6.1(f) (re-organized as New Rule 20.5.3(b)(3)), and amendments to current Rule 20.6.4 (re-organized as New Rule 20.5.3(c)) that were temporarily adopted on February 10, 2022:*

### 20.5.3 CONNECTING TO THE VOTING SYSTEM

- (A) SYSTEM SETTINGS

- (1) IF ANY COMPONENT OF THE VOTING SYSTEM IS EQUIPPED WITH WI-FI CAPABILITY OR A WIRELESS DEVICE, THE COUNTY CLERK MUST ENSURE THAT THE WIRELESS CAPABILITY OR DEVICE IS DISABLED BEFORE USE IN AN ELECTION.
  - (2) THE COUNTY CLERK MAY NOT ALTER, OR GRANT PERMISSION TO ANYONE ELSE TO ALTER, EXCEPT DURING THE TRUSTED BUILD PROCESS, THE PRE-BOOT SETTINGS FOR ANY VOTING SYSTEM COMPONENT, INCLUDING ALTERING THE BOOT PATH.
- (B) EXTERNAL NETWORK CONNECTION FORBIDDEN
- (1) THE COUNTY CLERK MUST USE THE VOTING SYSTEM ONLY ON A CLOSED NETWORK OR IN A STANDALONE FASHION.
  - (2) THE COUNTY CLERK MAY NOT CONNECT OR ALLOW A CONNECTION OF ANY VOTING SYSTEM COMPONENT TO THE INTERNET.
  - (3) THE COUNTY CLERK MAY NOT CONNECT ANY COMPONENT OF THE VOTING SYSTEM TO ANOTHER DEVICE BY MODEM.
- (C) REMOVABLE STORAGE DEVICE
- (1) THE COUNTY CLERK MUST REFORMAT ALL REMOVABLE STORAGE DEVICES IMMEDIATELY BEFORE CONNECTING THEM TO ANY COMPONENT OF THE VOTING SYSTEM, EXCEPT AS PROVIDED IN RULE 20.5.3(c)(2)-(5), OR IN THE CONDITIONS OF USE.
  - (2) THE COUNTY CLERK MAY CONNECT TO THE ELECTION MANAGEMENT SYSTEM, WITHOUT FIRST REFORMATTING, A REMOVABLE STORAGE DEVICE CONTAINING ONLY ELECTION DEFINITION DATA FILES DOWNLOADED FROM SCORE IF:
    - (A) THE COUNTY CLERK REFORMATS THE REMOVABLE STORAGE DEVICE IMMEDIATELY BEFORE INSERTING IT INTO THE SCORE WORKSTATION AND DOWNLOADING THE ELECTION DEFINITION DATA FILES; AND
    - (B) BEFORE AND WHILE DOWNLOADING THE SCORE ELECTION DEFINITION DATA, THE COUNTY CLERK INSTALLS AND OPERATES THE ADVANCED NETWORK MONITORING AND THREAT DETECTION APPLICATIONS PROVIDED OR APPROVED BY THE SECRETARY OF STATE.
  - (3) THE COUNTY CLERK MAY INSERT, WITHOUT FIRST REFORMATTING, A REMOVABLE STORAGE DEVICE INTO A BMD, IF:
    - (A) THE REMOVABLE STORAGE DEVICE CONTAINS ONLY ELECTION AND BALLOT STYLE DATA FILES NECESSARY TO PROGRAM THE BMD FOR TESTING OR USE IN AN ELECTION;
    - (B) THE COUNTY CLERK DOWNLOADED THE ELECTION AND BALLOT STYLE DATA FILES DIRECTLY FROM THE ELECTION MANAGEMENT SYSTEM WORKSTATION;
    - (C) THE COUNTY CLERK DID NOT EXPOSE THE REMOVABLE STORAGE DEVICE TO THE INTERNET OR INSERT IT INTO AN INTERNET-CONNECTED

DEVICE AFTER DOWNLOADING THE ELECTION AND BALLOT STYLE DATA FILES FROM THE ELECTION MANAGEMENT SYSTEM; AND

- (D) THE COUNTY CLERK REFORMATTED THE REMOVABLE STORAGE DEVICE IMMEDIATELY BEFORE INSERTING IT INTO THE ELECTION MANAGEMENT SYSTEM AND DOWNLOADING THE ELECTION AND BALLOT STYLE DATA FILES.
- (4) THE COUNTY MAY INSERT A REMOVABLE STORAGE DEVICE INTO THE ELECTION MANAGEMENT SYSTEM, WITHOUT FIRST REFORMATTING IT IF THE REMOVABLE STORAGE DEVICE CONTAINS ONLY ELECTION DATABASE OR PROJECT FILES REMOTELY PROGRAMMED BY THE VOTING SYSTEM PROVIDER IN ACCORDANCE WITH RULE 20.8.1.
- (5) THE COUNTY CLERK MAY INSERT A REMOVABLE STORAGE DEVICE INTO THE ELECTION MANAGEMENT SYSTEM WITHOUT FIRST REFORMATTING IT IF THE REMOVABLE STORAGE DEVICE CONTAINS ONLY ELECTION DATABASE BACKUP FILES CREATED BY THE COUNTY AND:
  - (A) THE COUNTY CLERK SUBMITS AN ATTACHMENT WITH THEIR SECURITY PLAN STATING SECURITY PROCEDURES FOR THE REMOVABLE STORAGE DEVICE THAT ADDRESSES STORAGE OF THE DEVICE WHEN NOT IN USE; AND
  - (B) THE PLAN IN THE ATTACHMENT IS APPROVED BY THE SECRETARY OF STATE.
- (D) THE COUNTY MAY NOT INSTALL ANY SOFTWARE ON ANY COMPONENT OF THE VOTING SYSTEM UNLESS DIRECTED TO, OR APPROVED BY, THE DEPARTMENT OF STATE.
- (E) ACTIVATION CARDS
  - (1) THE COUNTY MUST ASSIGN AND SECURELY AFFIX A PERMANENT UNIQUE IDENTIFIER TO EACH REMOVABLE CARD OR ACTIVATION CARD. THE COUNTY MAY USE THE MANUFACTURER ASSIGNED SERIAL NUMBER FOR THIS PURPOSE.
  - (2) THE COUNTY MUST HANDLE ACTIVATION CARDS IN A SECURE MANNER AT ALL TIMES. THE COUNTY MUST TRANSFER AND STORE ANY CARD OR ACTIVATION CARD IN A SECURE CONTAINER WITH AT LEAST ONE SEAL. UPON DELIVERY AND RECEIPT, ELECTION JUDGES OR COUNTY PERSONNEL MUST VERIFY, AND INDICATE BY SIGNING AND DATING THE CHAIN-OF CUSTODY LOG, THAT ALL SEAL NUMBERS MATCH THOSE LISTED IN THE LOG.
  - (3) THE COUNTY MUST MAINTAIN A WRITTEN OR ELECTRONIC LOG TO RECORD ACTIVATION CARD SEALS AND TRACK SEALS FOR EACH VOTING UNIT.
  - (4) THE COUNTY MUST MAINTAIN A COMPLETE INVENTORY OF ACTIVATION CARDS, INCLUDING WHICH VSPC THEY ARE ASSIGNED TO DURING AN ELECTION. BEFORE AND AFTER A VSPC OPENS AND CLOSES EACH DAY, THE SUPERVISOR JUDGE MUST VERIFY THAT ALL CARDS ISSUED TO THE VSPC ARE PRESENT. IF AT ANY TIME THE SUPERVISOR JUDGE CANNOT ACCOUNT FOR ALL ACTIVATION CARDS ISSUED TO THE VSPC, THE SUPERVISOR JUDGE OR A MEMBER OF THE COUNTY ELECTION STAFF MUST IMMEDIATELY SUBMIT AN INCIDENT REPORT TO THE SECRETARY OF STATE UNDER RULE 11.7.

- (F) NO PERSON MAY MANUALLY CONNECT ANYTHING TO A VOTING SYSTEM COMPONENT THAT ENABLES A WIRELESS CONNECTION. THIS INCLUDES, BUT IS NOT LIMITED TO, EXTERNAL OR ADDITIONAL NETWORK INTERFACE CARDS, OTHER WIRELESS ANTENNAS, OR USB MICE OR KEYBOARDS THAT UTILIZE WIRELESS COMMUNICATION.

#### 20.5.4 TRANSPORTING VOTING SYSTEM

- (A) THE COUNTY MUST SUBMIT DETAILED PLANS TO THE SECRETARY OF STATE BEFORE AN ELECTION REGARDING THE TRANSPORTATION OF VOTING SYSTEM COMPONENTS BOTH TO REMOTE VOTING SITES AND BACK TO THE CENTRAL ELECTIONS OFFICE OR STORAGE FACILITY.
- (B) DURING OR AFTER TRANSPORTATION, IF THERE IS ANY EVIDENCE OF POSSIBLE TAMPERING WITH A SEAL, OR IF THE SEAL NUMBERS DO NOT MATCH THOSE LISTED IN THE CHAIN-OF-CUSTODY LOG, THE COUNTY CLERK MUST BE IMMEDIATELY NOTIFIED AND MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (C) TRANSPORTATION BY COUNTY PERSONNEL
  - (1) COUNTY PERSONNEL MUST AT ALL TIMES DISPLAY IDENTIFICATION PROVIDED BY THE COUNTY.
  - (2) TWO EMPLOYEE SIGNATURES AND DATE ARE REQUIRED AT THE DEPARTURE LOCATION VERIFYING THAT THE EQUIPMENT IS SEALED TO DETECT TAMPERING. UPON DELIVERY OF EQUIPMENT, AT LEAST TWO ELECTION OFFICIALS MUST VERIFY, AND INDICATE BY SIGNING AND DATING THE CHAIN-OF-CUSTODY LOG, THAT ALL SEALS ARE INTACT AND THAT THE SEAL NUMBERS MATCH THE LOGGED SEAL NUMBERS.
- (D) TRANSPORTATION BY ELECTION JUDGES
  - (1) TWO ELECTION JUDGES OF DIFFERENT PARTY AFFILIATIONS THAT ARE RECEIVING OR TRANSPORTING EQUIPMENT MUST INSPECT ALL VOTING DEVICES AND VERIFY THE SPECIFIC SEAL NUMBERS BY SIGNATURE AND DATE ON THE CHAIN-OF-CUSTODY LOG FOR THE DEVICE.
- (E) TRANSPORTATION BY CONTRACT
  - (1) IF A COUNTY CONTRACTS FOR THE DELIVERY OF EQUIPMENT TO REMOTE VOTING LOCATIONS, EACH INDIVIDUAL DELIVERING EQUIPMENT MUST SUCCESSFULLY PASS A CRIMINAL BACKGROUND CHECK AS REQUIRED BY RULE 20.2.1.
  - (2) TWO ELECTION OFFICIALS MUST VERIFY THE SPECIFIC SEAL NUMBERS BY DEVICE, SIGN, AND DATE THE CHAIN-OF-CUSTODY LOG UPON RELEASE OF THE EQUIPMENT TO THE INDIVIDUALS DELIVERING THE EQUIPMENT. UPON DELIVERY OF EQUIPMENT, AT LEAST TWO ELECTION OFFICIALS MUST VERIFY, AND INDICATE BY SIGNING AND DATING THE CHAIN-OF-CUSTODY LOG, THAT ALL SEALS ARE INTACT AND THAT THE SEAL NUMBERS MATCH THE LOGGED SEAL NUMBERS.
  - (3) A COUNTY MUST REQUIRE A CONTRACTOR TO DELIVER EQUIPMENT TO A REMOTE LOCATION ON THE DAY THE EQUIPMENT IS PICKED UP.

*New Rule 20.5.5, including the proposed permanent adoption of amendments to current Rule 20.7 (re-organized as New Rule 20.5.5, separated and amended into subsections (a) and (b) for clarity) that were temporarily adopted on February 10, 2022:*

#### 20.5.5 STORAGE OF VOTING SYSTEM

- (A) THE COUNTY CLERK MUST KEEP ALL COMPONENTS OF THE VOTING SYSTEM IN A LOCATION WITH LOGS AND ACCESS CONTROLS REQUIRED BY RULE 20.4.
- (B) THE COUNTY CLERK MUST KEEP ALL COMPONENTS OF A VOTING SYSTEM IN A TEMPERATURE-CONTROLLED STORAGE ENVIRONMENT THAT:
  - (1) MAINTAINS A MINIMUM TEMPERATURE OF 50 DEGREES FAHRENHEIT AND A MAXIMUM TEMPERATURE OF 90 DEGREES FAHRENHEIT; AND
  - (2) IS DRY WITH STORAGE AT LEAST FOUR INCHES ABOVE THE FLOOR.

#### 20.5.6 RETENTION OF VOTING EQUIPMENT

- (A) IF A COUNTY RETAINS VOTING SYSTEM EQUIPMENT AFTER THE TERMINATION OF A LICENSE AGREEMENT WITH A VENDOR, THE COUNTY MUST REFORMAT ANY OF THOSE VOTING SYSTEM COMPONENTS AS DIRECTED BY THE SECRETARY OF STATE, AND THE COUNTY MAY NOT:
  - (1) USE THE EQUIPMENT FOR ANY OTHER PURPOSE UNTIL THE COMPONENTS HAVE BEEN REFORMATTED; OR
  - (2) TRANSFER THE EQUIPMENT TO ANY OTHER DEPARTMENT WITHIN THE COUNTY OR ANY PARTY OUTSIDE THE COUNTY UNTIL THE COMPUTERS HAVE BEEN REFORMATTED.
- (B) ALL SECURITY STANDARDS IN THIS RULE 20 ARE STILL APPLICABLE TO VOTING SYSTEM EQUIPMENT UNTIL THE COMPONENTS HAVE BEEN REFORMATTED.
- (C) BEFORE THE COMPONENTS ARE REFORMATTED, THE COUNTY MUST PRESERVE ALL ELECTION RECORDS REQUIRED TO BE PRESERVED BY RULE 20 FOUND ON THE VOTING SYSTEM.
- (D) THESE REQUIREMENTS ALSO APPLY TO ANY EQUIPMENT THAT A COUNTY NO LONGER USES AS VOTING SYSTEM EQUIPMENT BUT RETAINS WHILE A LICENSE AGREEMENT WITH A VENDOR IS IN FORCE.

*New Rule 20.5.7, concerning the leasing of voting equipment by other jurisdictions:*

#### 20.5.7 USE OF VOTING EQUIPMENT BY OTHER JURISDICTIONS

- (A) A COUNTY MAY NOT TRANSFER ANY ELECTION EQUIPMENT TO ANY MUNICIPALITY, SPECIAL DISTRICT, OR ANOTHER LOCAL JURISDICTION, EXCEPT TO ANOTHER COUNTY CLERK AND RECORDER.
- (B) IF A COUNTY TRANSFERS ANY ELECTION EQUIPMENT TO ANOTHER COUNTY WITHIN THE STATE, THE COUNTY RECEIVING THE EQUIPMENT MUST FOLLOW ALL SECURITY PROCEDURES FOR THAT EQUIPMENT REQUIRED BY STATUTE OR THESE RULES THROUGHOUT THE TIME THE RECEIVING COUNTY HAS CUSTODY OF THE EQUIPMENT.

- (C) A COUNTY WHO IS TRANSFERRING ELECTION EQUIPMENT TO ANOTHER COUNTY MUST NOTIFY THE SECRETARY OF STATE OF THE TRANSFER BY FILLING OUT AN ACQUISITION/DISPOSITION FORM AND TRANSMITTING IT TO THE SECRETARY OF STATE. THE FORM MUST BE FILLED OUT AT BOTH THE TIME OF THE TRANSFER TO AND TRANSFER FROM THE COUNTY RECEIVING THE EQUIPMENT.

*New Rule 20.5.8, including the proposed permanent adoption of temporary New Rule 20.15.3 (re-organized as New Rule 20.5.8(b)) that was temporarily adopted on February 10, 2022:*

#### 20.5.8 REMEDIES

- (A) GENERALLY
- (1) IN THE EVENT THAT A COUNTY DISCOVERS THAT A VIOLATION OF RULE 20.5 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (2) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.5.
- (B) IN THE EVENT THAT AN ELECTION OFFICIAL KNOWS, OR REASONABLY SHOULD KNOW, THAT THE COUNTY'S VOTING SYSTEM WAS ACCESSED BY ANY INDIVIDUAL NOT PERMITTED ACCESS BY THESE RULES OR IS MADE AWARE THAT THE SYSTEM HAS BEEN TAMPERED WITH, THEY MUST IMMEDIATELY NOTIFY THE SECRETARY OF STATE.

*New Rule 20.6, regarding trusted build procedures and including the proposed permanent adoption of temporary New Rule 20.20 (re-organized as New Rule 20.6) that was temporarily adopted on February 10, 2022:*

#### 20.6 TRUSTED BUILD PROCEDURES

##### 20.6.1 WHEN TRUSTED BUILD REQUIRED

- (A) IN THE EVENT THAT THE SECRETARY OF STATE DETERMINES A TRUSTED BUILD IS REQUIRED IN A COUNTY, INCLUDING DUE TO A NEW CERTIFICATION, MODIFICATION, OR OTHER SECURITY ISSUE, THE COUNTY CLERK AND VOTING SYSTEM PROVIDER MUST COORDINATE WITH THE SECRETARY OF STATE TO INSTALL TRUSTED BUILD ON A SCHEDULE DETERMINED BY THE SECRETARY OF STATE'S OFFICE.
- (B) AT THE TIME THAT THE SECRETARY OF STATE DETERMINES A TRUSTED BUILD IS REQUIRED, THE SECRETARY OF STATE WILL PROVIDE THE REASON TO THE COUNTY CLERK FOR THE REQUIRED TRUSTED BUILD.

##### 20.6.2 ATTENDANCE AT TRUSTED BUILD

- (A) THE ONLY INDIVIDUALS WHO MAY BE PRESENT AT A TRUSTED BUILD IN A COUNTY INCLUDE:
- (1) SECRETARY OF STATE STAFF, DESIGNEES OF THE SECRETARY OF STATE, OR OTHER INDIVIDUALS APPROVED BY THE SECRETARY OF STATE;
- (2) VOTING SYSTEM VENDOR STAFF FOR THE VOTING SYSTEM FOR WHICH TRUSTED BUILD IS BEING INSTALLED; AND
- (3) THE COUNTY CLERK, EMPLOYEES OF THE COUNTY CLERK, OR THE DESIGNATED ELECTION OFFICIAL OF THE COUNTY, AS LONG AS THOSE INDIVIDUALS ARE

AUTHORIZED TO ACCESS THE VOTING SYSTEM UNDER RULE 20.5.2(B) HAVE SIGNED THE VOTING SYSTEM ACCEPTABLE USE POLICY AGREEMENT, AND SUBJECT TO THE RESTRICTIONS OF RULE 20.4.4(C).

- (B) THE COUNTY CLERK AND VOTING SYSTEM VENDOR MUST PROVIDE THE NAME AND POSITION OF INDIVIDUALS WHO WILL ATTEND THE TRUSTED BUILD IN A COUNTY AT THE TIME OF SCHEDULING THE TRUSTED BUILD WITH THE SECRETARY OF STATE.
- (C) BACKGROUND CHECK
  - (1) ANY INDIVIDUAL PRESENT AT THE TRUSTED BUILD MUST HAVE HAD A BACKGROUND CHECK CONDUCTED IN ACCORDANCE WITH RULE 20.2.
  - (2) THE COUNTY CLERK AND VOTING SYSTEM VENDOR MUST PROVIDE PROOF THAT A BACKGROUND CHECK WAS CONDUCTED AND PASSED ON INDIVIDUALS WHO WILL BE PRESENT TO THE SECRETARY OF STATE AT THE TIME OF SCHEDULING THE TRUSTED BUILD WITH THE SECRETARY OF STATE'S OFFICE.
- (D) THE COUNTY CLERK AND VOTING SYSTEM VENDOR MAY ONLY ALLOW THE NUMBER OF PEOPLE DESIGNATED BY THE SECRETARY OF STATE FOR THAT COUNTY TO ATTEND THE TRUSTED BUILD.
- (E) IF, DUE TO AN UNFORESEEN CIRCUMSTANCE, THE COUNTY CLERK OR VOTING SYSTEM VENDOR MUST SEND AN INDIVIDUAL NOT PREVIOUSLY IDENTIFIED TO THE TRUSTED BUILD, THE COUNTY CLERK OR VENDOR MUST IMMEDIATELY CONTACT THE SECRETARY OF STATE AND PROVIDE THE INFORMATION OTHERWISE REQUIRED BY THIS RULE TO THE SECRETARY OF STATE FOR THE SUBSTITUTE INDIVIDUAL.

#### 20.6.3 SECURITY AT TRUSTED BUILD

- (A) THE COUNTY CLERK MUST ENSURE THAT THE LOCATION WHERE THE TRUSTED BUILD WILL BE CONDUCTED DOES NOT ALLOW FOR INDIVIDUALS WHO ARE NOT PERMITTED TO ATTEND TO BE PRESENT OR TO OTHERWISE DISRUPT THE TRUSTED BUILD PROCESS.
- (B) VIDEO SURVEILLANCE RECORDING
  - (1) THE COUNTY CLERK MUST ENSURE THAT THE TRUSTED BUILD IS CONDUCTED UNDER VIDEO SURVEILLANCE AS DEFINED BY RULE 1.1.60.
  - (2) THE COUNTY CLERK MUST IDENTIFY THE VIDEO SURVEILLANCE EQUIPMENT THAT WILL BE USED TO COMPLY WITH THIS RULE TO THOSE ATTENDING THE TRUSTED BUILD.
  - (3) VIDEO SURVEILLANCE OF THE TRUSTED BUILD MUST BE MAINTAINED AS AN ELECTION RECORD UNDER SECTION 1-7-802, C.R.S.
  - (4) NO ONE MAY SURREPTITIOUSLY RECORD THE TRUSTED BUILD BY VIDEO OR AUDIO.

#### 20.6.4 COMPLETION OF TRUSTED BUILD

- (A) COUNTY CLERKS MUST SEAL ALL VOTING SYSTEM COMPONENTS IN ACCORDANCE WITH THE MOST RECENT CONDITIONS OF USE ISSUED BY THE SECRETARY OF STATE FOR THE COUNTY'S VOTING SYSTEM IMMEDIATELY UPON CONCLUSION OF THE TRUSTED BUILD

UNLESS THE COUNTY CLERK PROCEEDS TO AND COMPLETES ACCEPTANCE TESTING ON THE SAME DAY THAT TRUSTED BUILD IS COMPLETED.

- (B) IN THE EVENT THAT THE CONDITIONS OF RULE 20.6.4(A) ARE MET, A COUNTY MUST SEAL ALL VOTING SYSTEM COMPONENTS IN ACCORDANCE WITH THE MOST RECENT CONDITIONS OF USE ISSUED BY THE SECRETARY OF STATE FOR THE COUNTY'S VOTING SYSTEM UPON CONCLUSION OF THE ACCEPTANCE TESTING.
- (C) THE COUNTY CLERK MUST SUBMIT A COPY OF THE SIGNED TRUSTED BUILD AFFIDAVIT TO THE SECRETARY OF STATE FOLLOWING THE COMPLETION OF ACCEPTANCE TESTING.

20.6.5 IN THE EVENT THAT A TRUSTED BUILD CANNOT BE SCHEDULED OR COMPLETED DUE TO A COUNTY CLERK'S VIOLATION OF THESE RULES OR IN THE EVENT THAT A COUNTY CLERK IS FOUND TO HAVE VIOLATED THESE RULES FOLLOWING A TRUSTED BUILD, THE SECRETARY OF STATE MAY TAKE ANY OF THE ACTIONS LISTED IN RULE 20.12.2(B).

*New Rule 20.7, pertaining to the security of ballots:*

20.7 SECURITY OF BALLOTS

20.7.1 UNVOTED BALLOTS

- (A) THE COUNTY MUST SECURE UNVOTED PAPER BALLOTS DURING PRE-ELECTION STORAGE, TRANSPORTATION, AND AT POLLING LOCATIONS.
  - (1) EXCEPT WHEN ELECTION JUDGES ARE ACTIVELY ISSUING BALLOTS THE BALLOT CONTAINERS MUST BE SEALED.
  - (2) THE COUNTY MUST MAINTAIN CHAIN-OF-CUSTODY LOGS FOR ALL BALLOT CONTAINERS.
- (B) UNVOTED PAPER BALLOTS MUST BE TRANSPORTED TO POLLING LOCATIONS IN SEALED CONTAINERS. THE COUNTY CLERK MUST RECORD THE SEAL NUMBER ON A CHAIN-OF-CUSTODY LOG FOR VERIFICATION BY THE RECEIVING ELECTION JUDGES. THE RECEIVING ELECTION JUDGES MUST VERIFY THE BALLOT CONTAINER SEAL NUMBER BEFORE ISSUING BALLOTS.
- (C) WHEN ELECTION JUDGES ARE ACTIVELY ISSUING BALLOTS, THE UNVOTED BALLOTS MUST BE IN CLEAR VIEW OF A MINIMUM OF TWO ELECTION JUDGES OF DIFFERENT PARTY AFFILIATIONS AND ONE OF THE ELECTION JUDGES MUST ACTIVELY MONITOR THE BALLOTS UNLESS THE BALLOTS ARE STORED IN A LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION OFFICIALS.
- (D) A MINIMUM OF TWO ELECTION JUDGES OF DIFFERENT PARTY AFFILIATIONS MUST RECONCILE AND DOCUMENT ALL UNVOTED, ISSUED, AND SPOILED PAPER BALLOTS AT THE END OF EACH DAY THE POLLING CENTER IS OPEN AND IMMEDIATELY REPORT ANY INVENTORY DISCREPANCIES TO THE COUNTY CLERK.
- (E) IF UNVOTED PAPER BALLOTS ARE STORED OVERNIGHT AT THE POLLING LOCATION, THE BALLOTS MUST BE SEALED IN CONTAINERS AND STORED IN A LOCKED LOCATION ACCESSIBLE ONLY TO ELECTION OFFICIALS.

*New Rule 20.7.2, regarding voting ballots, and subsection (b) is re-codified from current Rule 7.4.8:*

### 20.7.2 VOTED BALLOTS

- (A) ONLY ELECTION OFFICIALS OR CANVASS BOARD MEMBERS SWORN UNDER OATH ARE ALLOWED TO HANDLE VOTED BALLOTS.

~~7.4.8~~(B) The designated election official must seal and store ballots and return envelopes in a secure ballot area.

- (C) TRANSPORTATION OF BALLOT BOXES WITH VOTED BALLOTS FROM VSPPCs AND BALLOT DROP BOXES TO CENTRAL COUNT FACILITIES:
- (1) A BIPARTISAN TEAM, OF ELECTION JUDGES AND/OR STAFF, MUST SEAL ALL BALLOT BOXES THAT CONTAIN VOTED BALLOTS SO THAT NO PERSON CAN ACCESS THE BALLOTS WITHOUT BREAKING A SEAL. THE TEAM MUST RECORD ALL SEALS IN THE CHAIN-OF-CUSTODY LOG, VERIFY THAT THE REQUIRED SEALS ARE INTACT, AND SIGN AND DATE THE LOG.
  - (2) A BIPARTISAN TEAM, OF ELECTION JUDGES AND/OR STAFF, MUST ACCOMPANY ALL BALLOT BOXES THAT CONTAIN VOTED BALLOTS AT ALL TIMES EXCEPT WHEN THE BALLOT BOX IS LOCATED IN A VAULT OR SECURE PHYSICAL LOCATION.

### 20.7.3 REMEDIES

- (A) IN THE EVENT THAT A COUNTY DISCOVERS THAT A VIOLATION OF RULE 20.7 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (B) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.7.

*New Rule 20.8, concerning security for voting system providers and vendors:*

## 20.8 SECURITY FOR VOTING SYSTEM PROVIDERS AND VENDORS

### 20.8.1 REMOTE ELECTION PROGRAMMING SERVICES

- (A) A COUNTY MAY NOT INSTALL OR IMPORT INTO ITS VOTING SYSTEM AN ELECTION DATABASE OR PROJECT PROGRAMMED OR CREATED BY THE VOTING SYSTEM PROVIDER USING VOTING SYSTEM COMPONENTS OTHER THAN THOSE OWNED OR LEASED BY THE COUNTY AND SITUATED IN THE COUNTY'S SECURE ELECTIONS FACILITY.
- (B) RULE 20.8.1(A) DOES NOT APPLY IF THE VOTING SYSTEM PROVIDER FIRST AFFIRMS ON A FORM PROVIDED BY THE SECRETARY OF STATE THAT:
- (1) AT ALL TIMES DURING THE ELECTION DATABASE OR PROJECT PROGRAMMING, THE VOTING SYSTEM PROVIDER USED ONLY HARDWARE AND SOFTWARE CERTIFIED FOR USE IN COLORADO, AS CONFIGURED AND VERIFIED DURING TRUSTED BUILD BY THE SECRETARY OF STATE;
  - (2) AT ALL TIMES AFTER INSTALLATION OF TRUSTED BUILD, THE VOTING SYSTEM PROVIDER OPERATED ALL HARDWARE UTILIZED TO PROGRAM THE ELECTION ON A CLOSED NETWORK AND DID NOT CONNECT THE HARDWARE TO THE INTERNET OR ANY INTERNET-CONNECTED DEVICE;

- (3) AT ALL TIMES DURING THE ELECTION PROGRAMMING PROCESS, THE VOTING SYSTEM PROVIDER COMPLIED WITH THE SECURITY PROTOCOLS FOR REMOVABLE STORAGE DEVICES IN RULE 20.5.3(C); AND
- (4) THE VOTING SYSTEM PROVIDER PHYSICALLY DELIVERED TO THE COUNTY REMOVABLE STORAGE MEDIA CONTAINING THE FINISHED ELECTION DATABASE OR PROJECT AND DID NOT TRANSMIT USING ANY METHOD CONNECTED OR EXPOSED TO THE INTERNET.

#### 20.8.2 VOTING SYSTEM COMPONENT REPLACEMENT OR REPAIR

- (A) A COUNTY THAT SENDS A VOTING SYSTEM COMPONENT TO A VOTING SYSTEM PROVIDER FOR REPAIR MUST SUBMIT AN INCIDENT REPORT TO THE DEPARTMENT AS REQUIRED BY RULE 11.7.2 AND AN EQUIPMENT ACQUISITION/DISPOSAL FORM TO THE VOTING SYSTEMS TEAM AT THE DEPARTMENT.
- (B) WHEN THE COUNTY RECEIVES THE REPAIRED COMPONENT, OR RECEIVES A REPLACEMENT COMPONENT, THE COUNTY MUST VERIFY THE SERIAL NUMBER ON THE COMPONENT AND SEAL NUMBERS ON THE SHIPPING CONTAINER MATCH THE NUMBERS LISTED ON THE TRUSTED BUILD AFFIDAVIT INCLUDED IN THE CONTAINER, OR IF THAT IS NOT POSSIBLE, MUST ARRANGE WITH THE DEPARTMENT TO HAVE TRUSTED BUILD INSTALLED ON THE COMPONENT. THE COUNTY MUST ALSO SUBMIT A COMPLETED ACQUISITION/DISPOSAL FORM TO THE DEPARTMENT AT THE TIME IT RECEIVES THE EQUIPMENT BEFORE IT CAN BE USED IN ANY CAPACITY DURING AN ELECTION.
- (C) IF EQUIPMENT IS REPAIRED BY A VENDOR ONSITE, THE COUNTY MUST KEEP A MAINTENANCE LOG FOR THE DEVICE THAT MUST CONTAIN THE FOLLOWING:
  - (1) THE MODEL NUMBER, SERIAL NUMBER, AND THE TYPE OF DEVICE;
  - (2) THE SOFTWARE VERSION, AS APPLICABLE;
  - (3) THE PRINTED NAME AND SIGNATURE OF THE VENDOR REPAIRING THE EQUIPMENT; AND
  - (4) THE DATE THE VENDOR WAS ONSITE.
- (D) A COUNTY MAY NOT ALLOW FOR THE ON-SITE REPAIR OR MAINTENANCE OF A VOTING SYSTEM COMPONENT THAT HAS TRUSTED BUILD SOFTWARE INSTALLED.
- (E) AN EMPLOYEE MUST ESCORT THE VENDOR'S REPRESENTATIVE AT ALL TIMES WHILE ON-SITE. AT NO TIME MAY THE VOTING SYSTEM VENDOR HAVE ACCESS TO ANY COMPONENT OF THE VOTING SYSTEM WITHOUT SUPERVISION BY AN EMPLOYEE.
- (F) UPON RETURN OF ANY VOTING SYSTEM COMPONENT SENT FOR OFF-SITE MAINTENANCE, THE COUNTY MUST PERFORM AN ACCEPTANCE TEST FOLLOWING THE WRITTEN PROCEDURES PROVIDED BY THE VOTING SYSTEM VENDOR. THE COUNTY MUST MAINTAIN ALL DOCUMENTATION OF THE RESULTS OF THE ACCEPTANCE TESTING ON FILE WITH THE SPECIFIC DEVICE.
  - (1) IF THE MAINTENANCE WAS PERFORMED ON A BMD, THAT BMD MUST BE USED TO GENERATE FIVE BALLOTS FOR USE IN THE ACCEPTANCE TESTING.
  - (2) IF THE MAINTENANCE WAS PERFORMED ON A BALLOT SCANNER, THEN AT LEAST FIVE BALLOTS (A COMBINATION OF BMD-GENERATED BALLOTS AND NON-BMD-

GENERATED BALLOTS—AT LEAST ONE OF EACH) MUST BE TABULATED ON THE SCANNER.

### 20.8.3 REMEDIES

- (A) IN THE EVENT THAT A COUNTY OR VOTING SYSTEM PROVIDER DISCOVERS THAT A VIOLATION OF RULE 20.8 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (B) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.8.

*New Rule 20.9, concerning the security of other election systems. Current Rules 2.16 and 2.17 re-codified to Rule 20.9.1(a) and (b) with amendments:*

## 20.9 SECURITY OF OTHER ELECTION SYSTEMS

### 20.9.1 Statewide voter registration database (SCORE)

#### ~~2.16~~(A) SCORE username and password administration

- ~~2.16.1~~(1) The ~~state user administrator~~ SCORE CUSTOMER SUPPORT assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk or election administrator must submit a request for county user administrator privilege to ~~state user administrator~~ SCORE CUSTOMER SUPPORT IN WRITING. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.
- ~~2.16.2~~(2) Each county is limited to two county user administrators. ~~But~~, BUT a county clerk may apply to the ~~Secretary of State~~ DEPARTMENT for an additional county user administrator.
  - ~~(a)~~(A) The application must be submitted by the county clerk in writing to ~~state user administrator~~ SCORE CUSTOMER SUPPORT and must state the full name of the county employee for which county user administrator privilege is being sought. The application must also state the specific reasons the county clerk is requesting the additional user administrator.
  - ~~(b)~~(B) The ~~state user administrator~~ SCORE CUSTOMER SUPPORT will notify the county clerk in writing whether the request is approved within five business days after receiving the application.
- ~~2.16.3~~(3) The county user administrator is responsible for security administration and must assign all access privileges, as well as usernames and passwords for county employees and temporary election workers.
  - ~~(a)~~(A) For county employees, the county user administrator must assign a unique username in accordance with the naming conventions provided by the Secretary of State.

~~(b)~~(B) Passwords must be assigned by the county user administrator upon initial authorization and must be changed by users and maintained confidentially.

~~2.16.4~~(4) If a county employee or temporary election worker is no longer employed by the county, the county user administrator must immediately inactivate the username.

#### 2.17(B) SCORE network security requirements

~~2.17.1~~(1) The county clerk must use only county-controlled access to networks with proper network security controls in place to access SCORE. The county may never use an open or shared public-use network to access SCORE.

~~(a)~~(A) All wireless networks must meet the following minimum requirements:

~~(1)~~(i) WPA2, or above, security must be enabled;

~~(2)~~(ii) Shared wireless passwords or secrets must be changed every three months, at a minimum; and

~~(3)~~(iii) Wireless keys must be a minimum of 14 characters in length and must include at least one number and mixed case letters.

~~(b)~~(B) All networks must employ proper security controls to ensure malicious users cannot connect to the network, intercept SCORE communications, or otherwise attack the SCORE system. These controls must include, at a minimum, network firewalls and securely configured network equipment to prevent common attack mechanisms.

~~2.17.2~~(2) All individuals who access the SCORE system must sign a SCORE Acceptable Use Policy (AUP) before the county provides a SCORE username.

~~(a)~~(A) The county clerk, county SCORE user-administrator, and county elections IT manager, if applicable, must submit their signed AUP to the Secretary of State.

~~(b)~~(B) The county clerk must retain the AUP for each individual who is assigned a SCORE username.

~~(1)~~(i) The Secretary of State will audit the county AUP records for each county selected for annual inspection of its voting system maintenance records under ~~Rule 20.10.5~~ RULE 20.12.1(A).

~~(2)~~(ii) The Secretary of State will suspend access to SCORE for any individual whose AUP is not on file with the county clerk.

~~2.17.3(3)~~ If a federal agency notifies a county of a data breach, OR THE COUNTY OTHERWISE KNOWS OF AN ACTUAL OR ~~a targeted~~ POTENTIAL attack on its county network or, SCORE, or OTHER CRITICAL INFRASTRUCTURE IN THE CLERK'S OFFICE, OR A FEDERAL AGENCY provides any other notice concerning an attack or potential attack on critical elections infrastructure, the county must notify the Secretary of State immediately using the contact information provided by the Secretary of State for this purpose. ~~Counties that have physically or logically segmented their elections systems from county networks must only notify the Secretary of State of an elections-related data breach or targeted attack.~~

## 20.9.2 BALLOT-ON-DEMAND PRINTERS

- (A) SOFTWARE ACCESS, SECURITY, AND STORAGE.
  - (1) THE COUNTY MUST CHANGE ALL WINDOWS AND BALLOT-ON-DEMAND APPLICATION PASSWORDS AT LEAST ONCE PER CALENDAR YEAR.
  - (2) ONLY ELECTION OFFICIALS OR AUTHORIZED VENDOR REPRESENTATIVES MAY OPERATE THE BALLOT-ON-DEMAND SYSTEM.
  - (3) THE COUNTY MAY CONNECT THE BALLOT-ON-DEMAND LAPTOP TO AN EXTERNAL NETWORK FOR THE PURPOSE OF CONNECTING TO SCORE ONLY IF THE COUNTY MAINTAINS CURRENT VIRUS PROTECTION, CURRENT OPERATING SYSTEM SECURITY PATCHES, AND IMPLEMENTS FIREWALLS TO PREVENT UNAUTHORIZED ACCESS.
  - (4) THE COUNTY MUST STORE THE BALLOT-ON-DEMAND PRINTER, LAPTOP, AND UNUSED PAPER BALLOT STOCK IN A LOCKED STORAGE AREA WHEN THE PRINTER IS NOT IN USE.
- (B) BALLOT RECONCILIATION
  - (1) THE COUNTY MUST RECONCILE BALLOTS PRINTED ON DEMAND IN ACCORDANCE WITH RULES 10.1.1 AND 10.1.2.
  - (2) THE COUNTY MUST MAINTAIN DAMAGED, MISPRINTED, OR UNUSABLE BALLOTS AS ELECTION RECORDS.

## 20.9.3 REMEDIES

- (A) IN THE EVENT THAT A COUNTY DISCOVERS THAT A VIOLATION OF RULE 20.9 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (B) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.9

*New Rule 20.10, pertaining to retention and election project backups:*

## 20.10 RETENTION AND ELECTION PROJECT BACKUPS

### 20.10.1 ELECTION PROJECT BACKUP SECURITY

- (A) TO ENSURE ELECTION PROJECT BACKUPS HAVE NOT BEEN ALTERED, A COUNTY MUST STORE ANY MEDIA THAT CONTAINS AN ELECTION PROJECT BACKUP IN A SEALED

CONTAINER IN A SECURE EQUIPMENT AREA. THE CONTAINER MUST BE SEALED BY AT LEAST ONE TAMPER-EVIDENT SEAL AND HAVE A CHAIN-OF-CUSTODY LOG.

- (B) WHEN ACCESSING THE SEALED CONTAINER CONTAINING ANY MEDIA THAT CONTAINS ELECTION PROJECT BACKUPS TWO ELECTION OFFICIALS MUST VERIFY THE SEAL NUMBER(S) AND SIGN AND DATE THE CHAIN-OF-CUSTODY LOG.
- (C) REMOVEABLE MEDIA USED TO STORE ELECTION PROJECT BACKUPS MUST CONFORM TO THE REMOVEABLE MEDIA SECURITY STANDARDS IN RULE 20.5.4(C). THE MEDIA MAY ONLY BE CONNECTED TO A COMPONENT OF A VOTING SYSTEM WITH AN INTACT TRUSTED BUILD.
- (D) ANY MEDIA THAT CONTAINS ELECTION PROJECT BACKUPS MAY NOT CONTAIN ANY DATA THAT IS NOT EXPORTED BY THE VOTING SYSTEM.
- (E) ONLY EMPLOYEES OF THE COUNTY CLERK'S OFFICE THAT HAVE PASSED A CRIMINAL BACKGROUND CHECK ACCORDING TO RULE 20.2.1 MAY ACCESS ANY MEDIA THAT CONTAINS AN ELECTION PROJECT BACKUP, EXCEPT ANY INDIVIDUAL WHO IS PROHIBITED FROM HAVING PHYSICAL CONTACT WITH ANY VOTING EQUIPMENT UNDER SECTION 1-5-607(1), C.R.S. MAY NOT ACCESS ANY MEDIA THAT CONTAINS AN ELECTION PROJECT BACKUP.

#### 20.10.2 RETENTION OF VOTING SYSTEM SECURITY RECORDS

- (A) THE COUNTY MUST MAINTAIN ALL DOCUMENTATION OF SEALS, CHAIN-OF-CUSTODY, TRUSTED BUILD, ACCEPTANCE TESTING, TRANSFER OF EQUIPMENT BETWEEN PARTIES, OR ANY OTHER DOCUMENTS RELATED TO THE PHYSICAL SECURITY OF VOTING SYSTEM COMPONENTS FOR 25 MONTHS AFTER THAT COMPONENT IS NO LONGER IN THE POSSESSION OF A COUNTY.
- (B) THE COUNTY MUST MAINTAIN THE FOLLOWING AS ELECTION RECORDS UNDER SECTION 1-7-802, C.R.S.:
  - (1) ACCESS LOGS TO SECURE BALLOT AND SECURE EQUIPMENT AREAS;
  - (2) ACCESS LOGS FOR VOTING SYSTEM COMPONENT ACCESS;
  - (3) VIDEO FOOTAGE CREATED UNDER RULE 20.4.2;
  - (4) ELECTION PROJECT BACKUPS REQUIRED TO BE MADE UNDER RULE 11.4.1(A), (B), (D), AND (E);
  - (5) LOGS GENERATED BY THE ELECTION MANAGEMENT SYSTEM SOFTWARE OF THE VOTING SYSTEM IF THOSE LOGS ARE NOT CONTAINED IN THE ELECTION PROJECT BACKUP. THIS DOES NOT INCLUDE LOGS GENERATED OUTSIDE OF THE ELECTION MANAGEMENT SYSTEM SOFTWARE; AND
  - (6) ANY OTHER DOCUMENTS CREATED BY THE COUNTY TO ENSURE THE PHYSICAL SECURITY OF THE VOTING SYSTEM.
- (C) ALL WRITTEN ENTRIES IN LOGS AND OTHER DOCUMENTATION MUST BE IN PERMANENT INK AND LEGIBLE.

*New Rule 20.10.3, including the proposed permanent adoption of New Rule 20.6.3 (re-organized as New Rule 20.10.3) that was temporarily adopted on February 10, 2022:*

20.10.3 A COUNTY CLERK MAY NOT CREATE OR DISCLOSE, OR PERMIT ANY PERSON TO CREATE OR DISCLOSE, TO ANY PERSON AN IMAGE OF THE HARD DRIVES OF ANY VOTING SYSTEM COMPONENT WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE SECRETARY OF STATE.

#### 20.10.4 REMEDIES

- (A) IN THE EVENT THAT A COUNTY DISCOVERS THAT A VIOLATION OF RULE 20.10 HAS OCCURRED, THEY MUST FILE AN INCIDENT REPORT REQUIRED BY RULE 20.12.2(A).
- (B) THE DEPARTMENT OF STATE MAY TAKE ANY ACTION UNDER RULE 20.12.2(B) TO REMEDY A VIOLATION OF RULE 20.10.

#### *New Rule 20.11 concerning security of operations:*

### 20.11 SECURITY OF OPERATIONS

#### 20.11.1 CONTINGENCY PLANS

- (A) THE COUNTY MUST DEVELOP EMERGENCY CONTINGENCY PLANS FOR VOTING EQUIPMENT AND VOTING LOCATIONS IN ACCORDANCE WITH THIS RULE.
- (B) IN THE EVENT OF A SERIOUS OR CATASTROPHIC EQUIPMENT FAILURE, OR WHEN EQUIPMENT IS REMOVED FROM SERVICE, OR THERE IS NOT ADEQUATE BACKUP EQUIPMENT TO MEET THE REQUIREMENTS OF SECTION 1-5-501, C.R.S., THE COUNTY MUST NOTIFY THE SECRETARY OF STATE THAT THE COUNTY IS USING PROVISIONAL BALLOTS AS AN EMERGENCY VOTING METHOD.
- (C) THE COUNTY CONTINGENCY PLANS AND EVACUATION PROCEDURES MUST ADDRESS EMERGENCY SITUATIONS INCLUDING FIRE, SEVERE WEATHER, BOMB THREAT, CIVIL UNREST, ELECTRICAL BLACKOUT, EQUIPMENT FAILURE, AND ANY OTHER EMERGENCY SITUATIONS THE COUNTY IDENTIFIES.
- (D) THE COUNTY MUST DEVELOP PROCEDURES TO ADDRESS FAILURES OF SCORE CONTINUITY, WHICH INCLUDES:
  - (1) NETWORK FAILURE,
  - (2) POWER FAILURE THAT LASTS LESS THAN ONE HOUR, AND
  - (3) POWER FAILURE THAT LASTS MORE THAN ONE HOUR.
- (E) AT LEAST ONE BMD IN EACH VOTER SERVICE AND POLLING CENTER MUST HAVE A BACKUP BATTERY, OR BE CONNECTED TO AN UNINTERRUPTIBLE POWER SUPPLY, SUFFICIENT TO SUSTAIN CONTINUOUS OPERATION FOR A MINIMUM OF TWO HOURS IN THE EVENT OF POWER LOSS.

#### *New Rule 20.11.2 is re-codified from Current Rule 7.16:*

#### ~~7.16~~20.11.2 Closure of VSPCs due to emergency condition

- ~~7.16.4~~(A) If as a result of an extreme weather event, natural disaster, act of God, human made incident, or disruption to, or threat of disruption to critical infrastructure, a county government or other entity closes all day, closes early, or delays the opening of a building where a voter service and polling center is located, then the county clerk may close for the day, close early, or delay the

opening of any voter service and polling center located in those buildings affected.

~~7.16.2~~(B) The county clerk must immediately notify the Secretary of State and the public of any closure or delayed opening of a voter service and polling center under this Rule.

~~7.16.3~~(C) A county clerk must relocate VSPC operations to a backup location in the event a closure would result in the county not meeting their statutory minimum VSPCs. A county clerk must immediately notify the Secretary of State of the backup location that they will relocate to.

~~7.16.4~~(D) The Secretary of State may petition a court under section 1-7-101 (1)(b), C.R.S. to extend the polling hours in a county or statewide if voter service and polling centers are closed or delayed opening under this Rule.

~~7.16.5~~(E) If a county clerk closes or delays the opening of a voter service and polling center under this Rule, then the Secretary of State and county clerk must issue an emergency ballot available under section 1-7.5-115, C.R.S. to any voter who requests it due to the delay or closure.

*New Rule 20.12, regarding Secretary of State inspections and remedies and including the proposed permanent adoption of amendments to current Rule 20.10.5 (re-organized as Rule 20.12.1(a)) that was temporarily adopted on February 10, 2022:*

## 20.12 SECRETARY OF STATE INSPECTIONS AND REMEDIES

### 20.12.1 INSPECTIONS

- (A) A COUNTY CLERK MUST MAKE AVAILABLE TO THE SECRETARY OF STATE, UPON REQUEST, COUNTY DOCUMENTS AND EQUIPMENT, INCLUDING, BUT NOT LIMITED TO:
- (1) COUNTY MAINTENANCE RECORDS;
  - (2) CHAIN OF CUSTODY LOGS;
  - (3) TRUSTED BUILD INTEGRITY;
  - (4) WIRELESS STATUS;
  - (5) VIRUS PROTECTION STATUS;
  - (6) PASSWORD STATUS (BIOS, OPERATING SYSTEM, AND APPLICATIONS);
  - (7) ACCESS LOGS;
  - (8) BACKGROUND CHECK DOCUMENTS;
  - (9) SIGNED ACCEPTABLE USE POLICY AGREEMENTS; AND
  - (10) VIDEO SURVEILLANCE.
- (B) IN ADDITION TO THE DOCUMENTATION LISTED IN RULE 20.12.1(A), THE COUNTY MUST MAKE ALL DOCUMENTATION RELATED TO THE VOTING SYSTEM AND FOR EVERY DEVICE USED IN THE ELECTION AVAILABLE FOR SECRETARY OF STATE INSPECTION.

*New Rule 20.12.2, including the proposed permanent adoption of New Rule 20.15.4 (re-organized within Rule 20.12.2(b)(3)), amended with updated internal cites, that was temporarily adopted on February 10, 2022:*

## 20.12.2 REMEDIES

### (A) INCIDENT REPORT

- (1) IF A COUNTY DISCOVERS OR DETERMINES THAT A VIOLATION OF ANY PROVISION OF RULE 20 HAS OCCURRED, THEY MUST IMMEDIATELY FILE AN INCIDENT REPORT WITH THE DEPARTMENT OF STATE BEFORE TAKING ANY OTHER ACTION. THE INCIDENT REPORT MUST DESCRIBE IN DETAIL THE INCIDENT AND RULE THAT MAY HAVE BEEN VIOLATED AND ANY OTHER INFORMATION THE DEPARTMENT MAY REQUIRE.
- (2) AFTER AN INCIDENT REPORT IS FILED UNDER THIS RULE, THE DEPARTMENT WILL INVESTIGATE AND DETERMINE WHAT ADDITIONAL ACTION OR INFORMATION, IF ANY, IS REQUIRED.
- (3) A COUNTY MUST COOPERATE WITH THE INVESTIGATION OF A VIOLATION OF RULE 20. THIS INCLUDES PROVIDING ANY DOCUMENTATION OR ANSWERS REQUESTED BY THE DEPARTMENT DURING THE COURSE OF THE DEPARTMENT'S INVESTIGATION.
- (4) BASED ON THE INFORMATION GATHERED, THE DEPARTMENT MAY TAKE FURTHER ACTION, INCLUDING BUT NOT LIMITED TO, THOSE ACTIONS DESCRIBED IN RULE 20.12.2(B) TO REMEDY THE VIOLATION AND TO ENSURE FUTURE COMPLIANCE WITH RULE 20.
- (5) A COUNTY'S INTENTIONAL FAILURE TO FILE AN INCIDENT REPORT REQUIRED BY THIS RULE OR FAILURE TO COOPERATE WITH AN INVESTIGATION CONDUCTED BY THE DEPARTMENT OF STATE MAY ALSO RESULT IN ANY OF THE REMEDIES LISTED IN RULE 20.12.2(B).

### (B) REMEDIES

- (1) UPON DISCOVERING AND INVESTIGATING A VIOLATION OF RULE 20, THE DEPARTMENT MAY REQUIRE A COUNTY TO TAKE FURTHER ACTION TO REMEDY ANY VIOLATION AND ENSURE FUTURE COMPLIANCE WITH RULE 20.
- (2) ANY VIOLATION OF RULE 20 MAY RESULT IN THE PROHIBITION OR LIMITATION ON THE USE OF, AS WELL AS DECERTIFICATION OF, A COUNTY'S VOTING SYSTEM OR COMPONENTS IN ACCORDANCE WITH SECTION 1-5-621, C.R.S., AND RULE 21.7.3.
- (3) IN THE EVENT THAT THE SECRETARY OF STATE DETERMINES THAT AN ELECTION OFFICIAL HAS SHOWN A SERIOUS OR PATTERNED FAILURE TO COMPLY WITH ANY SECURITY REQUIREMENTS FOUND IN STATUTE, THESE RULES, THE CONDITIONS OF USE OF THE VOTING SYSTEM, OR THE ACCEPTABLE USE POLICY AGREEMENT FOR THE VOTING SYSTEM, THE SECRETARY OF STATE MAY TAKE ANY OR ALL OF THE FOLLOWING ACTIONS, INCLUDING BUT NOT LIMITED TO:
  - (A) REQUIRING THE COUNTY CLERK TO SUBMIT A SECURITY REMEDIATION PLAN NO LATER THAN 90 DAYS BEFORE THE NEXT ELECTION

OUTLINING THE PROCEDURES THE COUNTY CLERK WILL FOLLOW TO ENSURE COMPLIANCE WITH THE SECURITY REQUIREMENTS THAT WERE NOT FOLLOWED;

- (B) PROHIBITING OR LIMITING THE USE OF, AS WELL AS DECERTIFICATION OF, A COUNTY'S VOTING SYSTEM OR COMPONENTS IN ACCORDANCE WITH SECTION 1-5-621, C.R.S., AND RULE 21.7.3;
- (C) IN ACCORDANCE WITH SECTION 1-1.5-104(2)(A)(II), C.R.S., APPOINTING OBSERVERS AT THE COUNTY EXPENSE TO BE PRESENT WITH THE COUNTY CLERK TO ENSURE COMPLIANCE WITH THE SECURITY REQUIREMENTS; OR
- (D) REFERRING THE MATTER TO THE ATTORNEY GENERAL OR DISTRICT ATTORNEY FOR POTENTIAL INVESTIGATION AND PROSECUTION UNDER SECTION 1-13-114, C.R.S. OR ANY OTHER APPLICABLE PROVISION.

*Amendment to Rule 21.7.3(b), concerning cross-reference change:*

- (b) A county breaks the chain-of-custody for any component of a voting system by allowing any individual not authorized by ~~Rule 20.5.4~~RULE 20.5.2(B) access to that component;

*New Rule 21.11, pertaining to the certification standards for runoff elections and compliance with HB 21-1071:*

21.11 STANDARDS FOR CERTIFYING INSTANT RUNOFF VOTING FUNCTIONALITY

21.11.1 RESULTS REPORTING REQUIREMENTS

- (A) THE VOTING SYSTEM MUST GENERATE A SUMMARY REPORT THAT LISTS THE TOTAL NUMBER OF VOTES FOR EACH CANDIDATE IN EACH ROUND. THE REPORT MUST LIST THE NUMBER OF OVERVOTES, DUPLICATE RANKINGS, SKIPPED RANKINGS, AND BALLOTS WITH FEWER RANKINGS THAN THE MAXIMUM PERMITTED IN THE RACE.
- (B) THE VOTING SYSTEM MUST GENERATE A BALLOT IMAGE REPORT THAT LISTS THE ORDER IN WHICH THE ELECTOR RANKED THE CANDIDATES FOR EACH BALLOT.
- (C) THE VOTING SYSTEM MUST GENERATE A COMPREHENSIVE REPORT LISTING THE RESULTS IN THE SUMMARY REPORT BY PRECINCT OR BALLOT STYLE AS REQUIRED OR PERMITTED BY SECTION 1-7.5-208(3)(A), C.R.S.

21.11.2 DATA EXPORT FORMATS

- (A) THE VOTING SYSTEM MUST ACCURATELY EXPORT RESULTS DATA BY ROUND SIMULTANEOUSLY FOR ALL ROUNDS FOR USE WITH AN ELECTION NIGHT REPORTING SYSTEM IN .CSV, .JSON, AND .XML FORMATS.
- (B) THE VOTING SYSTEM MUST ACCURATELY EXPORT A CAST VOTE RECORD IN .CSV, .JSON, AND .XML FORMATS.

21.11.3 BALLOT LAYOUT REQUIREMENTS

- (A) THE VOTING SYSTEM MUST PERMIT THE USER TO LAY OUT BALLOT CARDS CONTAINING BOTH PLURALITY AND INSTANT RUNOFF VOTING CONTESTS ON THE SAME BALLOT CARD OR SEPARATE BALLOT CARDS.
- (B) THE VOTING SYSTEM MUST PERMIT A USER TO INPUT RANKED VOTING SPECIFIC VOTER INSTRUCTIONS IMMEDIATELY PRECEDING RANKED VOTING CONTESTS.
- (C) THE VOTING SYSTEM MUST BE ABLE TO SUPPORT RANKING AT LEAST TEN NAMED CANDIDATES AND UP TO TWO WRITE-IN CANDIDATES PER INSTANT RUNOFF CONTEST.
- (D) THE VOTING SYSTEM MUST ALLOW THE RANKED VOTING CONTESTS TO BE FORMATTED ON PAPER BALLOTS IN THE FOLLOWING WAYS:
  - (1) CANDIDATES LISTED IN COLUMNS AND RANKINGS LISTED IN ROWS.
  - (2) RANKINGS LISTED IN COLUMNS AND CANDIDATES LISTED IN ROWS.

#### 21.11.4 TABULATION REQUIREMENTS

- (A) THE VOTING SYSTEM MUST RECORD ALL VALID VOTER RANKINGS.
- (B) DURING THE FIRST ROUND OF TABULATION, THE VOTING SYSTEM MUST TABULATE THE FIRST-CHOICE RANKS ON EACH BALLOT.
  - (1) A CANDIDATE WHO RECEIVES OVER 50 PERCENT OF THE FIRST-CHOICE RANKS ON EACH BALLOT IS THE WINNING CANDIDATE, AND THE VOTING SYSTEM MUST STOP TABULATING ANY FURTHER ROUNDS.
  - (2) IF NO CANDIDATE RECEIVES OVER 50 PERCENT OF THE FIRST-CHOICE RANKS ON EACH BALLOT, THE VOTING SYSTEM MUST CONTINUE TO THE NEXT ROUND OF TABULATION.
- (C) DURING THE NEXT ROUND OF TABULATION, THE VOTING SYSTEM MUST ENSURE THAT THE CANDIDATE WITH THE FEWEST FIRST-CHOICE RANKS IN THE FIRST ROUND IS ELIMINATED, AND THE ELIMINATED CANDIDATE'S VOTES ARE TRANSFERRED TO EACH BALLOT'S NEXT-RANKED CONTINUING CANDIDATE.
  - (1) IF, AFTER RECEIVING THE TRANSFERRED VOTES, A CONTINUING CANDIDATE RECEIVES OVER 50 PERCENT OF THE VOTES CAST ON ACTIVE BALLOTS, THAT CANDIDATE IS THE WINNING CANDIDATE, AND THE VOTING SYSTEM MUST STOP TABULATING ANY FURTHER ROUNDS.
  - (2) IF NO CANDIDATE HAS OVER 50 PERCENT OF THE VOTES CAST ON ACTIVE BALLOTS AFTER THE SECOND ROUND, THE VOTING SYSTEM MUST REPEAT ADDITIONAL ROUNDS OF TABULATION AS DESCRIBED IN THIS RULE, UNTIL THERE IS A WINNING CANDIDATE.
- (D) IF THE COMBINED VOTES OF TWO OR MORE CANDIDATES IN THE CURRENT ROUND ARE LESS THAN THE NUMBER OF VOTES FOR THE CONTINUING CANDIDATE WITH THE NEXT-HIGHEST VOTES, THEN THE VOTING SYSTEM MUST ELIMINATE BOTH CANDIDATES SIMULTANEOUSLY.
- (E) IN ANY ROUND, IF TWO OR MORE CANDIDATES TIE FOR THE LOWEST NUMBER OF VOTES, AND THE VOTING SYSTEM CANNOT ELIMINATE THE CANDIDATES ACCORDING TO THE CRITERION IN SUBSECTION (D), THEN THE VOTING SYSTEM MUST ALLOW THE USER TO

DETERMINE BY LOT WHICH CANDIDATES ARE ELIMINATED IN ACCORDANCE WITH RULE 26.5.5.

- (F) THE VOTING SYSTEM MUST ALLOW THE USER TO DECIDE WHETHER TO ALLOW SKIPPED RANKINGS OR TO EXHAUST THE BALLOT WHEN A RANKING IS SKIPPED.
- (G) THE VOTING SYSTEM MUST ALLOW THE USER TO DECIDE IF A VOTE FOR A NON-CERTIFIED WRITE-IN WILL EXHAUST THE BALLOT OR BE RESOLVED AS A SKIPPED RANKING.
- (H) THE VOTING SYSTEM MUST ALLOW THE USER TO DECIDE WHETHER TO PAUSE THE TABULATION SESSION AFTER EACH ROUND OR TO CONTINUE UNTIL A WINNER IS DETERMINED OR A MANUAL TIE BREAK FOR ELIMINATION IS REQUIRED.
- (I) THE VOTING SYSTEM MUST ALLOW THE USER TO DECIDE WHETHER OR NOT TO INCLUDE AS AN OVERVOTE RANKS FOR CANDIDATES FOR WHOM VOTES MAY NOT BE COUNTED, IN ACCORDANCE WITH SECTION 1-4-1001, C.R.S.
- (J) THE VOTING SYSTEM MUST ALLOW THE USER TO DECIDE WHETHER TO COUNT A RANKING FOR A CANDIDATE FOR WHOM VOTES MAY NOT BE COUNTED, IN ACCORDANCE WITH SECTION 1-4-1001, C.R.S., AS A SKIPPED RANKING OR TO ELEVATE LOWER RANKINGS.

#### 21.11.5 BALLOT MARKING DEVICE REQUIREMENTS

- (A) BALLOT MARKING DEVICES MUST PROHIBIT VOTERS FROM OVERVOTING ANY RANKING.
- (B) BALLOT MARKING DEVICES MUST PROHIBIT VOTERS FROM SKIPPING RANKINGS.
- (C) THE VOTING SYSTEM MUST PRESENT CLEAR AUDIO AND VISUAL NOTIFICATIONS IF THE VOTER HAS RANKED FEWER CANDIDATES THAN THE CONTEST'S MAXIMUM PERMITTED NUMBER OF RANKINGS BUT WILL ALLOW THE VOTER TO PROCEED WITH THEIR VOTING SESSION IF THE VOTER CHOOSES TO DO SO.

#### 21.11.6 BALLOT ADJUDICATION REQUIREMENTS

- (A) THE VOTING SYSTEM MUST ALLOW THE USER TO QUEUE BALLOTS WITH THE FOLLOWING CONDITIONS FOR ADJUDICATION BY ELECTION JUDGES:
  - (1) ANY AMBIGUOUS MARK IN ANY RANKING.
  - (2) ANY RANKING THAT RESULTS IN AN OVERVOTE.
  - (3) ANY SKIPPED RANKING.
  - (4) ANY DUPLICATE RANKING.
  - (5) ANY CONTEST IN WHICH A VOTER HAS RANKED FEWER CANDIDATES THAN THE CONTEST'S MAXIMUM PERMITTED NUMBER OF RANKINGS.

*[Not shown: current Rule 26.1 is re-codified throughout Rule 1.1. This is shown at the beginning of the document.]*

*[Not shown: renumbering of current Rules 26.2 through 26.5 to Rules 26.1 through 26.4.]*

*[Not shown: current Rule 26.6 renumbered to Rule 26.5.]*

*Amendments to current Rule 26.6.3, renumbered to Rule 26.5.3, to ensure proper administration of HB21-1073:*

~~26.6.3~~26.5.3 During the ~~second~~ NEXT round of tabulation, the candidate with the fewest first-choice ranks in the first round is eliminated and the eliminated candidate's votes are transferred to each ballot's next-ranked continuing candidate.

*[Not shown: no changes to subsections (a) and (b).]*

*Amendments to Rule 26.6.4, renumbered to Rule 26.5.4, to ensure the proper administration of HB21-1071 concerning combined votes in the certification system:*

~~26.6.4~~26.5.4 In any round, ~~two or more candidates may be eliminated simultaneously if those candidates' combined votes in that round plus the combined votes of all candidates with fewer votes, if any, are less than the number of votes for the candidate with the next highest number of votes.~~ IF THE COMBINED VOTES OF TWO OR MORE CANDIDATES IN THE CURRENT ROUND ARE LESS THAN THE NUMBER OF VOTES FOR THE CONTINUING CANDIDATE WITH THE NEXT-HIGHEST VOTES, THEN THOSE CANDIDATES ARE ELIMINATED.

*Amendments to current Rule 26.6.5, renumbered to Rule 26.5.5, concerning cross-reference change:*

~~26.6.5~~26.5.5 In any round, if two or more candidates tie for the lowest number of votes, the eliminated candidate must be chosen by lot, unless the candidates may be eliminated simultaneously under ~~Rule 26.6.4.~~RULE 26.5.4.

*[Not shown: current Rule 26.6.6 renumbered to Rule 26.5.6.]*

*Amendments to current Rule 26.6.6, renumbered to Rule 26.5.6, concerning cross-reference change:*

~~26.6.7~~26.5.6 The designated election official need not report election night results under ~~Rule 11.10.4~~RULE 11.9.4, unless directed by the Secretary of State.

*[Not shown: current Rule 26.7 renumbered to Rule 26.6.]*

*Amendments to current Rule 26.7.3, renumbered to Rule 26.6.3, concerning cross-reference change:*

~~26.7.3~~26.6.3 During the second round of tabulation, the designated election official must calculate each winning candidate's surplus votes, as described in ~~Rule 26.7.4~~RULE 26.6.4, and transfer those votes proportionately to any continuing candidate.

*Amendments to current Rule 26.7.4(c), renumbered to 26.6.4(c), concerning cross-reference change:*

- (c) After calculating a winning candidate's surplus fraction, tabulate the number of votes cast for the next-highest-ranked continuing candidate on every ballot cast for the winning candidate. Then multiply each of those votes cast by the winning candidate's surplus fraction and add the resulting transfer value to any continuing candidate's total as described in ~~Rule 26.7.3(b)~~RULE 26.6.3(b).

*[Not shown: no changes to subsection (d).]*

*[Not shown: current Rule 26.7.5 renumbered to Rule 26.6.5.]*

*Amendments to current Rule 26.7.6, renumbered as Rule 26.6.6, concerning cross-reference change:*

~~26.7.6~~26.6.6 The designated election official need not report election night results under ~~Rule 11.9.4~~~~41.10.4~~RULE 11.9.4, unless directed by the Secretary of State.

*[Not shown: current Rules 26.8 and 26.9 renumbered to Rules 26.7 and 26.8.]*

*[Not shown: current Rule 26.10 renumbered to Rule 26.9.]*

*Amendments to current Rule 26.10.4(c), renumbered to 26.9.4(c), concerning cross-reference changes:*

- (c) For each ranked voting contest, the audit board must hand count the ballots cast, following the counting method set forth in ~~Rule 26.6~~~~41.10.4~~RULE 26.5 for instant-runoff-voting contests, and in ~~Rule 26.7~~~~41.10.4~~RULE 26.6 for single transferable voting contests.