

# Preliminary Draft of Proposed Rules

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

March 15, 2024

### 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 April 15, 2024, 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 **April 10, 2024**.<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

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1 *Amendments to 8 CCR 1505-1 are as follows:*

2 *New Rule 7.2.17 concerning holes in ballot return envelopes and target areas on a voter’s ballot. New Rule*  
3 *7.2.17(a) and (b) were adopted on a temporary basis under SOS Tracking Number 2024-00018:*

4 7.2.17 HOLE IN RETURN ENVELOPES

5 (A) NO COUNTY CLERK MAY USE A BALLOT RETURN ENVELOPE WITH A HOLE OR ANY OTHER  
6 OPENING OF ANY SIZE WHERE THE TARGET AREA FOR ANY CONTEST ON A BALLOT CAN  
7 BE SEEN IN ANY WAY.

8 (B) IF A COUNTY INTENDS TO USE BALLOT RETURN ENVELOPES WITH A HOLE PUNCH OR  
9 OTHER OPENING, THE COUNTY MUST PROVIDE WRITTEN CERTIFICATION TO THE  
10 SECRETARY OF STATE THAT:

11 (1) THE LOCATION OF THE HOLE PUNCHES OR OTHER OPENINGS HAVE BEEN  
12 MANUALLY INSPECTED AND TESTED BY THE COUNTY CLERK; AND

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<sup>1</sup> Sections 24-4-103(2.5) and (3)(a), C.R.S. (2023).

<sup>2</sup> Section 24-4-103(4)(a), C.R.S. (2024). “[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.”

1 (2) NO TARGET AREAS ARE VISIBLE THROUGH THE HOLE PUNCHES OR OTHER  
2 OPENINGS IN THE ENVELOPE CONSIDERING ALL THE WAYS A BALLOT COULD BE  
3 REASONABLY FOLDED AND INSERTED INTO THE ENVELOPE.

4 (C) BEGINNING JULY 1, 2024, NO COUNTY CLERK MAY USE A BALLOT RETURN ENVELOPE  
5 WITH A HOLE OR ANY OTHER OPENING.

6 *New Rule 7.2.18 concerning the quality control process with a vendor and county clerk for mail ballots:*

7 7.2.18 A COUNTY CLERK WHO USES A MAIL BALLOT PRINTING VENDOR MUST WORK WITH THEIR VENDOR  
8 TO ESTABLISH A QUALITY CONTROL PROCESS FOR ALL PRINTED MATERIALS.

9 *Amendments to Rule 7.14 concerning technical changes to comply with the changes to section 1-5-505.5,*  
10 *C.R.S., due to the passage of Senate Bill 23-276:*

11 7.14 Reimbursement to counties for state ~~ballot measure~~ elections.

12 7.14.1 No later than 90 days after an election DAY, the county must submit a completed request  
13 for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request  
14 using the form provided by the Secretary of State, ALONG WITH SUPPORTING  
15 DOCUMENTATION CONCERNING THE SPECIFIC REIMBURSEMENTS BEING REQUESTED.

16 *New Rule 7.14.2 concerning the list of direct costs that will be considered reimbursable by the*  
17 *Department under section 1-5-505.5, C.R.S., starting July 1, 2024:*

18 7.14.2 BEGINNING JULY 1, 2024, THE FOLLOWING DIRECT COSTS ARE DEEMED NECESSARY AND  
19 REASONABLE FOR AN ELECTION AND THUS REIMBURSABLE BY THE STATE UNDER SECTION 1-5-  
20 505.5, C.R.S.:

21 (A) THE SALARY OR HOURLY WAGES FOR PERMANENT STAFF, TEMPORARY STAFF,  
22 ELECTION JUDGES, AND CANVASS BOARD MEMBERS THAT MEET THE FOLLOWING  
23 CRITERIA:

24 (1) OVERTIME WAGES FOR PERMANENT STAFF FOR OVERTIME SPENT PERFORMING  
25 ELECTION DUTIES FROM THE DATE OF BALLOT CERTIFICATION THROUGH THE  
26 COMPLETION OF THE CANVASS OR A RECOUNT, WHICHEVER IS LATER; AND

27 (2) WAGES FOR TEMPORARY STAFF, ELECTION JUDGES, AND CANVASS BOARD  
28 MEMBERS FOR TIME SPENT PERFORMING ELECTION DUTIES FROM THE DATE OF  
29 BALLOT CERTIFICATION THROUGH THE COMPLETION OF THE CANVASS OR A  
30 RECOUNT, WHICHEVER IS LATER;

31 (B) DIRECT COSTS ATTRIBUTABLE TO THE HIRING, TRAINING, AND SUPPORT OF THE WORK  
32 OF ELECTION JUDGES FOR THAT ELECTION, INCLUDING:

33 (1) CREATION, PRINTING, AND PRESENTATION OF ELECTION JUDGE TRAINING  
34 MATERIALS;

35 (2) MILEAGE PAID TO ELECTION JUDGES FOR NECESSARY AND REASONABLE USE  
36 OF THE ELECTION JUDGE'S PERSONAL VEHICLE FOR ELECTION-RELATED TASKS;

37 (3) MOBILE PHONE OR OTHER ELECTRONIC DEVICE OPERATING COSTS FOR  
38 DEVICES ISSUED TO ELECTION JUDGES; AND

39 (4) FOOD PROVIDED TO ELECTION JUDGES;

- 1 (C) THE PRINTING AND MAILING COSTS THAT MEET THE FOLLOWING CRITERIA:
- 2 (1) BALLOT PRINTING AND INSERTION COSTS THAT ARE BILLED AND PAID BY THE  
3 COUNTY TO A THIRD-PARTY VENDOR IN CONNECTION WITH THE SPECIFIC,  
4 COVERED ELECTION. THIS INCLUDES DIRECT COSTS TO PRINT MAIL, IN-  
5 PERSON, PROVISIONAL, STATE, AND TEST BALLOTS, AS WELL AS THE COST TO  
6 INSERT BALLOTS INTO MAIL BALLOT ENVELOPES;
- 7 (2) BALLOT ENVELOPE PRINTING COSTS THAT ARE BILLED AND PAID BY THE  
8 COUNTY TO A THIRD-PARTY VENDOR IN CONNECTION WITH THE SPECIFIC,  
9 COVERED ELECTION. THIS INCLUDES OUTGOING AND RETURN ENVELOPES AND  
10 ANY LABELS;
- 11 (3) ADDITIONAL BALLOT MATERIAL PRINTING AND INSERTION COSTS FOR INSERTS  
12 OR OTHER MATERIALS THAT ARE REQUIRED BY STATUTE OR RULE AND THAT  
13 ARE INCLUDED IN A BALLOT PACKET MAILING WHERE SUCH COSTS ARE BILLED  
14 AND PAID BY THE COUNTY TO A THIRD-PARTY VENDOR IN CONNECTION WITH  
15 THE SPECIFIC, COVERED ELECTION. THIS INCLUDES THE COST TO PRINT AND  
16 INSERT VOTER INSTRUCTIONS, OR OTHER REQUIRED MAIL BALLOT INSERTS;
- 17 (4) PRINTING AND MAILING COSTS FOR CORRESPONDENCE THAT IS REQUIRED BY  
18 SECTION 1-2-508(3)(A)(I) AND ARTICLES 7.5 AND 8.5 OF TITLE 1, C.R.S., AND  
19 RULES 7.5, 7.6.1, AND 17.2.7;
- 20 (5) FORMS PRINTED FOR USE AT A VOTER SERVICE AND POLLING CENTER AND  
21 CENTRAL COUNTING FACILITY;
- 22 (6) ELECTION NOTICE PRINTING, MAILING, AND PUBLICATION COSTS. THIS  
23 INCLUDES THE COST TO PUBLISH THE STATUTORY NOTICE OF ELECTION THAT IS  
24 BILLED AND PAID BY THE COUNTY TO A NEWS ORGANIZATION IN CONNECTION  
25 WITH THE SPECIFIC, COVERED ELECTION;
- 26 (7) BALLOT SHIPPING AND MAILING COSTS THAT ARE BILLED AND PAID BY THE  
27 COUNTY TO THE POSTAL SERVICE OR A THIRD-PARTY VENDOR IN CONNECTION  
28 WITH THE SPECIFIC, COVERED ELECTION. THIS INCLUDES COSTS TO SHIP  
29 OUTGOING BALLOTS FOR DELIVERY AND POSTAGE FOR OUTGOING BALLOTS;
- 30 (8) BALLOT-ON-DEMAND SUPPLIES THAT ARE BILLED AND PAID BY THE COUNTY TO  
31 A THIRD-PARTY VENDOR IN CONNECTION WITH THE SPECIFIC, COVERED  
32 ELECTION. THIS INCLUDES THE COST TO PURCHASE CARD STOCK, TONER, AND  
33 OTHER NECESSARY MATERIALS FOR THE OPERATION OF BALLOT-ON-DEMAND  
34 PRINTERS IN CONNECTION WITH THE SPECIFIC, COVERED ELECTION;
- 35 (9) POSTAGE FOR UNDELIVERABLE RETURNED MAIL BALLOTS AND OTHER  
36 CORRESPONDENCE REQUIRED BY SECTION 1-2-508(3)(A)(I) AND ARTICLES 7.5  
37 AND 8.5 OF TITLE 1, C.R.S., AND RULES 7.5, 7.6.1, AND 17.2.7 IN  
38 CONNECTION WITH THE SPECIFIC, COVERED ELECTION;
- 39 (10) INSUFFICIENT POSTAGE COSTS FOR BALLOTS AND OTHER CORRESPONDENCE  
40 RETURNED BY THE COUNTY'S VOTERS IN CONNECTION WITH THE SPECIFIC,  
41 COVERED ELECTION; AND
- 42 (11) INTERCOUNTY BALLOT TRANSFER MAILING OR DELIVERY COSTS IN CONNECTION  
43 WITH THE SPECIFIC, COVERED ELECTION. THIS INCLUDES THE COST TO MAIL,

1 SHIP, OR PHYSICALLY DELIVER STATEWIDE BALLOTS AND OTHER BALLOTS  
2 RETURNED TO THE COUNTY IN WHICH THE ELECTOR DOES NOT RESIDE;

3 (D) BALLOT PROGRAMMING AND ELECTION SERVICES, INCLUDING:

- 4 (1) THIRD-PARTY VENDOR ONSITE SUPPORT DURING THE SPECIFIC, COVERED  
5 ELECTION THAT IS DEEMED NECESSARY TO THE EXECUTION OF THE ELECTION,  
6 RATHER THAN COMPLEMENTARY FROM THE VENDOR;
- 7 (2) THIRD-PARTY BALLOT LAYOUT AND PROGRAMMING SUPPORT FOR THE  
8 SPECIFIC, COVERED ELECTION; AND
- 9 (3) THIRD-PARTY BALLOT-ON-DEMAND BALLOT PROGRAMMING SUPPORT FOR THE  
10 SPECIFIC, COVERED ELECTION;

11 (E) VOTER SERVICE AND POLLING CENTER COSTS, INCLUDING:

- 12 (1) LOCATION RENTAL EXPENSES THAT ARE BILLED AND PAID BY THE COUNTY IN  
13 CONNECTION WITH THE SPECIFIC, COVERED ELECTION;
- 14 (2) OFFICE SUPPLIES THAT ARE PURCHASED BY THE COUNTY FOR USE AT THE  
15 VOTER SERVICE AND POLLING CENTER DURING THE SPECIFIC, COVERED  
16 ELECTION;
- 17 (3) EQUIPMENT RENTAL EXPENSES FOR EQUIPMENT USED AT VOTER SERVICE AND  
18 POLLING CENTER THAT ARE BILLED AND PAID BY THE COUNTY TO A THIRD-  
19 PARTY VENDOR IN CONNECTION WITH THE SPECIFIC, COVERED ELECTION;
- 20 (4) BALLOT AND EQUIPMENT DELIVERY AND COLLECTION EXPENSES THAT ARE  
21 BILLED AND PAID BY THE COUNTY TO A THIRD-PARTY VENDOR IN CONNECTION  
22 WITH THE SPECIFIC, COVERED ELECTION; AND
- 23 (5) REMOTE CONNECTIVITY FOR VOTER CHECK-IN EQUIPMENT THAT IS BILLED AND  
24 PAID BY THE COUNTY TO A THIRD-PARTY VENDOR IN CONNECTION WITH THE  
25 SPECIFIC, COVERED ELECTION;

26 (F) SECURITY EXPENSES THAT ARE NOT SEPARATELY COVERED BY GRANTS OR OTHER  
27 FUNDING FROM EITHER THE DEPARTMENT'S SECURITY GRANT PROGRAM OR FROM  
28 OTHER STATE OR FEDERAL SOURCES, INCLUDING:

- 29 (1) INCREMENTAL ADDITIONAL VIDEO SURVEILLANCE STORAGE COSTS  
30 DOCUMENTED BY THE COUNTY CLERK AS DIRECTLY ATTRIBUTABLE TO THE  
31 SPECIFIC, COVERED ELECTION AND THAT IS BILLED AND PAID BY THE COUNTY  
32 TO A THIRD-PARTY VENDOR;
- 33 (2) SEALS PURCHASED FOR USE DURING THE SPECIFIC, COVERED ELECTION;
- 34 (3) COLORADO BUREAU OF INVESTIGATION BACKGROUND CHECKS REQUESTED IN  
35 CONNECTION WITH THE SPECIFIC, COVERED ELECTION; AND
- 36 (4) ON-SITE SECURITY PERSONNEL CONTRACTED TO PROVIDE SECURITY FOR  
37 ELECTIONS STAFF AND PROCESSES THAT ARE BILLED AND PAID BY THE COUNTY  
38 TO A THIRD-PARTY VENDOR IN CONNECTION WITH THE SPECIFIC, COVERED  
39 ELECTION;

1 (G) TRANSLATION COSTS FOR TRANSLATING ANY CONTENT DIRECTLY ATTRIBUTABLE TO THE  
2 SPECIFIC, COVERED ELECTION AND THAT ARE BILLED AND PAID BY THE COUNTY TO A  
3 THIRD-PARTY VENDOR; AND

4 (H) OTHER ADDITIONAL INCREMENTAL DIRECT COSTS, WHICH THE COUNTY CLERK CAN  
5 CLEARLY DOCUMENT AS DIRECTLY ATTRIBUTABLE TO THE CONDUCT OF THE SPECIFIC,  
6 COVERED ELECTION.

7 *New Rule 7.14.3 concerning the list of costs that will not be considered reimbursable by the state under*  
8 *section 1-5-505.5, C.R.S., starting July 1, 2024:*

9 7.14.3 BEGINNING JULY 1, 2024, THE FOLLOWING COSTS ARE DEEMED NOT NECESSARY AND  
10 REASONABLE FOR AN ELECTION AND THUS NOT REIMBURSABLE BY THE STATE UNDER SECTION 1-  
11 5-505.5, C.R.S.:

12 (A) ANY COST THAT IS ABOVE THE FAIR MARKET VALUE OF THE GOODS OR SERVICES FOR  
13 WHICH REIMBURSEMENT IS SOUGHT, WHERE SUCH FAIR MARKET VALUE IS ESTABLISHED  
14 BY A COMPETITIVE SOLICITATION OR OTHER GENERALLY ACCEPTED METHODS FOR  
15 ESTABLISHING A COMPETITIVE PRICE;

16 (B) ANNUAL VOTING SYSTEM FIRMWARE, SOFTWARE, AND OTHER ELECTION MANAGEMENT  
17 LICENSE FEES;

18 (C) ANNUAL PREVENTATIVE MAINTENANCE EXPENSES;

19 (D) NON-VOTING SYSTEM EQUIPMENT ANNUAL AGREEMENTS;

20 (E) BALLOT ISSUE NOTICES;

21 (F) OVERHEAD EXPENSES INCURRED BY THE COUNTY. THIS INCLUDES:

22 (1) FACILITIES COSTS SUCH AS UTILITIES, GROUNDS MAINTENANCE, INSURANCE,  
23 LEASED SPACE, AND OTHER COSTS THAT ARE NOT A DIRECT RESULT OF AN  
24 ELECTION;

25 (2) NORMAL WAGES AND BENEFITS PROVIDED TO COUNTY EMPLOYEES; AND

26 (3) ANNUAL PERMITS FOR POSTAGE;

27 (G) PURCHASE OR LEASE OF EQUIPMENT OR MATERIALS THAT CAN BE USED FOR MORE  
28 THAN ONE ELECTION; AND

29 (H) COSTS FOR OBSERVERS OR SUPERVISORS APPOINTED BY THE SECRETARY OF STATE,  
30 UNLESS OTHERWISE ORDERED BY THE SECRETARY OF STATE.

31 *New Rule 7.14.4 concerning the documentation required for submission of a reimbursement request*  
32 *under section 1-5-505.5, C.R.S., starting July 1, 2024:*

33 7.14.4 BEGINNING JULY 1, 2024, WHEN SUBMITTING A REQUEST FOR REIMBURSEMENT OF ELECTION  
34 EXPENSES UNDER SECTION 1-5-505.5, C.R.S., DOCUMENTATION SUPPORTING THE REQUESTED  
35 REIMBURSEMENT MUST INCLUDE RECEIPTS, PURCHASE ORDERS, INVOICES, PAYROLL RECORDS,  
36 OR ANY OTHER DOCUMENTATION THAT IS SUFFICIENT TO REFLECT WHAT THE PURCHASE OR  
37 EXPENDITURE OBTAINED, THE AMOUNT OF THE COST THAT WAS PAID BY THE COUNTY, HOW THAT  
38 COST WAS CALCULATED, WHEN THE COST WAS PAID BY THE COUNTY, WHO WAS THE RECIPIENT  
39 OF THE PAYMENT, INCLUDING THEIR NAME AND CONTACT INFORMATION, AND WHETHER ANY PART

1 OF THE COST WAS PAID IN WHOLE OR IN PART BY ANOTHER PERSON, ORGANIZATION, OR  
2 GOVERNMENT ENTITY, INCLUDING THE AMOUNT THAT WAS PAID BY THAT THIRD PARTY.

3 *New Rule 7.14.5 concerning auditing and clawback of reimbursement payments under section 1-5-505.5,*  
4 *C.R.S.:*

5 7.14.5 REVIEW AND AUDIT OF REIMBURSEMENT REQUEST

6 (A) THE DEPARTMENT WILL REVIEW AND EVALUATE THE PROPRIETY OF ANY EXPENSE  
7 SUBMITTED FOR REIMBURSEMENT UNDER SECTION 1-5-505.5, C.R.S., AND WILL NOT  
8 PROVIDE PAYMENT ON THE REQUESTED REIMBURSEMENT UNTIL THE DEPARTMENT IS  
9 SATISFIED THAT THE REQUESTED REIMBURSEMENT MEETS ALL REQUIREMENTS SET  
10 FORTH IN THESE RULES.

11 (B) IN THE EVENT THE DEPARTMENT REQUESTS DOCUMENTATION OF THE FAIR MARKET  
12 PRICE OF ANY GOODS OR SERVICES FOR WHICH THE COUNTY SEEKS REIMBURSEMENTS,  
13 THE COUNTY WILL PROVIDE ANY AND ALL DOCUMENTATION CONCERNING THE  
14 PROCUREMENT PROCESS THAT WAS USED AND THE EVALUATION OF PRICES PROPOSED  
15 BY THE VENDORS SOLICITED. THE DEPARTMENT'S DETERMINATION AS TO WHAT  
16 CONSTITUTES A FAIR MARKET PRICE FOR A COST WILL INCLUDE ANY REGIONAL OR  
17 LOCAL VARIATIONS IN THE COSTS FOR SPECIFIC GOODS OR SERVICES.

18 (C) ANY PAYMENT OF A REIMBURSEMENT REQUEST IS WITHOUT PREJUDICE TO THE  
19 AUTHORITY OF THE DEPARTMENT TO CLAWBACK ANY PORTION OF A REIMBURSEMENT  
20 PAYMENT THAT IS SUBSEQUENTLY FOUND TO HAVE BEEN UNAUTHORIZED OR  
21 INCONSISTENT WITH THE REQUIREMENTS OF THESE RULES.