

Steven Ward

From: Marilyn Marks [REDACTED]
Sent: Friday, June 12, 2015 9:18 PM
To: Suzanne Staiert
Cc: Steven Ward
Subject: My motion regarding watcher's rights and signature verification

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Due By: Monday, June 15, 2015 10:00 AM
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Please distribute this to the members of the watcher advisory panel.

Fellow panel members:

I want to take the opportunity to explain the motion I made toward the end of the meeting today and repeat my request that it be taken up and voted on at the next meeting. Also, email discussion of it would be appropriate in advance if that helps make the decision more efficient.

My motion—that our panel adopt a policy (or concept) to inform the specific recommendations we are making on signature verification-- that any and all signatures on mail ballot envelopes must be available to watchers to verify or challenge.

Background—Defining the level of watcher access to verify “each step in the conduct of the election” and “assist in the correction of discrepancies” is fundamental to our recommendations as a panel. Today’s discussion was specifically on watcher access to signatures to either verify or challenge or to escalate to hope to see errors corrected. I am seeking clarity on the panel’s position as to whether all signatures are available to a watcher or merely a sample are to be made available. The answer to that informs all of the proposed process limitations that continue to be discussed.

The purpose of my motion was not to recommend the “how to’s” or limitations or access rules, but to establish a fundamental philosophy of what the panel believes the statute means and whether the panel is recommending processes that require a change of statute or can be addressed through rule. The question is about what watcher rights ARE, not how they are exercised.

Example areas of concern—If four judges can all be verifying signatures with only one watcher observing, the practical result is that the watcher is permitted to see only a sample of the signatures. And certainly when the watcher is focused on challenging a signature or looking for a supervisor judge, scores of signatures are being approved with no ability for the watcher to witness, verify, challenge or assist in error correction of those being processed while his attention is elsewhere. Does the panel believe that the party/candidate/issue committee may only review the sample of ballots that one watcher can practically review being processed by four judges simultaneously? Or does the panel believe that the party/candidate/committee should have a right to verify/escalate/challenge every signature?

When an automated signature verification program is used for some or all of signature verification, does the party/candidate/issue committee have the right to verify or challenge each signature, or must they accept the resolution settings and sample audit?

Partisan concerns— I hear some advance the notion that party watchers should be satisfied that their party’s judges are protecting their voters and candidates, and therefore full verification is unnecessary. Even if that were true, (and it is certainly not), this would only apply to the two major parties who supply the majority of judges. Candidates from minor parties and political organizations, unaffiliated candidates, and issue committees would have no judge “advocate” protecting their position, and must rely on the watcher. The watcher therefore must be given full access to challenge any errors that the judges (who are appointed by the opposing parties) have made. We

cannot assume that the bi-partisan teams always create “neutrality” opposing each other on each candidate and ballot measure.

Additionally, the process created must consider the primaries, and the fact that a candidate cannot assume that his party’s judges are neutral with respect to his candidacy. A candidate needs the ability to appoint watchers with full access to review all decisions of the judges on signature acceptance or rejection.

Clerk Candelarie has repeatedly expressed his dismay that watcher’s want to “win” for their party or candidate, and that he is very concerned about their full access to information and the ability to lodge challenges. However, competition and advocacy is the statutory framework of Colorado’s election system. The election processes are conducted by judges of competing parties, and perceived neutrality is achieved in partisan contest between the two parties when bi-partisan judges are jointly making decisions. Demanding that partisan advocacy not enter the counting rooms either as judges or watchers is counter to our state’s statutory framework. There are adequate controls in place to prevent capricious and abusive behavior by judges and watchers.

Statutory Rights—The law is clear that the watchers have rights to “verify” and “assist in the correction of discrepancies,” The law does not say, “verify a sample,” “Verify if it is free of cost,” or “verify if it does not create any loss of efficiency,” “verify if it does not cause embarrassment,” “ or verify if the work is done by humans, and automated results do not need to be verified.” The legislative intent is clear—that the bi-partisan judge effort is subject to oversight and challenge by all parties, unaffiliated candidates, and issue committees, and the election officials may not infringe the rights of watchers by deciding on a sample size (1;4, or 1:10, etc) that can be subjected to verification.

I urge the panel to consider this question and honor the motion and the second that is on the table for further discussion and a vote. Chair Staiert stated that this question/ motion is inappropriate because it was not on the agenda. I have not seen any motions or vote questions on the agenda. I was aware of no rule that members cannot offer relevant motions for a vote. This question is surely fundamental to the watcher panel’s opinions to be expressed to the Secretary, the general assembly and the public.

I am happy to answer any questions if my request and statements are not clear.

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