



Revised Draft Statement of Basis, Purpose, and Specific Statutory Authority

**Office of the Secretary of State
Election Rules
8 CCR 1505-1**

Revised July 20, 2016

I. Basis and Purpose

This statement explains proposed amendments to the Colorado Secretary of State Election Rules. The Secretary is considering other amendments to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

On June 1, 2016, the Secretary issued a request for public comment to help our office develop preliminary draft rules. The comments we received in anticipation of rulemaking are available online at: http://www.sos.state.co.us/pubs/rule_making/ruleComments.html and are incorporated into the official rulemaking record.

Specific proposed changes include:

- New Rule 1.1.8 to clarify and define the term “ballots cast”.
- Amendments to Rule 1.1.13 (formerly Rule 1.1.12) to simplify the language of existing rule.
- Amendments to Rule 1.1.30 (formerly Rule 1.1.29) to simplify the language of existing rule.
- New Rule 1.1.44 to clarify and define the term “votes cast”.
- Amendments to Rule 2.3 to clarify the language of existing rule.
- Repeal of Rule 2.3.4 as a result of the enactment of Senate Bill 16-142.
- Repeal of Rule 2.10.2 as a result of the enactment of House Bill 16-1093.

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.

- Amendments to Rule 2.11.1 to update the citation to federal law.
- Amendments to Rule 2.12.1 as a result of the enactment of House Bill 16-1093.
- Amendments to Rule 2.14.1 as a result of the enactment of Senate Bill 16-142.
- Amendments to Rule 3.3.3 to align the affiliation deadline for qualified political organizations with the affiliation deadline for other political parties.
- New Rule 6.9 to ensure proper administration of Senate Bill 16-142.
- Amendments to Rule 7.5.1 to establish uniformity in the administration of current law.
- Amendments to Rule 8.1.5 to establish uniformity in the administration of current law.
- Amendments to correct numbering in Rule 8.7.4.
- New Rule 8.15.8 to establish uniformity in the administration of current law.
- Amendments to Rule 9.2 to establish uniformity in the administration of current law.
- Amendments to Rule 10.5.2 to organize existing rules for clarity.
- Amendments to Rules 10.11.2 and 10.11.3 to establish uniformity in the administration of current law.
- Amendments to 10.12.4(d) to establish uniformity in the administration of current law.
- Amendments to Rule 10.12.7 to establish uniformity in the administration of current law.
- Amendments to Rule 10.13.1 to establish uniformity in the administration of current law.
- Amendments to Rule 11.3.2 to organize existing rules for clarity.
- Amendments to Rule 11.3.3 to establish uniformity in the administration of current laws and organize existing rules for clarity.
- Amendments to Rule 11.10 to establish uniformity in the administration of the election night reporting system and organize the existing rule for clarity.
- Amendments to Rules 14.2, 14.3, and 14.4 as a result of Senate Bill 16-107 and to establish uniformity in the administration of current law.
- Amendments to Rule 18 to eliminate obsolete provisions, establish uniformity in the administration of current law, and organize existing rules for clarity.
- Amendments to Rule 21.4.12 to organize existing rules for clarity.

- Amendments to Rule 21.4.14 to correct numbering errors.
- Amendments to Rule 21.4.15(d) to correct numbering errors and to establish uniformity in the administration of current law.
- Amendments to Rule 21.5.2(e) to establish uniformity in the administration of current law.

Other changes to rules not specifically listed are non-substantive and necessary for consistency with Department rulemaking format and style. Cross-references in rules are also corrected or updated.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2015), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-1-109, C.R.S., (2015), which authorizes the Secretary of State to “promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.”
3. Section 1-1.5-104(1)(b), C.R.S., (2015), which authorizes the Secretary of State to “[p]romulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title.”
4. Section 1-1.5-104(1)(e), C.R.S., (2015), which authorizes the Secretary of State to “[p]romulgate rules in accordance with article 4 of title 24, C.R.S., as the secretary finds necessary for proper administration and implementation of [the “Help America Vote Act of 2002”, 42 U.S.C. §§ 15301-15545] of [Article 1.5 of Title 1].”
5. Section 1-2-701(1) and (2), C.R.S., (2015), which authorizes the Secretary of State to promulgate rules in accordance with article 4 of title 24, C.R.S. for commencing and conducting voter registration drives, and for fulfilling training requirements.
6. Section 1-2-217.7(7), C.R.S., (2015), which states that “[t]he secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section” concerning registration on or immediately before election day.
7. Section 1-7.5-104, C.R.S. (2015), which requires the county clerk and recorder to conduct a mail ballot election “under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.”

8. Section 1-7.5-105, C.R.S. (2015), which requires the county clerk and recorder to supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with “rules promulgated by the secretary of state as provided in section 1-7.5-106(2).”
9. Section 1-7.5-106, C.R.S., (2015), which requires the Secretary of State to establish procedures for and supervise the conduct of mail ballot elections, including adopting “rules governing procedures and forms necessary to implement [Article 7.5 of Title 1, C.R.S.]”
10. Section 1-7.5-107(6), C.R.S., (2015), which requires all deposited ballots be counted as provided “by rules promulgated by the secretary of state.”
11. Section 24-72-305.6, C.R.S., (2016), which authorizes the Secretary of State to promulgate rules to “require that certain duties may be performed only by those election judges for whom a county clerk and recorder has requested criminal history records.”