

# Colorado Secretary of State

## Election Rules [8 CCR 1505-1]

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**Rule 1. Definitions**

1.1 As used in these Rules, unless stated otherwise:

- 1.1.1 “Audio ballot” means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.
- 1.1.2 “Audit log” means a record generated by a voting system, in printed or electronic format, providing a record of activities and events relevant to initializing election management software and hardware, including the identification of files containing election parameters, initializing the tabulation process, processing voted ballots, and terminating the tabulation process.
- 1.1.3 “Ballot image” means a digitally captured image of a paper ballot or a representation in electronic form of the marks or vote positions of a cast ballot on a DRE.
- 1.1.4 “Ballot marking device” (BMD) means a device that may integrate components such as a ballot scanner, printer, touch-screen monitor, audio output, and a navigational keypad and uses electronic technology to:
- (a) Mark a paper ballot at voter direction;
  - (b) Interpret the ballot selections;
  - (c) Communicate the interpretation for voter verification; and
  - (d) Print a voter-verifiable ballot.
- 1.1.5 “Ballot measure” means a ballot issue or ballot question as defined in sections 1-1-104(2.3) and (2.7), C.R.S.
- 1.1.6 “Blank ballot” means a ballot on which the voter has made no marks in any voting position, has marked with an unreadable marker, or has consistently marked outside of the “read” area of the ballot scanner.
- 1.1.7 “Ballot scanner” means an optical or digital ballot scanner.
- 1.1.8 “Ballot style” means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests and candidates for which the voter is eligible to vote. It includes the order of contests and candidates, the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation. Multiple precincts may use a single ballot style. Multiple styles may appear in a single precinct where voters are split between two or more districts or other categories defining voter eligibility for particular contests and candidates.
- 1.1.9 “Ballots cast” means the total number of ballots received by the county clerk in an election. “Ballots cast” does not include mail ballot envelopes returned to the county clerk by the U.S. Postal Service as undeliverable.
- 1.1.10 “Canvass workers” means workers appointed or hired by the designated election official to assist in the preparation and conduct of the canvass.

- 1.1.11 “Cast vote record” or “CVR” means the aggregated ballot-level data on ballots counted, consisting of a single record for each ballot tabulated, showing the manner in which the voting system interpreted and tabulated the voter’s markings on the ballot, as adjudicated and resolved by election judges, if applicable.
- 1.1.12 “Central count” means the county’s principal ballot counting and processing location.
- 1.1.13 “Chain-of-custody log” means a written record documenting security, possession, and control of a voting system component, election record, or other election material.
- 1.1.14 “Closed network” means a network configuration in which voting system components connect to and communicate only with each other and not with the Internet or any other computer network.
- 1.1.15 “Damaged ballot” means a ballot that is torn, bent, or otherwise mutilated or rendered unreadable, so that it cannot be processed by the ballot scanner. Damaged ballots include:
- (a) All ballots that contain a foreign substance that could interfere with the ballot scanner (e.g. food, drink, etc.).
  - (b) Ballots that are marked in a medium or manner that cannot be detected by a ballot scanner.
- 1.1.16 “Data entry county” means a county using an election management system that exports a file to be uploaded to the Election Night Reporting system.
- 1.1.17 “De minimis change” means a change to voting system hardware that is so minor in nature and effect that it requires no additional testing by a VSTL.
- 1.1.18 “Designated election official” or “DEO” includes the designated election official’s sworn, deputized designee.
- 1.1.19 “Direct Recording Electronic voting device” (DRE) means a voting device that visually displays or audibly presents a ballot and records an elector’s votes directly into electronic storage media.
- 1.1.20 “Duplicated ballot” means a ballot for which a true copy must be made for the ballot to be properly processed and counted because of damage, improper marking, or any issue that would prevent a ballot tabulating machine from accurately counting the ballot.
- 1.1.21 “Election complaint” means a complaint filed with the Secretary of State under Articles 1 through 13 of Title 1, C.R.S.
- 1.1.22 “Election management system” means the hardware and software applications used to configure, program, and report election results from one or more voting system components, including the ballot definition and the election reporting subsystem. The election management system may provide utilities for other election administration tasks, including maintaining equipment inventories, estimating ballot printing needs, and maintaining information on voter service and polling centers.
- 1.1.23 “Election media” means any device including a cartridge, card, memory device, or hard drive used in a voting system for the purposes of storing election setup records (ballot or card styles), recording voting results from electronic vote tabulating equipment, or any other data storage required by the voting system for a particular election function. The

election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.

- 1.1.24 “Election setup records” means the electronic records, often in the form of a database or a set of databases, generated by election management software to create and define ballots, tabulation instruction, and other functions related to the election.
- 1.1.25 “Election management software” means the software for election equipment or computers that controls election setup vote recording, vote tabulation, and reporting.
- 1.1.26 “Electronic ballot” means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter’s choices must be:
- (a) Marked and printed on a paper ballot for subsequent counting by a ballot scanner; or
  - (b) Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Recording Electronic (DRE) device.
- 1.1.27 “Electronic Transmission” means:
- (a) Sending an unvoted ballot by fax, email, or online delivery to:
    - (1) A military or overseas elector under Article 8.3 of Title 1, C.R.S.
    - (2) An elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S.
    - (3) An elector with a disability who requests a ballot under section 1-5-706, C.R.S.
  - (b) Returning a voted ballot by fax, email, or other electronic means.
- 1.1.28 “Firmware” means computer programs stored on read-only memory devices or other electronic circuitry in voting devices that control the basic operation and function of those devices.
- 1.1.29 “Help America Vote Act complaint” or “HAVA complaint” means a complaint filed with the Secretary of State under Title III of the Help America Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.
- 1.1.30 “Immediate voting area” means the area that is within six feet of the voting equipment, voting booths, and the ballot box.
- 1.1.31 “Manual entry county” means a county that does not use an election management system to export data to the Election Night Results system.
- 1.1.32 “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.
- 1.1.33 “Overvote” means an instance where the elector marked votes for more than the maximum number of candidates or responses for a ballot measure.

- 1.1.34 “Personally identifiable information” means information about an individual that can be used to distinguish or trace an individual’s identity, such as an elector’s social security number, driver’s license number, email address, month and day of birth, and signature.
- 1.1.35 “Qualified political organization” means an organization that has placed a candidate for congressional or state office on the ballot in a congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and that continues to meet the requirements of Rules 3.3 and 3.4. [*Baer v. Meyer*, 728 F.2d 471 (10th Cir. 1984)]
- 1.1.36 “Related to the second degree” means spouse, civil union partner, parents, children, brothers and sisters, grandparents, and grandchildren.
- 1.1.37 “Removable card or cartridge” means a programming card or cartridge, except a voter activation card, that stores firmware, software, or data.
- 1.1.38 “SCORE” means the centralized statewide registration system and the computerized statewide voter registration list described in Part 3 of Article 2 of Title 1.
- 1.1.39 “Seal” means a serial-numbered tamper-evident device that, if broken or missing, indicates that the chain-of-custody is broken and a device is not secure.
- 1.1.40 “Split precinct” means a precinct that has a geographical divide between one or more political jurisdictions which results in each jurisdiction within the precinct to be assigned different ballot styles for a specific election.
- 1.1.41 “Statement of Ballots Form” means the form used at the polling location that accounts for all ballots at that location and includes all information required by Rule 10.
- 1.1.42 “Target area” means the square or oval corresponding to the candidate’s name or ballot response (examples: “Yes”, “No”, “For” or “Against”) on a paper ballot.
- 1.1.43 “Trusted build” means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain-of-custody to the building of the disks, which is then used to establish or re-establish the chain-of-custody of any component of a voting system that contains firmware or software. The trusted build is the origin of the chain-of-custody for any software and firmware component of the voting system.
- 1.1.44 “Undervote” means an instance where the voter marked votes for fewer than the maximum number of candidates or responses for a ballot measure.
- 1.1.45 “Video security surveillance recording” means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.
- 1.1.46 “Voting system” as defined in section 1-1-104(50.8), C.R.S., means:
- (a) The total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to:
    - (1) Define ballots;

- (2) Cast and count votes;
    - (3) Report or display election results; and
    - (4) Maintain and produce any audit trail information.
  - (b) The practices and associated documentation used to:
    - (1) Identify system components and versions of such components;
    - (2) Test the system during its development and maintenance;
    - (3) Maintain records of system errors and defects;
    - (4) Determine specific system changes to be made to a system after the initial qualification of the system; and
    - (5) Make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
  - (c) “Voting system” does not include any other component of election administration, such as voter registration applications or systems, electronic pollbooks, ballot delivery and retrieval systems, signature verification and envelope sorting devices, ballot on demand printers, election night reporting and other election reporting systems, and other components used throughout the election process that do not capture and tabulate votes.
- 1.1.47 “Voting system test laboratory” (VSTL) means a federally accredited entity that conducts certification testing for voting systems.
- 1.1.48 “VVPAT” has the same meaning as in section 1-1-104(50.6), C.R.S.
- 1.1.49 “Watcher” has the same meaning as in section 1-1-104(51), C.R.S.
- (a) Watchers may be appointed for a recall election by each qualified successor candidate, the proponents and opponents of the recall ballot question, and each participating political party for a partisan recall election.
  - (b) For the purpose of appointing a watcher, the proponent or opponent of a ballot measure means a registered issue committee supporting or opposing the ballot measure.
  - (c) A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado.
- 1.1.50 “Write-in vote” means a vote where the voter physically writes in the name of a qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the target area according to voter instructions.
- 1.1.51 “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.





**Rule 2. Voter Registration**

- 2.1 Submission of voter registration applications
- 2.1.1 An applicant may submit a properly executed voter registration form to the county clerk in person, by mail, by fax, by online voter registration, or as an email attachment.
- 2.1.2 If any portion of a mail application is illegible, the county clerk must notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.
- 2.1.3 For submitting applications by fax, email, or online voter registration, close of business is 11:59 p.m. MT.
- 2.1.4 Under section 1-2-508, C.R.S., the effective date of a voter registration application received by the Secretary of State is the date of the postmark, if legible. If there is no legible postmark, the effective date is the date the application is received.
- 2.1.5 The county clerk must implement a data entry review process to ensure that the county accurately processes voter registration applications in SCORE.
- 2.1.6 The effective date of a voter registration application completed through the online voter registration system is the date and time the applicant submits it.
- 2.2 For purposes of precinct caucus lists the elector's duration of residency within a precinct is based on the effective date shown in SCORE.
- 2.3 When processing a new voter registration application, the county clerk must mark the registration record "ID required" unless the elector provides his or her verifiable driver's license number or state identification number, or the elector is otherwise exempt under law. [Section 1-2-204(2)(f.5), C.R.S.]
- 2.3.1 The county must process the Help America Vote Verification file on at least a monthly basis by verifying social security numbers and removing the "ID required" flag from verified records.
- 2.3.2 As used in section 1-1-104(19.5), C.R.S., government document means a document issued by a city, county, state, or federal government.
- (a) A government document includes:
- (1) A Certificate of Degree of Indian or Alaskan Native Blood;
  - (2) A letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in SCORE; and
  - (3) A division of youth corrections identification card issued by Department of Human Services.
  - (4) Written correspondence from the county sheriff or his or her designee to the county clerk indicating that the elector is confined in a county jail or detention facility.

- (b) A government document does not include any document produced by the SCORE system or using an address label produced by SCORE.

[Sections 1-1-104(18.5), (19.5)(c), and (19.5)(d), C.R.S.]

- 2.3.3 As used in section 1-1-104(19.5)(a)(VII), C.R.S., "current" means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle.

## 2.4 Treatment of incomplete new registration applications

- 2.4.1 If an applicant fails to check the box answering the question, "Are you a citizen of the United States?", the county clerk must accept and process the application as complete so long as it is otherwise complete and the affirmation at the bottom of the form is signed.
- 2.4.2 If an applicant fails to complete the required identification portion of the form in accordance with sections 1-2-204(2)(f.5) and (3)(c), C.R.S., the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or identification card, the county clerk must enter the ID number from the card into the applicant's record and process the application as complete.
- 2.4.3 If an applicant fails to provide a date of birth, the county clerk must treat the application as incomplete. But if the applicant submits a photocopy of his or her driver's license or other approved form of ID that includes the date of birth, the county clerk must enter that information into the applicant's record and process the application as complete.

## 2.5 Changes to an elector's existing voter registration record

- 2.5.1 If an elector submits a change to his or her voter registration record and fails to include the information required by sections 1-2-216 or 1-2-219, C.R.S., the county clerk may not make the requested change unless the county clerk can establish minimum matching criteria. If the county clerk cannot establish minimum matching criteria, the county clerk may not change the elector's status and must notify the elector of the additional information that is required to process the request.
- 2.5.2 If an elector submits a change to his or her voter registration record and writes or selects a name of an organization that is not a qualified political party or qualified political organization, or writes "none", the elector's affiliation must be recorded as "Unaffiliated".
- 2.5.3 If an elector submits a change to his or her voter registration record and leaves the affiliation or ballot preference section blank, the county clerk may not change the voter's existing affiliation or ballot preference in the registration record.
- 2.5.4 If an unaffiliated elector who has already been mailed a primary election ballot packet submits an affiliation declaration, the county clerk must defer processing the affiliation change until after the primary election; except that an unaffiliated elector who appears in person to vote may affiliate and vote a party ballot if the county clerk has not received the elector's voted mail ballot.

## 2.6 Changes to an elector's voter registration status

- 2.6.1 An elector may update his or her inactive registration status to active status by submitting:
  - (a) A signed written request, by mail, fax, or an email attachment;

- (b) An online voter registration application; or
- (c) An in-person request.

[Section 1-2-605(4)(a), C.R.S.]

2.6.2 If an elector is unable to sign, another person must witness the elector's mark. An elector may use a signature stamp because of age, disability, or other need. The stamp is treated as a signature and does not require a witness.

## 2.7 Minimum matching criteria

2.7.1 Except as provided in section 1-2-302.5, C.R.S., the county clerk may not transfer, consolidate, or cancel a voter registration record unless the applicable minimum matching criteria as set forth in sections 1-2-603 or 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county clerk must send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.

2.7.2 A match of the name means a match of the full name, except that the following are sufficient to establish a match:

- (a) Common variations and nicknames in the first or middle name, e.g., Michael and Mike;
- (b) Explainable and documented change of name, including last name, e.g., maiden name and married name; and
- (c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records is not considered a variation. Examples of suffix variations that must be explained include junior in one record and III in another.

2.7.3 A match of the prior address means a match of the residential street address.

2.7.4 The county clerk may use the DMV Motor Voter database to verify prior name or residence address history for the purpose of meeting the minimum matching criteria. The county clerk must scan and retain the information in the elector's record to document how the criteria were met.

## 2.8 Registration of homeless electors

2.8.1 For the purpose of voter registration residence, a homeless elector must identify a specific location that the applicant considers his or her home base in accordance with section 1-2-102(1)(a)(II), C.R.S.

2.8.2 For an elector whose home is in foreclosure, the elector may register to vote or remain registered to vote at the foreclosed address until the elector establishes a new permanent residence.

2.8.3 A post office box or general delivery at a post office is not a home base.

## 2.9 Registered electors absent from the state

- 2.9.1 A registered elector who is absent from the state but who maintains Colorado residency is eligible to be registered and to vote without holding a property interest in a fixed habitation in the state.
- 2.9.2 An absent elector's voter registration address is the elector's last residence address or the address the elector intends to return to in the state.
- 2.10 A county clerk may cancel a registration record based upon information from a local law enforcement agency only if:
  - 2.10.1 The information states that the individual is currently serving a sentence of detention or confinement in a correctional facility, jail, or other location for a felony conviction; and
  - 2.10.2 Minimum matching criteria outlined in Rule 2.7 are met.
- 2.11 During the 22 days before an election, the county clerk must defer processing undeliverable new voter notifications. After the election is closed, the clerk must determine an applicant "not registered" under section 1-2-509(3), C.R.S., only if the applicant did not vote in the election.
- 2.12 Voter registration confidentiality
  - 2.12.1 Information about an agency's name and location for an application completed at a voter registration agency or driver's license office is confidential. [52 USC § 20504(c)(2)(D)(iii)]
  - 2.12.2 An elector may request his or her voter registration address be confidential under section 24-72-204(3.5), C.R.S., in person.
    - (a) The elector must use the application provided by the Secretary of State and include his or her name, address, and birth date on the application.
    - (b) The county clerk must not charge an additional processing fee if the elector changes his or her address.
  - 2.12.3 Registration of Address Confidentiality Program (ACP) electors
    - (a) When an ACP participant registers to vote by mail, the participant must provide a copy of his/her ACP Authorization Card.
    - (b) The county clerk must:
      - (1) Use the actual residence address of the ACP elector for precinct designation.
      - (2) Use the substitute address, as defined in section 24-30-2103(14), C.R.S., for all correspondence and mailings placed in the United States mail.
      - (3) Keep the participant's address, county, voting precinct, and split number confidential from the public.
    - (c) A state or local government agency may request access to an ACP participant's voter registration record using the process in section 24-30-2110, C.R.S.

- (d) Except as specifically provided by Part 21 of Article 30 of Title 24, C.R.S., a program participant's actual address and telephone number is not a public record under Part 2 of Article 72 of Title 24, C.R.S.
- 2.13 List Maintenance under section 8 of the National Voter Registration Act of 1993
  - 2.13.1 The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth business day of each month.
    - (a) The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.
    - (b) The county may not change a residential address to a non-residential address, like a post office box, based on the information in the NCOA data.
    - (c) When the county updates a voter registration record using NCOA data, the county must use the NCOA transaction source.
  - 2.13.2 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the county clerk in each county must cancel the registrations of electors:
    - (a) Whose records have been marked "Inactive – returned mail", "Inactive – undeliverable ballot", or "Inactive – NCOA";
    - (b) Who have been mailed a confirmation card; and
    - (c) Who have since failed to vote in two consecutive general elections.
  - 2.13.3 The county must process all records designated for cancelation by the Secretary of State within 21 days of receipt.
  - 2.13.4 The county must process and mail all confirmation cards using SCORE so that the elector's voter registration record audit log shows the date on which the county printed or extracted the confirmation card.
  - 2.13.5 To the extent a county has records of confirmation cards it has generated and sent outside of SCORE, the county must retain those records as election records under section 1-7-802, C.R.S.
- 2.14 Voter registration at a voter service and polling center. A person registering voters or updating voter registration information in a voter service and polling center must:
  - 2.14.1 Be an election judge, a permanent or temporary county employee, state employee, or temporary staff hired by the county clerk; and
  - 2.14.2 Complete a training course provided by or approved by the Secretary of State.
- 2.15 Voter registration records and data
  - 2.15.1 The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with section 1-5-301, C.R.S.
  - 2.15.2 Under section 24-21-104(3), C.R.S., the Secretary of State must charge a fee for voter information reports and related services. A request for elections data must be submitted

using the Elections Data Request Form. The Secretary of State will provide the requested data after payment of the fee as outlined in the fee schedule on the Secretary's website.

- 2.15.3 The county clerk of each county may charge fees for county voter information reports and related services, such as label printing provided by the centralized statewide registration system. But in accordance with federal requirements governing the use of federal funds, fees must not exceed county direct and indirect costs for providing such reports and services.
- 2.15.4 Without written authorization from the Secretary of State, the county clerk may not run or schedule to run SCORE reports or exports that include voter or election detail during regular business hours beginning 22 days before election day and from 7:00 am to 7:00 pm on election day. A county that uses an automated signature verification device may run the EXP-004 report during this time.
- 2.15.5 Custodianship of Voter Registration Information
- (a) The Secretary of State is the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.
- (b) Each county clerk is the official custodian of the voter registration information only for electors within his or her county.
- 2.15.6 If a person requests a certificate of registration or other election record that contains personally identifiable information, he or she must provide a copy of identification as defined in section 1-1-104(19.5), C.R.S.
- 2.16 SCORE username and password administration
- 2.16.1 The state user administrator 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 the state user administrator 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 Each county is limited to two county user administrators. But a county clerk may apply to the Secretary of State for an additional county user administrator.
- (a) The application must be submitted by the county clerk in writing to the state user administrator 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) The state user administrator will notify the county clerk in writing whether the request is approved within five business days after receiving the application.
- 2.16.3 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) 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) Passwords must be assigned by the county user administrator upon initial authorization and must be changed by users and maintained confidentially.

2.16.4 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 SCORE network security requirements

2.17.1 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) All wireless networks must meet the following minimum requirements:
  - (1) WPA2 or above security must be enabled;
  - (2) Shared wireless passwords or secrets must be changed every three months, at a minimum; and
  - (3) Wireless keys must be a minimum of 14 characters in length and must include at least one number and mixed case letters.
- (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 All individuals who access the SCORE system must sign a SCORE Acceptable Use Policy (AUP) before the county provides a SCORE username.

- (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) The county clerk must retain the AUP for each individual who is assigned a SCORE username.
  - (1) 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.
  - (2) The Secretary will suspend access to SCORE for any individual whose AUP is not on file with the county clerk.

2.17.3 If a federal agency notifies a county of a data breach of or a targeted attack on its county network or SCORE, or 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.

2.18 If an unaffiliated elector indicates a political party ballot preference at any time up to and including the twenty-ninth day before a primary election, the county clerk must record the selection in SCORE and mail only the ballot of that political party to the elector in the upcoming primary

election. An elector's political party ballot preference is only effective for a single primary election even if there is more than one primary election in a single year.

2.19 Registration of electors who are confined in a county jail or detention facility

2.19.1 Before each election, the county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center in the county to provide confined eligible individuals an opportunity to register to vote.

2.20 The county clerk must send the county's precinct shape files or maps to the Secretary of State annually, no later than March 1. If the county clerk adjusts precinct boundaries under section 1-5-103, C.R.S., the county must send the Secretary of State updated precinct shape files or maps within 30 days.



**Rule 3. Rules Concerning Qualified Political Organizations**

- 3.1 A qualified political organization, as defined in Rule 1.1, must file proof of organization with the Secretary of State. The proof must include, but is not limited to:
- 3.1.1 The organization's bylaws, which must include the method for selecting officers, delegates to county, state, and national conventions, and candidates planning to petition onto the state's general election ballot; and
  - 3.1.2 The names, addresses, and telephone numbers of the organization's Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the bylaws.
- 3.2 A qualified political organization must meet at least once each calendar year.
- 3.2.1 During the meeting in odd-numbered years, the organization must elect a chairperson, vice-chairperson, secretary, and other officers or committees required by the organization's bylaws. If the political organization is a new organization, the organization must hold this meeting before placing a candidate on the ballot. In this instance, the organization may hold this meeting in an even-numbered year and may select candidates as described in Rule 3.3.3.
  - 3.2.2 The organization's chairperson and secretary must file with the Secretary of State a full and complete list, under oath, of the persons elected or appointed under this Rule 3.2, together with any amendments to the bylaws adopted at the meeting.
  - 3.2.3 During the meeting in even-numbered years, the organization must select candidates who will attempt to petition onto the ballot for the next general election.
- 3.3 To remain in good standing, a qualified political organization must place a candidate on the general election ballot every two years. A write-in candidate alone is not sufficient to meet this requirement.
- 3.3.1 Organization candidates must be nominated in accordance with section 1-4-802, C.R.S.
  - 3.3.2 Each petition must contain the name of one candidate and an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form must be approved by the Secretary of State.
  - 3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political organization by the first business day in January of the election year, or if the organization has not been qualified, the candidate must have been registered as unaffiliated by the first business day in January of the election year.
- 3.4 The Secretary of State will qualify a political organization if the organization:
- 3.4.1 Files proof of organization with the Secretary of State by March 1 in an even numbered year;
  - 3.4.2 Meets and names a candidate to the general election ballot; and
  - 3.4.3 Certifies a candidate to the general election ballot.

- 3.5 Once qualified, eligible electors may affiliate with the political organization.
- 3.6 The Secretary of State will revoke the qualified status of a political organization if the organization does not fully comply with Rules 3.3 and 3.4.
- 3.7 If the Secretary of State revokes the qualified status of a political organization, the Secretary will notify county clerks by June 1 of each odd-numbered year. Upon receipt, the county clerk must mark registration records as “unaffiliated”, where applicable.
- 3.8 Except for the precinct caucus list furnished to major political parties, a qualified political organization may obtain print-outs, lists, and tapes, of voter registration records at the same rate as political parties.
- 3.9 A voter registration summary report must include major political parties, minor political parties, qualified political organizations, and unaffiliated categories.

**Rule 4. Coordinated Elections****4.1 Participation in coordinated elections**

- 4.1.1 For elections where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.
- 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.
- 4.1.3 The county clerk must include all coordinating districts in the SCORE districts and precincts module and election setup module before conducting a coordinated election. If the county clerk is unable to include one or more districts in SCORE, the clerk must list the districts and explain the issue in the election plan required under Rule 7.1.1.

**4.2 Procedures for coordinated elections involving jurisdictions shared by multiple counties.**

- 4.2.1 For each jurisdiction that is shared by multiple counties, a controlling county must be designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and questions in coordinated elections.
- 4.2.2 The controlling county is the county where the administrative office of the political subdivision is maintained at the time that the controlling county is designated.
  - (a) If the administrative office is not maintained within the boundaries of the political subdivision, the controlling county must be the county where the largest number of active registered electors within the jurisdiction reside at the time that the controlling county is designated.
  - (b) Once designated, the controlling county will not change unless approved by the Secretary of State upon request of any of the affected counties.
- 4.2.3 The controlling county must coordinate with each county that shares the jurisdiction to assign the ballot number/letter in accordance with Rule 4.5 no later than the date of ballot certification. All counties within the shared jurisdiction must ensure that the shared races, issues, and questions are printed on the ballot as certified by the Secretary of State or designated election official, and in the order assigned by the controlling county.
- 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance with this Rule, any of the other counties in the shared jurisdiction may make a written request to the Secretary of State to temporarily assume the duties of the controlling county. The Secretary of State may act on behalf of the controlling county or to temporarily designate another county to act as the controlling county to implement this Rule.

**4.3 November coordinated elections**

- 4.3.1 The county clerk is the coordinated election official for coordinated elections held in November of each year and is responsible for coordinating the Article X, Section 20 Ballot Issue notice mailing.

- 4.3.2 Placing measures on the ballot for coordinated odd-year elections
  - (a) For a statewide ballot measure, the Secretary of State must determine whether a proposed initiative is eligible to appear on an odd-year election ballot and whether it concerns state matters arising under Section 20 of Article X of the State Constitution.
  - (b) For all other ballot measures, the political subdivision certifying the ballot content to the coordinated election official must determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.
- 4.3.3 In any odd-year November coordinated election in which there is a statewide issue on the ballot, the canvass board members that will canvass the statewide issue must be appointed in accordance with section 1-10-101, C.R.S.
- 4.4 Form of coordinated elections held other than in November
  - 4.4.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in section 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of the overlapping jurisdictions must identify the election official responsible for assuring that the Article X, Section 20 notice is given.
  - 4.4.2 The political subdivisions may contract with the appropriate county clerk to be the coordinated election official.
- 4.5 Determination of ballot issues and texts.
  - 4.5.1 Each political subdivision must prepare the list of candidates and the ballot title and text for ballot issues and ballot questions, as required by law.
    - (a) The coordinated election official must print the ballot title on each ballot as required by law.
    - (b) Political subdivisions may only require the coordinated election official to print the entire text of a ballot issue or ballot question on the ballot if the political subdivision pays for any additional cost associated with printing and if sufficient space is on the voting equipment to print the entire text given the other issues, questions, and candidates on the ballot. The coordinated election official must tell the political subdivision how much space is available for text for each position on the ballot. If the required ballot title and text is too long for the voting equipment, the coordinated election official may choose to conduct the election with a different form of ballot.
    - (c) For counties where ballot election material must be printed in languages other than English, the political subdivisions are responsible for assuring proper translation of all election materials related to that political subdivision and must pay their pro-rata share of increased printing costs unless otherwise provided by the intergovernmental agreement.
    - (d) For counties where election material is not required to be printed in languages other than English, the political subdivisions are not required to provide translation of all election materials nor pay a pro-rata share of the printing costs unless they so agree.

- 4.5.2 Each political subdivision must determine the order of the ballot issues for their political subdivision in accordance with the requirements of Colorado Constitution Article X, Section 20 and Title 1.
- (a) Referred measures must be designated by a letter or by a number and a letter; initiatives must be designated by a number.
  - (b) For each grouping of ballot issues and ballot questions by a political subdivision, all referred measures must precede all initiatives.
  - (c) For each grouping of ballot issues and ballot questions, the order is as follows:
    - (1) Referred measures to increase taxes;
    - (2) Referred measures to retain excess revenues;
    - (3) Referred measures to increase debt;
    - (4) Other referred measures;
    - (5) Initiatives to increase taxes;
    - (6) Initiatives to retain excess revenues;
    - (7) Initiatives to increase debt;
    - (8) Other citizen petitions.
  - (d) In accordance with section 1-5-407(5)(b), C.R.S., whether initiated or referred, every proposed change to the Colorado Constitution must be called an "amendment" and every proposed change to the Colorado Revised Statutes must be called a "proposition"
  - (e) Ballot issues from the various political subdivisions must be ordered on the ballot as provided in section 1-5-407(5), C.R.S:
    - (1) Each category of referred and initiated state amendments and propositions must be numbered and listed on the ballot in the following series:

A-Z	State Referred Constitutional Amendments
01-99	State Initiated Constitutional Amendments
AA-ZZ	State Referred Statutory Propositions
101-199	State Initiated Statutory Propositions

If a referred or initiated measure contains both a proposed constitutional and statutory change, the measure must be ordered on the ballot as a constitutional amendment.

- (2) Each category of initiated local ballot issues and questions must be numbered in the following series:

200-299	County Issues
300-399	Municipal Issues
400-499	School District Issues
500-599	Ballot Issues and Questions for other political subdivisions greater than a county
600-699	Ballot Issues and Questions for other political subdivisions which are wholly within a county

- (3) Each category of local referred ballot issues and questions must be designated by a letter or a number and a letter in the following series:

1A-1Z	County measures
2A-2Z	Municipal measures wholly within a county
3A-3Z	Municipal measures greater than a county
4A-4Z	School District measures wholly within a county
5A-5Z	School District measures greater than a county
6A-6Z	Ballot measures for other political subdivisions wholly within a county
7A-7Z	Ballot measures for other political subdivisions which are greater than a county

- (4) Ballot questions and issues are numbered or lettered in the order in which the measures are certified to the ballot by the designated election official after the protest period has ended, or if a protest was filed after the protest has been completed.
- (5) For other than state issues, if a county has multiple cities or multiple discrete school districts and other political subdivisions, the designated election official may either further subdivide the series and assign each political subdivision a specific series of numbers, or when the ballot is certified the designated election official may assign the final numbers or letters, making sure that all measures for each political subdivision are grouped together.
- (6) For other than state issues and questions, if the same ballot issue or question will be on the ballot in more than one county, the county clerks must confer with one another and must give the same ballot number or letter to the ballot issue or questions.
- (7) Each ballot question or issue must contain the name of the political subdivision at the beginning of the ballot questions or issue. If the designated election official chooses, the name of the political subdivision may appear before the grouping of questions, such as State Ballot Questions, Arapahoe County Ballot Questions, City of Aurora Ballot Questions, etc.
- (f) The Secretary of State will place any measures referred by the legislature on the ballot in the order they are received. The Secretary of State will place any measures referred by the people under Article V, Section 1 of the Colorado Constitution on the ballot in the order they are certified to the ballot.

#### 4.6 Candidate audio recordings

- 4.6.1 A candidate for statewide office, the general assembly, congressional office, regent, or district attorney must provide an audio recording of his or her name to the Secretary of State. The candidate must record his or her name exactly as it appears on the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable, and the candidate must provide the recording to the secretary of state no later than the deadline to file the candidate acceptance form, statement of intent, or declaration of intent to run for retention in a judicial office, as applicable.
- 4.6.2 A candidate for a county, municipal, school district, or special district office in an election coordinated by the county clerk must provide an audio recording of his or her name to the county clerk. The candidate must record his or her name exactly as it appears on the statement of intent, and must provide the recording to the county clerk no later than the deadline to file the statement of intent.
- 4.7 Congressional term limits declaration
- 4.7.1 The Secretary of State must make the Congressional Term Limits Declaration available to every candidate for United States House of Representatives or the United States Senate, provided in Article XVIII, Section 12a of the Colorado Constitution. The Secretary of State will offer the Congressional Term Limits Declaration to these candidates when the candidate submits a candidate acceptance form with the Secretary of State. Any failure of the Secretary of State to offer the Congressional Term Limits Declaration to a candidate will have no effect on the candidate's candidacy.
- 4.7.2 The Secretary of State must accept Part A of the Term Limits Declaration if Part B of the Term Limits Declaration was not duly executed and submitted. (Article XVIII, Section 12a(7) of the Colorado Constitution)
- 4.7.3 In the case of a candidate who has qualified as a candidate for a term that would exceed the number of terms set forth in Term Limits Declaration One, the Secretary of State may not place the words, "Signed declaration to limit service to [3 terms] [2 terms]" after the candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.
- 4.8 Ballot format and printing
- 4.8.1 The county clerk must print the candidate names and the text of ballot issues and ballot questions in upper and lower case, except that the clerk must print the text of ballot issues subject to Article X, Section 20 of the Colorado Constitution in all uppercase text.
- 4.8.2 If there is no candidate for an office, the ballot must state, "There are no candidates for this office."
- 4.8.3 If there is a qualified write-in candidate on the ballot, the clerk must include "Write-in" before or directly below the space for writing in a candidate.
- 4.8.4 Printing primary election ballots
- (a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk must conduct the primary election for all major political parties unless the party chooses to nominate candidates in accordance with section 1-4-702, C.R.S.

- (1) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.
  - (2) If there are no candidates for any particular office, the county clerk must print on the ballot "There are no candidates for this office". [Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]
- (b) If a minor political party, as defined in section 1-1-104(23), C.R.S., nominates more than one candidate for any office, the county clerk may conduct the primary election for that party only.
- (1) The county clerk must include on the ballot only the offices for which there is more than one candidate designated.
  - (2) If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.
- (c) This rule does not apply to presidential primary elections conducted under sections 1-4-1201, C.R.S. et seq.

#### 4.8.5 Use of unique numbers on ballots

- (a) Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.
- (1) A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.
  - (2) Nothing in this Rule prohibits a county from printing a unique number or barcode on a removable stub.
- (b) After an election official dissociates a voted ballot from its envelope and removes the stub, if any, the county may write or print unique numbers on the voted ballot for auditing and accounting purposes, including duplication of damaged ballots and risk limiting audits.
- (c) The county must redact unique numbers or any other information that could identify an individual voter before providing ballots in response to a request for inspection under the Colorado Open Records Act (Section 24-72-205.5(4)(b)(II), C.R.S.).

4.8.6 If the designated election official discovers a ballot layout, printing, or programming error, he or she must immediately report the issue to the Secretary of State's office and work in conjunction to correct the error.

4.8.7 The county clerk must use the Secretary of State approved naming convention for naming ballot styles in the county's Election Management System, SCORE, and .pdfs. The county clerk must use the approved naming convention for contest names in the election night reporting system.

#### 4.9 Colorado Constitution Article X, Section 20 notice requirements



- 4.9.1 The state and local governments, excluding enterprises, have sole responsibility for drafting and distributing notices required by Article X, Section 20. These responsibilities may be delegated to the coordinated election official in the intergovernmental agreement.
- 4.9.2 Mailing ballot issue notices
- (a) Nothing precludes the coordinated or designated election official from sending notice of various elections to persons who are not eligible electors if the notice sent is part of the coordinated notice and if the sending arises from the official's efforts to mail the notice at "least cost".
  - (b) Nothing precludes the coordinated or designated election official from sending notice to each household in the county or political subdivision whether or not registered electors reside at that household as long as notice is sent which ensures that all active registered electors are included on the mailing list.
  - (c) Nothing precludes the coordinated or designated election official from sending notice to each registered elector in a particular political subdivision.
  - (d) The coordinated or designated election official may include the following statement with the ballot issue notice: "This notice is mailed to each address with one or more active, registered electors. You may not be eligible to vote on all issues presented in this notice."
- 4.9.3 If state statute allows the ballot issue notice and the ballot to be mailed at the same time, the ballot for the mail ballot election may be included with the notice.
- 4.9.4 The political subdivisions must provide all completed Article X, Section 20 notices in camera ready format or as otherwise specified.
- 4.9.5 The coordinated election official is not responsible for failure to meet the Article X, Section 20 constraints if the political subdivision fails to submit the notice and summaries within the deadline and in the form required by the coordinated election official.
- (a) Comment summaries for and against ballot issues must not include language of a generally recognized profane, indecent, immoral, offensive, scandalous, or libelous character. No names of persons or private groups may be included in any summary.
  - (b) For counting and verification purposes of the 500-word constitutional limit for each "pro" and each "con" summary, a hyphenated word, unless it is a continuation hyphen, counts as two or more words. A number counts as one word, regardless of dollar signs, commas, or periods within the number.
- 4.9.6 No person may withdraw written ballot issue comments submitted to the designated election official after the last Friday immediately preceding the forty-fifth day before the election.



**Rule 5. Nonpartisan Elections not Coordinated by the County Clerk**

- 5.1 The designated election official must send notice of the election to the clerk of the county in which the election will be held. The notice must include the date by which the list of registered electors must be submitted to the political subdivision.
- 5.2 For multi-county political subdivisions, the notice sent to each clerk must also include the names of all other counties in which the election will be held.
- 5.3 If a political subdivision coordinates with the county clerk, the designated election official is not required to submit a separate election plan for the election.
- 5.4 Registration list for a special district election
- 5.4.1 If a special district requests a registration list under section 1-13.5-203(1), C.R.S., the county clerk must provide to the designated election official:
- (a) A list of registered electors as of the 40<sup>th</sup> day before the election to be delivered on the 30<sup>th</sup> day before the election, followed by a list of all registered electors as of the close of business on the 22<sup>nd</sup> day before the election to be delivered on the 20<sup>th</sup> day before the election; or
  - (b) A complete list of registered electors as of the sixth day before the election.
- 5.4.2 Upon request, the county must provide the designated election official a list of UOCAVA electors who reside within the special district.
- 5.4.3 Beginning the 40<sup>th</sup> day before the date of election and through election day, the county must stay current with all voter registration data entry.
- 5.4.4 For every registration list sent to the special district, the county clerk must inform the designated election official of the proper procedures for handling protected or confidential elector information. [Section 24-72-204(3.5), (8), and Part 21, Article 30, Title 24, C.R.S.]
- 5.5 Registration lists for municipal elections
- 5.5.1 If a municipality is conducting a mail ballot election, the county clerk must provide the municipality with:
- (a) A preliminary list of all eligible electors no later than the 30<sup>th</sup> day before the election; and
  - (b) A supplemental list of electors no later than the 20<sup>th</sup> day before the election. The list must contain the names of all eligible electors in the municipality who were not on the 30-day list and who registered on or before the 22<sup>nd</sup> day before the election.
- 5.5.2 The county clerk must provide the municipality with a registration list no later than the fifth day before the election. If provided on the fifth day, the list must include all registered electors in the municipality as of the sixth day before the election.
- 5.5.3 Beginning the 40<sup>th</sup> day before the election and through election day, the county clerk must stay current with all voter registration data entry.

- 5.5.4 For every registration list sent to the municipality, the county clerk must inform the designated election official of the proper procedures for handling protected or confidential elector information. [Section 24-72-204(3.5), (8), and Part 21, Article 30, Title 24, C.R.S.]
- 5.6 If an eligible elector attempts to register or update his or her registration at the county clerk's office, the county must process the request and ensure that the elector appears on the next registration list provided to the municipality or issue the elector a certificate of registration.

**Rule 6. Election Judges**

- 6.1 Appointment of election judges under section 1-6-104, C.R.S.
- 6.1.1 The county clerk must request an updated list of election judges from each major party before each election the clerk conducts under the Uniform Election Code.
- 6.1.2 The county clerk must reasonably attempt to exhaust the updated list provided by the major parties before supplementing with additional major party judges or minor party or unaffiliated judges. When the county clerk is filling election judge vacancies under section 1-6-113 (1), C.R.S., the clerk may choose from any of the available lists.
- 6.1.3 If a major political party fails to provide an adequate list of election judges by the 60th day before election day, the county clerk must notify the Secretary of State. The county clerk may consider a supplemental list from a major political party after the 60-day deadline.
- 6.1.4 The county clerk must provide a list of election judges, including political party affiliations and assignments, if known, to each appointing party no later than 35 days before election day. Upon request by an appointing party, the clerk must provide a supplemental list no later than seven days before the date on which the county will open its first Voter Service and Polling Center.
- 6.1.5 The county clerk may not ask an election judge or county staff member to change his or her party affiliation to achieve the bipartisan balance required under section 1-6-109, C.R.S.
- 6.2 Assignment of Election Judges
- 6.2.1 The county clerk may assign an election judge based upon appropriate skill level and interest. If a major party objects to the initial election judge assignments provided by the clerk under Rule 6.1.4, the political party may contact the clerk and nominate judges for replacement. The clerk must consider the new nominations.
- 6.2.2 The county clerk may remove or reassign an election judge performing signature verification at any time for cause, which may include, but is not limited to:
- (a) An inability to perform signature verification;
  - (b) An inability to serve for the requisite amount of time needed; or
  - (c) An irregular acceptance or rejection rate, as determined by the county clerk.
- 6.3 The county clerk may not personally conduct signature verification.
- 6.4 Except for UOCAVA ballots and ballots received for counting after election day:
- 6.4.1 Absent written consent by each major party county chair, a county with 5,000 or more active electors on the 90<sup>th</sup> day before election day may not use regular staff as signature verification judges.
- 6.4.2 A county with fewer than 5,000 active electors on the 90<sup>th</sup> day before election day may use regular county staff that are sworn in as election judges to conduct signature verification.

- 6.5 For purposes of training election judges, an “election cycle” means all elections held during a calendar year beginning January 1 and ending December 31.
- 6.6 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each student election judge must take a self-affirming oath or affirmation before serving, in substantially the following form:
- “ I, \_\_\_\_\_ do solemnly swear (or affirm) that I am a citizen of the United States and state of Colorado; that I am at least 16 years of age and a High School Junior or Senior; that I will perform the duties of an election judge according to law and to the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as a student election judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed.”*
- 6.7 A supervisor judge in a voter service and polling center must complete a training course conducted by the county clerk. The Secretary of State must provide or approve the training content.
- 6.8 A signature verification judge must complete a training course conducted by the county clerk at least once per election cycle. The Secretary of State must provide or approve the training content.
- 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.

## **Rule 7. Elections Conducted by the County Clerk and Recorder**

### **7.1 Election plans**

- 7.1.1 The county clerk must submit an election plan to the Secretary of State no later than 120 days before every election. The county clerk must submit with the election plan all information required by section 1-7.5-105 (1.3), C.R.S.
- 7.1.2 To request a waiver from the requirements of section 1-5-102.9 (c)(III)(A), C.R.S., a county clerk must complete and submit the approved waiver form no later than the filing of their election plan.
- 7.1.3 Approval of election plans and submission of amendments
  - (a) If the Secretary of State requests modifications to a plan before approval, the county clerk must submit the modified plan within ten days from the request. The Secretary of State will approve or disapprove the modified plan within 15 days from the date it is received.
  - (b) A county clerk may amend a timely submitted election plan by submitting a written statement outlining the amendment. The amendment must state the specific section of the plan amended and the reason for the amendment. The Secretary of State will approve or disapprove the amendment within 15 days from the date it is received. If the amendment is received within 30 days before the election, the Secretary of State will approve or disapprove the amendment within two business days.

### **7.2 Ballots and ballot packets**

- 7.2.1 In accordance with section 1-7-116(1), C.R.S., for all coordinated elections, the outgoing envelope, instructions, or other notice must include a notice advising electors that they may receive a ballot from another political subdivision conducting a mail ballot election.
- 7.2.2 If the ballot is returned to the election official as undeliverable, the county clerk is not required to re-mail the ballot packet.
- 7.2.3 The county clerk must process all new registration applications and updates received by the 22-day deadline to mail applicants a ballot in accordance with section 1-7.5-107(3), C.R.S.
- 7.2.4 Voiding ballots due to timely changes in address or affiliation.
  - (a) If an elector timely changes his or her address or affiliation after the county mails ballots or sends the voter file to the vendor, the county must void the first ballot and generate a second ballot.
    - (1) If the county processes the change to the elector's record after it sends the voter file to the vendor but before the vendor prints ballots, the county must provide the vendor a voided ballot file to prevent the vendor from printing and preparing voided ballots for mailing.
    - (2) If the county processes the change to the elector's record after the vendor has printed ballots but before the vendor mails ballots, the county

must work with the vendor to make every reasonable effort to remove voided ballots before they enter the mail stream.

- (A) If the county mails its own ballots, the county clerk must remove all voided ballots before mailing.
  - (B) If the county processes the change to the elector's record after it mails ballots, the county must count the first ballot returned by the elector in accordance with section 1-7.5-107(6), C.R.S., except where an elector changed his or her affiliation, the county must count the ballot issued for the elector's new party affiliation.
- 7.2.5 Each mail ballot return envelope and mail ballot instruction must include a statement informing voters that it is a violation of law to receive more than ten ballots for mailing or delivery in any election.
- 7.2.6 Each mail ballot return envelope may include the following statement: "I am voluntarily giving my ballot to (name and address) for delivery on my behalf." If the voter leaves the fillable portion of the statement blank, the county clerk must accept the ballot for counting if it is otherwise valid.
- 7.2.7 Where practicable, the county must print the elector's full name under or near the self-affirmation signature line on each ballot return envelope. If not practicable for some or all ballot return envelopes, the county must explain why in its election plan.
- 7.2.8 The county clerk must provide a space on the ballot-return envelope for a witness to the elector's mark to provide his or her full legal name.
- 7.2.9 The mail ballot packet required under sections 1-4-101(2)(b) and 1-4-1203(4)(c), C.R.S. must contain only the ballots of each participating major political party unless a major party's presidential primary election has been canceled under section 1-4-1203(5), C.R.S.
- 7.2.10 An unaffiliated voter who wants to receive the mail ballot of a participating minor political party in the mail must declare a mail ballot preference for that party in accordance with section 1-2-204(2)(j.5), C.R.S.
- 7.2.11 If an unaffiliated voter selects a mail ballot preference for a major or minor political party that is not participating or that prohibits unaffiliated voters from voting in its primary election, the county clerk must send the voter the mail ballot packet described in Rule 7.2.9. The packet must include a notice explaining why the voter is receiving the packet or provide an alternative method for the voter to obtain this information.
- 7.2.12 A voter affiliated with a Qualified Political Organization is considered an unaffiliated voter for the purposes of this Rule 7.2.
- 7.2.13 A voter affiliated with a political party that is not participating in the primary election will not receive a mail ballot.
- 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 7.5.15. The county's determination under this Rule may not rely solely on a voter's self-reported selection (for example, a checkbox).

7.2.15 Each mail ballot return envelope and mail ballot instruction for an unaffiliated voter who has not declared a preference in a primary election must include a statement instructing the voter to return only one ballot.

7.2.16 The county clerk must issue a replacement mail ballot packet to an unaffiliated elector in a primary election as follows:

- (a) If the elector has not declared a mail ballot preference, the county clerk must issue a packet containing the ballots of all participating major political parties.
- (b) If the Elector has timely declared a mail ballot preference, the county clerk must issue the elector's preferred political party's ballot; or upon the elector's request, a packet containing the ballots of all participating major political parties.

*[Temporary Rule 7.2.17, adopted on 5/8/2020, expired on 9/5/2020]*

### 7.3 Emergency ballot transmission

7.3.1 The county clerk may deliver a replacement ballot on election day to an elector's authorized representative or to the elector by electronic transmission in the case of an emergency replacement ballot under section 1-7.5-115, C.R.S., upon receipt of a completed application by the elector. If the county clerk delivers an emergency replacement ballot to an elector by electronic transmission, the elector may return the ballot by electronic transmission.

7.3.2 Ballots sent by electronic transmission must include all races, ballot issues, and questions for which the elector is eligible to vote. The ballot must be legible to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.

7.3.3 The electronic transmission must include:

- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (b) A notice that the ballot may not be duplicated for any other elector;
- (c) Instructions for completing and returning the ballot;
- (d) A notice regarding the ballot return deadline;
- (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk;
- (f) Any other information deemed necessary by the Secretary of State or the county clerk; and
- (g) The ballot packet must be in text format on 8 ½" x 11" white paper and must include:
  - (1) An electronic transmission coversheet to protect voter privacy;

- (2) The unvoted ballot;
  - (3) The electronic transmission ballot instructions; and
  - (4) The self-affirmation required by section 1-7.5-107(3)(b.5), C.R.S.
- 7.3.4 The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must retain the log as part of the official election record along with any other electronic transmission records. The log must include:
- (a) The name of the voter;
  - (b) The fax number or email address to which the ballot was transmitted (as applicable);
  - (c) The date the ballot packet was transmitted and received; and
  - (d) The initials of the employee transmitting and receiving the ballot.
- 7.3.5 If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.
- 7.3.6 Upon receipt of the ballot, election judges must verify the signature on the affidavit under Rule 7.8. After the signature on the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot.
- 7.4 The county clerk must make efforts to coordinate with the sheriff or his or her designee at each county jail or detention center to facilitate voting for all confined eligible electors.
- 7.4.1 The county clerk must describe the following in its election plan:
- (a) How the county clerk will provide each county jail or detention center voter information materials consistent with materials provided to non-confined eligible electors, including at a minimum a list of acceptable forms of identification under section 1-1-104(19.5), C.R.S., and the information required by sections 1-40-124.5 and 1-40-125, C.R.S.
  - (b) The process by which the county clerk and the sheriff or his or her designee will facilitate voter registration, and delivery and retrieval of mail ballots for confined eligible electors.
- 7.5 Receipt and processing of ballots
- 7.5.1 The county clerk must adequately light all drop box locations and use a video security surveillance recording system as defined in Rule 1.1.45 to monitor each location.
- (a) Drop box locations must be monitored when they are open to receive ballots.
  - (b) If the drop box location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored.

- (c) Signage at each drop box location must inform voters that it is a violation of law for any person to collect more than ten ballots for mailing or delivery in any election, and that electioneering is prohibited within 100 feet of any drop box.
  - (d) The minimum number of drop box locations must be open 24 hours a day through 7:00 p.m. on election day.
  - (e) Video security surveillance must be retained by the county clerk through 60 days following the deadline to certify the election, or until the conclusion of any election contest, whichever is later; except that if the county clerk knows or reasonably should know that there is a potential violation of law where the surveillance could be used as evidence, it must be retained through the applicable statute of limitations or the conclusion of any judicial proceeding related to the election, whichever is later.
- 7.5.2 Each day when ballots come in, an election official must count the ballot envelopes, batch them and record the number of ballots received.
- 7.5.3 A county clerk who receives an application and ballot from a voter with a disability covered under section 1-5-706, C.R.S. must maintain a log of each ballot and application received under this section. The county clerk must retain the log as part of the official election record. The log must include: the name of the voter; the date the ballot packet was received; and the initials of the election judge or employee who received the ballot.
- 7.5.4 An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Except for ballots submitted by military or overseas electors, any ballot received after the close of polls must be date-stamped but not counted.
- 7.5.5 The county clerk must arrange for the collection of ballots by bipartisan teams, of election judges and/or staff, from each drop box location once it is open and receive the ballots into SCORE:
- (a) If applicable, at least once every 72 hours after non-UOCAVA ballots are mailed until the date that voter service and polling centers must open;
  - (b) If applicable, at least once every 24 hours during the days that voter service and polling centers must be open; and
  - (c) At least twice on election day, at approximately 1:00 p.m. and 7:00 p.m.
  - (d) The county clerk may meet the requirements of this Rule by:
    - (1) Collecting and transporting the ballots to the central counting location for receipt into SCORE; or
    - (2) Collecting and transporting the ballots to the nearest voter service and polling center for receipt into SCORE.
- 7.5.6 The county clerk may request a waiver from the Secretary of State for remote drop box locations in the county's election plan or amended election plan, exempting them from the ballot collection requirements in Rule 7.5.5. If the Secretary of State grants the waiver:

- (a) The county clerk must arrange for the collection of ballots by bipartisan teams of election judges from all exempt drop box locations once they are open as often as necessary, but at least:
    - (1) Once each week after the initial mailing of non-UOCAVA ballots until the Friday before election day; and
    - (2) On the Friday and Monday before election day and on election day at 7:00 p.m. MT.
  - (b) The county clerk must post a notice on each exempt drop box of the dates and approximate times ballots will be collected.
  - (c) If the Secretary of State determines that the county failed to collect ballots from a remote drop box location as often as necessary, the Secretary of State may revoke or modify the waiver.
- 7.5.7 Election officials must record the number of ballot packets returned as undeliverable and receive the ballot packets in SCORE upon receipt.
- 7.5.8 The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.
- 7.5.9 After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve, if applicable, and a voted ballot in a manner that ensures no person is able to determine how an individual voted.
- 7.5.10 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from receiving more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney.
- 7.5.11 Before tabulating ballots, the county clerk must, to the extent practicable, dissociate counting batches from any SCORE batch number that could trace a ballot back to the specific voter who cast it.
- 7.5.12 If an elector delivers a ballot to the wrong county, that county must date stamp the ballot envelope and timely forward it to the correct county. Beginning the Monday before election day, the county must notify the correct county of receipt by secure electronic transmission with a scanned image of the outside of the mail ballot envelope including the signature, and forward it to the correct county no later than the next business day. A county that physically delivers ballots to another county no later than the next business day, or immediately transmits them by next-day delivery, is not required to scan the envelope. The correct county must treat the ballot as received as of the date and time of the date stamp. The county receiving the image may perform signature verification upon receipt of the image.
- 7.5.13 The county clerk must date stamp each ballot envelope as received on or before 7:00 PM on election day and immediately forward it to the correct county. The correct county must treat the ballot as received as of the date and time of the date stamp.
- 7.5.14 County clerks who deliver or receive ballots from electors who are confined in a county jail or detention facility must log the number of ballots delivered and received from each facility and provide the log to the Secretary of State's office following the election.

- 7.5.15 Unaffiliated voters in a primary election. If an election judge is unable to determine, before opening the envelope, which party's ballot the elector returned as outlined in Rule 7.2.9, the county must separate the elector's ballot from the envelope in the following manner:
- (a) An election judge must remove the ballot from the mail ballot return envelope and pass it to a bipartisan team of judges without allowing the team of judges to determine the identity of the elector.
  - (b) The bipartisan team of election judges must review the ballot and audibly report to the first election judge which political party's election the elector voted in.
  - (c) The first election judge must record in SCORE which political party's election the elector voted in, or document the proper party information for later recording in SCORE.
- 7.5.16 If an unaffiliated elector returns more than one ballot in a primary election, a bipartisan team of election judges must review the ballots to determine the elector's intent in accordance with the Secretary of State's Voter Intent Guide.
- (a) If the bipartisan team determines the elector voted in only one party's primary election, the election judge with access to the envelope must record the party chosen in SCORE under Rule 7.5.15(c) and the ballot must be counted. The county must retain any unvoted ballot as an election record.
  - (b) If the bipartisan team determines the elector voted in more than one party's primary election, or returned only blank ballots, the county must reject the ballots, not count them, and retain them in the mail ballot return envelope as an election record.

## 7.6 Ballot returned in unofficial envelope

- 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope that is missing or lacks the correct self-affirmation, the county must contact the elector by mail and by electronic mail, if available, within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot. A county that receives a ballot from a voter with a disability covered under section 1-5-706, C.R.S., in an unofficial envelope must accept the ballot for processing if the envelope also contains a signed application from the voter.

## 7.7 Mail ballot cure procedures

- 7.7.1 If a mail or provisional ballot return envelope lacks a signature, or a ballot from a voter with a disability covered under section 1-5-706, C.R.S. is returned without an application, or is returned with an application that is not signed, the county clerk must follow the procedures for discrepant signatures outlined in section 1-7.5-107.3(2)(a), C.R.S., except as provided in Rule 7.7.4.
- 7.7.2 The county clerk must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.

7.7.3 If the county clerk uses any means in addition to mail or electronic mail to contact any elector regarding a missing or discrepant signature or missing ID, he or she must attempt to contact all similarly situated electors whose registration records have the same type of contact information.

7.7.4 If an elector fails to cure a missing signature, the county clerk need not send a copy of the mail ballot return envelope to the district attorney for investigation.

[Sections 1-7.5-107.3 and 1-8.5-105(3)(a), C.R.S.]

7.7.5 The county clerk must accept any completed cure form for a missing or discrepant signature, or a missing ID, that the county receives by 11:59 pm MT on the eighth day after the election.

## 7.8 Signature verification procedures

7.8.1 A single election judge may conduct the first level of signature verification.

7.8.2 If the elector's signature appears anywhere on the ballot return envelope, the election judge must verify the signature in accordance with section 1-7.5-107.3, C.R.S.

7.8.3 An election judge conducting signature verification must compare the signature on the self-affirmation on each ballot return envelope with the elector's signature in SCORE in accordance with the Secretary of State's Signature Verification Guide.

7.8.4 If an election judge must conduct further research on an elector's signature, he or she must check SCORE for additional documents signed by the voter, if available.

7.8.5 An election judge may compare additional information written by the voter on the return envelope, such as the voter's address and date of signing. Any similarities noted when comparing other information may be used as part of the signature verification decision process.

7.8.6 If an election judge determines that a voter inadvertently returned his or her ballot in another household member's ballot return envelope, the election judge must process and prepare the ballot of the elector who signed the self-affirmation for counting if it is otherwise valid. The election judge need not send a signature discrepancy letter to the voter.

7.8.7 If, after bipartisan review, the election judges determine that a signature is discrepant, the judges must document the discrepancy and the research steps taken in a log that:

(a) Identifies the elector only by name and voter identification number.

(b) Does not contain the elector's signature.

(c) Notes the final resolution and ballot disposition.

(d) Identifies the election judges responsible for final resolution and ballot disposition.

7.8.8 The county clerk must periodically audit signature verification judges. If a judge or team of judges has an unexplained, irregular acceptance or rejection rate, the county clerk must retrain or remove that judge or team of judges from conducting signature verification.

- 7.8.9 The election official must use the letter and the signature verification form approved by the Secretary of State. (Section 1-7.5-107.3(2)(a), C.R.S.)
- 7.8.10 If the county uses a ballot sorting and signature capture device, the county clerk must test the device before using it in an election to ensure that it properly sorts envelopes, and accurately and clearly captures the signature on the envelope for comparison to the correct voter record.
- 7.8.11 Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.
- (a) The county clerk must test Signature Verification Devices before use in an election.
    - (1) The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.
    - (2) The county must pull and test a minimum of 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.
      - (A) A team of bipartisan election officials must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
      - (B) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
  - (b) The county must conduct a regular audit of each Signature Verification Device during its use.
    - (1) The county must pull a random sampling of at least one in every fifty machine-verified signatures daily.
    - (2) A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
    - (3) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
    - (4) If the device fails the audit, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.
  - (c) The county must operate the device on a secure network.
    - (1) The county may connect the device to the county network only for maintenance and support.

- (2) The device must be secured by the county firewall.
- (3) The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, and the specific reason for access.

7.8.12 If a county uses a signature capture device to compare a ballot envelope signature to a signature maintained in SCORE, the system may display only one voter's signature at a time.

7.8.13 Following the election, the county clerk must report to the Secretary of State in writing the number of ballot return envelopes with discrepant signatures that the clerk forwarded to the district attorney for investigation.

## 7.9 Voter service and polling centers

7.9.1 The county clerk must designate and open the minimum number of voter service and polling centers as required in section 1-5-102.9, C.R.S., for a general election and section 1-7.5-107(4.5), C.R.S., for all other elections.

- (a) For a general election, the minimum number of voter service and polling centers must be open beginning 15 days before election day during the following hours:
  - (1) In a county described in section 1-5-102.9 (1)(a)(I) or (1)(a)(II), C.R.S., voter service and polling centers must be open from 8 A.M. to 5 P.M. Monday through Friday, and the second Saturday.
  - (2) In all other counties, voter service and polling centers must be open during normal business hours, which means at least eight hours per day Monday through Friday, and at least four hours continuously on the second Saturday.
- (b) For any primary or November coordinated election, the minimum number of voter service and polling centers must be open beginning 8 days before election day during normal business hours, which means at least eight hours Monday through Friday, and at least four hours continuously on Saturday.
- (c) All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.
- (d) The county clerk must provide all services outlined in section 1-5-102.9, C.R.S., at every designated voter service and polling center.
- (e) Signage at each voter service and polling center must indicate that it is a violation of law for any person to collect more than ten ballots for delivery in any election.

7.9.2 Voter service and polling center materials include sufficient computer stations for SCORE access, HAVA information, a voting demonstration display, a signature card table, signature cards, paper ballots, voting booths or DREs, a provisional voting area, and a ballot box.

7.9.3 In order to assist applicants and electors efficiently, a county clerk must configure voter service and polling centers with sufficient election judges, WebSCORE work stations, voting equipment, and sufficient numbers of mail and in-person ballots that can be



tabulated by the county's voting system without further duplication, and other supplies. A county may satisfy this Rule by providing a sufficient number of ballot marking devices or ballot on demand printers.

- 7.9.4 Except for voters with disabilities, the maximum allowable time in a voting booth is 15 minutes if there are voters waiting. The Secretary of State may order additional time based on the length of the ballot. [Section 1-7-115, C.R.S.]
  - 7.9.5 Any eligible elector may vote in-person at a voter service and polling center. An election judge must void the elector's mail ballot in SCORE before issuing an in-person ballot.
  - 7.9.6 If a voter leaves the voting area without completing the voting process, two judges of different affiliation must, to the extent possible, cover the voter's choices, and cast the ballot as the voter left it.
  - 7.9.7 An unaffiliated elector voting in person at a voter service and polling center in a primary election must state which party's election he or she chooses to vote in, and the election judge must indicate the voter's selection in WebSCORE and provide the voter with that party's ballot.
  - 7.9.8 On election day, a county must measure and record the wait time at each of its voter service and polling centers in accordance with the Secretary of State's written wait time policy document.
  - 7.9.9 Each county must report its results to the Secretary of State no later than 30 days after the election.
  - 7.9.10 A county clerk that receives notice of a petition for extending the hours of any voter service and polling center on election day must immediately notify the Secretary of State of the order. If an order is entered by any court that extends the hours of any voter service and polling center in the state, all counties must wait to post, publish, or disclose election night results until the time for the extension has passed; except that a county may upload its results to the secretary of state. The Secretary of State's office will not publish results on the Election Night Reporting system until all polls have closed.
  - 7.9.11 The county clerk of any county that has a tribal council headquarters located within the county borders must notify the tribal council by letter that the tribal nation has the right to request that a voter service and polling center be located within the boundaries of the tribal nation in the upcoming general election. The county clerk must send this notification by mail no later than 225 days before the date of any general election.
- 7.10 The county clerk must complete an accessibility survey for all drop box and voter service and polling center locations annually before designating a location for use, and no later than 120 days before an election, the county clerk must designate drop-off, drop box, and voter service and polling center locations. In a presidential election year, the county clerk's accessibility survey for the presidential primary election serves as the annual survey for that voter service and polling center or drop box through the following general election.
- 7.10.1 For the first survey of a location, the county clerk must complete the full ADA Checklist for voter service and polling centers. The county clerk must complete the Annual Voter Service and Polling Center Accessibility Survey form for each location designated for use in an election year after the initial survey is completed.
  - 7.10.2 If a location fails to meet the minimum accessibility requirements outlined in the ADA Checklist, the county clerk must develop a barrier removal plan outlining the

modifications that the county clerk will implement to bring the site into compliance. The county clerk must indicate on the survey whether the modifications are temporary or permanent.

- 7.10.3 The Secretary of State may deny an application for accessibility grant funds if a county clerk fails to assess locations, timely file complete accessibility surveys, or develop and implement necessary barrier removal plans in accordance with this Rule. The Secretary will conduct site visits to assess compliance and identify accessibility barriers. The Secretary will seek injunctive action or other penalties under section 1-1-107(2)(d), C.R.S., as necessary to remedy violations of this Rule.
- 7.11 Voter service and polling center connectivity
  - 7.11.1 The county must have real-time access to SCORE and WebSCORE at every voter service and polling center.
  - 7.11.2 At no time may an election official open simultaneous sessions of both SCORE and WebSCORE on a single workstation.
  - 7.11.3 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.
- 7.12 At each Voter Service and Polling Center, election judges and, if appropriate, election staff, must:
  - 7.12.1 Provide all services outlined in 1-5-102.9, C.R.S.; and
  - 7.12.2 Use WebSCORE to register voters; update existing voter registrations; issue and replace mail ballots; and issue, spoil, and replace in-person ballots.
- 7.13 Assisting voters with disabilities in a voter service and polling center
  - 7.13.1 The designated election official must post a sign at the voter service and polling center that states:

*NOTICE*

*VOTING ASSISTANCE FOR ELECTORS WITH DISABILITIES*

*Colorado law protects a voter's legal right to assistance in voting if assistance is needed because of a disability.*

1. *If you require assistance, please inform an election judge.*
2. *Any person, including an election judge, may assist you.*
3. *If you select a person other than an election judge, he or she must complete a Voter Assistance Form, which includes an oath that states:*

*I, ....., certify that I am the individual chosen by the elector to assist the elector in casting a ballot. I further certify that I will not in any way attempt to persuade or induce the elector to vote in a particular manner, nor will I cast the elector's vote other than as directed by the elector I am assisting.*

4. *The person you select may provide any assistance you need, including entering the voting booth, preparing the ballot, or operating the voting machine.*
5. *The person assisting you may not seek to persuade you or induce you to vote in a particular manner.*
6. *The election judge must record the name of each voter who receives assistance and the name of the person who provides assistance on the signature card.*

7.13.2 If a voter has spoiled two ballots and requests a third ballot, an election official must offer assistance in voting and casting the ballot.

#### 7.14 Voter history

7.14.1 After the canvass, the designated election official must give vote credit to each person who voted in the election.

7.14.2 If the voter history records do not match the number of voters at that election, the designated election official must ensure the following:

- (a) Each voter received credit; and
- (b) All signature cards are accounted for.

7.14.3 The designated election official must explain and document all research concerning discrepancies.

7.15 Reimbursement to counties for state ballot measure elections. No later than 90 days after an election, the county must submit a completed request for reimbursement under section 1-5-505.5, C.R.S. The county must submit the request using the form provided by the Secretary of State.

7.16 Within 120 days after election day, or before the first day to conduct signature verification at the next county or municipal mail ballot election, whichever is sooner, the county clerk must scan into SCORE the elector's signature and signature date on each accepted mail ballot return envelope and on any cure letter returned by the elector. In a presidential primary year, the deadline for scanning signatures and signature dates from all prior elections that year is extended to 120 days after the state primary election. A county that is unable to scan the signature and/or signature date into SCORE may apply to the Secretary of State for a waiver from these requirements.

#### 7.17 Closure of VSPCs due to emergency condition

7.17.1 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.

7.17.2 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.

7.17.3 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.

- 7.17.4 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.
- 7.17.5 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.

**Rule 8. Watchers**

- 8.1 A watcher must affirm that he or she is qualified to act as a watcher under Colorado law. The county clerk must accept the appointment of all eligible watchers duly certified by a political party, candidate, or issue committee under sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.1.1 The registered agent or designated filing agent for an issue committee is the authorized representative to appoint watchers for the issue committee.
- 8.1.2 The county clerk must confirm a watcher's eligibility before allowing the watcher to perform his or her duties. If the county clerk is unable to confirm the watcher's eligibility, the clerk must promptly inform the appointing entity.
- 8.1.3 A watcher may provide a copy of his or her current registration record from the Secretary of State's website with the Certificate of Appointment to satisfy the eligibility-confirmation requirement.
- 8.1.4 A watcher for an issue committee may provide a TRACER print-out of the issue committee registration with the Certificate of Appointment to show that the person appointing the watcher is permitted to appoint under Rule 8.1.1.
- 8.1.5 A watcher must complete a training provided by or approved by the Secretary of State before observing election activities where confidential or personally identifiable information may be within view. To verify completion of the training, a watcher must provide his or her training certificate of completion with the Certificate of Appointment. A training certificate of completion is valid until December 31 of that calendar year. An approved training may be used for one calendar year from the date approved.
- 8.2 Interested parties may appoint and certify watchers to observe recall elections held under Article 12, Title I, C.R.S., in accordance with sections 1-7-106 and 1-7-107, C.R.S.
- 8.3 A political party attorney may not be in the polling location unless he or she is a duly appointed watcher or is casting his or her ballot.
- 8.4 A watcher may be certified to observe more than one location in which the county is conducting election activities. A watcher must present a Certificate of Appointment at each location where the watcher is designated to observe, unless the county clerk has established an alternate process.
- 8.4.1 If a watcher leaves a location but returns to the same location, another certificate of appointment is not necessary.
- 8.4.2 A new watcher who is replacing an original watcher must provide his or her certificate of appointment for that polling location.
- 8.4.3 A certificate of appointment as a watcher is not transferable to another individual.
- 8.5 A watcher must take the oath described in section 1-7-108(1), C.R.S.
- 8.6 Removal of Watchers.
- 8.6.1 A county clerk or his or her designee may remove a watcher upon finding that the watcher:
- (a) Committed or encouraged fraud in connection with his or her duties;

- (b) Violated any of the limitations outlined in Rule 8.15;
  - (c) Violated his or her oath; or
  - (d) Was abusive or threatening toward election officials or voters.
- 8.6.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.
- 8.6.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.7 The county clerk must submit a watcher accommodation plan to the Secretary of State by email using the approved form no later than 90 days before an election.
  - 8.7.1 Watchers may be present at each stage of the conduct of the election, including when electors are voting or when election judges are present and performing election activities.
  - 8.7.2 The county clerk must provide, and identify in some manner, at least one primary contact for watchers at each location where election activities are performed when watchers are present.
  - 8.7.3 At voter service and polling centers, the designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.
  - 8.7.4 Watchers must remain outside the immediate voting area while an elector is voting. The six-foot limit in Rule 1.1.31 applies only to voting.
- 8.8 The minimum number of watchers the county clerk must accommodate for each appointing entity is as follows:
  - 8.8.1 In a central count facility, one watcher per central count process, but in any case not less than one watcher for every ten election judges.
  - 8.8.2 During signature verification, one watcher for every four election judges.
  - 8.8.3 At each Voter Service and Polling Center, one watcher, or one watcher per Voter Service and Polling Center process.
  - 8.8.4 The number of watchers permitted in any room at one time is subject to space limitations and local safety codes.
- 8.9 A watcher may observe election activities at a group residential facility, as defined in section 1-1-104(18.5), C.R.S., only if the watcher contacts the county clerk beforehand to arrange the time and location. While at a group residential facility, a watcher must maintain an adequate distance from the elector so the elector may mark or receive assistance marking his or her ballot in private. A watcher may not enter a voter's private room or apartment unless the voter consents.
- 8.10 Watchers are subject to the provisions of section 1-5-503, C.R.S.
  - 8.10.1 A watcher may witness and verify activities described in Title 1, C.R.S. If election officials are conducting election activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.

- 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.
  - (4) Signature verification of mail ballot envelopes at close enough distance to challenge the signature.
  - (5) Ballot duplication.
  - (6) Ballot tabulation.
  - (7) The logic and accuracy test and post-election audit.
  - (8) Provisional ballot processing.
  - (9) UOCAVA ballot processing.
  - (10) Canvass.
  - (11) Recount.
- (b) Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.
- 8.11 The county clerk must provide a list of all voters who have cast a ballot in the county. If requested, the county clerk must make the list available at least daily at the clerk's main office or provide the list electronically.
- 8.12 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13.
- 8.13 During initial signature review by an election judge, the county clerk may allow a watcher to escalate ballot envelope signatures for secondary review by a bipartisan team of election judges.
- 8.14 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:
- 8.14.1 Attempt to determine how any elector voted;
  - 8.14.2 Disclose or record any confidential voter information that he or she may observe; or
  - 8.14.3 Disclose any results before the polls are closed.
- 8.15 A watcher may not:

- 8.15.1 Personally interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election, except as permitted by the county clerk under Rule 8.13.
- 8.15.2 Write down any ballot numbers or any other personally identifying information about the electors.
- 8.15.3 Touch or handle the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.
- 8.15.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.
- 8.15.5 Interact with election judges other than a designated watcher contact, except as permitted by the county clerk under Rule 8.13.
- 8.15.6 Use a mobile phone or other electronic device to make or receive a call in any polling location or other place election activities are conducted.
- 8.15.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted.
- 8.15.8 Unless otherwise approved by the county clerk, have in his or her possession any mobile phone or other electronic device while watching election activities where voters' confidential or personally identifiable information is within view.
- 8.15.9 Attempt to determine how any elector voted.
- 8.15.10 Disclose or record any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.
- 8.15.11 Disclose any results before the polls have closed.
- 8.16 Unless the county clerk has established another process, if a watcher disputes a decision made by an election judge or alleges a discrepancy, the watcher must alert the designated watcher contact.
- 8.17 The Secretary of State must approve Official Observers appointed by the federal government. Official observers are subject to Colorado law and these Rules. But an Official Observer is not required to be an eligible elector in the jurisdiction. This Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers must obtain a letter of authority from the Secretary of State and surrender the letter to the county clerk.
- 8.18 Media Observers may witness all election activities. A county clerk may, in his or her discretion, require a media observer to appoint a pool reporter and a pool photographer to represent all media observers. All media observers are subject to the Guidelines established by the Colorado Press Association in conjunction with the Colorado County Clerks' Association and the Secretary of State as outlined below:

*Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):*

*The Colorado State Association of County Clerks and Records, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following*



*guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of county clerks to count ballots or doing anything to compromise the integrity of the election process.*

1. *If practical, please contact the county clerk's office prior to coming to observe the counting of ballots. If the county clerk knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.*
2. *At the discretion of the county clerk, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the county clerk may be able to make arrangements to accommodate your needs.*
3. *Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.*
4. *The Secretary of State's Election Rules state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.*
5. *Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.*

*The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standards will help us to meet all these goals.*



**Rule 9. Voting Challenges**

## 9.1 Challenging an in-person voter

9.1.1 Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged while voting in-person, must be offered a regular ballot by an election judge if the person satisfactorily answers the applicable challenge questions specified in section 1-9-203, C.R.S., and this Rule. If the person challenged provides unsatisfactory answers or refuses to answer the challenge questions, an election judge must offer the person a provisional ballot.

9.1.2 Citizenship. The election judge must ask the elector, "Are you a citizen of the United States?"

9.1.3 Residency. The election judge must ask the elector the following questions:

- (a) "Will you have resided in Colorado for the 22 days before election day?"
- (b) "Do you reside at the address stated in your voter registration record?"
- (c) "Have you been absent from Colorado during the past 22 days?" If the elector responds that he or she was absent during the 22-day period, the election judge must also ask the following questions:
  - (1) "Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?"
  - (2) "While you were absent, did you consider Colorado to be your home or did you maintain a home or domicile elsewhere?"
  - (3) "While you were absent, did you vote in any other state or territory of the United States?"

9.1.4 Age. For a primary election, the election judge must ask the elector, "Are you at least 17 years of age and will you be 18 years of age or older on or before the date of the next general election?" For any other election, the election judge must ask the elector, "Will you be 18 years of age or older on election day?"

## 9.2 Challenging a mail ballot voter

9.2.1 If an individual challenges a mail ballot under section 1-9-207, C.R.S., the election judge must forward the ballot to two other election judges of different political party affiliations who must review the elector's eligibility to vote.

- (a) If both election judges determine the elector is not eligible under section 1-9-207, C.R.S., the judges must follow the procedures in section 1-7.5-107.3(2), C.R.S.
- (b) If both election judges determine the elector is eligible and that elector's signature is valid, the election judges must count the elector's ballot.

9.2.2 Unless the challenge is withdrawn, the county clerk must notify a voter whose ballot was challenged. The notification must include a copy of the challenge form, the disposition of the ballot, and a statement that the matter will be referred to the district attorney under

section 1-9-209, C.R.S. The county clerk must provide a copy of the notification to the challenger upon request.

**Rule 10. Canvassing and Recount**

## 10.1 Precanvass accounting

10.1.1 Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued and received beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday.

10.1.2 Daily voter service and polling center ballot accounting. The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.1.3 After a polling location closes for the day election judges must complete the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.
- (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

10.1.4 After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots to one of the election offices designated in the election plan.

10.1.5 Designated Election Official's disposition of forms

- (a) The designated election official must review the Statement of Ballots forms for completion and accuracy.

- (b) If the designated election official or the canvass board discovers a problem with a Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.

## 10.2 Appointment to the Canvass Board

- 10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.
- 10.2.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.
- 10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents.
- 10.2.4 A candidate for office and members of the candidate's immediate family may not serve on the canvass board.
- 10.2.5 Appointment of Canvass Workers. The designated election official may appoint canvass workers to help prepare and conduct the canvass.

## 10.3 Duties of the Canvass Board

- 10.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S.
- 10.3.2 The canvass board's duties are to:
  - (a) Conduct the canvass in accordance with section 1-10-101.5, C.R.S., including:
    - (1) Account and balance the election and certify the official abstract of votes;
    - (2) Reconcile the number of ballots counted to the number of ballots cast; and
    - (3) Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed ballot logs and Statement of Ballots.
  - (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 25.2 or 25.3;
  - (c) In coordination with the county clerk, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and
  - (d) Conduct any recount in accordance with section 1-10-5-107, C.R.S., and this Rule. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.
- 10.3.3 If the board identifies a discrepancy in a Statement of Ballots form, the board may review the particular ballots at issue to identify, correct, and account for the error.
- 10.3.4 The canvass board may not perform duties typically reserved for election judges, including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility; and
- (c) Requesting new logs or reports that were not created to conduct the election.

10.3.5 Role of Watchers. Watchers appointed under section 1-10-101(1)(a), C.R.S., may observe the board while it performs its duties, subject to Rule 8.

10.4 No canvass board may certify official results until authorized to do so by the Secretary of State. The Secretary of State may extend the canvass deadline for one or more counties in order to complete the risk-limiting audit in accordance with Rule 25.2. Before certifying official results, a county that conducts a comparison audit as defined in Rule 25.1.4 must manually adjust the preliminary results to account for discrepancies identified in the risk-limiting audit if directed by the Secretary of State.

#### 10.5 Procedures for Canvass

10.5.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The total number of ballots cast;
- (d) The number of provisional ballots cast, including totals for:
  - (1) Ballots accepted by each code; and
  - (2) Ballots rejected by each code.
- (e) The number of mail ballots cast, including totals for:
  - (1) Ballots accepted; and
  - (2) Ballots rejected by each code.
- (f) The number of in-person ballots counted;
- (g) The number of emergency replacement ballots, including totals for:
  - (1) Ballots accepted; and
  - (2) Ballots rejected by each code.
- (h) The number of ballots returned by voters with a disability covered under section 1-5-706 C.R.S.
- (i) The number of damaged and spoiled ballots.
- (j) If applicable, the number of ballots cast in each party's primary election, including totals for:

- (1) Ballots accepted in each party's primary election by affiliated and unaffiliated voters; and
- (2) Ballots rejected by each code.

10.5.2 Any written documentation regarding official results must be included as part of the canvass.

#### 10.5.3 Written Complaints

- (a) The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.
- (b) If the complaint is resolved, the designated election official must provide the details of the resolution.
- (c) If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.

### 10.6 Official Abstract and Reporting to the Secretary of State

10.6.1 The official county abstract must include, by precinct or ballot style, where applicable:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue; and
- (d) The total number of ballots cast in the election.

10.6.2 A county must submit the state portion of the abstract and the ENR upload required by Rule 11.9.6 to the Secretary of State in the format approved by the Secretary of State. The state portion of the abstract must include:

- (a) The summary of votes cast for each state race and each ballot question or issue; and
- (b) The total number of ballots counted in the election.

### 10.7 The County Abstract is the Official Permanent Record

10.7.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.

10.7.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

### 10.8 Role of the Secretary of State

10.8.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.



- 10.8.2 The county clerk or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.
- 10.8.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.
- 10.9 Recount generally
- 10.9.1 The purpose of a recount is to re-tabulate the ballots.
- 10.9.2 A county that has successfully completed a comparison audit under Rule 25.2 and reported no discrepancies in the recount contest need not re-scan ballots during a recount, except as provided in Rule 10.9.3. In all cases, the county must re-adjudicate ballot images for voter intent in accordance with Rule 10.13.3.
- 10.9.3 The losing candidate with the most votes, or an interested party as defined in section 1-10.5-106, C.R.S., may request that the county re-scan ballots. The request is due no later than the day after the deadline to order a mandatory recount or the day after the deadline to request a recount, whichever is applicable.
- 10.9.4 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.
- 10.9.5 If there is a recount in a local jurisdiction whose borders encompass area in more than one county, the controlling county, as defined in Rule 4.2.2, must coordinate the scheduling and conduct of the recount with each county that shares the jurisdiction.
- 10.9.6 If all losing candidates who received enough votes to trigger a mandatory recount submit letters of withdrawal to the DEO in accordance with section 1-4-1001, C.R.S., the DEO must immediately notify the county clerk and the county clerk need not conduct the recount.
- 10.10 Recount cost estimates and reimbursements
- 10.10.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:
- (a) Mailings and notices;
  - (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
  - (c) Copies and other office expenses related to the recount.
- 10.10.2 Requested recounts
- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.

- (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount. The county may not request reimbursement for normal overhead costs.
  - (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.
- 10.11 In accordance with section 1-10.5-107, C.R.S., and Rule 10.3.2(d), the canvass board's role in conducting a recount includes selecting ballots for the test, observing the recounting of ballots, and certifying the results.
- 10.12 Testing recount equipment
  - 10.12.1 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S.
  - 10.12.2 If the county re-scans ballots during the recount, the county clerk must test all ballot scanners that will be used. The purpose of the test is to ensure that the voting system accurately tabulates votes in the recounted contest.
    - (a) The county must prepare and tabulate the following test decks:
      - (1) The county recount test deck must include every ballot style and, where applicable, precinct style containing the recounted contest. It must consist of enough ballots to mark every vote position and every possible combination of vote positions, and include overvotes, undervotes, and blank votes in the recounted contest.
      - (2) In a requested recount, the person requesting the recount may mark up to 10 ballots. Any other candidate in the contest, or person or organization who could have requested the recount, may also mark up to 10 ballots.
      - (3) In a mandatory recount, at least two canvass board members of different party affiliations must each mark an additional 10 ballots containing the recounted contest.
    - (b) A bipartisan team, of election judges and/or staff, must hand tally the recounted contest on the test ballots and verify that the hand tally matches the voting system's tabulation.
    - (c) The test is limited to the race or measure that is recounted.
  - 10.12.3 In a county using a voting system certified before January 1, 2016, the county clerk must test the VVPAT records from at least one of the DREs that had votes cast on the ballot styles containing the race or measure being recounted.
    - (a) A bipartisan team of election judges or staff must manually verify the results of the recounted contest on the machines selected for the test and verify that the tally matches the VVPAT record.
    - (b) The test is limited to the race or measure that is recounted.
- 10.13 Counting ballots during a recount

10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5.

10.13.2 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.

10.13.3 Ballots must be reviewed for voter intent using the standards in Rule 18.

- (a) Every overvote, undervote, blank vote, ambiguous mark, and write-in vote in the races or measures subject to the recount must be reviewed in accordance with the Voter Intent Guide.
- (b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.

10.13.4 To recount ballots using “Ballot Now”:

- (a) Back up the official election database.
- (b) Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and create a Ballot Now recount database.
- (c) Scan and resolve all recount ballots according to this Rule 10.
- (d) Save all recount Cast Vote Records to the MBBs after verifying that the number of ballots processed matches the number of votes cast in the recount contest.
- (e) Open a new recount election in “Tally” and process the recount MBBs following the tabulation procedures above.
- (f) Compare recount results to original results and document any differences.
- (g) Backup the test database and the official recount database.

10.13.5 To recount ballots by hand count.

- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.
- (b) Ballots must be counted in batches of 25 to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges.

10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3, the county clerk must upload the memory cards.

10.13.7 Tabulation of ballots must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

10.13.8 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

10.14 Canvass and reporting results for a recount

10.14.1 Totals of recounted ballots must be reported in summary form as follows:

- (a) Sum total of votes for each race or measure recounted, under-votes, and over-votes for each location;
- (b) The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

**Rule 11. Voting Systems**

## 11.1 Voting system access

- 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.
- 11.1.3 In accordance with section 24-72-305.6, C.R.S., all permanent and temporary county staff and all vendor staff who have access to the voting system or any voting or counting equipment must pass a criminal background check. A person convicted of an election offense or an offense containing an element of fraud may not have access to a code, combination, password, or encryption key for the voting equipment, ballot storage area, counting room, or tabulation workstation.

## 11.2 Voting System Inventory

- 11.2.1 The designated election official must maintain an inventory record for each component of the voting system. The record must include the manufacturer, make, model, serial number, and date of acquisition.
- 11.2.2 The inventory must be in an electronic format and exportable to a comma separated value (CSV), Excel spreadsheet (XLS or XLSX), or quote or tab separated (TXT) file before delivery to the Secretary of State.
- 11.2.3 The designated election official must file a complete voting system inventory, noting which equipment will be used for the election with the Secretary of State no later than ten days before the election.

## 11.3 The clerk must perform a hardware diagnostic test and a logic and accuracy test.

## 11.3.1 Hardware Diagnostic Test

- (a) The designated election official must perform the Hardware Diagnostic Test before the election on each device that the designated election official will use in the election, including spare or back up devices. The test must include the following devices and provide the following information:
  - (1) All input and output devices;
  - (2) Communications ports;
  - (3) System printers;
  - (4) System modems when applicable;
  - (5) System screen displays;
  - (6) Boot performance and initializations;
  - (7) Display of firmware or software hash value (MD5 or SHA-1) when possible;

- (8) Confirmation that screen displays are functioning;
  - (9) Date, time and calibration of systems, if applicable; and
  - (10) Scanner calibration, if applicable.
- (b) The designated election official must seal each device upon the successful completion of the test and retain documentation of the seal information and all records in accordance with section 1-7-802, C.R.S.

### 11.3.2 Logic and Accuracy Test

- (a) The county clerk must conduct the public Logic and Accuracy Test no later than the 21<sup>st</sup> day before election day.
- (b) The county must ensure that the Logic and Accuracy Test is open to the extent allowable in accordance with section 1-7-509(2)(b), C.R.S. The county clerk may limit the number of representatives from each group because of space limitations.
- (c) Preparing for the Logic and Accuracy Test
  - (1) The county must prepare a test deck of ballots that includes every ballot style and, where applicable, precinct. The county test deck must include a sufficient number of ballots to mark every vote position for every contest including write-in candidates, allow for situations where a contest permits an elector to vote for two or more positions, and include overvotes and undervotes for each contest. The county test deck must include at least one write-in vote for each qualified write-in candidate so that all qualified write-in candidate names will appear in the LAT result uploaded to ENR as required by Rule 11.9.3. The county test deck must include ballots printed from a ballot-on-demand printer if a ballot-on-demand printer will be used in the upcoming election, and must include commercially printed ballots.
  - (2) The county must convene a Testing Board of one registered elector from each of the major political parties. Testing Board members must be registered to vote in the county and be sworn in as election judges.
  - (3) The county must provide at least 25 ballots that are clearly marked as test ballots to each Testing Board member.
  - (4) Testing Board members must mark their test ballots following the instructions printed on the ballots and retain a record of the tally.
  - (5) The Testing Board must test the ballots on each type of voting device used in the election and each type of ballot including audio ballots.
- (d) Conducting the Test
  - (1) The county and Testing Board must observe the tabulation of all test ballots, compare the tabulation with the previously retained records of the test vote count, and correct any discrepancies before the device is used in the election.

- (2) The county must reset the public counter to zero on all devices and present zero tapes or summary report to the Testing Board for verification.
- (3) The county must make an appropriate number of voting devices available and the Testing Board may witness the programming of devices necessary for the test.
- (4) The Testing Board and designated election official must count the test ballots as follows, as applicable:
  - (A) Ballot Scanners:
    - (i) The Testing Board must test at least one central count ballot scanner and at least one ballot scanner used at a voter service and polling center, if applicable.
    - (ii) The Testing Board must randomly select the machines to test.
    - (iii) The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.
  - (B) DREs:
    - (i) The Testing Board must test at least one DRE.
    - (ii) The Testing Board must randomly select the machines to test.
    - (iii) Each member of the Testing Board must separately cast his or her test ballots on the selected DREs. Each Testing Board member must cast at least one of his or her test ballots using the audio ballot playback and accessible input devices.
    - (iv) Each Testing Board member must examine the tabulation tape or report and verify that the DRE results match what the Testing Board member manually marked on his or her test ballots.
  - (C) Ballot Marking Devices (BMDs):
    - (i) The Testing Board must randomly select and test at least one BMD.
    - (ii) At least two members of the Testing Board must use the selected BMD to mark and print at least 25 ballots in the same manner that the testing board member manually marked his or her test ballots. At least two members of the Testing Board must mark at least one of his or her test ballots using the audio ballot playback and accessible input devices.

- (iii) A Testing Board member or county election official must separately scan and tabulate the test ballots marked with and printed from the BMD on one central count or polling location scanner, and generate a results report.
    - (iv) Each Testing Board member must verify that the results report generated from the scanner exactly corresponds to the testing board member's tally of the votes on the manually marked paper ballots comprising his or her test ballots.
  - (e) Completing the test
    - (1) The county must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the county clerk. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.
    - (2) The county must backup and preserve the election database or project containing test results, and export and preserve the test results and CVR files. The county must prepare and preserve a ballot manifest corresponding to the test CVR file.
    - (3) The county must upload the test results file during the ENR test required under Rule 11.9.3. The county must hash and upload the CVR and ballot manifest to the RLA software during the RLA practice period, as required under Rule 25.2.2(b).
    - (4) After testing, the Testing Board must watch the county reset and seal each voting device, if applicable.
    - (5) The Testing Board and the county clerk must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, if applicable, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.
    - (6) The county may not change the programming of any voting device after completing the logic and accuracy test for an election, except as required to conduct a recount or as authorized by the Secretary of State.
- 11.4 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.
  - 11.4.1 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.
  - 11.4.2 the county must create a hash value using an 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](mailto:voting.systems@sos.state.co.us)



- 11.4.3 The designated election official must include a point of contact and method of contact (phone, email, etc.).
- 11.4.4 Within one business day of receipt of the election setup records, the Secretary of State's office will contact the jurisdiction to confirm receipt.
- 11.4.5 The Secretary of State's office will store the election setup records in a secured, limited-access location.
- 11.4.6 All parties must treat as confidential all escrowed materials and any other related information that comes into their possession, control, or custody.
- 11.5 The designated election official must retain all testing records and documentation for 25 months.
- 11.6 Rules Concerning Accessible Voting Systems. A political subdivision may not purchase or lease voting systems for use by people with disabilities unless the system is certified by the Secretary of State.
- 11.7 Rules Concerning Notice of Voting System Malfunction
  - 11.7.1 The voting system provider must submit a software or hardware incident report to the Secretary of State no later than 72 hours after a software incident has occurred.
  - 11.7.2 A vendor or designated election official must notify the Secretary of State within 24 hours of a reported or actual malfunction of its voting system. The notice must include a description, date, and the names of those who witnessed the malfunction, as well as the procedures followed before the malfunction, and any error messages displayed. The notice may be verbal, but a written notice must follow.
  - 11.7.3 If the Secretary of State requires additional information the vendor or the designated election official must submit a report to the Secretary of State's office detailing the reprogramming, repair, or any other actions necessary to correct a voting system malfunction.
    - (a) The report must address whether permanent changes are necessary to prevent similar malfunctions in the future.
    - (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.
    - (c) The report must be submitted within 30 days after the date of the request by the Secretary of State. If an election is scheduled within 60 days of the date of request by the Secretary of State, the Secretary of State may set an emergency deadline for filing the report.
    - (d) Failure to submit a report within the required period is grounds to decertify the system.
    - (e) The political subdivision holding the election in which the voting system malfunction occurred may submit the report in lieu of a report from the system's vendor.
    - (f) A copy of this report will be on file in the Secretary of State's office.

- (g) The Secretary of State's office will distribute a copy of this report to all counties using the voting system in question.

## 11.8 Purchases and Contracts

11.8.1 In accordance with sections 1-5-617(5) and 1-5-623(3), C.R.S., a political subdivision may not purchase, lease, transfer, or use a certified electromechanical or electronic voting system, device, or related component, unless the political subdivision first applies for and obtains approval from the Secretary of State.

11.8.2 In the case of electromechanical or electronic voting systems, devices, or related components certified for use in Colorado before January 1, 2016, the Secretary of State will approve a political subdivision's application to purchase, lease, or use the voting system, device, or related component, only if:

- (a) The political subdivision purchased, leased or used the same voting system, device, or related component, before January 1, 2016; and
- (b) The political subdivision's application for approval is limited to the acquisition or use of voting system applications, components or voting devices intended to replace the same or substantially similar applications, devices and components that are damaged, defective or inoperable; and
- (c) Approval of the application, and the political subdivision's purchase, lease or use of the voting system components or voting devices, will not materially impair the political subdivision's future fiscal ability to purchase or lease a voting system certified for use in Colorado on or after January 1, 2016.

11.8.3 In the case of electromechanical or electronic voting systems, devices or related components certified for use in Colorado on or after January 1, 2016, the Secretary of State will approve a political subdivision's application to purchase, lease, or use the voting system, device, or related component, after considering all relevant factors, including without limitation:

- (a) Evaluations of the voting system performed by public committees organized by the secretary of state, and any recommendations regarding the use of the voting system by any such public committee;
- (b) The voting system's ability to support the efficient and uniform conduct of elections under the uniform election code of 1992, as amended;
- (c) The voting system's utilization of commercial off-the-shelf hardware components, rather than proprietary, purpose-built hardware components;
- (d) The voting system's integration of its data management application, if any, with other components of its election management system, so that system users can operate or access all election management system components within a single interface on the same server or workstation;
- (e) The voting system's ability to support efficient risk-limiting audits as required by section 1-7-515, C.R.S.;
- (f) The voting system's compatibility with dependent systems that are not directly related to the tabulation of votes and ballots, but are nevertheless utilized by designated election officials in conducting elections in Colorado, including:

- (1) Ballot-on-demand systems,
  - (2) Election Night Reporting systems,
  - (3) Electronic ballot delivery systems,
  - (4) Election definition data exported from SCORE; and
  - (5) The Secretary of State's RLA software.
- (g) The voting system's ability to efficiently support elections principally conducted by mail ballot, in all political subdivisions, regardless of their size, number of registered electors, or fiscal resources, including:
- (1) The voting system's inclusion of applications enabling election judges to digitally, rather than manually, adjudicate, resolve, and duplicate ballots with marginal or ambiguous voter markings, and
  - (2) The voting system's use of ballot scanners equipped with automatic document feeders, enabling election judges to scan multiple ballots rather than a single ballot at a time;
- (h) The voting system's ability to enable voters with disabilities to vote independently and privately, and on the same or substantially similar devices throughout Colorado, without regard to their county of residence;
- (i) The voting system's scalability and affordability, enabling all political subdivisions to utilize the same or substantially similar equipment, regardless of their size, number of registered voters, or fiscal resources;
- (j) The voting system's portability as provided in the provider's hardware and software license agreements, enabling political subdivisions that purchase, lease, or use the system to loan or borrow voting devices and related components to or from one another without charge, as exigencies and other circumstances warrant, and as approved by the Secretary of State;
- (k) The voting system's ability to easily export images of voted ballots, in response to requests filed under section 24-72-205.5(3)-(4), C.R.S., of the Colorado Open Records Act;
- (l) The voting system provider's past performance of successfully implementing its voting system in multiple jurisdictions simultaneously;
- (m) The voting system provider's past performance of successfully training local election officials to use its voting system in multiple jurisdictions simultaneously;
- (n) The voting system provider's past performance of post-implementation customer and technical support for political subdivisions that acquire its voting system;
- (o) The voting system provider's past performance of compliance with Colorado law regarding voter anonymity, and responsiveness to other issues and concerns raised by designated election officials and Secretary of State staff members;
- (p) The voting system provider's financial stability and sustainability as an ongoing business concern; and

- (q) The extent to which the voting system provider's hardware and software license agreements permit the Secretary of State, or political subdivisions that license the hardware and software applications necessary to program elections and voting devices, to perform those services without charge for other political subdivisions that are licensed to use the voting system.

11.8.4 The Secretary of State will approve a county's application for the purchase, lease, or use of an electromechanical or electronic voting system, device, or related component, certified after January 1, 2016, only if:

- (a) The voting system includes, and the county acquires, digital ballot resolution and adjudication capability;
- (b) The voting system includes, and the county acquires, central count ballot scanners equipped with automatic document feeders capable of scanning multiple ballots rather than a single ballot at a time;
- (c) The voting system integrates all components of the election management system, including the data management application, if any, into a single user interface that is operable or accessible from the same server or workstation;
- (d) The voting system is capable of supporting efficient risk-limiting audits, in the manner required by Rule 21.4.12;
- (e) The voting system is compatible with dependent systems that are not directly related to the tabulation of votes and ballots, but are nevertheless utilized by designated election officials in conducting elections in Colorado, including:
  - (1) Ballot-on-demand systems,
  - (2) Election Night Reporting systems,
  - (3) Electronic ballot delivery systems,
  - (4) Election definition data exported from SCORE, and
  - (5) The Secretary of State's RLA Software;
- (f) The voting system provider's software and hardware license agreements expressly permit political subdivisions that purchase, lease, or use the system to loan or borrow voting devices and related components to or from one another, without charge, as exigencies and other circumstances warrant, and as approved by the Secretary of State; and
- (g) The voting system provider's software and hardware license agreements expressly permit the Secretary of State, or political subdivisions that license the hardware and software applications necessary to program elections and voting devices, to perform those services without charge for other political subdivisions that are licensed to use the voting system.

11.8.5 Due to their unsuitability for risk-limiting audits, the Secretary of State will not approve a county's application to purchase, lease or use a ballot scanner certified for use after January 1, 2016, that is not equipped with an automatic document feeder, whether intended for use by voters at polling locations, or by election judges at central count locations.

- 11.8.6 A political subdivision's contract to purchase or lease a voting system under Rule 11.8.1 must provide for user training and preventative maintenance.
- 11.8.7 The Secretary of State will only approve a political subdivision's application to purchase or lease a voting system or component if the voting system or component allows the designated election official to conduct elections in accordance with Colorado law, as amended.
- 11.8.8 The Secretary of State will maintain a list of all certified electromechanical or electronic voting systems, devices and related components, purchased, leased, or used by Colorado political subdivisions. The list will include, at minimum, the name of the jurisdiction, the name and version of the voting system, the date of acquisition, and the serial numbers of voting devices.
- 11.9 Election Night Reporting. The county must use the Secretary of State's Election Night Reporting (ENR) system to report results for all primary, general, coordinated, and recall elections in accordance with this Rule.
- 11.9.1 A data entry county must upload a results data file to ENR containing the election results on the dates and times specified in Rules 11.9.3 through 11.9.5. The county must program its election database so that the results file exported from the voting system is formatted in accordance with the following requirements:
- (a) Contest names: Except as otherwise provided in subsections (1) – (3) of this Rule, the results file must contain the contest names as they are certified for the ballot.
    - (1) For primary elections, the county must append to the end of the certified contest name the SCORE abbreviation of the political party affiliation of the candidates in the contest (e.g., "United States Senator – Dem," "State Senator – District 21 – REP," "County Treasurer – Lib,").
    - (2) For ballot measures other than judicial retention questions, the contest name must include the political subdivision that referred the measure to the ballot, the ballot measure type, and the number or letter as it appears on the ballot (e.g., "Adams County Ballot Issue 200," "City of Brighton Ballot Question 5A,").
    - (3) For Judicial Retention Questions, the contest name must include the court and the title and last name of the justice or judge standing for retention (E.g., "Supreme Court – Justice Erickson," "Court of Appeals – Judge Jones," "1<sup>st</sup> Judicial District– Judge Smith," "Adams County Court – Judge Doe,").
  - (b) Contest order: Except as otherwise provided in subsections (1) – (4) of this Rule, the results file must list the contests in the same order as they are certified for the ballot.
    - (1) For primary elections, the results file must list the contests in the order prescribed by section 1-5-403(5), C.R.S., with results for each contest grouped in alphabetical order of the abbreviated names of the participating major political parties, followed by the abbreviated names of participating minor political parties and qualified political organizations (e.g., "United States Senator – DEM," "United States Senator – REP,"

“United States Senator – GRN,” “United States Senator – LIB,” “United States Senator – UNI,”).

- (2) The results file must list ballot measures in the order certified by the Secretary of State, followed by the ballot measures certified by other participating political subdivisions in the order and using the numbering conventions specified in Rule 4.5.2(e).
  - (3) A county using the Dominion, Hart, or Clear Ballot voting system must include and populate the contest sequence number field in its results files to define the order of contests on the ballot as required by this Rule.
  - (4) A county using the Premier voting system must include and populate the contest ID field in its results file to define the order of contests as required by this Rule.
- (c) Candidate names: The results file must include candidates’ names in proper case and include periods following initials (e.g., “John A. Smith”), and may not include the name or abbreviation of the candidate’s political party.
- (d) Precinct names: If a county reports results by precinct, its results file must only include the ten-digit precinct number from SCORE, followed by a dash and any split precinct indication (e.g., 1234567890-1).
- (e) Provisional results: The results file must include a “provisional” precinct or counting group as a placeholder for separately reported provisional ballot results if required by section 1-8.5-110(2), C.R.S.
- 11.9.2 No later than 35 days before the election, a county must provide the following information to the Secretary of State:
- (a) A data entry county must email a sample or “zero” file. Except in the case of withdrawn or deceased candidates, a data entry county may not change or alter the election database or export file after submitting its zero file.
  - (b) A manual entry county must send a list of all ballot content.
- 11.9.3 No later than 21 days before the election, a data entry county must upload the LAT results file to ENR. At a minimum, the LAT results file must contain the results of the complete county test deck required under Rule 11.3.2(c)(1).
- 11.9.4 Election night uploads. All counties other than manual entry counties must export or produce preliminary election results and upload them to the ENR system.:
- (a) While tabulating, counties must upload to the ENR system at a minimum:
    - (1) After the close of polls but no later than 8:00 p.m.; and
    - (2) No later than 9:00 p.m.
  - (b) If the county believes it will be unable to meet the schedule outlined in this rule, it must contact the voting systems team before the deadline.
  - (c) The Secretary of State may, at his or her discretion, waive or modify this rule.

- 11.9.5 A county must produce preliminary election results and upload them to the ENR system after counting is completed on election night, indicate in the ENR system that election night counting is completed, and notify the voting systems team by email that election night counting is completed.
- 11.9.6 Canvass upload. The county must export or produce official election results, and check the appropriate box in the ENR system to indicate that the canvass upload is complete, not later than close of business of the first business day after the statutory deadline for completing the canvass.
- 11.10 Reports or materials required by this Rule may be submitted to the voting systems team:
- 11.10.1 By delivery to:
- Colorado Secretary of State  
Attn: Voting Systems  
1700 Broadway – Suite 200  
Denver, CO 80290
- 11.10.2 By email to:
- voting.systems@sos.state.co.us
- 11.10.3 By Fax to:
- 303-869-4861





**Rule 12. Recall**

[Reserved]



**Rule 13. Election and HAVA Complaints**

## 13.1 Election complaint procedures

13.1.1 Any individual who personally witnesses a violation of the Uniform Election Code of 1992 may file an election complaint.

13.1.2 An election complaint must include the approved Secretary of State's Election Complaint cover sheet.

## 13.1.3 Processing and docketing election complaints

(a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rule 13.1.2 and sufficiently alleges a violation of the Uniform Election Code of 1992.

(1) If the complaint does not meet the requirements of Rule 13.1.3(a), the Secretary's designee will notify the complainant of the deficiency.

(2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.

(b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

## 13.1.4 Amending an election complaint

(a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.

(b) An amendment may not contain allegations of a new violation.

## 13.1.5 Investigation

(a) After the response period outlined in Rule 13.1.3, the Secretary's designee will investigate the complaint.

(b) If the Secretary of State determines that the complaint requires an immediate investigation, the Secretary's designee will begin investigating before the response period closes. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.

(c) Depending on the violation alleged, the Secretary's designee may:

(1) Review documents;

(2) Visit the county;

(3) Conduct interviews;

(4) Test equipment;

- (5) Take other steps necessary; or
  - (6) Convene a hearing and take testimony from interested parties.
- (d) During an ongoing investigation, county clerks and staff must accommodate requests by the Secretary's designee in the timeframe requested by staff.

#### 13.1.6 Resolution of election complaints

- (a) After an investigation and hearing, if applicable, the Secretary's designee will:
- (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or
  - (3) Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State.

### 13.2 Help America Vote Act (HAVA) complaint procedures

13.2.1 Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, may file a HAVA complaint with the Secretary of State.

13.2.2 A HAVA complaint must include the approved Secretary of State's HAVA Complaint cover sheet.

13.2.3 A complainant must allege a HAVA violation with particularity and refer to the section of HAVA that has been violated.

13.2.4 A complaint must be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the violation, whichever is later.

13.2.5 Each complaint must be in writing and notarized, signed, and sworn by the person filing the complaint.

#### 13.2.6 Processing and docketing HAVA complaints

- (a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rules 13.2.2 through 13.2.5.
- (1) If the complaint does not include a cover sheet the Secretary's designee will notify the complainant of the discrepancy.
  - (2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.
- (b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.
- (c) The Secretary's designee may consolidate two or more HAVA complaints.

#### 13.2.7 Amending a HAVA complaint

- (a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.
- (b) An amendment may not contain allegations of a new violation.

#### 13.2.8 Investigation

- (a) After the response period outlined in Rule 13.2.6, the Secretary's designee will investigate the complaint.
- (b) If the Secretary of State determines an immediate investigation is required, the Secretary's designee will begin investigating before the response period has closed. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.
- (c) Depending on the violation alleged, the Secretary's designee may:
  - (1) Review documents;
  - (2) Visit the county;
  - (3) Conduct interviews;
  - (4) Test equipment; or
  - (5) Take other steps necessary.
- (d) While an investigation is ongoing, county clerk staff must accommodate requests by the Secretary's designee in the timeframe requested.

#### 13.2.9 Hearing and Resolution of HAVA complaints

- (a) The Secretary of State or his or her designee will hold a hearing if the complainant requests one at the time of filing the complaint, unless the complainant later withdraws the request.
- (b) After the investigation and hearing, if any, the Secretary's designee will:
  - (1) Dismiss the complaint as not supported by credible evidence;
  - (2) Refer the complaint to a prosecuting authority under Article 13 of Title 1, C.R.S.; or
  - (3) Find a violation, recommend a resolution, and forward the recommendation for resolution to the Secretary of State.

#### 13.2.10 Alternative Dispute Resolution under section 1-1.5-105(2)(j), C.R.S.

- (a) If the Secretary of State does not resolve the complaint within 90 days of the date that it was filed and the complainant does not consent to an extension of time, the Secretary of State will transfer the complaint to the Office of Administrative Courts (OAC).
- (b) The Secretary of State will provide the record and any other materials from the proceedings to the OAC.

- (c) The Secretary of State will consider the initial determination by the OAC and issue a final determination within 60 days of the date the determination is received by the Secretary.

13.2.11 The Secretary of State's determination is a final agency action.

13.2.12 The Secretary of State may recover the costs of proceeding against any complainant that files a frivolous, groundless, or vexatious complaint.

**Rule 14. Voter Registration Drives****14.1 Statement of Intent**

14.1.1 In accordance with Part 7, Article 2 of Title 1, C.R.S., the organizer of a Voter Registration Drive (“VRD”) must file a Statement of Intent and Training Acknowledgment Form with the Secretary of State to conduct a voter registration drive. The Statement of Intent and Training Acknowledgment Form must include the following information:

- (a) The name of the group conducting the VRD, and the name address, email address, and telephone number of the individual organizing the VRD;
- (b) The name of the agent (who is required to be a Colorado resident) and the contact information for that agent, if different from the person organizing the VRD;
- (c) A statement specifying that the VRD intends to operate within the State of Colorado;
- (d) A notice that the VRD number expires at the end of the calendar year; and
- (e) A signature line requiring the organizer’s signature.

14.1.2 A VRD organizer must file amendments to the Statement of Intent and Training Acknowledgment Form with the Secretary of State no later than three business days after the change occurs. Amendments may be made by fax, email, mail or in person.

14.1.3 The Secretary of State will immediately attempt to verify the information provided in the Statement of Intent and Training Acknowledgment Form before issuing a number to the VRD organizer. The Secretary of State may deny a number to the VRD organizer if the information provided on the Statement of Intent cannot be verified.

**14.2 Training**

14.2.1 To receive a VRD number, the VRD organizer must successfully complete the online training and test provided by the Secretary of State and submit a Statement of Intent and Training Acknowledgment form to the Secretary of State.

14.2.2 Before circulating, a VRD circulator must complete a training provided by the VRD organizer and submit a Training Acknowledgment form to the VRD organizer. The training must include, at a minimum, the content contained in the Secretary of State’s circulator training.

14.2.3 The VRD organizer training is provided online, but a VRD organizer may schedule a time to view the training at the Secretary of State’s office.

14.2.4 After completing the VRD organizer training, the VRD organizer must complete the training test and answer the questions 100% correctly before the Secretary of State will issue a VRD number.

14.2.5 After completing the VRD organizer training and test, the VRD organizer must sign a Statement of Intent and Training Acknowledgment Form confirming that the training and test have been completed and that he or she was informed of rules, laws and penalties relating to voter registration drives.

- 14.2.6 A VRD organizer must complete the training and test every calendar year in which he or she intends to conduct a VRD.
- 14.3 Number Assigned
- 14.3.1 After successful completion of the required training and test, and submission of the Statement of Intent and Training Acknowledgment Form, the Secretary of State will assign a unique number to the VRD. After issuing a unique number to the VRD, the Secretary of State will:
- (a) Advise the VRD organizer of their unique number;
  - (b) Notify the county clerks within 24 hours after each VRD number has been issued by the Secretary of State; and
  - (c) Post the agent and the name of the group conducting the drive on the Secretary of State website.
- 14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is assigned.
- 14.3.3 The VRD must assign each circulator a unique circulator identification number and maintain a record of each number issued. The circulator identification number must begin with the VRD's five-digit identification number (e.g., 16-999-0001).
- 14.3.4 The VRD must provide the Secretary of State with the name of the circulator associated with a particular identification number, upon request.
- 14.4 Voter Registration Drive Voter Application Forms
- 14.4.1 A VRD must use the Secretary of State's approved Voter Registration Drive Application Form or the National Mail Voter Registration Form when collecting registration applications.
- 14.4.2 A VRD organizer can obtain Colorado Voter Registration Drive Application Forms from County Clerks and the Secretary of State.
- 14.4.3 The organizer is responsible for placing the VRD number on the application form.
- 14.4.4 The VRD organizer must receive a VRD number before he or she can receive the approved Colorado Voter Registration Drive Application Forms.
- 14.4.5 The circulator must include his or her unique circulator identification number on each voter registration form he or she submits.
- 14.4.6 Any voter registration drive that provides a voter registration application on its website or a link to such voter registration form must direct the applicant to return the completed form directly to the county clerk of the applicant's legal residence. No VRD may provide a voter registration form on its website or a link to such voter registration form which instructs or directs, in any way, the applicant to return the completed form to anyone or any group other than directly to the county clerk of the applicant's legal residence or, in the case of overseas electors or UOCAVA electors, the county clerk or the Secretary of State.



14.4.7 A VRD organizer or circulator must provide the applicant a blue or black ink pen to complete the application, and may not highlight or otherwise mark the approved voter registration drive application form other than to write the VRD number and circulator information.

#### 14.5 Voter Registration Drive Complaints and fines

14.5.1 Any person, including the Secretary of State, who believes a VRD organizer or circulator has not complied with the requirements of Part 7, Article 2 of Title 1, C.R.S., or this Rule 14 may file a written complaint with the Secretary of State.

14.5.2 A written complaint filed with the Secretary of State must contain the following information:

- (a) The complainant's name;
- (b) The complainant's full residence address and mailing address (if different from residence);
- (c) A description of the alleged violation, which may include a reference to the particular statute or rule;
- (d) The name and assigned number of the VRD, if known;
- (e) The date and location of the alleged violation, if known; and
- (f) Other applicable or relevant information.

14.5.3 The Secretary of State will review all complaints submitted in writing and conduct such investigations as may be necessary and appropriate. If the Secretary of State determines that a violation has occurred, the Secretary of State will impose a fine in accordance with section 1-2-703, C.R.S., and notify the VRD organizer of:

- (a) The date and factual basis of each act with which the VRD organizer is being charged;
- (b) The particular provision of the statute violated; and
- (c) The amount of the fine imposed.

14.5.4 Notification of violation will be sent by certified or registered mail, return receipt requested, to the last known address of the VRD organizer.

14.5.5 The VRD organizer may appeal a fine and has 30 days following receipt of notification to submit a written response setting forth the reasons the VRD organizer is appealing the fine. The VRD organizer may request, within the 30 days, a hearing with the Secretary of State to dispute the fine.

14.5.6 Within 30 days after receipt of the written response, or hearing procedures, the Secretary of State will issue an order affirming or dismissing the imposed fine.



**Rule 15. Preparation, Filing, and Verification of Petitions**

15.1 The following requirements apply to candidate, statewide initiative, recall, and referendum petitions, unless otherwise specified.

15.1.1 Petition template for state petitions

- (a) Petition proponents must use the Secretary of State's fillable .pdf petition template to create their petition format.
- (b) After approval of the petition format as to form, proponents must print all petition sections in accordance with the Secretary of State's petition-printing guidelines.
- (c) Any signature affixed to a petition section that does not conform to the requirements of this Rule 15.1.1 is not valid.
- (d) An unaffiliated candidate for the office of President of the United States who is submitting a petition for nomination under Section 1-4-802, C.R.S. must include on the petition the names of registered electors the candidate is nominating as their presidential electors.

15.1.2 The Secretary of State or DEO will not accept or count additional signatures after proponents file the original petition or addendum.

15.1.3 Circulator affidavit

- (a) If a petition section does not have a completed circulator affidavit, the Secretary of State or DEO will reject the entire section.
- (b) If a petition section does not have a completed notary clause, or if the date of the notary clause differs from the date the circulator signed the affidavit, the Secretary of State or DEO will reject the entire section.
- (c) If a state candidate is curing a circulator affidavit under section 1-4-912(2), C.R.S., the candidate must use the cure affidavit provided by the Secretary of State.

15.1.4 Verifying individual entries

- (a) Staff will check each individual entry against the information contained in SCORE.
- (b) Staff will create and maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.
- (c) If an entry does not match the signor's current information in SCORE, staff must check the signor's information in SCORE as of the date the signor signed the petition.
- (d) Secretary of State or DEO staff will reject the entry if:
  - (1) The name on the entry is not in SCORE;

- (2) The middle initial or middle name on the entry does not match the middle initial or middle name in SCORE;
  - (3) The address on the entry does not match the address in SCORE;
  - (4) The address on the entry is a post office box;
  - (5) The entry is incomplete;
  - (6) The signer completed the entry before the designated election official approved the petition format;
  - (7) The signer was not an eligible elector at the time he or she completed the entry;
  - (8) The signer completed the entry after the date on the circulator affidavit;
  - (9) Evidence exists that some other person assisted the signer in completing the entry but no statement of assistance accompanies the entry;
  - (10) The name and signature on the entry is illegible and cannot be verified in SCORE;
  - (11) The entry is a duplicate of a previously accepted entry on the same petition; or
  - (12) For a candidate petition where an elector may sign only one petition for the same office, the entry is a duplicate of a previously accepted entry on a previously filed petition for the same office.
  - (13) The signer's information appears outside of a numbered signature block on a petition section.
  - (14) For a candidate petition, the address on the entry does not match the current residential or mailing address for the elector in SCORE.
- (e) Secretary of State or DEO staff will accept the entry if:
- (1) The name on an entry matches or is substantially similar to the information in SCORE, or if the signature on an entry is a common variant of the name;
  - (2) A middle initial or middle name is present on the entry but not in SCORE, or present in SCORE but not on the entry;
  - (3) A name suffix is present on the entry but not in SCORE, or present in SCORE but not on the entry; or
  - (4) The address on the entry is missing an apartment letter or number or a street direction.
  - (5) For a candidate petition, the address provided did not match the current residence address information in SCORE, but did match the current mailing address information in SCORE.

## 15.2 Petition entity license, registration, filing, and circulation

15.2.1 A petition entity that intends to pay petition circulators must obtain a petition entity license, pay a fee, and register with the Secretary of State before circulating petitions. The license application must include:

- (a) The petition entity's name, address, telephone number, and email address;
- (b) The designated agent's name; and
- (c) An affirmation that the designated agent has read and understands Article 4 and Article 40 of Title 1, C.R.S., and has completed the Secretary of State's circulator training program.

15.2.2 Before compensating a circulator, the designated agent must register with the Secretary of State by submitting a signed form that includes a list of the proposed initiatives and/or the candidate or candidate committee's name the petition entity will circulate.

15.2.3 If a petition entity fails to register a proposed initiative or candidate petition over any two-year period, the license expires. The Secretary of State will notify a petition entity that its license has expired within 30 days after the date of expiration.

15.2.4 A petition entity may renew an expired license without a fee by submitting a new license application.

## 15.3 Statewide initiative petition circulation

15.3.1 Petition circulation may begin after the title board's final decision, including disposition of any rehearing motion, after the time for filing a rehearing motion, and after the Secretary of State has approved the petition format. If an appeal is filed with the Supreme Court, the six-month period specified in section 1-40-108(1), C.R.S., begins on the date the petition is first signed or on the date the Supreme Court's decision becomes final, whichever is first. Signatures gathered outside of this period are invalid.

15.3.2 The petition circulator must provide a permanent residence address on the circulator affidavit. If the circulator is not a permanent Colorado resident, the circulator must also provide the Colorado address where he or she temporarily lives.

- (a) For purposes of Article 40 of Title 1, C.R.S., and this Rule, a circulator's permanent "residence" or "domicile" means his or her principal or primary home or place of abode in which a circulator's habitation is fixed and to which the circulator, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. A permanent "residence" or "domicile" is a permanent building or part of a building and may include a house, condominium, apartment, room in house, or mobile home. Except as provided in paragraph (b) of this Rule, a vacant lot, business address, or post office box is not a permanent "residence" or "domicile". (Sections 1-2-102(1)(a)(i) and 1-40-121(1)(b), C.R.S.)
- (b) A homeless circulator must provide the address or location where he or she is living the date the affidavit is signed. The circulator must provide a physical location; a post office box may not be provided.

- (c) For the purposes of sections 1-40-106(4)(b), 1-40-111(3)(a), 1-40-121(2)(a), and 1-40-135(2)(c), C.R.S., a circulator's permanent residence address that does not comply with this Rule 15.4.2 is a "false address".

15.3.3 Proponents may file a petition or addendum only once, and may not supplement additional signatures after filing the petition or addendum, even if the additional signatures are offered before the deadline to submit the original petition or addendum.

#### 15.4 Statewide initiative petition receipt by Secretary of State

15.4.1 The Secretary of State will not accept a petition that lists proponents other than those authorized by law.

15.4.2 Upon receipt of a petition, Secretary of State staff will consecutively number petition sections.

15.4.3 Staff will inspect each petition section for evidence of disassembly. If it appears that the section was disassembled, the Secretary of State will reject all signatures in the section.

15.4.4 Staff will consecutively number each line on each petition section. For purposes of this Rule, "line" means the block of information that contains the last name, first name, middle initial, county, signing date, street address, city, and signature of a petition signer.

15.4.5 If the number of lines is less than the number of signatures required to certify the measure to the ballot, the Secretary of State will issue a statement of insufficiency.

15.4.6 Staff will count each line with writing on each petition section. For purposes of this Rule, an "entry" means a counted line with writing. At the bottom of each page, staff will write the number of entries on that page and, on the face of each petition section, staff will write the total number entries for that section.

- (a) Staff will not count blank or completely crossed-out lines.

- (b) Staff will count a line with incomplete writing, a partial cross out, or with what appears on its face to be an invalid signature as an entry.

#### 15.5 Statewide initiative petition verification

15.5.1 Verification by random sample.

- (a) Staff will create a record for each entry on the petition and tally the total number of entries.

- (b) The database will generate a series of random numbers equal to 4,000 signatures or five percent of the total number of signatures, whichever is greater. Staff will check the validity of the random signatures in accordance with this Rule. Staff will maintain a master record of each accepted and rejected entry, along with the reason code for each rejected entry.

#### 15.6 Curing insufficient statewide initiative petitions

15.6.1 If petition proponents submit additional signatures within the permitted time, Secretary of State staff will verify the additional signatures in accordance with this Rule 15.

- 15.6.2 If the Secretary of State found the original submission insufficient based on the random sample verification, staff will add the number of additional valid signatures to the number of projected valid signatures in the original submission.
- (a) If the new projected number of valid signatures equals 110% or more of the required signatures, the Secretary of State will issue a statement of sufficiency.
  - (b) If the new projected number of valid signatures equals more than 90% but less than 110% of the required signatures, staff will verify all previously submitted signatures. Staff will add the total number of valid signatures in the original petition to the number of additional valid signatures submitted in the addendum in order to determine sufficiency.
- 15.6.3 If the initial verification was of every signature, staff will add the number of additional valid signatures to the number of valid signatures in the original submission in order to determine sufficiency.
- 15.6.4 Staff will issue a new statement of insufficiency or sufficiency that reports the total number of valid signatures submitted.
- 15.7 Signature verification on state candidate and recall petitions
- 15.7.1 The Secretary of State will compare the signature on each petition entry with the elector's signature in SCORE in accordance with the Secretary of State's Signature Verification Guide. The Secretary of State may use an automated signature verification device.
- (a) If the signatures match and the entry is otherwise valid, the Secretary of State must accept the entry.
  - (b) If upon initial review the signatures do not match, The Secretary of State must conduct further review of the entry. A team of two staff members who are not affiliated with the same political party must review the signatures, conduct additional research in SCORE if necessary, and, unless both staff members agree that the signatures do not match, accept the entry if it is otherwise valid.
- 15.8 Referendum petitions
- 15.8.1 This Rule applies to statewide referendum petitions under Article V, Section 1 (3) of the Colorado Constitution.
- 15.8.2 Except where this Rule states otherwise, any statutory or constitutional provision that applies specifically to initiative petitions also applies to referendum petitions.
- 15.8.3 Proponents may submit a referendum petition to the Secretary of State for approval at any time after the General Assembly has passed the bill. The Secretary of State will not issue final approval of the referendum petition form until the bill has become law under Article IV, Section 11 of the Colorado Constitution.
- 15.8.4 Each referendum petition section must consist of the following, in the order listed:
- (a) The warning as specified in section 1-40-110, C.R.S.
  - (b) The heading "Referendum Petition," followed by the demand upon the Secretary of State in substantially the following form, in which the underlined material is only for example:

"To: The Honorable \_\_\_\_\_, Secretary of State of the State of Colorado

We, the undersigned electors of the State of Colorado, do hereby respectfully petition, order, and demand that Sections 1 to 12, inclusive (being the entire Act), of House Bill No. 02-1010, by Representatives Abel, Baker, and Cain, and Senators Smith, Thomas, and Jones, entitled "Concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation", passed by the Sixty-third General Assembly of the State of Colorado, at its regular session in the year 2002, shall be submitted to the voters for their adoption or rejection at the next biennial regular general election, to be held on Tuesday, the 5th day of November, 2002, and each of the signers of this petition says:

I sign this petition in my own proper person only, and I am a registered elector of the State of Colorado, my residence address and the date of my signing this petition are correctly written immediately after my name, and I do hereby designate the following persons to represent me in all matters affecting this petition:"

- (c) The name and mailing address of two persons who are designated to represent the signers thereof in all matters.
- (d) The ballot title and submission clause.
- (e) The text of the Act, or the item, section, or part of the Act, on which the referendum is demanded.
- (f) Succeeding pages that each contain the warning, the ballot title, and submission clause, and ruled lines numbered consecutively for signatures.
- (g) A final page that contains the circulator's affidavit required by section 1-40-111(2), C.R.S.

15.8.5 A referendum petition section must include only the matters required by Article 40, Title 1, C.R.S., and this Rule, and no extraneous material.

15.8.6 The ballot title must consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

"An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010."

15.8.7 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause must consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

"Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved?" The material in parentheses shall correctly and fairly summarize the subject



or the effect of the portion of the Act referenced.

*[Administrative note: Rule 15.9, temporarily adopted on 7/15/2020, expired on 11/12/2020]*



**Rule 16. Military and Overseas Voters (UOCAVA)****16.1 General Rules concerning voting by military and overseas electors**

- 16.1.1 For the purposes of this Rule 16, elector means a covered voter as defined in section 1-8.3-102(2), C.R.S.
- 16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each county clerk's office must have a dedicated fax machine for the purpose of fax ballot transmission.
- 16.1.3 The county clerk must mail or electronically transmit a ballot to all active eligible electors. An elector who requests covered-voter status must submit an application affirming his or her eligibility to do so in accordance with section 1-8.3-102(2), C.R.S.
- 16.1.4 If an unregistered elector submits a Federal Write-in Absentee Ballot (FWAB) by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the FWAB is a timely application for registration and ballot request.
- 16.1.5 Ballots received by the Secretary of State
- (a) If the Secretary of State timely receives a ballot under section 1-8.3-113, C.R.S., and Rule 16, the Secretary of State will immediately notify the appropriate county clerk and forward the ballot by the most efficient means available no later than the next business day.
  - (b) To ensure voter secrecy, any county notified that the Secretary of State has received a ballot must retain a minimum of ten voted ballots to be counted with the ballot received by the State.
- 16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the first primary election in an even numbered year to each elector whose record is marked "Inactive." The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:
- (a) The status of the elector's record and ballot request;
  - (b) The upcoming federal elections;
  - (c) How to update the elector's mailing information and request a ballot; and
  - (d) Any other information the county clerk deems appropriate.
- 16.1.7 No later than 45 days before an election, the county clerk must report to the Secretary of State the number of ballots transmitted to military and overseas electors by the 45-day deadline.
- 16.1.8 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-110, C.R.S.
- (a) If a county fails to meet the 45-day ballot transmission deadline provided for any state or federal election, the county clerk must immediately report the failure and reason for the failure to the Secretary of State.

- (b) The county clerk must provide a plan to the Secretary of State for complying with the deadline in the next state or federal election.
  - (1) The county must submit the plan to the Secretary of State no later than 60 days before the transmission deadline.
  - (2) The county must provide a weekly progress report on implementing the plan to the Secretary of State beginning 50 days before the transmission deadline.
  - (3) The county clerk must provide a daily progress report to the Secretary of State beginning five days before the transmission deadline.

## 16.2 Electronic transmission

16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

- (a) An elector who requests fax transmission must provide a fax number, including the international country code and local area, province, or city code, if applicable, where the ballot is to be faxed.
- (b) An elector who requests email transmission must provide a complete email address where the ballot is to be transmitted. In accordance with section 1-8.3-115, C.R.S., no election official may disclose the email address to the public.
- (c) In accordance with section 1-8.3-113(1), C.R.S., a covered voter who chooses to receive his or her unvoted ballot by electronic transmission may return his or her ballot by fax or email only if the covered voter reasonably determines that a more secure method, such as returning the ballot by mail, is not available or feasible. "Not feasible" means circumstances where the covered voter reasonably believes that if he or she mails the ballot the county clerk will not receive it by the close of business on the eighth day after an election.
- (d) To return a voted ballot and self-affirmation by email, the elector must scan and return the documents as an email attachment.
- (e) If an elector requests to receive his or her ballot by electronic transmission, the county clerk must transmit the elector's ballot electronically for all covered elections until the elector requests otherwise or the elector's electronic transmission method becomes undeliverable.

16.2.2 The electronic transmission must include:

- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (b) A notice that the ballot may not be duplicated for any other elector;
- (c) Instructions for completing and returning the ballot;
- (d) A notice regarding the ballot return deadline;
- (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk; and

- (f) Any other information deemed necessary by the Secretary of State or the county clerk.
  - (g) The ballot packet, which must be in text format on 8 ½" x 11" white paper and must include:
    - (1) An electronic transmission coversheet to protect voter privacy;
    - (2) The unvoted ballot;
    - (3) The electronic transmission ballot instructions; and
    - (4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule 16.2.3.
- 16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act (52 U.S.C. sec. 20301(b)(7) and 20302(a)(5)), the elector's name, date of birth, signature, and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot and that Colorado law requires that I return this ballot by a more secure method, such as mail, if available and feasible. (Sections 1-8.3-113 and 1-8.3-114, C.R.S.)
- 16.2.4 If the county clerk transmits a ballot packet to an elector by fax or email and the transmission is unsuccessful, the county clerk must attempt to fax or email the ballot at least two more times. If electronic transmission is unsuccessful, the county clerk must mail the ballot and remove the electronic transmission flag in SCORE under Rule 16.2.1(e).
- 16.2.5 The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must maintain the log as an election record along with any other email or fax records. The log must include:
- (a) The name of the elector;
  - (b) The fax number or email address to which the ballot packet was transmitted (as applicable);
  - (c) The date the ballot packet was transmitted; and
  - (d) The initials of the election official transmitting the ballot.
- 16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must verify the elector's signature in accordance with Rule 7.8. After the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.
- 16.2.7 A military or overseas elector whose registration record is inactive may download an application and ballot using the electronic ballot delivery system.
- (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.

- (b) Every county must use the approved electronic delivery system to implement this Rule, except that a county may obtain a waiver. The Secretary will consider the following factors in approving or denying a request for waiver:
- (1) Number of military or overseas electors registered to vote in the county;
  - (2) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and
  - (3) Staff or other resource limitations.

16.2.8 Nothing in this Rule 16.2 permits internet voting. Internet voting means a system that includes remote access, a vote that is cast directly into a central vote server that tallies the votes, and does not require the supervision of election officials.

**Rule 17. Provisional Voting**

## 17.1 Provisional voting in the voter service and polling center

17.1.1 The county clerk must use the approved provisional ballot affidavit form.

## 17.1.2 Issuance of mail ballots instead of provisional ballots

(a) If a voter service and polling center loses connectivity to SCORE an election judge must attempt to verify the elector's eligibility.

(1) Eligibility may be determined by reviewing or receiving information produced from the statewide voter registration system either in real-time or within the preceding 24 hours; except if the time for voting is extended beyond 7 p.m. on election day by a court order, in which case eligibility may be determined by reviewing or receiving information produced from the statewide voter registration system either in real-time or no earlier than the day prior.

(2) If the elector's eligibility can be determined, the judge must issue the elector a mail ballot or replacement mail ballot. If an elector's eligibility cannot be determined, the election judge must issue the voter a provisional ballot.

(b) Beginning the Friday before election day, a county clerk must keep a paper or electronic backup of the county's voter registration list produced from the preceding day for the purpose of determining eligibility under this rule.

17.1.3 The word "provisional" must be marked on the provisional ballot and on the signature card, if applicable, next to the elector's name.

17.1.4 A county clerk must have the ability to issue provisional ballots and envelopes totaling 10% of voters who appeared in person in the last election of the same type.

## 17.2 Verification of Provisional Ballots

17.2.1 The county clerk must process and tabulate all mail and in-person ballots before processing provisional ballots.

17.2.2 The county must process all mail ballots and signature cards in SCORE before processing provisional ballots.

17.2.3 Verification of an elector's eligibility to have his or her provisional ballot counted is limited to the following sources:

(a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;

(b) SCORE; and

(c) The information provided on the provisional ballot envelope, including the affidavit.

- 17.2.4 When verifying provisional ballots, the designated election official must check SCORE to determine whether the elector has already voted in the election.
- 17.2.5 If during verification it appears that the elector's record was cancelled or consolidated as a duplicate in error, the ballot must be counted so long as the elector has not cast a ballot in the election, the affidavit is complete, and the elector is otherwise eligible. The county clerk must reinstate or unconsolidate the elector's record and update the elector's record before marking the elector's provisional ballot as accepted or rejected in SCORE and before linking it to the elector's record.
- 17.2.6 When the county clerk receives both a mail ballot and a provisional ballot from an elector, but there is a discrepancy between the signature on the returned mail ballot envelope and the elector's signature stored in SCORE, the discrepancy must be resolved. Before the county clerk may verify the provisional ballot affidavit, the elector must affirm that the signature on the mail ballot envelope is not his or her signature. Sections 1-8.5-105(4) and (5), C.R.S.
- 17.2.7 If an elector whose voter registration record is tagged ID required casts a provisional ballot without providing valid identification, the county clerk must verify and count the provisional ballot as follows:
- (a) The county clerk must send the elector a letter within three days after the ballot is cast, and no later than two days after election day, explaining that he or she must provide the required identification. Nothing in this Rule prohibits the county clerk from calling the elector; however, a phone call does not substitute for notification to the elector in writing. If the county clerk calls any elector he or she must call all electors who failed to provide required identification.
  - (b) If the elector provides a copy of valid identification within eight days after election day, the county clerk must count the ballot so long as the elector has not cast another ballot in the election, the affidavit is complete, and the elector is otherwise eligible.
- 17.2.8 If the information contained in the provisional ballot affidavit provides adequate criteria so that the county clerk is able to confirm that the elector is eligible to cast a ballot, the provisional ballot must count.
- 17.2.9 Acceptance Codes (The county clerk must count all races.)
- AOK Reviewed and confirmed voter's eligibility.
  - ADB Election official issued the elector the wrong ballot style. The voted ballot will be duplicated and only races and issues for which the elector is qualified to vote may be counted.
  - ALC Elector voted a provisional ballot because the voter service and polling center lost connectivity and the voter's eligibility could not be otherwise determined. Elector's eligibility is confirmed.
- 17.2.10 Rejection Codes (The county clerk must not count a ballot given a rejection code):
- RNS (Rejection not signed) Provisional Ballot Affidavit not signed.
  - RIN (Rejection incomplete information provided) Required information is incomplete and the designated election official is unable to confirm voter's eligibility.



- REE (Rejection envelope empty) Provisional ballot envelope is empty.
- RAB (Rejection voter voted mail ballot) Designated election official has confirmed that voter voted a mail ballot.
- RED (Rejection based upon ballot cast in person) Voter voted in a Voter Service Center or Polling Center.
- RIP (Rejection based on incorrect party) Incorrect Party in Primary Election.
- RFE (Rejection not eligible to vote due to felony incarceration) Individual was convicted of a felony and is serving a sentence of confinement or detention.
- RWC (Rejection elector not a resident of the district, county, or the State of Colorado) The individual does not reside within the district, county, or state, as applicable, and is not eligible to vote in the county where the provisional ballot was voted.
- RID (Rejection first time voter has not supplied identification upon registration or thereafter prior to and during time voter voted) First Time Voter is tagged ID deficient, and did not provide ID at the time of voting.
- 17.3 The provisional ballot log required by section 1-8.5-110(4), C.R.S., may be prepared by the county clerk in handwritten or computer-generated form.
- 17.4 Recount procedures for provisional ballots are the same as the recount procedures for other ballots as directed by the Secretary of State.
- 17.5 Processing provisional ballot affidavits in the SCORE. Before closing an election, the county clerk must:
- 17.5.1 Enter all provisional ballot affidavits into the SCORE provisional module.
- 17.5.2 Process all voter registration updates.
- 17.5.3 Link all provisional ballot affidavits to the appropriate elector's record.
- 17.6 Public access to provisional ballot information
- 17.6.1 The list of voters who cast a provisional ballot and the accept/reject code for the ballot is available for public inspection.
- 17.6.2 In accordance with section 24-72-204(8), C.R.S., the county clerk must not release an original or copy of the elector's:
- (a) Month and day of date of birth;
- (b) Driver's license or Department of Revenue identification number;
- (c) Social security number;
- (d) Email address; or
- (e) Signature.

17.6.3 If a voter has requested confidentiality under section 24-72-204(3.5), C.R.S., the county clerk must not release the elector's address or telephone number.

17.6.4 If a voter has requested confidentiality under section 24-30-2101, C.R.S., the county clerk must not release the provisional ballot affidavit.

17.7 Voter Access to Provisional Ballot Information

17.7.1 The Secretary of State will provide a provisional ballot lookup on the Secretary's website during the 45 days following election day.

17.7.2 The county clerk must number the provisional ballot envelope or affidavit stock using the standard numbering convention approved by the Secretary of State.

[Section 1-8.5-111, C.R.S.]

**Rule 18. Uniform Counting Standards for Paper Ballots**

- 18.1 In any election where a multiple page printed ballot is used, a voter must vote and return all pages of the ballot at the same time. Any voter who returns at least one page of a multiple page printed ballot will be considered to have voted and the county clerk or designated election official must count the votes on the submitted pages. The county clerk must not count votes on additional pages returned at a later time. The county clerk must appropriately mark, set aside, and preserve the ballots as election records in accordance with section 1-7-802, C.R.S.
- 18.2 Standards for hand counting paper ballots
- 18.2.1 In accordance with section 1-7-309, C.R.S., and Rule 18.5, judges counting ballots must consider the intent of the voter.
- 18.2.2 If a race or ballot measure is overvoted, the judges must not count any vote for that race or ballot measure.
- 18.2.3 If a race or ballot measure contains no markings by the voter, no tally will be made for that race or ballot measure. But all other candidate races or ballot measures properly marked by the voter on the ballot must be counted.
- 18.2.4 A ballot which has no markings for any candidate races or ballot measures must be tallied as a blank ballot.
- 18.3 Standards for counting paper ballots on ballot scanners
- 18.3.1 Procedures for counting paper ballots on ballot scanners at polling locations
- (a) To the extent permitted by its voting system, the county must program ballot scanners to sort ballots with write-in votes to a segregated bin of the ballot box or digital media and to initially reject blank ballots and ballots with overvotes.
  - (b) Voters whose ballots are initially rejected by a ballot scanner as a blank or overvoted ballot must be given the opportunity to review and correct their ballot. If after review, a voter requests to submit the blank or overvoted ballot as originally marked, an election judge must assist the voter by overriding the initial rejection setting on the ballot scanner.
  - (c) At the conclusion of voting, ballots with write-in votes must be delivered to the central count location in a secure container for resolution in accordance with Rule 18.5.3.
- 18.3.2 Procedures for counting paper ballots on ballot scanners at central count locations
- (a) Before tabulation, a resolution board must duplicate damaged ballots, and may duplicate ballots with marks that may identify the voter, in accordance with Rule 18.4. Election judges may visually inspect every ballot for the limited purpose of segregating damaged ballots and ballots with marks that may identify the voter.
  - (b) A county must sort ballots requiring resolution according to the capabilities of its voting system.
    - (1) If a county's voting system supports digital ballot resolution, the county must program the voting system to digitally queue for resolution blank

ballots, ballots with write-in votes, and ballots with overvotes. Ballots with marginal or ambiguous markings must be sorted according to the system provider's specifications, or, if different, the applicable Conditions of Use issued by the Secretary of State. The digitally queued ballots must be resolved by election judges in accordance with Rule 18.5.

- (2) If a county's voting system does not support digital ballot resolution, the county must program the central count ballot scanners to reject or sort blank ballots and ballots with overvotes, and to sort ballots with write-in votes. The resolution board must resolve all ballots initially rejected and sorted by the central count ballot scanners in accordance with Rule 18.5.
- (c) A resolution board must resolve ballots sorted or rejected for resolution.
- (1) In partisan elections, a resolution board must consist of at least two election judges affiliated with different major political parties.
  - (2) In nonpartisan elections, a resolution board must consist of at least two election judges.
  - (3) In counties with a voting system that does not support digital resolution, the county must have at least one resolution board.
  - (4) In counties with a voting system that supports digital resolution, a resolution board must work at each resolution workstation.
  - (5) The members of a resolution board for an election may change, but all members of the resolution board at any particular time must satisfy the eligibility requirements specified in this Rule 18.3.2(c).

## 18.4 Ballot Duplication

18.4.1 A resolution board must duplicate a voter's choices or selections on a damaged ballot onto a blank ballot of the same ballot style in accordance with Rule 18.4. During the duplication process, and to the extent necessary, the resolution board must also resolve overvotes, write-in votes, and ambiguous markings in accordance with Rule 18.5. During ballot duplication, two additional election judges must observe or review the work of each resolution board. In a partisan election, the observing election judges must be representatives of each major political party.

18.4.2 A resolution board must review the original ballot and the duplicated ballot, and consult the Voter Intent Guide if necessary, to ensure that each damaged ballot has been properly and accurately duplicated.

18.4.3 In order to match each damaged ballot to its corresponding duplicated ballot, the resolution board must identify and mark each damaged and duplicated ballot with the type of ballot and a unique number, similar to the following example: mark the damaged ballot "Orig 0001," and the counterpart duplicated ballot "Dupe 0001."

18.4.4 The resolution board must maintain a written log itemizing all damaged ballots that it duplicates. The duplication log must include at least each damaged and duplicated ballot's unique number, the date on which it was duplicated, the reason for duplication, and the printed names and signatures of the members of the resolution board.

18.4.5 A county clerk must count duplicated ballots in the same manner as all other paper ballots.

18.4.6 Before retention for storage, the resolution board must deposit all duplicated ballots and duplication logs in a sealable container that is clearly marked to identify its contents (e.g., “damaged ballots”). The county must maintain chain-of-custody and seal logs for the damaged ballot container at all times during the statutory election records retention period.

## 18.5 Ballot Resolution

18.5.1 A resolution board must resolve all blank ballots and ballots with overvotes, write-in votes, and ambiguous markings in accordance with the Secretary of State’s Voter Intent Guide.

18.5.2 Resolution of blank ballots. A resolution board must examine blank ballots to determine if the ballot is a true blank ballot or one that has been marked in a manner or medium that was not detected by the voting system.

(a) Counties without digital resolution capability. If the ballot is truly blank, the resolution board must re-scan the ballot and override the initial rejection setting. If the ballot is marked in a manner or medium that can be discerned by the resolution board but cannot be tabulated by the voting system, the resolution board must duplicate the ballot in accordance with Rule 18.4 and, to the extent necessary, resolve the ballot in accordance with Rule 18.5.

(b) Counties with digital resolution capability. If the ballot is truly blank, the resolution board must record the ballot as a blank ballot in the voting system’s resolution application. If the ballot is marked in a manner or medium that can be discerned by the resolution board but cannot be tabulated by the voting system, the resolution board must resolve the ballot in the voting system’s resolution application in accordance with Rules 18.5.2(b) and 18.5.3.

### 18.5.3 Resolution of write-in votes

(a) A resolution board must resolve all write-in votes in accordance with the Secretary of State’s Voter Intent Guide.

(b) In counties using voting systems featuring digital resolution capable of detecting voter markings on or in a write-in line or area, and if the voter does not mark any of the target areas in a particular contest, the resolution board must resolve during initial adjudication the written name of an eligible write-in candidate as a valid vote for that candidate even if the voter fails to mark the corresponding target area.

(c) In counties using voting systems that do not have digital resolution capability, or the digital resolution feature is not capable of detecting voter markings on or in a write-in line or area if the corresponding target area is not also marked, and if the voter does not mark any other target area in a particular contest, the resolution board must count as valid votes for eligible write-in candidates those instances in which the voter both marks the applicable target area and writes in the name of a certified write-in candidate. During any recount, if the number of undervotes in a ballot contest could change the outcome if attributed to an eligible write-in candidate, votes for that candidate must be counted whether or not the target area designating the selection of a write-in candidate has been marked, provided

that the number of candidates chosen does not exceed the number permitted in that office.

**Rule 19. Certification and Education of Designated Election Officials****19.1 Purpose and Definitions**

19.1.1 The Secretary of State recognizes that the oversight of elections is a profession that requires thorough knowledge of complex state and federal election law and election procedures. Considering the complexity of state and federal law, voting equipment, and election procedures, extensive training is necessary. The certification program standardizes election procedures and education. The program also promotes Colorado voters' confidence in their election officials and the election process.

19.1.2 "Local election official" means a county clerk. (Section 1-1-301(1), C.R.S.)

19.1.3 "Persons required to complete certification" means:

- (a) The county clerk; and
- (b) Employees in the county clerk's office who are directly responsible for overseeing election activities, including but not limited to: voter registration, candidate qualifications and ballot certification, poll worker training, ballot design and setup, ballot counting, and canvassing.

(Section 1-1-302, C.R.S.)

**19.2 Advisory Board**

19.2.1 The advisory board meets either in person or through electronic means at least twice each calendar year to approve the curriculum and make necessary changes.

19.2.2 The advisory board must recommend changes to the certification program or additional classes after reviewing evaluations, attendance numbers, and online trainings.

19.2.3 The Secretary of State will appoint the following as board members:

- (a) Four county clerks or designated staff members;
- (b) Two Secretary of State Office representatives; and
- (c) Any individual whom the Secretary of State believes could make a valuable contribution to the board.

19.2.4 Board members serve at least a two-year term.

19.2.5 The Secretary of State may terminate board members without cause. Failure to attend meetings or meaningfully contribute may result in termination.

**19.3 Curriculum**

19.3.1 The Secretary of State will develop the core and elective curriculum offered for certification and continuing elections education. The Secretary will post curriculum information on the Secretary of State's website.

19.3.2 The Secretary of State will develop and administer all training outlined in this Rule 19.

- 19.3.3 To obtain Colorado certification, a person must complete the following minimum curriculum prescribed by the Secretary of State:
- (a) Seven basic core courses;
  - (b) One core course relevant to primary job duty; and
  - (c) Six electives.
- 19.3.4 To maintain Colorado certification, a person must complete at least four Continuing Elections Education courses by July 31 of every year and complete at least one in-person class every four years.
- 19.4 Training Format
- 19.4.1 Web-based training may be conducted live or by reviewing material previously presented by the Secretary of State. In either case, participants must achieve a satisfactory score on assessments before receiving credit for the course.
- 19.4.2 The Secretary of State will provide classroom training. For certification, a person must complete at least one course in-person.
- 19.5 Credit
- 19.5.1 Individuals applying for certification must successfully complete the curriculum prescribed by the Secretary of State. If an applicant submits duplicate coursework, the Secretary of State may reject the application for certification.
- 19.5.2 Training assessment
- (a) To receive certification credit for any course presented by the Secretary of State under this Rule, a participant must successfully complete a training assessment with a minimum score of 85%.
  - (b) A participant who fails to achieve a score of at least 85% may retake the assessment.
  - (c) The Secretary of State may administer either paper or electronic assessments.
- 19.5.3 Credit for Teaching Classes. A person who teaches or substantially assists with preparation of a class offered for certification is excused from the assessment requirement outlined in Rule 19.5.2 and will receive credit for the course.
- 19.5.4 No election official may receive credit toward his or her Colorado certification for training offered by other agencies or organizations.
- 19.6 Application Review, Certification, and Maintenance of Records
- 19.6.1 When a person completes the required coursework, he or she must promptly submit an application for certification to the Secretary of State's office on the form approved by the Secretary of State.
- 19.6.2 The Secretary of State must review the application with reference to the Secretary of State records. If the application is complete and accurate, the Secretary of State must issue a certificate that the person is a Certified Colorado Election Official.



- 19.6.3 The Secretary of State must track attendance at all classes and keep records of attendance, continuing elections education, and records of those persons who are certified and persons who are in the certification process.
- 19.6.4 A person is recertified when they complete the classes required under Rule 19.3.4.
- 19.7 Decertification. A person who fails to satisfy continuing education requirements will lose certification.



**Rule 20. County Security Procedures**

- 20.1 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 must also submit a comprehensive procedure for ballot delivery in an emergency under section 1-7.5-115(1), C.R.S.
- 20.2 The county may not install any software on any component of the voting system unless directed to, or approved by, the Secretary of State.
- 20.3 General requirements concerning security documentation
- 20.3.1 The county must maintain on file all documentation of seals, chain-of-custody, access logs, trusted build, and other documents related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State. All written entries must be completed in permanent ink.
- 20.3.2 The county must maintain and document uninterrupted chain-of-custody for each voting device from the installation of trusted build to the present, throughout the county's ownership or leasing of the device. For ballot scanners approved for use under section 1-5-613(2), C.R.S. but for which no trusted build exists, the county must maintain and document uninterrupted chain-of-custody for each voting device from the successful completion of acceptance testing conducted according to Rule 20.10.4.
- 20.3.3 Only election officials or canvass board members sworn under oath are allowed to handle ballots, which include VVPAT records.
- 20.3.4 Any form or log containing "date" means to note the month, calendar day, year, hour, minute, and whether the time is a.m. or p.m.
- 20.3.5 The county must submit sample copies of all referenced forms, schedules, logs, and checklists with the security plan.
- 20.4 Physical locking mechanisms and seals. The county must record the serial number of every seal on the appropriate chain-of-custody log. Two individuals must verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. If a seal is inaccessible and cannot be removed, then it is not necessary to verify that seal serial number.
- 20.4.1 DREs, BMDs, and Judge's Booth Controllers (JBCs)
- (a) The county must place a seal over a removable card or cartridge that is inserted into the unit, or over the slot or door covering the card or cartridge.
- (b) The county must place a seal over any data port when the port is not being used, except slots for activation cards.
- (c) If the county cannot verify the firmware or software hash value (MD5 or SHA-1), the county must seal the DRE or BMD case. To detect unauthorized access, the county must use seals at either the seams of the case or at key entry points such as screw access points.
- (d) In each voter service and polling center, the county must provide a minimum of one accessible DRE or BMD that complies with section 1-5-704, C.R.S.

20.4.2 Before attaching a VVPAT to a specific voting device, the county must seal the unit after verifying that no votes were cast. At least two election officials must verify that seals are intact before the start of voting, and at the close of voting. VVPAT records must either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule 20.13.

#### 20.4.3 Ballot scanners

- (a) The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge.
- (b) The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.
- (c) Before the start of voting and after the close of voting, two election officials must visually confirm that all seals are intact and that the seal numbers match those logged in the chain-of-custody log.

#### 20.4.4 Memory cards and activation cards

- (a) 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.
- (b) The county must handle memory cards and activation cards in a secure manner at all times. The county must transfer and store any card or activation card that is not sealed in a voting machine 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.
- (c) The county must maintain a written or electronic log to record memory card or activation card seals and track seals for each voting unit.
- (d) The county must maintain a complete inventory of memory cards and 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.

### 20.5 Access to secure areas

20.5.1 The county must change all keypad door codes or locks and vault combinations to secure areas as outlined in Rule 20.9.3, at least once per calendar year prior to the first election of the year.

20.5.2 The county must state in its security plan the name, title, and date of most recent background check for each employee with access to areas identified in Rule 20.5.3.

20.5.3 County employee access. The county may grant employees access to the codes or locks and combinations described in this Rule in accordance with the following limitations:

- (a) Access to the code, lock, or combination to ballot storage areas, counting room, location of adjudication, or tabulation workstations is restricted to employees who have successfully passed a criminal background check. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from having access to the above areas.
- (b) Except for emergency personnel, no other individuals may be present in these locations unless supervised by one or more employees with authorized access.
- (c) In extreme circumstances, the county may request and the Secretary of State may grant exemption from the requirements outlined in this Rule.

#### 20.5.4 Voting system access security

- (a) Except for voters using a voting system component to vote during an election, county clerks may not allow any person to access any component of a county's voting system unless that person has passed the background check required by this or any other rule or law, is performing a task permitted by the county clerk or the Office of the Secretary of State under statute or rule, and is:
  - (1) An employee of the county clerk;
  - (2) Appointed as an election judge by the county clerk in accordance with Article 6 of Title 1, C.R.S.;
  - (3) An employee of the voting system provider for the county's voting system; or
  - (4) An employee or designee of the Secretary of State.
- (b) All voting system provider employees who conduct work on any component of a county's voting system must complete a criminal background check prior to the employee's work with the 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. Any person convicted of an election offense or an offense with an element of fraud is prohibited from working on any component of a county's voting system.
- (c) All Secretary of State staff who conduct work on any component of a county's voting system must undergo a criminal background check prior to the staff's work with the voting system.
- (d) Any person convicted of an election offense or an offense with an element of fraud is prohibited from working on any component of a county's voting system.
- (e) 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.

20.5.5 Access to where election management software is used is limited to authorized election officials and watchers only. Messengers or runners delivering ballots between the preparation room and computer room must wear distinguishing identification.

#### 20.6 Internal Controls for the Voting System

20.6.1 In addition to the access controls discussed in Rule 20.5, the county must change all passwords and limit access to the following areas:

- (a) The county must change any passwords associated with a voting system according to the conditions of use.
- (b) Administrative and user accounts for election management system and election databases.
  - (1) The county may use the administrative user account only to create individual user accounts for each election database.
  - (2) The county must create individual user accounts that are associated and identified with each individual authorized user of the election management system or election database.
  - (3) The county must restrict access to each individual user account with a unique password known only to each individual user. Authorized users must access the election management system and election database using his or her individual user account and unique password.
  - (4) The county may grant administrative privileges to no more than ten individual user accounts per election.
- (c) The voting system provider may not have administrative or user access to the county's election management system.
- (d) The county may not connect or allow a connection of any voting system component to the Internet.
- (e) If any component of the voting system is equipped with Wi-Fi capability or a wireless device, the county must ensure that the wireless capability or device is disabled before use in an election.
- (f) The county may not connect any component of the voting system to another device by modem.
- (g) The county must include in its security plan the name, title and date of background checks for each employee with access to any of the areas or equipment set forth in this Rule. The county must maintain a storage facility access log that details employee name, date, and time of access to the storage facility in which the software, hardware, or components of any voting system are maintained. If access to the storage facility is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, such a log must meet the requirements of this Rule. [Section 24-72-305.6, C.R.S.]

20.6.2 Removable storage devices

- (a) The county must reformat all removable storage devices immediately before inserting them into any component of the voting system, except as provided in Rule 20.6.2 (b)-(e), or in the conditions of use.
- (b) The county may insert, without first reformatting, a removable storage device containing only election definition data files downloaded from SCORE if:

- (1) The county reformats the removable storage device immediately before inserting it into the SCORE workstation and downloading the election definition data files; and
    - (2) Before and while downloading the SCORE election definition data, the county installs and operates the advanced network monitoring and threat detection applications provided or approved by the Secretary of State.
  - (c) The county may insert, without first reformatting, a removable storage device into a BMD, if:
    - (1) The removable storage device contains only election and ballot style data files necessary to program the BMD for testing or use in an election;
    - (2) The county downloaded the election and ballot style data files directly from the EMS workstation;
    - (3) The county 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 EMS; and
    - (4) The county reformatted the removable storage device immediately before inserting it into the EMS and downloading the election and ballot style data files.
  - (d) The county may insert a removable storage device 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.
  - (e) the county may insert a removable storage device without first reformatting it if the removable storage device contains only election database backup files created by the county and:
    - (1) The county 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
    - (2) The plan in the attachment is approved by the Secretary of State.
- 20.7 The county must keep all components of the voting system, ballots, servers, workstations, DREs, ballot scanners, BMDs, VVPAT records, and video data records in a temperature-controlled storage environment that maintains a minimum temperature of 50 degrees Fahrenheit and a maximum temperature of 90 degrees Fahrenheit. The storage environment must be dry with storage at least four inches above the floor. The county must provide the Secretary of State with a description of the specific environment used for each type of component.
- 20.8 Remote election programming services.
- 20.8.1 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, unless the voting system provider first affirms on a form provided by the Secretary of State that:

- (a) 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;
- (b) 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;
- (c) At all times during the election programming process, the voting system provider complied with the security protocols for removable storage devices in Rule 20.6.2(a) – (c); and
- (d) 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.

## 20.9 Security cameras or other surveillance

20.9.1 The county must maintain a log of each person who enters the areas specified in Rule 20.9.3, including the person's name, signature, and date and time of entry. If access to the specified areas is controlled by use of key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, the log must meet the requirements of this Rule.

20.9.2 Unless otherwise instructed, the county must make video security surveillance recordings of the areas specified in Rule 20.9.3 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. The recording system must ensure that records are not written over when the system is full. The recording system must provide a method to transfer the video records to a different recording device or to replace the recording media. If replaceable media is used then the county must provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available.

20.9.3 The following are the specific minimum requirements:

- (a) If the county has 50,000 or more registered voters, then the county must maintain a log and make video security surveillance recordings of the following areas, excluding voting booths:
  - (1) All areas in which election management software is used, including but not limited to programming, copying election files to memory cards or flash media, copying election files from memory cards or flash media, adjudicating ballots, tallying results, and results reporting.
  - (2) All areas used for processing ballots, including but not limited to areas used for Signature Verification, ballot opening, tabulation, or storage of voted ballots beginning at least 35 days before election day and continuing through at least 30 days after election day, unless there is a recount or contest. If a recount or contest occurs, the recording must continue through the conclusion of all related activity.
  - (3) The storage area for all voting equipment.



- (b) If the county has fewer than 50,000 registered voters then the county must maintain a log and make video security surveillance recordings of all areas in which election management software is used, including but not limited to programming, copying election files to memory cards or flash media, copying election files from memory cards or flash media, tallying results, and results reporting.
  - (c) The county must adequately light the areas subject to video surveillance to provide visibility for video recording.
- 20.10 Equipment maintenance procedures. In addition to the requirements for voting systems inventory specified in Rule 11.2, the county must adhere to the following minimum standards:
  - 20.10.1 The county must store all equipment throughout the year with seals over the data ports for each device. The county must maintain a log of the seals used for each device consistent to the logs used for tracking Election Day seals.
  - 20.10.2 For equipment being sent to the vendor for offsite repairs/replacements, the county must keep a maintenance log for the device that must contain the following: the model number, serial number, and the type of device; the firmware version; the software version, as applicable; the printed name and signature of the person sending the equipment; the date of submission to the vendor; and the date the equipment is returned.
  - 20.10.3 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. [Section 24-72-305.6, C.R.S.]
  - 20.10.4 Upon completion of any vendor maintenance, the county must verify or request reinstallation of the trusted build and conduct a full acceptance test of equipment that must, at a minimum, include the hardware diagnostics test, as indicated in Rule 11, and a mock election in accordance with this Rule. The county must maintain all documentation of the results of the acceptance testing on file with the specific device.
    - (a) If the maintenance was performed on a BMD, that BMD must be used to generate five ballots for use in the acceptance testing.
    - (b) 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.
    - (c) If the maintenance was performed on a DRE, a minimum of five ballots must be cast on the device.
  - 20.10.5 The Secretary of State may inspect county documents and equipment, including:
    - (a) County maintenance records;
    - (b) Chain of custody logs;
    - (c) Trusted build integrity;
    - (d) Wireless status;
    - (e) Virus protection status;

- (f) Password status (Bios, operating system, and applications); and
- (g) Access logs.

## 20.11 Transportation of equipment, memory cards, ballot boxes, and ballots

20.11.1 The county must submit detailed plans to the Secretary of State before an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. 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 follow the procedures specific to the incident as described in Rule 20.15. While the method of transportation of equipment may vary, the following standards apply:

- (a) Transportation by county personnel. County personnel must at all times display identification provided by the County. Two employee signatures and date are required at the departure location verifying that the equipment, including memory card or cartridge, 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.
- (b) Transportation by election judges. Election officials that are receiving 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.
- (c) Transportation by contract. If a county contracts for the delivery of equipment to remote voting locations, each individual delivering equipment must successfully pass a criminal background check. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling or delivering voting equipment. 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.

20.11.2 Standards for transporting voting equipment to and from the voting location:

- (a) Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:
  - (1) Before removing a memory card or cartridge, two election officials must inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election officials must sign and date the chain-of-custody log before breaking the seal.
  - (2) Election officials must place the memory cards or cartridges in a sealable transfer case and must seal the case. The election officials must maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.
  - (3) Election officials must place new seals over the empty memory card/cartridge slot and door and document the seal numbers used.
  - (4) At least two election officials must accompany the transfer case to the processing location. The election officials who receive the equipment

must verify, and indicate by signing and dating the chain-of-custody log, that the seals are intact and seal serial numbers match those listed in the log.

- (5) Election officials transporting secured voting equipment must maintain chain-of-custody logs.
- (b) Required procedures if devices are delivered with memory cards/cartridges intact:
- (1) Two election officials must verify that all seals are intact at the close of polls. Election judges must sign and date the chain-of-custody log with such indication.
  - (2) At least two election officials must accompany the secured equipment to the drop-off location. The person receiving the equipment must verify the seals and sign and date the logs.
  - (3) Upon confirmation that the seals are intact and bear the correct numbers, election officials must remove and upload the memory cards/cartridges into the central count system.
  - (4) To secure the equipment, election officials must place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal numbers.

#### 20.11.3 Required procedures for transportation of ballot boxes:

- (a) 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.
- (b) 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.
- (c) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a chain-in-custody log is completed for each ballot box.
- (d) If a seal is broken or chain-of-custody is unverifiable, the county clerk must investigate, document his or her findings, and report the incident to the Secretary of State, as appropriate.

#### 20.11.4 Ballot security at a voter service and polling center

- (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 and secure.
  - (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.

## 20.12 Contingency plans

20.12.1 The county must develop emergency contingency plans for voting equipment and voting locations in accordance with this Rule.

20.12.2 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.

20.12.3 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.

20.12.4 The county must develop procedures to address failures of SCORE continuity, which includes:

- (a) Network failure,
- (b) Power failure that lasts less than one hour, and
- (c) Power failure that lasts more than one hour.

## 20.13 Procedures for voter verifiable paper record (VVPAT). The following requirements apply only to DREs with a VVPAT.

20.13.1 Security. The VVPAT record is considered an official record of the election, in accordance with section 1-5-802, C.R.S.

- (a) The housing unit for any VVPAT record to be used in the election must be sealed and secured before any votes are cast for the election. Election officials must attest to the VVPAT record having no votes included on the paper record before the start of voting, and before the installation or replacement of a new VVPAT record. Documentation of the seal numbers must be maintained before voting and at the conclusion of voting.

- (b) If a DRE with VVPAT is used at a voter service and polling center, the seal numbers must be recorded at the beginning and end of each voting day.
- (c) At the close of the polls, the VVPAT records will be transferred to the election office in the same manner as any paper ballots. In the absence of paper ballots, the VVPAT records will be transferred to the election office in the same manner as memory cards.

20.13.2 Anonymity. The designated election official must implement measures to protect the anonymity of voters choosing to vote on DREs

- (a) Measures to protect anonymity include:
  - (1) The county may not keep any record indicating the order in which people voted on the DRE, or which VVPAT record is associated with the voter.
  - (2) When more than one DRE is available at a voting location, the county must, to the extent practicable, allow the voter to choose the DRE they wish to vote on.
- (b) 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.
- (c) At no time may an election official simultaneously access a VVPAT and the list of voters. If the VVPAT record requires inspection, at least two election officials must conduct the examination.
- (d) The county must arrange voter service and polling center DREs in a manner that prevents election officials and other voters from observing how a DRE voter marks or casts their ballot.

20.13.3 Storage. The storage of the VVPAT records must be consistent with storage of paper ballots under section 1-7-802, C.R.S.

- (a) Individual spools containing VVPAT records must contain the following catalog information affixed to the spool:
  - (1) Date and name of election;
  - (2) Name of voting location;
  - (3) Dates and times of voting;
  - (4) Machine serial number of DRE associated with the record; and
  - (5) Number of spools associated with this machine for this election (i.e. "Spool 1 of 1", or "Spool 1 of 2", etc.).
- (b) Light sensitive storage containers must be used for the 25 month storage period to ensure the integrity of the VVPAT paper record. Containers must be sealed, with record of the seal numbers maintained on file and signed by two election officials.

20.14 Security training for election officials. The county must include in its security plan the details of its security training. The county must address the anticipated time of training, location of training, and number of election officials receiving the security training, as it applies to the following requirements:

20.14.1 The county must conduct a separate training module for field technicians and election officials responsible for overseeing the transportation and use of the voting systems, picking up supplies, and troubleshooting device problems throughout the Election Day.

20.14.2 Security training 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) VVPAT requirements;
- (e) Chain-of-custody requirements for voting equipment, memory cards, and other election materials;
- (f) Ballot security;
- (g) Voter anonymity; and
- (h) Recognition and reporting of security incidents.

20.15 Remedies

20.15.1 If a seal is broken, or there is another discrepancy, the election official must immediately notify the county, who must remedy the discrepancy as follows:

- (a) The county must verify the trusted build or the Secretary of State must reinstall trusted build. For instances where the county can display, verify, or print the hash value (MD5 or SHA-1) of the firmware or software, the election official must document and verify that the hash value matches the documented alphanumeric string associated with the trusted build for the software or firmware of that device.
- (b) If the evidence indicates that the discrepancy occurred before the start of voting:
  - (1) The election officials must seal the device and securely deliver it to the county.
  - (2) The county must verify the trusted build or the Secretary of State must reinstall trusted build. Where the county can display, verify, or print the hash value (MD5 or SHA-1) of the firmware or software, the county must document and verify that the hash value matches the documented alphanumeric string associated with the trusted build for the software or firmware of that device.
  - (3) The county must reinstall the election programming into the device, conduct a hardware diagnostics test as prescribed in Rule 11, and

- conduct an acceptance test according to Rule 20.10.4, except that the device must be in full election mode, if applicable, and instead of casting or printing five ballots, the county must cast or print at least 25 ballots on the device. The county must maintain on file all documentation of testing and chain-of-custody for each specific device.
- (4) The county must complete the necessary seal process and documentation to re-establish the chain-of-custody for the device and new memory card.
  - (5) The county must set the machine to election mode ready for a zero report.
- (c) If the evidence indicates that the discrepancy occurred after votes were cast or printed on the device:
- (1) The county may not continue to use the machine until verification or reinstallation of trusted build and acceptance testing is complete.
  - (2) The election officials must seal the device and securely deliver it to the county.
  - (3) If the device is a DRE or ballot scanner:
    - (i) The county must close the election on that device, and perform a complete manual verification of the paper ballots (or VVPAT records) to the summary tape printed on the device that represents the record of votes on the memory card.
    - (ii) If the totals do not match then only the paper record will be accepted as the official results for that device. The county must re-seal and secure the device and immediately report the discrepancy to the Secretary of State. The county must not use the device for the remainder of the election unless the trusted build is reinstated.
    - (iii) If the totals match, the county may upload the memory card into the election management software at the close of polls.
    - (iv) After verifying the totals, the county must secure the paper records and memory card with seals and a chain-of-custody log.
  - (4) The county must verify the trusted build or the Secretary of State must reinstall trusted build. Where the county can display, verify, or print the hash value (MD5 or SHA-1) of the firmware or software, the county must document and verify that the hash value matches the documented alphanumeric string associated with the trusted build for the software or firmware of that device.
  - (5) The county must complete the necessary seal process and documentation to establish the chain-of-custody for the device and memory card.
  - (6) The county must set the machine to election mode ready for a zero report before resuming voting on the device.

- (7) Before certifying election results, the county must conduct a full (all contests) random audit on the device under Rule 25.3 and report results to the Secretary of State. This requirement is in addition to the post-election audit required by Rule 25.2 or 25.3.

20.15.2 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.

20.16 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.

20.17 Lease, loan, or rental of election equipment. Nothing in this Rule requires a county to lease, loan, or rent any election equipment to any municipality, special district or other local jurisdiction.

20.17.1 A county that chooses to lease, loan, or rent any certified election equipment to a municipality, special district, or other local jurisdiction for use in their elections must maintain or reestablish an acceptable chain-of-custody and appropriate documentation in accordance with Rule 20.3.

20.17.2 Upon return of the voting equipment to the county, if the documentation and chain-of-custody does not support the proper maintenance of the trusted build software then the county must verify or request reinstallation of the trusted build before using the equipment.

20.17.3 To maintain the trusted build, the county must implement one of the following procedures:

- (a) The county clerk must:
  - (1) Deliver the equipment to the jurisdiction;
  - (2) Witness and document the installation of the election programming used by the jurisdiction;
  - (3) Place one or more secure and numbered seals on the voting equipment in accordance with Rule 20.4. If during the course of the jurisdiction's election, the designated election official requires removal of a memory card or flash media as a function of the election process, the county clerk must witness and document the removal and proper resealing of the memory card or flash media; and
  - (4) Upon return of the equipment to the county, the county must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact. If any seal is damaged or removed, the county must verify or request the Secretary of State reinstate the trusted build; or
- (b) The county must designate and station deputized county staff with the loaned equipment at all times while the equipment is under control of the designated election official. The deputized county staff must maintain physical custody of the equipment at all times to ensure that no unauthorized access occurs; or
- (c) In accordance with section 1-5-605.5, C.R.S., the county must appoint the designated election official as a deputy for the purposes of supervising the voting equipment. The designated election official must:



- (1) Sign and submit to the county an affirmation that he or she will ensure the security and integrity of the voting equipment at all times;
- (2) Affirm that the use of the voting equipment is conducted in accordance with this Rule 20 the specific Conditions for Use of the voting equipment; and
- (3) Agree to maintain all chain-of-custody logs for the voting devices.

## 20.18 Ballot on demand

20.18.1 The county must use the state-provided laptop for ballot on demand purposes only.

20.18.2 Software access, security, and storage.

- (a) The county must change all Windows and ballot on demand application passwords at least once per calendar year.
- (b) Only election officials or authorized vendor representatives may operate the ballot on demand system.
- (c) 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.
- (d) The county must store the state-provided laptop and unused paper ballot stock in a locked storage area when the printer is not in use.

20.18.3 Ballot reconciliation

- (a) The county must reconcile ballots printed on demand in accordance with Rules 10.1.1 and 10.1.2.
- (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

## 20.19 Voting system conditions for use

20.19.1 The county must use the voting system only on a closed network or in a standalone fashion.

20.19.2 Access logs.

- (a) In addition to the audit logs generated by the election management system, the county must maintain access logs that record the following:
  - (1) The date, time, and user's name for each instance that a user enters or exits the system or the system's report printing functions; and
  - (2) Modifications to the system's hardware, including insertion or removal of removable storage media, or changes to hardware drivers.
- (b) The county may create and maintain the access logs in the manner the county deems most suitable, including key stroke recording software, video surveillance

recordings, manually or electronically written records, or a combination of these methods.

20.19.3 The county must create a backup copy of the election setup records on a read-only, write-once electronic storage media, immediately after completing the Logic and Accuracy Test.

- (a) The county must identify the master database name and date of election on the label of the backup.
- (b) The county must store the backup in a sealed container. Two election officials of different party affiliations must sign and date entries to the chain-of-custody log for the sealed container.

20.19.4 DREs

- (a) The county's election judges must:
  - (1) Test the VVPAT printer immediately after changing the VVPAT paper; and
  - (2) Lock and re-seal the VVPAT canister, and make appropriate entries on the VVPAT chain-of-custody log, before voting resumes on the DRE.
- (b) At least one DRE 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.
- (c) The county must maintain logs indicating administrator function use.

20.19.5 Ballot scanners:

- (a) When issuing ballots, the county must provide in-person voters with a secrecy sleeve sufficient to conceal a voter's marked ballot from others in the polling location, including election officials.
- (b) The county must record the ballot scanner serial number on all chain-of-custody logs and reports generated by the device.
- (c) Each ballot scanner 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.
- (d) The county must maintain logs indicating administrator function use.
- (e) The county must program each ballot scanner to permit an election judge to override rejection of overvoted ballots that cannot be duplicated in accordance with Rule 18.

20.20 ES&S voting system conditions

20.20.1 If the county must provide language minority assistance under section 203 of the Voting Rights Act (42 U.S.C. §§ 1973 to 1973bb-1), it may not use an ES&S voting system.

20.20.2 DREs. The county may only use the nine inch screen on the VVPAT.

- 20.20.3 For ballot scanners with a zip disk drive, the county must save the cast vote records for each batch of tabulated ballots to a zip disk. A batch of tabulated ballots may consist of one or more SCORE absentee ballot batches.
- 20.21 Hart DRE conditions. If a county shortens a lengthy candidate name on the VVPAT, it must provide printed notice of the change to voters at the voter service and polling center.



## Rule 21. Voting System Standards for Certification

### 21.1 Introduction

21.1.1 The standards for certifying a voting system in this Rule apply to applications for new certifications. Voting system providers may submit an application to modify a system previously certified by the Secretary of State in accordance with section 1-5-618, C.R.S.

- (a) The Secretary of State will only approve an application for modification if testing determines that the changes proposed do not adversely affect any one or more of the following:
  - (1) Performance of voting system functions;
  - (2) Voting system security and privacy;
  - (3) Overall flow of system control; or
  - (4) The manner in which ballots are defined and interpreted, and voting data is processed.
- (b) The Secretary of State may approve a test plan for a modified voting system limited to the correction of defects; the incorporation of improvements; the enhancement of portability and flexibility; and the integration or compatibility of data exported from the voting system with other elections systems.
- (c) A voting system provider may apply for modification to a currently certified voting system to address de minimis commercial off-the-shelf hardware changes using the process laid out in this Rule.
  - (1) The provider must submit an application package that includes an application for modification provided by the Secretary of State, internal testing documentation, VSTL determination of de minimis changes, specification documents for existing and new equipment, updated TDP documents as applicable, other engineering change order documents, an integration testing plan, and any other documentation requested by the Secretary of State. If the submitted application package is incomplete the Secretary of State will identify the deficiencies and the voting system provider must remedy the deficiencies within ten days.
  - (2) If the Secretary of State reviews the application package and determines that the modification requires any additional testing from the VSTL, the provider will work with the Secretary of State to create a test plan for the modification. The Secretary of State makes the final determination as to whether the change is de minimis or not.
  - (3) If the Secretary of State reviews the application package and determines that the modification does not require testing by the VSTL, the provider will coordinate with the Secretary of State to perform integration testing overseen by the Secretary of State using the plan provided in the application package.
  - (4) Upon completion of testing the Secretary of State will review the outcomes of the integration testing and determine if the modification

complies with section 1-5-618(1.5), C.R.S. and approve or deny the modification request.

21.1.2 Sufficient components must be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this Rule.

21.1.3 The certification of a voting system is not a requirement that a county purchase or lease all of the components of the voting system. Counties may choose to configure and use a subset of the certified voting system and may use the services of a vendor or third party to provide ballot definition and election programming of memory cards. Counties are not required to use a paper ballot tabulation device if they choose to manually tabulate the election results.

## 21.2 Certification Process Overview and Timeline

21.2.1 The voting system will be considered as a unit, and all components tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system will require the entire voting system to be recertified unless the change is a modification that can be approved under section 1-5-618(1.5), C.R.S.

21.2.2 For a voting system to be certified, the voting system provider must successfully complete all phases of the certification process. The certification process includes: submission of a complete application, a documentation review, a public demonstration of the system, and functional testing.

21.2.3 The flow of each phase of certification is as follows:

- (a) Phase I – The voting system provider must submit an application with all documentation required in Rule 21.3 and a completed requirements matrix provided by the voting systems team. The Secretary of State will review the application and inform the voting system provider whether or not the application is complete. If the application is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. When the application is complete, the Secretary of State will make arrangements with the voting system provider for a public demonstration.
- (b) Phase II – The Secretary of State will review the submitted documentation, Colorado requirements matrix, VSTL reports from previous testing, and evaluations provided by other states. If the submitted documentation or requirements matrix is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make them complete.
- (c) Phase III – The Secretary of State must approve a certification test plan. If a VSTL is contracted to test the voting system, the VSTL will work with the voting system provider to prepare a certification test plan. The certification test plan will be presented to the Secretary of State for review and approval.
- (d) Phase IV– Upon receipt of the Secretary of State's approval of the certification test plan, the VSTL will execute the test plan.

- (e) Phase V – The Secretary of State will review the test results and determine whether the voting system substantially meets the requirements for certification. Within 30 days of a decision, the Secretary of State will post the certification test report for the voting system on its website.

21.2.4 The Secretary of State will certify voting systems that substantially comply with the requirements in this Rule 21, and any additional testing the Secretary of State finds necessary.

### 21.3 Application Procedure

21.3.1 Any voting system provider may apply to the Secretary of State for certification at any time.

21.3.2 A voting system provider that desires to submit a voting system for certification must complete the Secretary of State's "Application for Certification of Voting System" that is available on the Secretary of State's website.

21.3.3 Along with the application, the voting system provider must submit all documentation required in the application for certification in a searchable electronic format. The Secretary of State may delay the certification process if the documentation is insufficient or incomplete until remedied by the voting system provider.

21.3.4 The voting system provider must submit the completed Colorado requirements matrix to the Secretary of State in a timely manner after submission of the application for certification.

- (a) The voting system provider must specify where each requirement is met in the documentation, including section or page number.

- (b) The voting system provider must specify which requirements will be fulfilled by testing instead of documentation.

- (c) All requirements in the Colorado requirements matrix must be addressed.

21.3.5 The vendor must identify any material it asserts is exempt from public disclosure under the Colorado Open Records Act, Part 2, Article 72 of Title 24, C.R.S., together with a citation to the specific grounds for exemption before beginning Phase III of the certification process.

21.3.6 The voting system provider must coordinate with the Secretary of State for the establishment of the trusted build. The voting system provider must submit all documentation and instructions necessary for the creation and guided installation of files contained in the trusted build which will be created at the start of functional testing and will be the model tested. At a minimum, the trusted build must include a compilation of files placed on write-once media, and an established hash file distributed from a VSTL or the National Software Reference Library to compare federally certified versions. The trusted build disks should all be labeled with identification of the voting system provider's name and release version.

21.3.7 All materials submitted to the Secretary of State must remain in the custody of the Secretary of State as follows:

- (a) For certified systems, until the certification is permanently revoked, or until no components of the certified system are used in the State of Colorado; and

- (b) For systems that are not certified, a period of 25 months.

#### 21.4 Voting System Standards

21.4.1 The 2002 Voting Systems Standards are incorporated by reference. Material incorporated by reference in the Election Rules does not include later amendments or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Federal Election Commission, 999 E Street NW, Washington, DC, 20463, 800-424-9530. Copies are also available online at [http://www.eac.gov/testing\\_and\\_certification/voluntary\\_voting\\_system\\_guidelines.aspx](http://www.eac.gov/testing_and_certification/voluntary_voting_system_guidelines.aspx).

21.4.2 All voting systems must meet the requirements of the 2002 Voting Systems Standards, parts 5 – 7 of article 5 of title 1, C.R.S., as amended, and this Rule 21.

21.4.3 The voting system provider must document that all voting system software, hardware, and firmware meet all requirements of federal law that address accessibility for the voter interface of the voting system. These laws include:

- (a) The Help America Vote Act,
- (b) The Americans with Disabilities Act, and
- (c) The Federal Rehabilitation Act.

21.4.4 Independent Analysis. Before completion of functional testing, all voting system providers submitting a voting system must complete an independent analysis of the system, which includes:

- (a) An application penetration test conducted to analyze the system for potential vulnerabilities that may result from poor or improper system configuration, known or unknown hardware or software flaws, or operational weaknesses in process or technical countermeasures. The test must involve active exploitation of security vulnerabilities of the voting system according to a penetration test plan approved by the Secretary of State, whether or not the vulnerabilities can be mitigated through compensating controls.
- (b) A source code evaluation conducted in accordance with Software Design and Coding Standards of the 2002 Voting System Standard or the most current version of the Voluntary Voting System Guidelines approved after January 1, 2008.
- (c) A complete report detailing all findings and recommended compensating controls for vulnerabilities and deficiencies identified.
- (d) The voting system provider must use at least one of the following to perform the independent analysis:
  - (1) An EAC approved VSTL;
  - (2) An independent testing organization approved by the Secretary of State; or
  - (3) Testing conducted in another state.



- (e) The Secretary of State or VSTL will conduct a quality review of all work under this section. The review may include an examination of the testing records, interviews of the individuals who performed the work, or both. Review of testing records may be conducted at the VSTL, the state in which the testing was conducted, or at the site of any contractor or subcontractor utilized by another state to conduct the testing.
- (f) The Secretary of State may reject any evaluation if not satisfied with the work product and to require additional analysis to meet the requirements of section 1-5-608.5, C.R.S., and this Rule.

#### 21.4.5 Functional Requirements

- (a) Functional requirements must address all detailed operations of the voting system related to the management and controls required to successfully conduct an election.
- (b) The voting system must provide for appropriately authorized users to:
  - (1) Set up and prepare ballots for an election;
  - (2) Lock and unlock system to prevent or allow changes to ballot design;
  - (3) Conduct hardware diagnostic testing;
  - (4) Conduct logic and accuracy testing;
  - (5) Conduct an election and meet requirements as identified in this Rule 21 for procedures for voting, auditing information, inventory control where applicable, counting ballots, opening and closing polls, recounts, reporting and accumulating results;
  - (6) Conduct the post-election risk-limiting audit; and
  - (7) Preserve the system for future election use.
- (c) The voting system must integrate election day voting results with mail and provisional ballot results.
- (d) The election management system must provide authorized users with the capability to produce electronic files including election results in either ASCII (both comma-delimited and fixed-width) or web-based format. The software must provide authorized users with the ability to generate these files on an "on-demand" basis. After creating such files, the authorized users must have the capability to copy the files to CD-ROM or removable media.
  - (1) Exports necessary for the Secretary of State must conform to a format approved by the Secretary of State. The format must be compatible with a commercially available data management program such as a spreadsheet, database, or report generator.
- (e) The election management system must ensure that an election setup record may not be changed once ballots are printed and/or election media devices are downloaded without proper authorization and acknowledgement by the application administrative account. The application and database audit

transaction logs must accurately reflect the name of the system operator making the changes and the date and time of the changes. The application and database audit transaction logs must support user's ability to examine the "old" and "new" values of the changes.

- (f) All DRE or BMD voting devices must use technology providing visual or auditory ballot display and selection methods used by people with disabilities.
- (g) All electronic voting devices supplied by the voting system provider and used at voter service and polling centers must have the capability to continue all normal voting operations and provide continuous device availability during a 2-hour period of electrical outage without any loss of election data.

#### 21.4.6 Physical and design characteristics

- (a) Physical and design characteristics must address any and all external or internal construction of the physical environment of the voting system.
- (b) The voting system provider must submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

#### 21.4.7 Ballot Definition Subsystem

- (a) The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule.
- (b) The ballot definition subsystem must be capable of handling at least 200 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.
- (c) The voting system must accommodate single page ballots (races on one face or both faces) and two page paper ballots (races on three or four faces).
- (d) The ballot definition subsystem must:
  - (1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates;
  - (2) Generate all required masters and distributed copies of the ballot definition files; and
  - (3) Permit a user to program the election, build the election database, generate and layout ballots, and report results, by ballot style or precinct, as permitted or required by section 1-7.5-208, C.R.S.
- (e) Data management applications that collect, convert, manage or export election definition information in one or more formats suitable for import into the election management system, are an essential component of, and must be integrated with and operate in the same user interface and on the same server or workstation, as the election management system.

- (f) The voting system may not add any caption or endorsement to ballot artwork generated by the voting system, including without limitation copyright notices or the name of the voting system provider. The county must have the ability to suppress any captions and endorsements generated by the voting system that are not authorized by section 1-5-407(1), C.R.S.

21.4.8 Trusted Build. The voting system must allow the operating system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

21.4.9 Audit Capacity

- (a) The voting system must track and maintain read-only audit information of the following election management system events:
  - (1) Log on and log off activity;
  - (2) Application start and stop;
  - (3) Printing activity, where applicable;
  - (4) Election events –set for election, unset for election, open polls, close polls, end election, upload devices, download devices, create ballots, create precincts, create districts, create voter service and polling centers, initialize devices, backup devices, and voting activity; and
  - (5) Hardware events – add hardware, remove hardware, initialize hardware, and change hardware properties.
- (b) All transaction audit records of the election databases must be maintained in a file outside of or separate from the database in a read-only format.

21.4.10 Security requirements. All voting systems must meet the following minimum system security requirements:

- (a) The voting system must meet the following requirements to accommodate a general system of access by least privilege and role-based access control:
  - (1) Operating system administrative accounts may not have access to read or write data to the database;
  - (2) Operating system user/operator accounts must be able to be created that are restricted from the following aspects of the operating system:
    - (A) No access to system root directory;
    - (B) No access to operating system specific folders;
    - (C) No access to install or remove programs; and
    - (D) No access to modify other user accounts on the system.
  - (3) Application administrative accounts must have full access and rights to the application and database;

- (4) Application user/operator accounts must have limited rights specifically designed to perform functional operation within the scope of the application. This user/operator must be restricted in the creation or modification of any user/operator accounts.
- (b) The voting system must meet the following requirements for network security:
    - (1) All network-applicable components of the voting system must have the ability to operate on a closed network dedicated to the voting system;
    - (2) All network-applicable components of the voting system must include the limited use of non-routable IP address configurations for any device connected to the closed network. For the purposes of this requirement, non-routable IP addresses are those defined in the RFC 1918 Address base; and
    - (3) The voting system must include provisions for updating security patches, software and/or service packs without access to the open network.
  - (c) All voting systems that use databases must: Have databases hardened to specifications developed by the voting system provider. Documentation included with the application must provide a detailed procedure for hardening according to current industry standards. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
  - (d) The voting system must meet the following requirements for operating system security:
    - (1) All voting systems must have all operating systems hardened to specifications developed by the voting system provider according to current industry standards. Documentation included with the application must provide a detailed procedure for hardening. Any government or industry guidelines adopted in whole, or in part, are to be identified in the documentation.
    - (2) The voting system provider must configure the voting system operating system of the workstation and server used for the election management software to the following requirements:
      - (A) The ability for the system to take an action upon inserting a removable media (auto run) must be disabled; and
      - (B) The operating system must only boot from the drive or device identified as the primary drive.
    - (3) The voting system provider must use a virus protection/prevention application on the election management server/workstations which must be capable of manual updates without the use of direct connection to the internet.
  - (e) The voting system must meet the following requirements for password security:
    - (1) All passwords must be stored and used in a non-reversible format;
    - (2) Passwords to the database must not be stored in the database;

- (3) Password to the database must be owned and only known by the application;
  - (4) The application's database management system must require separate passwords for the administrative account and each operator account;
  - (5) The system must be designed in such a way to ensure that the use of the administrative account password is not required for normal operating functions;
  - (6) The system must allow users to change passwords;
  - (7) The use of blank or empty passwords must not be permitted at any time with the exception of a limited one-time use startup password which requires a new password to be assigned before the system can be used; and
  - (8) All voting systems must have all components of the voting system capable of supporting passwords of a minimum of eight characters, and must be capable of including numeric, alpha and special characters in upper case or lower case used in any combination.
- (f) All modules of the system must meet the 2002 voting system standards requirements for installation of software, including hardware with embedded firmware:
- (1) Where the system includes a feature to interpret and control execution using data from a script, code tokens, or other form of control data file separate from the source code, the human-readable source information must be made available as part of a source code review.
  - (2) Security features and procedures must be defined and implemented to prevent any changes of interpreted data files after the initial election testing of the final election definition Replacement of the interpreted data files with tested and approved files from the trusted build must be by authorized personnel before the election definition is finalized for an election.
  - (3) The introduction of interpreted data during execution must not be permitted unless defined as a predefined set of commands or actions subject to security review and the interpretation function provides security edits on input to prevent the introduction of other commands or the modification or replacement of existing code.
  - (4) The application must not allow users to open database tables for direct editing.
- (g) All voting systems must meet the following minimum requirements for removable storage media with data controls:
- (1) All data stored that includes ballot images, tally data, and cast vote records must be authenticated, encrypted or secured against tampering, and validated.

- (2) All removable media, upon insertion on server and workstations hosting the elections management software, must automatically be scanned by antivirus software or secured against execution of unauthorized software.

#### 21.4.11 Documentation Requirements

- (a) The Secretary of State may rely upon the testing of a voting system performed by a VSTL or by another state upon satisfaction of the following conditions:
  - (1) The Secretary of State has access to any documentation, data, test case reports or similar information upon which the VSTL or another state relied in performing its tests and will make such information available to the public subject to any redaction required by law; and
  - (2) The Secretary of State has determined that the tests were conducted in accordance with appropriate engineering standards, and the extent to which the tests satisfy the requirements of sections 1-5-615 and 1-5-616, C.R.S., and all Rules promulgated under those sections.
- (b) In addition to other documentation requirements in this Rule, the voting system provider must provide the following documents:
  - (1) Standard issue users/operator manual;
  - (2) System administrator's/application administration manual;
  - (3) Training manual and related materials;
  - (4) Election definition programming and diagnostics manuals; and
  - (5) A list of minimum services needed for the successful, secure and hardened operation of all components of the voting system.
- (c) For the review of VSTL or other state testing copies of all VSTL or state qualification reports, test logs and technical data packages must be provided to the Secretary of State.
  - (1) The voting system provider must execute and submit any necessary releases for the applicable VSTL, state or EAC to discuss any and all procedures and findings relevant to the voting system with the Secretary of State and allow the review by the Secretary of State of any documentation, data, reports, or similar information upon which the VSTL or other state relied in performing its testing. The voting system provider must provide a copy of the documentation to the Secretary of State.
  - (2) The voting system provider, the VSTL, the state or the EAC will identify to the Secretary of State any specific sections of documents for which they assert a legal requirement for redaction.
- (d) The voting system provider must provide documentation specifying the steps and times required for charging batteries, and the time of battery operation for each type of device they provide, assuming continuous use of the devices by voters during an interruption of normal electrical power.

- (e) The Secretary of State will review submitted documentation to determine the extent to which the voting system has been tested to federal standards.
- (f) Failure by the voting system provider to provide any documentation will delay processing the application and may be cause for denial of certification.
- (g) The voting system must include detailed documentation, which includes the location and a description of the content of the of audit trail information throughout the system. The audit information applies to:
  - (1) Operating Systems (workstation, server, ballot scanner, BDM, and DRE);
  - (2) Election management system; and
  - (3) Election Tabulation Devices – ballot scanner and DRE.
- (h) The voting system provider must provide documentation detailing voting system security. The documentation must contain configurations, properties and procedures to prevent, detect, and log changes to system capabilities for:
  - (1) Defining ballot formats;
  - (2) Casting and recording votes;
  - (3) Calculating vote totals consistent with defined ballot formats;
  - (4) Reporting vote totals;
  - (5) Altering of voting system audit records;
  - (6) Changing or preventing the recording of a vote;
  - (7) Introducing data for a vote not cast by a registered voter;
  - (8) Changing calculated vote totals;
  - (9) Preventing access to vote data, including individual votes and vote totals, to unauthorized individuals; and
  - (10) Preventing access to voter identification data and data for votes cast by the voter such that an individual can determine the content of specific votes cast by the voter.
- (i) The voting system provider must provide documentation detailing the security measures it has in place for all systems, software, devices that act as connectors (upload, download, and other programming devices) and any additional recommended security measures.
- (j) For the purpose of evaluating software, the voting system provider must provide detailed information as to the type of hardware required to execute the software.
- (k) The documentation supplied by the voting system must include a statement of all requirements and restrictions regarding environmental protection, electrical service, telecommunications service and any other facility or resource required for the installation, operation and storage of the voting system.

- (l) The voting system provider must submit documentation containing a list of minimum equipment, services, and executables required to run the election management system.

21.4.12 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary of State for use in Colorado after January 1, 2016 must meet the following requirements for ballot-level cast vote records and exports:

- (a) The voting system must capture a ballot-level cast vote record (CVR).
- (b) The voting system must be able to aggregate in a single file and export all CVRs in comma-separated value (CSV) text format.
- (c) The CVR export must contain the following fields, with values or data populated by the voting system:
  - (1) CVR Number. A sequential number from one to the number of CVRs in the export file. This can be used as an alternate method to identify each CVR.
  - (2) Batch ID. Identifies the batch in which the paper ballot corresponding to the CVR is located.
  - (3) Ballot Position. Identifies the position of the paper ballot corresponding to the CVR within the batch.
  - (4) Imprinted ID. If the scanner model supports imprinting a unique character string on the ballot during the scanning process, the voting system must populate this field with the unique character string.
  - (5) Ballot Style. Indicates the ballot style or type of the paper ballot corresponding to the CVR.
  - (6) Device or tabulator ID. Identifies the scanning device by device or tabulator ID.
  - (7) Contest and Choice Names. Each contest and choice on any ballot in the election must have its own field so that voters' choices in all contests can be easily and independently tabulated after the CVR export is imported into a spreadsheet application.
  - (8) Number of Valid Choices. The number of valid choices (e.g., "Vote for 3") for each contest.
- (d) The header or field names in the CVR export must unambiguously correspond to names of the contests and choices on the paper ballots.
- (e) The contests and choices must be listed in the same order as they appear on the ballots.
- (f) A vote for a choice must be indicated by a "1". No vote for a choice or an overvoted condition must be indicated by a "0". Choices that are not applicable to the CVR must be left blank.



21.4.13 Election Night Reporting data and exports. All voting systems certified by the Secretary of State for use in Colorado after January 1, 2016 must meet the following requirements for Election Night Reporting data and exports:

- (a) The voting system must be able to generate and export results data suitable for use in the Secretary of State's Election Night Reporting (ENR) system, as specified in the remaining subsections of this Rule.
- (b) The ENR export file must be in a tabular format that uses comma-separated value (CSV) format, or a format based on a range of character positions within a line.
- (c) The ENR export file must contain a header line that defines all of the fields contained in the export file.
  - (1) The header names need not exactly correspond to the field names specified subsection (d) of this Rule, but must unambiguously identify the content of each field.
  - (2) The order of the fields within the export file may deviate from the order specified in subsection (d) of this Rule.
  - (3) Additional fields contained in the ENR export file but not specified or addressed in subsection (d) of this Rule must not contain only alphanumeric characters.
- (d) The ENR export file must include the following items or fields:
  - (1) Precinct Name. If the county defines the election to report results by precinct, an alphanumeric string consisting of a 10-digit precinct code.
  - (2) Ballot Style Name. If the county defines the election to report results by ballot style or district, a unique, alphanumeric string for each ballot style.
  - (3) Precinct ID. If the county defines the election to report results by precinct, a unique integer for each precinct or precinct split.
  - (4) Registered Voters. The number of registered voters eligible to vote each unique ballot style, or in each precinct or precinct split, as applicable.
  - (5) Ballots counted. The number of ballots counted for each unique ballot style, or each precinct or precinct split, as applicable.
  - (6) Contest Name. The contest name as it appears on the ballots. If the contest name contains a carriage return for ballot formatting purposes, then the carriage return must not appear in the export.
  - (7) Contest ID. A unique integer for each contest.
  - (8) Contest Sequence Number. A unique integer that defines the sequence of contests as they appear on the ballots.
  - (9) Votes Allowed. The maximum number of choices that a voter may select in each contest (e.g., "Vote for 2").

- (10) Choice Name. The choice name as it appears on the ballots. Party affiliation may not be included in the choice name.
- (11) Choice ID. A unique integer for each choice within a contest.
- (12) Party Code. An indicator of party affiliation for each choice, if applicable.
- (13) Vote Count. The total number of votes for each choice.
- (14) Reporting Flag. The reporting flag field must contain a value of "0".
- (15) Precinct Sequence Number. A unique integer that defines the sequence of precincts.
- (16) Choice Sequence Number. A unique integer that defines the sequence of candidates as they appear on the ballot.

21.4.14 Central Ballot Counting Functionality. All voting systems certified for use in Colorado by the Secretary of State after January 1, 2016, must meet the following functional requirements for centrally counting ballots:

- (a) Digital Ballot Adjudication: The voting system must include a digital ballot adjudication software application, enabling election judges to resolve, adjudicate, and duplicate ballots with marginal or ambiguous voter markings digitally rather than manually.
- (b) Ballot Scanners. The voting system must include central count ballot scanners equipped with automatic document feeders, enabling election judges to scan multiple ballots rather than a single ballot at a time.

## 21.5 Testing preparation procedures

### 21.5.1 Voting system provider demonstration

- (a) The voting system provider must demonstrate the submitted voting system to the Secretary of State prior to any functional testing.
- (b) The demonstration period does not have a predetermined agenda for the voting system provider to follow; however, presentations should be prepared to address and demonstrate the following items as they pertain to each area and use within the voting system, if applicable:
  - (1) System overview;
  - (2) Verification of complete system matching EAC certification;
  - (3) Ballot definition creation;
  - (4) Printing ballots on demand;
  - (5) Hardware diagnostic testing;
  - (6) Programming election media devices for various counting methods including:

- (A) Mail ballots;
  - (B) In-person ballots; and
  - (C) Provisional ballots;
- (7) Sealing and securing system devices;
  - (8) Logic and accuracy testing;
  - (9) Processing ballots;
  - (10) Accessible use;
  - (11) Accumulating results;
  - (12) Post-election audit;
  - (13) Canvass process handling;
  - (14) Audit steps and procedures throughout all processes;
  - (15) Certification of results; and
  - (16) Troubleshooting.
- (c) At the time of application, the voting system provider must arrange a time with the Secretary of State to access the demonstration room to setup the voting system.
  - (d) A maximum of one business day is normally allowed for the demonstration. If the voting system provider requests more time for the demonstration or, if the Secretary of State finds that the complexity of the system is such that more time is needed for a demonstration, more time may be granted.
  - (e) The demonstration will be open to representatives of the press and the public to the extent allowable. The Secretary of State may limit the number of representatives from each group to accommodate space.
  - (f) The Secretary of State will post notice of the fact that the demonstration will take place in the designated public place for posting such notices for at least seven days prior to the demonstration. The notice must indicate the general time frame during which the demonstration may take place and the manner in which members of the public may obtain specific information about the time and place of the test.

#### 21.5.2 Certification testing

- (a) The voting system provider must provide the same class of workstation and/or server for testing the voting system as the normal production environment for the State of Colorado.
- (b) Based upon the review of VSTL or other state reports and test records, the Secretary of State will prepare a test plan. The test plan will be designed to test for any requirements specific to Colorado law which were not addressed in prior

testing and for any federal or Colorado requirements which were not addressed to the satisfaction of the Secretary of State in the reports and records from prior testing.

- (c) The test plan must include the election definitions to be used in testing and specifications for test ballots. Test ballots and election definitions must generally follow all requirements for election definitions, ballot layout and printing to verify the system's ability to meet those requirements. Some election definitions and ballots may depart from the requirements in order to test specific functions.
- (d) For each system tested, a requirements matrix must be prepared to identify those requirements satisfied by the review of VSTL or other state reports and test data and how those requirements not satisfied are to be tested or otherwise satisfied. If during test planning or testing one of the requirements in the voting systems standards or in this Rule are determined to be not applicable to the system under test, the reason for the determination will be documented.
- (e) The voting system provider must submit for testing the specific system configuration that will be offered to jurisdictions including the components with which the voting system provider recommends the system be used.
- (f) The voting system provider is not required to have a representative present during the functional testing, but must provide a point of contact for technical support. After the delivery, unpacking, and initial inspection of the equipment for shipping damage and missing components, a vendor representative will only be allowed to operate or touch the equipment when approved by the Secretary of State.
- (g) The proprietary software must be installed on the workstation/server and all applicable voting system components by the Secretary of State or the VSTL using the trusted build following the installation procedures provided by the voting system provider. After installation, hash values for the software and firmware must be compared to any published hash values of the trusted build. Any mismatches in hash values will be investigated and resolved before proceeding with testing.
- (h) All equipment must be hardened using the voting system provider's procedures and specifications.
- (i) Testing must be performed with test election definitions and test ballots as required in the test plan.
- (j) The results of all testing must be recorded in the requirements matrix. The requirements matrix will be the primary record describing which requirements were met and specifying which were not. It must be supplemented as necessary to support the findings with test team notes and system reports. Supplemental information may include photographs and audio or video recordings.
- (k) Functional testing must be completed according to the phases identified in Rule 21.2.3.
- (l) The Secretary of State or the VSTL must conduct functional testing on the voting system based on this Rule.

- (m) The voting system must receive a pass, fail or not applicable for each requirement with appropriate notation in the requirements matrix.
- (n) The Secretary of State will maintain records of the test procedures in accordance with Rule 21.3.7. The records must identify the system and all components by voting system provider name, make, model, serial number, software version, firmware version, date tested, test number, test plan, requirements matrix, test team notes, and other supplemental information, and results of test. The test environment conditions must be described.
- (o) In the event that a deviation from the test plan is required, it must be documented in a test team note. The note must provide a description of the deviation, the reason for the deviation and effect of the deviation on testing and determining compliance with requirements.

### 21.5.3 General testing procedures and instructions

- (a) Certification tests must be used to determine compliance with applicable performance standards for the system and its components. The general procedure for these tests will:
  - (1) Verify, by means of the voting system provider's standard operating procedure, that the device is in a normal condition and status;
  - (2) Establish the standard test environment or the special environment required to perform the test;
  - (3) Invoke all operating modes or conditions necessary to initiate or to establish the performance characteristic to be tested;
  - (4) Measure and record the value or the range of values of the performance characteristic to be tested; and
  - (5) Verify all required measurements have been obtained, and that the device is still in a normal condition and status.
- (b) All tests will be generally conducted in regular election mode. Tests of test mode and diagnostic functions may be conducted in the appropriate test mode.
- (c) The voting system provider must produce ballots and assemble marked test decks and spare ballots as specified in the test plan.
- (d) For mark-sense or ballot scanner devices, the Secretary of State or the VSTL will prepare 100 or more test ballots with marking devices of various color, weight and consistency to determine the range of marks that can be read and the range and consistency of reading marginal marks.
- (e) Ballots must be cast and counted in all applicable counter types (or counter groups) as necessary based on the parts included in the voting system. These are, at a minimum, in-person, mail, and provisional ballots. Ballots may be run through components more than one time depending on components and counter group being tested to achieve a minimum number of ballots counted as follows for each group:
  - (1) Polling location = 500;

- (2) Mail = 1,500; and
  - (3) Provisional = 500.
- (f) The requirements matrix must include the following requirements for election definitions and ballots to simulate and test "real world" situations in the State of Colorado. Election definitions and ballots must include the following minimum contest criteria:
- (1) Parties for different races;
  - (2) Selection of a pair of candidates, such as President and Vice-President;
  - (3) In a primary election, allow voters to vote for the candidates of the party for which they are eligible and for any and all non-partisan candidates and measures, while preventing them from voting on candidates of another party;
  - (4) In a general election, allow a voter to vote for any candidate for any office, in the number of positions allowed for the office, and to vote for any measure on the ballot that the voter is allowed to vote in, regardless of party;
  - (5) Allow for programming to accommodate Colorado recall questions as prescribed in Article 12 of Title 1, C.R.S.;
  - (6) A minimum of 20 pairs of "yes" and "no" positions for voting on ballot issues; and
  - (7) Ability to contain a ballot question or issue of at least 200 words.
- (g) A county clerk or his or her designated representative must be able to observe the functional testing of a voting system. The representative may assist at the request of the Secretary of State.
- (h) The public must be allowed to view all functional testing conducted by the Secretary of State. However, legal limitations may require that certain testing, including but not limited to proprietary information and system security, be done outside the view of the public. If the functional testing is outsourced to a VSTL or contractor, public viewing is subject to limitations set forth by the VSTL or contractor.
- (i) If any malfunction or data error is detected, its occurrence and the duration of operating time preceding it must be recorded for inclusion in the analysis.

## 21.6 Temporary use

21.6.1 If a voting system provider has a system that has not yet been approved for certification through the Secretary of State, the voting system provider or the designated election official may apply to the Secretary of State for temporary approval of the system to be used for up to one year.

21.6.2 Temporary use does not supersede the certification requirements or process, and may be revoked at any time at the discretion of the Secretary of State.

21.6.3 Upon approval of temporary use, a jurisdiction may use the voting system, or enter into a contract to rent or lease the voting system for a specific election upon receiving written notice from the Secretary of State's office. At no time may a jurisdiction enter into a contract to purchase a voting system that has been approved for temporary use.

## 21.7 Decertification

21.7.1 If, after any time the Secretary of State has certified a voting system, it is determined that the voting system fails to substantially meet the standards set forth in this Rule 21, the Secretary of State will notify any jurisdictions in the State of Colorado and the voting system provider of that particular voting system that the certification of that system for future use and sale in Colorado is to be withdrawn.

21.7.2 Certification of a voting system may be revoked or suspended at the discretion of the Secretary of State based on information that may be provided after the completion of the initial certification. This information may come from any of the following sources:

- (a) The Election Assistance Commission (EAC);
- (b) Voting System Test Laboratory (VSTL);
- (c) The Federal Election Commission (FEC);
- (d) The National Software Reference Library (NSRL);
- (e) National Association of State Election Directors (NASSED);
- (f) The National Association of Secretaries of State (NASS);
- (g) Information from any state elections department or Secretary of State;
- (h) Information from Colorado county clerks or their association; or
- (i) Any other source the Secretary of State finds reliable.

21.7.3 The Secretary of State may investigate a complaint filed by any person, and, upon any findings as outlined in (a) through (e) below, may prohibit, limit or decertify use of a voting system, in whole or in part. An investigation by the Office of the Secretary of State may include, but is not limited to, the review or inspection of the voting system component at issue.

- (a) Any person installed any uncertified or decertified voting system component;
- (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 access to that component;
- (c) A county submits an incident report regarding a component of a voting system and the Secretary of State finds that the chain-of-custody cannot be reestablished securely;
- (d) A component of a voting system experiences repeated hardware failures or malfunctions of a similar nature; or

- (e) The Secretary determines that the integrity or security of a voting system component cannot be verified and that chain-of-custody cannot be reestablished securely.
- 21.7.4 The Secretary of State will notify a county of the prohibition or limitation on use or decertification of a component of a voting system under Rule 21.7.3 and the county must immediately cease using that component.
- 21.7.5 In accordance with section 1-5-621, C.R.S., the Secretary of State will hold a public hearing to consider the decision to decertify a voting system.
- 21.8 Modifications and reexamination. Any modification, change or other alteration to a certified voting system requires certification or review of the modification under section 1-5-618, C.R.S., unless the voting system provider decides to present the modified system for certification under this Rule.
- 21.9 Acceptance Testing by Jurisdictions
  - 21.9.1 Whenever a jurisdiction acquires voting equipment, the jurisdiction must perform acceptance tests of the system before it may be used to cast or count votes at any election. The voting system must be operating correctly, pass all tests as directed by the acquiring jurisdiction's project manager or contract negotiator and must be identical to the voting system certified by the Secretary of State.
  - 21.9.2 The voting system provider must provide all manuals and training necessary for the proper operation of the system to the jurisdiction.
  - 21.9.3 The election jurisdiction must perform functional and programming tests for all functions of the voting system at their discretion.
- 21.10 Escrow of voting system software and firmware by voting system provider. The voting system provider must meet the requirement for software escrow per the following:
  - 21.10.1 The voting system provider must place in escrow a copy of the election management software, firmware, and supporting documentation being certified with either the Secretary of State or an independent escrow agent approved by the Secretary of State. [Section 1-7-511, C.R.S.]
  - 21.10.2 Within ten days of the voting system provider receiving notification of examination of voting equipment as part of the certification process, the voting system provider must arrange for the completion of escrow requirements as indicated by this Rule.
  - 21.10.3 The voting system provider must sign a sworn affidavit that the election management software in escrow is the same as the election management software used in its voting systems in this state.
  - 21.10.4 A complete copy of the certified election management software including any and all subsystems of the certified software will be maintained in escrow.
  - 21.10.5 Any changes to current configurations or new installations must be approved through the certification program of the Secretary of State.
  - 21.10.6 In addition to the requirements listed below, the voting system provider must include a cover/instructions sheet for any escrow material to include the voting system provider, address and pertinent contact information, software version, hardware version, firmware



revision number, and other uniquely identifying numbers of the software submitted for certification.

- 21.10.7 Election management software source code, maintained in escrow, must contain internal documentation such that a person reasonably proficient in the use of the programming language can efficiently use the documentation to understand the program structure, control techniques, and error processing logic in order to maintain the source code should it be removed from escrow for any reason.
- 21.10.8 System documentation will include instructions for converting the escrowed source code into object code, organized and configured to produce an executable system, if warranted.
- 21.10.9 System documentation will include technical architecture design, analysis, detail design, testing and an installation and configuration guide.
- 21.10.10 A set of schematics and drawings on electronic vote casting and counting equipment purchased or in use by the county clerk must be filed with the Secretary of State.
- 21.10.11 All parties must treat as confidential the terms of this Rule including all escrow materials and any other related information that comes into their possession, control or custody in accordance with this section.
- 21.10.12 Copies of electronic media and supporting documentation for escrow within the Secretary of State will be sent to:
- Colorado Secretary of State  
Attn: Voting Systems  
1700 Broadway – Suite 200  
Denver, CO 80290
- 21.10.13 Any cost of using an alternative third party escrow agent must be borne by the voting system provider.



**Rule 22. Use of approved and recommended election forms**

- 22.1 Where the Secretary of State issues an approved election form, notice, application, or correspondence, all designated election officials and registration offices must use the approved form.
- 22.1.1 A designated election official or registration office that wishes to substantively modify the content of any form approved by the Secretary of State must submit a written request via email to the Secretary of State's office stating the requested modification and the reasons it is needed.
- (a) The Secretary of State will approve or deny a request to modify an approved form within five business days. Failure of the Secretary of State to issue a decision within five business days does not constitute an approval of the request. If the modification request is denied, the Secretary of State will explain the reason for denying the request.
- (b) A non-substantive customization of an approved form, such as placing the form on county letterhead or language translation, does not require the Secretary of State's approval.
- 22.2 The Secretary of State will approve standard voter registration and ballot application forms for use by political parties and organizations that provide such forms to the public. The Secretary of State will publish on the department's website the current approved registration forms.
- 22.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all information specifically required by Colorado law, the applicants and the organization are afforded greater protection by distributing or using the state forms approved by the Secretary of State.
- 22.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public must identify themselves by printing the organization name and contact information on the form.
- 22.2.3 Any political party or organization may contact the Secretary of State before sending a mailing to request a review of the form and information to be mailed.
- 22.3 Under section 1-1-107(2)(d), C.R.S., the Secretary of State will seek injunctive action or other remedies for violations of this Rule.
- 22.4 If an elector's eligibility to vote at a precinct caucus cannot be verified upon examination of the list of registered electors, the elector must complete the Secretary of State's approved form attesting to the elector's eligibility.



**Rule 23. Commissions****23.1 Bipartisan Election Advisory Commission**

23.1.1 The Secretary of State finds and declares that open discussion about the administration and conduct of elections in Colorado is necessary to ensure that every eligible citizen has the opportunity to participate in fair, accessible, and impartial elections, and has the assurance that elections are conducted with integrity and his or her vote will count. Because the Colorado General Assembly discontinued the Colorado Voter Access and Modernized Election Commission, the Secretary of State will establish a Bipartisan Election Advisory Commission (the Commission) to identify processes for improvement and work to obtain bipartisan support in the administration of elections. The Commission will make recommendations to the Secretary of State regarding the development and implementation of best practices, administrative rules and suggestions for legislation.

**23.1.2 Membership of the Commission**

- (a) The Secretary of State will appoint at least 13 members to the Commission. The Commission may include:
- (1) A Representative of an organization that advocates on behalf of people with disabilities;
  - (2) A member of the executive branch and at least one legislator from each party;
  - (3) Two County clerk and recorders representing the Colorado County Clerks Association presidential line of leadership;
  - (4) If both clerks in (3) are from the same party or if not all counties are members of the CCCA, additional clerks may be appointed;
  - (5) Two representatives of organizations that advocate on behalf of local governments, including counties, municipalities, and special districts;
  - (6) Chair, party officer, or legal counsel for each major political party; and
  - (7) Two members with expertise on voting rights and/or election integrity.
- (b) The Secretary of State or his or her designee, will be a member and serve as chair of the Commission.
- (c) The Secretary of State's office will provide staff support to the Commission as may be directed by the Secretary of State.

**23.1.3 Meetings**

- (a) The Commission must meet no fewer than three times annually.
- (b) The meetings will be held at the office of the Secretary of State or regional locations throughout the state as the Commission determines appropriate.
- (c) Meetings must comply with Colorado Open Meetings Law and will permit an opportunity for public comment.

- (d) Notices, records of meetings, written comments, and documents submitted to the commission will be published on the official website of the Secretary of State. Documents that are otherwise publicly available need not be posted. Any submission containing inflammatory or otherwise inappropriate content will not be posted, including any material that is defamatory, irrelevant, duplicative, or obscene.



**Rule 24. Presidential Electors****24.1 Oath**

24.1.1 As used in section 1-4-304 (1), C.R.S., “the oath required by law for presidential electors” must be in substantially the following form:

“I, ....., do solemnly swear or affirm that I will support the constitution of the United States and of the state of Colorado, that I will faithfully perform the duties of the office of presidential elector that I am about to enter, and that I will vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state.”

24.1.2 If a presidential elector-elect refuses or otherwise fails to take and subscribe the oath in Rule 24.1.1, the refusal or failure creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

**24.2 Voting**

24.2.1 As specified in section 1-4-304 (5), C.R.S., each presidential elector must vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state.

24.2.2 If a presidential elector-elect refuses or otherwise fails to vote for the presidential candidate and vice-presidential candidate who received the highest number of votes at the preceding general election in this state, the refusal or failure constitutes a “refusal to act” as that term is used in section 1-4-304 (1), C.R.S., and creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

**24.3 Filling Vacancies**

24.3.1 As specified in section 1-4-304 (1), C.R.S., the presidential electors present must immediately proceed to fill any vacancy in the electoral college. A quorum is not required to fill a vacancy. In the event of a tie vote, the vacancy will be filled by lot.

24.3.2 If a remaining presidential elector refuses to fill a vacancy in the electoral college, the refusal constitutes a “refusal to act” as that term is used in section 1-4-304 (1), C.R.S., and creates a vacancy in the office of presidential elector. A vacancy created in accordance with this rule must be filled by the remaining presidential electors present as specified in section 1-4-304 (1), C.R.S.

24.3.3 Nominees to fill vacancies must be selected in accordance with section 1-4-302 (2), C.R.S. There must be more vacancy nominees than vacancies to be filled.





**Rule 25. Post-election audit**

- 25.1 Definitions. As used in this rule, unless stated otherwise:
- 25.1.1 “Audit Center” means the page or pages of the Secretary of State’s website devoted to risk-limiting audits.
  - 25.1.2 “Ballot cards” means the individual pieces of paper that together constitute a single ballot containing all of the contests an elector is eligible to vote. For example, a ballot consisting of a single piece of paper with content printed on the front or the front and back contains one ballot card, and a ballot consisting of two pieces of paper with content printed on the front and back of the first page and the front or front and back of the second page contains two ballot cards.
  - 25.1.3 “Ballot polling audit” means a type of risk-limiting audit in which the audit board examines and reports to the Secretary of State voter markings on randomly selected ballot cards seeking strong evidence that the reported tabulation outcome is correct.
  - 25.1.4 “Comparison audit” means a type of risk-limiting audit in which the audit board examines and reports to the Secretary of State voter markings on randomly selected ballot cards, then compares them to the voting system’s tabulation as reflected in the corresponding cast vote records.
  - 25.1.5 “Reported tabulation outcome” means the presumed winning and losing candidates or voting choices of a ballot contest as reflected in preliminary results.
  - 25.1.6 “Risk limit” means the largest statistical probability that an incorrect reported tabulation outcome is not detected and corrected in a risk-limiting audit.
  - 25.1.7 “Risk-limiting audit” or “RLA” means a post-election audit of votes on paper ballot cards and VVPAT records, conducted in accordance with section 1-7-515, C.R.S., and Rule 25.2, which has a pre-specified minimum chance of requiring a full hand count if the outcome of a full hand count would differ from the reported tabulation outcome.
  - 25.1.8 “RLA tabulation” means the tabulation of all in-person and accepted mail ballots cast by electors registered in the county, and any accepted provisional and property owner ballots that the county opts to include on the ninth day after election day.
  - 25.1.9 “RLA Tool” means the software and user interfaces provided by the Secretary of State in order to conduct RLAs.
  - 25.1.10 “Target contest” means a contest selected by the Secretary of State for a risk-limiting audit. The target contest with the closest diluted margin determines the number of ballot cards that must be examined during the RLA.
- 25.2 Risk limiting audit. The designated election official must conduct a risk-limiting audit in accordance with section 1-7-515, C.R.S. and this rule.
- 25.2.1 RLA methods
    - (a) Counties that use a voting system capable of exporting CVRs must conduct a comparison audit.

- (b) Counties that use a voting system incapable of exporting CVRs must conduct a ballot polling audit.

#### 25.2.2 Preparing for the audit

- (a) Risk limit. No later than 32 days before election day, the Secretary of State will establish and publish on the Audit Center the risk limits that will apply in RLAs for that election. The Secretary of State may establish different risk limits for comparison audits and ballot polling audits, and for audits of statewide and countywide contests. In comparison audits the risk limit will not exceed five percent for statewide contests, and ten percent for countywide contests.
- (b) Practice Period. Beginning 20 days before the election counties may practice conducting the audit. The county must, at a minimum, hash and upload the ballot manifest and CVR file from the logic and accuracy test to the RLA software.
- (c) Audit board. No later than 15 days before election day, the designated election official must appoint an audit board to conduct the risk-limiting audit. The audit board must consist of electors nominated by the major political party county chairpersons. The designated election official must give written notice to the county chairpersons of their obligation to nominate audit board members and may designate appropriately affiliated electors as audit board members if one or both county chairpersons fail to do so in a timely manner.
  - (1) At least two canvass board members must observe at least the first round of the RLA, and members of the canvass board may serve as members of the audit board. The designated election official, members of his or her staff, and other duly appointed election judges may assist the audit board in conducting the audit. To the extent practicable, the audit board should not consist of individuals who participated in ballot resolution or adjudication during the election being audited. Each member of the audit board must take the election judge oath.
  - (2) If the Secretary of State randomly selects five or fewer ballots for any audit round after the first, the designated election official may appoint as the audit board members of staff of different party affiliations to conduct and sign off on the audit round in question. The designated election official must get approval from the Secretary of State before appointing staff as the audit board. The designated election official may not appoint themselves to conduct any audit round.
- (d) Ballot manifest. The county must maintain an accurate ballot manifest in a form approved by the Secretary of State and independent of the voting system.
  - (1) In the case of centrally counted paper ballots, the ballot manifest must uniquely identify for each tabulated ballot the scanner on which the ballot is scanned, the ballot batch of which the ballot is a part, the number of ballot cards in the batch, and the storage container in which the ballot batch is stored after tabulation. The county must secure and maintain in sealed ballot containers all tabulated ballots in the batches and order they are scanned. The county must maintain and document uninterrupted chain-of-custody for each ballot storage container.
  - (2) In the case of paper ballots scanned on polling location scanners, and electronic ballots cast on DREs, the ballot manifest must uniquely

identify the device on which the ballot is cast or tabulated, the number of ballots or ballot cards cast or tabulated on the device, and the storage container or location in which the paper ballots or VVPAT is stored. The county must maintain and document uninterrupted chain-of-custody for each polling location scanner, DRE, and VVPAT, and all ballots cast on an individual polling location scanner or DRE must constitute a single batch.

- (e) RLA tabulation. On the ninth day after election day, the county must finish tabulating all in-person and accepted mail ballots cast by voters registered in the county. The county may but is not required to include in the RLA tabulation any provisional ballots and property owner ballots that have been verified and accepted on or before the ninth day after election day. Immediately after completing the RLA tabulation, and to the extent permitted by its voting system, the county must also generate and preserve:
  - (1) A summary results report, showing overvotes, undervotes, blank-voted contests, and valid write-in votes;
  - (2) A results file export suitable for uploading to the Secretary of State's election night reporting system; and
  - (3) A CVR export.
- (f) CVR export verification. Counties conducting a comparison audit must verify that:
  - (1) The number of individual CVRs in its CVR export equals the aggregate number of ballot cards reflected in the county's ballot manifest as of the ninth day after election day; and
  - (2) The vote totals for all choices in all ballot contests in the CVR export equals the vote totals in the summary results report for the RLA tabulation.
  - (3) After verifying the accuracy of the CVR export, the county must apply a hash value to the CVR export file using the hash value utility provided by the Secretary of State.
- (g) Comparison audit uploads. No later than 5:00 p.m. MT on the ninth day after election day, each county conducting a comparison audit must upload:
  - (1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, to the Secretary of State's office;
  - (2) Its verified and hashed CVR export, and the CVR export's hash value, to the Secretary of State's office; and
  - (3) Its RLA tabulation results export to the Secretary of State's election night reporting system.
- (h) Ballot polling audit uploads. No later than 5:00 p.m. MT on the ninth day after election day, each county conducting a ballot polling audit must submit or upload:
  - (1) Its verified and hashed ballot manifest, and the ballot manifest's hash value, by email to the Secretary of State's office;

- (2) Its cumulative tabulation report, by email to the Secretary of State's office; and
  - (3) Its RLA tabulation results export to the Secretary of State's election night reporting system.
- (i) Random seed. The Secretary of State will convene a public meeting on the tenth day after election day to establish a random seed for use with the Secretary of State's RLA tool's pseudo-random number generator based on Philip Stark's online tool, *Pseudo-Random Number Generator using SHA-256*. This material is incorporated by reference in the Election Rules and does not include later amendments or editions. The following material incorporated by reference is posted on the Secretary of State website and available for review by the public during regular business hours at the Colorado Secretary of State's office: *Pseudo-Random Number Generator using SHA-256* available at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>. The Secretary of State will give public notice of the meeting at least seven calendar days in advance. The seed is a number consisting of at least 20 digits, and each digit will be selected in order by sequential rolls of a 10-sided die. The Secretary of State will randomly select members of the public who attend the meeting to take turns rolling the die, and designate one or more staff members to take turns rolling the die in the event that no members of the public attend the meeting. The Secretary of State will publish the seed on the Audit Center immediately after it is established.
- (j) Selection of target contests. No later than 5:00 p.m. MT on the Friday after election day, the Secretary of State will select the target contests. In a general or coordinated election, the Secretary of State will select at least one statewide contest, and for each county at least one other contest. The Secretary of State will select other ballot contests for audit if in any particular election there is no statewide contest. In a primary election, the Secretary of State will select at least one countywide contest of each major political party in each county. The Secretary of State will publish a complete list of all target contests on the Audit Center. The Secretary of State will consider at least the following factors in selecting the target contests:
- (1) The closeness of the reported tabulation outcome of the contests;
  - (2) The geographical scope of the contests;
  - (3) The number of ballots counted in the contests;
  - (4) Any cause for concern regarding the accuracy of the reported tabulation outcome of the contests;
  - (5) Any benefits that may result from auditing certain contests; and
  - (6) The ability of the county clerks to complete the audit before the canvass deadline.
- (k) Number of ballot cards to audit. The Secretary of State will determine the number of ballot cards to audit to satisfy the risk limit for the target contests based on the ballot manifests submitted by the counties. The number of ballot cards to audit will be determined according to the formulas and protocols published by Mark Lindeman and Philip B. Stark in *A Gentle Introduction to Risk-limiting Audits*, as

applied in Philip Stark's *Tools for Comparison Risk-Limiting Election Audits*, and *Tools for Ballot-Polling Risk-Limiting Election Audits*. The publications cited in this Rule are incorporated by reference in the election rules and do not include later amendments or editions of the incorporated material. The following materials incorporated by reference are posted on the Secretary of State website and available for review by the public during regular business hours at the Colorado Secretary of State's office:

- (1) Mark Lindeman and Philip B. Stark, *A Gentle Introduction to Risk-limiting Audits*, IEEE Security and Privacy, Special Issue on Electronic Voting, (Mar. 16, 2012), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.
  - (2) Philip B. Stark, *Tools for Comparison Risk-Limiting Election Audits*, (Feb. 26, 2017), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.
  - (3) Philip B. Stark, *Tools for Ballot-Polling Risk-Limiting Election Audits*, (Feb. 16, 2017), at <https://www.sos.state.co.us/pubs/elections/VotingSystems/riskAuditResources.html>.
- (l) Random selection of ballot cards for audit. The Secretary of State will randomly select the individual ballot cards to audit. The Secretary of State will use a pseudo-random number generator with the seed established under subsection (h) of this Rule to identify individual ballot cards as reflected in the county ballot manifests. The Secretary of State will notify each county of, and publish on the Audit Center, the randomly selected ballot cards that each county must audit no later than 11:59 p.m. MT on the tenth day after election day.

### 25.2.3 Conducting the audit

- (a) The audit board must locate and retrieve, or observe the location and retrieval by county election staff, each randomly selected ballot card or VVPAT record from the appropriate storage container. The audit board must verify that the seals on the appropriate storage containers are those recorded on the applicable chain-of-custody logs.
- (1) In counties conducting comparison audits, the audit board must examine each randomly selected ballot card and report the voter markings or choices in all contests using the RLA Tool or other means specified by the Secretary of State. The audit board may refer to the digital image of the audited ballot card captured by the voting system in order to confirm it retrieved the correct ballot card randomly selected for audit. If the scanned ballot card was duplicated prior to tabulation, the audit board must retrieve, compare, and report the markings on the original ballot card rather than on the duplicated ballot card. The audit board must complete its reports of all ballot cards randomly selected for audit no later than 5:00 p.m. MT one business day before the canvass deadline.
  - (2) In counties conducting ballot polling audits, the audit board must examine and report the voter markings or choices in only the target contest on each randomly selected ballot card in a form approved by the Secretary of State. The audit board may refer to the digital image of the

audited ballot card captured by the voting system in order to confirm it retrieved the correct ballot card. If a randomly selected ballot card was duplicated prior to tabulation, the audit board must retrieve, compare, and report the voter markings in the target contest from the original ballot card rather than the duplicated ballot card. The audit board must complete its reports of all ballot cards randomly selected for audit no later than 5:00 p.m. MT one business day before the canvass deadline.

- (b) The audit board must interpret voter markings on ballot cards selected for audit in accordance with the Secretary of State's Voter Intent Guide. If the audit board members cannot unanimously agree on the voter's intent, they must indicate that in the appropriate contest in the RLA tool's audit board user interface, or the ballot polling audit form approved by the Secretary of State.
- (c) To the extent applicable, the Secretary of State will compare the audit board's reports of the audited ballot cards to the corresponding CVRs and post the results of the comparison on the Audit Center. The RLA will continue until the risk limit for the target contests is met or until a full hand count results. If the county audit reports reflect that the risk limit has not been satisfied in a target contest, the Secretary of State will randomly select additional ballots for audit.
- (d) The audit board must sign, date, and submit to the Secretary of State a report of the results of the risk-limiting audit on the approved form no later than 5:00 p.m. MT on the business day before the canvass deadline. The report must include any discrepancies found and the corresponding ballot images.
- (e) The Secretary of State will review the audit board's report and may direct the county clerk to conduct additional audit rounds, a random audit, a full hand count, or other action. The Secretary of State may instruct the county to delay canvass until it completes any additional audit or other action.

25.2.4 No later than the third business day following the expiration of the deadline to request a recount under section 1-10.5-106(2), C.R.S. or the completion of any recount, whichever is later, a county that conducted a comparison audit must review its CVR file and redact voter choices corresponding to any ballot card susceptible to being personally identified with an individual voter, as required by section 24-72-205.5(4)(b)(iii), C.R.S.

25.2.5 If a county clerk fails to follow the procedures for a risk limiting audit as outlined in this Rule, the Secretary of State will direct the county clerk on the steps to take to complete a post-election audit. In addition, no later than 90 days before the next election, the county clerk must submit a written RLA remediation plan outlining the procedures the county will follow to ensure compliance with this Rule.

25.2.6 The Secretary of State may, by order, alter any of the requirements outlined in Rule 25.2.

*[Administrative note: Rule 25.2.7, temporarily adopted on 9/4/2020, expired on 1/2/2021]*

25.3 Random Audit. If the Secretary of State waives the requirement to conduct an RLA under section 1-7-515(2)(b), C.R.S., the designated election official must conduct the random audit mandated by sections 1-7-509(1)(b) and 1-7-514, C.R.S., in accordance with this rule.

25.3.1 Selected voting devices

- (a) No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official of the voting devices randomly

selected for audit, based on the submitted hardware inventory list referred to in Rule 11.2.

- (b) The Secretary of State will randomly select, from the voting devices used in the election, at least five percent of the central count ballot scanners; at least one ballot scanner used at a polling location; and five percent of DREs.

25.3.2 The designated election official must appoint an audit board to conduct the post-election audit in accordance with section 1-7-509(1)(c), C.R.S. At least two canvass board members must observe the random audit. The designated election official, members of his or her staff, and other duly appointed election judges, may assist with the audit.

25.3.3 Number of ballots to audit

- (a) Paper ballots tabulated on ballot scanners. The board must audit at least 500 ballots or 20 percent of the ballots tabulated on each selected ballot scanner, whichever is less. The board may audit more than the minimum number of ballots required.
- (b) Electronic ballots tabulated on DREs. The board must audit all ballots tabulated on the selected DREs.

25.3.4 Conducting the audit

- (a) Paper ballots tabulated on ballot scanners
  - (1) If the voting system is capable of generating batch-level tabulation reports for a selected ballot scanner, the board must randomly select a number of ballot batches tabulated on the ballot scanner that, in the aggregate, contain the minimum number of ballots to be audited. The board must manually verify that the votes on the ballots contained in each randomly selected batch match the voting system's tabulation of votes for that batch.
  - (2) If the voting system is not capable of generating batch-level tabulation reports for a selected ballot scanner, the board can choose to audit all of the ballots that were tabulated on the selected scanner, or randomly select and rescan the minimum number of ballots to be audited. If the board chooses to rescan the minimum number of ballots, the board also must:
    - (A) Reset the selected ballot scanner's results to zero and generate a zero report;
    - (B) Rescan the randomly selected ballots for audit and generate a tabulation report from the selected ballot scanner; and
    - (C) Manually verify that the votes on the randomly selected ballots match the tabulation report for those ballots generated from the selected ballot scanner.
- (b) Ballots tabulated on DREs. The board must examine the VVPAT record of each selected DRE and manually verify that the votes reflected on the VVPAT match the tabulation report.



- 25.3.5 If the board discovers discrepancies during the audit, the board must:
- (a) Confirm that the manual count of the votes contained in the audited ballots is correct;
  - (b) Confirm that the manual count of the votes contained in the audited ballots properly reflects overvotes, stray marks on the ballot, and other indications of voter intent;
  - (c) Determine whether any discrepancy is attributable to a damaged ballot; and
  - (d) Take any other action necessary in accordance with the canvass board's powers as described in Part 1, Article 10 of Title 1, C.R.S.
- 25.3.6 The designated election official must report the results of the audit in writing to the Secretary of State by 5:00 p.m. on the last day to canvass. The audit report may be submitted by mail, fax, or email. The audit report must contain:
- (a) The make, model, and serial number of the voting devices audited;
  - (b) The number of ballots originally counted on each device or the number of ballots audited;
  - (c) The count of the specific contests on the summary report printed at the close of polls and the report generated for the audit;
  - (d) The count of the specific contests as manually verified;
  - (e) Any other information required by section 1-7-514, C.R.S.; and
  - (f) The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.
- 25.3.7 The designated election official must segregate and seal the materials used during the post-election audit, including all tabulation reports, the audited ballots, and the audit report.
- 25.4 Removal and replacement of audit board members. The county clerk may remove for cause any member who fails or refuses to perform any of the functions he or she is charged with under these Rules. If the county clerk removes an audit board member for cause, he or she must notify the Secretary of State and consult with the county chairperson of the removed member's political party to appoint a replacement.



**Rule 26. Ranked Voting Method**

26.1 Definitions. As used in this Rule, unless stated otherwise:

- 26.1.1 “Active Ballot” means a ballot properly marked and counted for either a winning candidate or a continuing candidate.
- 26.1.2 “Continuing candidate” means a candidate who has not been eliminated but is not a winning candidate.
- 26.1.3 “Duplicate ranking” means a voter marked more than one ranking for a candidate.
- 26.1.4 “Instant Run-off Election” means a type of ranked voting election where only one candidate will be elected to office.
- 26.1.5 “Overvote” means a voter marked more than one candidate with the same ranking.
- 26.1.6 “Ranking” means the voter’s assigned number or the numeric position for a candidate to express the voter’s preference for that candidate. Ranking number one is the highest rank, ranking number two is the next-highest rank, and so on.
- 26.1.7 “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 “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).
- 26.1.9 “Surplus votes” means the votes cast for a winning candidate in excess of the winning threshold that may be transferred to a continuing candidate.
- 26.1.10 “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.
- 26.1.11 “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 “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.
- 26.1.13 “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 “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.

- 26.2 A local government may only conduct a ranked voting election if there are three or more candidates who have qualified for the ballot for that contest, or when there is a combination of at least two candidates who have qualified for the ballot for that contest plus at least one qualified write-in candidate.
- 26.3 A local government conducting a ranked voting election that is coordinating with the county clerk must give notice to the county clerk no later than 100 days before the election. If the county's voting system is not capable of conducting a ranked voting election, the county clerk is not required to coordinate.
- 26.4 The designated election official of a jurisdiction that will conduct an election using a ranked voting method must provide voter instructions.
- 26.4.1 The voter instructions must include, at a minimum:
- (a) A brief explanation of ranked voting;
  - (b) Instructions on how to properly mark a ballot;
  - (c) A description of how ballots will be counted;
  - (d) An example of a properly marked paper ballot;
  - (e) For instructions that will be posted at a polling location, an example of how to properly vote an in-person ballot; and
  - (f) Contact information for the designated election official of the election.
- 26.4.2 In a coordinated election, the county clerk must include the instructions in the county's election plan.
- 26.5 The designated election official of a jurisdiction conducting a ranked voting election must include instructions on the ballot showing how to properly mark the ballot. For elections in which ranked voting is not the only voting method used, the designated election official must format the ballot in a way that will allow the county to conduct all audits and reporting required by law and rule, including reporting results of ranked voting races by precinct, and may place the ranked voting races on a separate ballot card.
- 26.6 Tabulation of instant-run-off elections
- 26.6.1 In any ranked voting election in which only one candidate will be elected to office, the designated election official must follow the tabulation procedures described in this rule.
- 26.6.2 During the first round of tabulation, the designated election official must tabulate the first-choice ranks on each ballot.
- (a) A candidate who receives over 50 percent of the first-choice ranks on each ballot is the winning candidate and no further rounds of tabulation will take place.
  - (b) If no candidate receives over 50 percent of the first-choice ranks on each ballot, the designated election official must continue to the next round of tabulation.
- 26.6.3 During the second 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.

- (a) 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 no further rounds will take place.
  - (b) If no candidate has over 50 percent of the votes cast on active ballots after the second round, the designated election official must repeat additional rounds of tabulation as described in this Rule, until there is a winning candidate.
- 26.6.4 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.
- 26.6.5 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.
- 26.6.6 If only two continuing candidates remain after a round and they have the same number of votes, the winning candidate must be chosen by lot.
- 26.6.7 The designated election official need not report election night results under Rule 11.10.4, unless directed by the Secretary of State.
- 26.7 Tabulation of ranked voting elections using the single transferable vote method
- 26.7.1 In any ranked voting election where more than one candidate will be elected to an office, the designated election official must follow the tabulation procedures described in this rule.
- 26.7.2 During the first round of tabulation, the designated election official must tabulate the first-choice ranks on each ballot.
- (a) If the number of winning candidates is equal to the number of seats to be filled, then no further rounds will take place.
  - (b) If the number of winning candidates is less than the number of seats to be filled, the designated election official continues to the next round.
- 26.7.3 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, and transfer those votes proportionately to any continuing candidate.
- (a) After the votes are transferred, if the number of winning candidates is equal to the number of seats to be filled, no further rounds will take place.
  - (b) After the votes are transferred, if the number of winning candidates is less than the number of seats to be filled, the designated election official must eliminate the continuing candidate with the fewest first-choice votes, surplus votes from winning candidates, and, when applicable, votes transferred from eliminated candidates. The eliminated candidate's votes must then be transferred to each active ballot's next-highest-ranked continuing candidate.
  - (c) After each eliminated candidate's votes are transferred, if the number of winning candidates is equal to the number of seats to be filled, no further rounds will take place.

- (d) After each eliminated candidate's votes are transferred, if the number of winning candidates is less than the number of seats to be filled, the designated election official must conduct additional rounds of tabulation as described in this rule until all seats are filled.

26.7.4 To calculate a winning candidate's surplus votes in any round, the designated election official must:

- (a) Determine which winning candidate received the most votes in any round.
  - (1) In the first round, this will only include first-choice votes cast for the winning candidate.
  - (2) In subsequent rounds, this will include first-choice votes cast for the winning candidate, votes transferred from eliminated candidates, and surplus votes from other winning candidates.
  - (3) If two or more winning candidates tie for the most votes in any round, the designated election official must first count the surplus votes of the candidate chosen by lot.
- (b) After determining which winning candidate received the most votes in any round, calculate that candidate's surplus fraction.
- (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).
- (d) In any round with more than one winning candidate, repeat this process for each winning candidate in the order of highest votes received.

26.7.5 In any round, if two or more candidates tie for the lowest number of votes, the designated election official must determine the eliminated candidate by lot.

26.7.6 The designated election official need not report election night results under Rule 11.10.4, unless directed by the Secretary of State.

26.8 After determining voter intent in accordance with the Secretary of State's Voter Intent Guide, the designated election official must count improperly marked ballots as follows:

26.8.1 An overvote invalidates the overvoted rankings and all lower rankings marked for that contest on the ballot.

26.8.2 A skipped ranking and any lower ranking must be ignored.

26.8.3 A candidate who receives a duplicate ranking on a single ballot is credited with the highest ranking marked by the voter. All other rankings for that candidate must be ignored.

26.9 Reporting results of a ranked voting election

- 26.9.1 The designated election official must ensure anonymity of a voter's rankings in the ballot image report required by section 1-7-1003 (7)(a)(II), C.R.S. In precincts with ten or fewer voters, the ballot image reports must be combined with another precinct.
- 26.9.2 The comprehensive report required by section 1-7-1003 (7)(a)(III), C.R.S., must include results in the summary report by precinct.
- 26.9.3 The designated election official must submit the final reports required by section 1-7-1003 (7)(a), C.R.S., to the Secretary of State no later than the twenty-second day after the election.
- 26.10 Auditing a ranked voting election or race. The designated election official must audit each ranked voting race in accordance with this Rule before the canvass board certifies official election results.
- 26.10.1 In a coordinated election, if all winning candidates are determined in the first round of tabulation, the county clerk must conduct a risk-limiting audit under Rule 25.2. In all other cases, the audit board must verify the accuracy of the voting system's tabulation of the ranked voting contest by hand counting the votes in at least one precinct, or in one percent of all precincts in which the ranked voting contest appeared on the ballot, whichever is greater.
- 26.10.2 No later than 15 days before election day, the designated election official must appoint an audit board.
- (a) In a coordinated election, the audit board must consist of electors nominated by the major political party county chairpersons, except as otherwise provided by an intergovernmental agreement.
  - (b) In any other election, the members of the audit board must be nominated and appointed as provided by applicable law or ordinance.
  - (c) At least two members of the canvass board must observe the audit, and members of the canvass board may serve as members of the audit board.
  - (d) The designated election official, members of their staff, and other duly appointed election judges may assist the audit board in conducting the audit.
- 26.10.3 The designated election official must convene a public meeting on the tenth day after election day to randomly select by lot the precinct or precincts to be audited. The designated election official must post notice of the public meeting at least seven calendar days in advance. The notice must include a description of the random selection lot method. The designated election official must give notice of and submit to the Secretary of State a list of the precincts randomly selected for audit by 5:00 p.m. on the tenth day after election day.
- 26.10.4 Conducting the audit.
- (a) The audit board must locate and retrieve all ballot cards containing the ranked voting contest for the randomly selected precincts from their storage containers, and verify and maintain documented chain-of-custody of all voted ballots.
  - (b) The audit board must first confirm that the number of ballot cards located and retrieved for the audit equals the number of ballot cards with the ranked voting contest tabulated in each randomly selected precinct.

- (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 for instant-runoff-voting contests, and in Rule 26.7 for single transferable voting contests.

26.10.5 The designated election official must report the results of the audit to the Secretary of State by mail, fax, or email by 5:00 p.m. on the last day to canvass. The audit report must contain:

- (a) The number of ballots audited for each ranked voting contest;
- (b) The voting system's tabulation of the ranked voting contests for the randomly selected precincts;
- (c) The audit board's hand count of the ranked voting contests for the randomly selected precincts;
- (d) The audit board's statement that its hand count confirmed the voting system's tabulation or an explanation for any discrepancies identified; and
- (e) The signatures of the audit board, the canvass board members who observed the audit, and the designated election official.

26.10.6 The designated election official must segregate and seal and preserve as election records all materials used during the ranked voting audit, including all tabulation reports, the audited ballots, and the audit report.



**Rule 27. Conducting Elections During Public Health Emergency**

*[Administrative note: Rule 27, temporarily adopted on 9/4/2020, expired on 1/2/2021]*

