

Elections Statute Review Committee Comments on Pre-Notice Draft Election Rules
12.7.13

Rule 2.14.5 - Recommend establishing procedure for issuing certificates in-person and by mail. Should there be a standard form the voter completes to receive a certificate? Also, as an alternative to providing ID, the county clerk could ask the voter qualifying questions such as DOB, SSN, or address to confirm their identity. This would help for voters who cannot appear in person and call in to receive their certificate.

Rule 4.1.3 - Consider impact on Special Districts, particularly organizational or "dirt districts" perhaps language stating not necessary for districts where there are no registered voters.

Rule 4.8.6 - This seems premature in light of a UVS. There are various reasons that could force a county to arrange a contest name or ballot style in a way not consistent with SCORE. GEMS cannot comply with this requirement.

Rule 6.1 - Do these provisions apply to special district and municipal elections conducted by the clerk? Was this addressed as part of HB1164?

Rule 6.1.1 - Language should be changed to state that parties must send an updated list by the deadline. Same date at 6.1.3.

Rule 6.1.3 - This appears to be in direct conflict with 1-6-103, which requires the caucus list be submitted to counties no later than the last Tuesday in April. That section further states that "the county clerk shall select" judges from the list, not the other way around.

Counties support parties providing a supplemental to fill in open spots (2 year appointments) within 120 days of General election.

Rule 6.1.4 - Counties continue to assign and place judges after 45 days. Recommend moving this to 18 days before the election or clarifying this is an *initial* list.

Also, strike "and assignments".

Rule 6.2.1 - As stated above, 1-6-103 states county clerks assign judges to tasks, not political parties. Each party may recommend judges preferred for each position.

Strike "designated by the party" to ensure all signature verification judges must complete training.

Signature verification training should go through rulemaking process to ensure completeness.

Rule 6.4 - Many counties need to use staff for signature verifications for UOCAVA processes or ballots received from other counties after election day. Recommend making an exception for these categories.

Also, on election day some counties use staff from other departments to assist in elections. Nothing in law precludes this.

Rule 6.7 - What is the purpose of the SOS approving training content? There does not seem to be any statutory basis to do so. If the SOS will approve training, the training should go through rulemaking.

Rule 6.8 - What is the purpose of the SOS approving training content? There does not seem to be any statutory basis to do so. If the SOS will approve training, the training should go through rulemaking.

Rule 7.2.8 - Some vendors have told counties it is impossible to print the voter's name under the signature line with their current equipment.

It would not be possible to print the name under the line for in-house supplemental ballots and mail ballots issued at VSPCs.

Alternatively, include information on the envelope or instructions saying to sign your own ballot.

Rule 7.2.9 - Not required currently by statute. What happens if witness doesn't list their name?

Does this mean a space to print the witness name in addition to a witness signature line?

Rule 7.5.1(c) - Tighten language to state that the "collector" cannot receive more than 10 ballots.

While counties do not oppose this policy generally, 1-13-714 currently ties electioneering to polling places, although there is a reference to 1-5-105. Recommend updating the law before changing the Rule.

Additionally, if this rule applies to drive-by drop boxes, many voters would be in violation because of bumper stickers, signs, etc. Also would be commonly violated in grocery store environments.

Rule 7.8.3 – When does the SOS plan to release the draft or final version of this guide? It would be helpful to review before supporting repeal of rules. Also, guide should go through rulemaking.

Rule 7.8.6 – Recommend including language stating it's ok to process only if the voter has not already received vote credit.

Rule 7.8.7 - Allow for staff to maintain the log.

Rule 7.8.8 - Recommend adding ability to re-train before removal.

Rule 7.8.14 - 1-7.5-107.3 (2)(a) is clear regarding letter mailing deadlines. Rule is unnecessary.

Rule 7.8.15 - What is the purpose of reporting this information?

Rule 7.9.1 (d) - See comments on draft Rule 7.5.1(c)

Rule 8.1.3 - Consider requiring ID, as is required for voters.

Rule 8.1.4 – Is there other documentation a watcher can provide from an issue committee? If not, should "may" be changed to "must"?

Rule 8.1.5 - Counties support this proposal. Please clarify how a county is made aware that watchers complete training. Counties prefer the SOS issue a certificate that watchers must provide.

Rule 8.7 - Please clarify that the SOS will provide a template. Recommend including as part of Mail Ballot plan so it's not a separate document. Mail Ballot plan should be renamed as "Election Plan".

Rule 8.7.4 - We presume that's "foot" limit, not "food"

Rule 8.8 - Recommend adding to the beginning of this sentence: If permitted by local safety codes and space limitations...

Rule 8.9 - Recommend changing last phrase to: ...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. This change will help in cases where election judges must read the ballot to the voter and the voter replies with their choices. Sometimes judges must speak loudly if a voter is hearing impaired.

Watchers should be prohibited in voter's private rooms. Watchers should be allowed in public spaces where groups of voters are receiving assistance.

Rule 8.10.2(a)(4) - Strike "verify or".

Rule 8.10.2(a)(5) - Strike "to verify accuracy according to voter intent."

Rule 8.10.2(a)(9) - Please clarify if the modifications mean a watcher can observe judges downloading and printing a UOCAVA voter's ballot.

Rule 8.4.2(b) - Reword: Witness and verify means to personally observe election processes in the conduct of an election.

Rule 8.13 - Exceeds statute that says judges verify signatures, not watchers.

Rule 8.15.5 - Recommend striking *except as permitted in Rule 8*.

Rule 8.16 - The watcher should notify the watcher contact given that watchers should not interact with election judges.

Rule 10.8.3 - Insert "in accordance with law" after "conduct of the recount".

Rule 11.3.2(c)(1) - Recommend keeping original language regarding "sufficient number of test ballots"

Rule 11.3.2(c)(2) - What about nonpartisan elections? Sometimes parties have no interest in appointing. The proposed changes seem to prohibit participating entities from testing their ballots.

Rule 11.3.2(4)(C)(II) - If counties appoint additional members (typically representing the participating districts) do all members have to test their ballots on the BMD? Recommend limiting this section to two testing board members.

Rule 11.3.2(4)(e)(2) - With Tally, LAT is conducted with several databases for individual test board member results. Which database(s) should be uploaded to ENR?

Clarify that rule only applies to data entry counties.

Rule 11.3.2(4)(e)(5) - Add "If applicable" Not all counties create the back up copy of the database directly after LAT. Sometimes vendors complete this task.

Rule 11.10.2(a) - Add exception for candidate death or withdrawal.

Rule 21.4.10(g)(1) – Recommend additional language that encryption is only required if the data leaves the secure room. This requirement could get very expensive and time consuming for no value add.