

**From:** Mary Eberle  
**To:** [Wayne Williams](#)  
**Cc:** [Andrea Gyger](#); [SoS Rulemaking](#)  
**Subject:** comments on Rules  
**Date:** Friday, March 9, 2018 4:58:11 PM

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Dear Secretary of State Williams,

Thank you for taking comments regarding possible revisions to the Election Rules.

I am exceedingly impressed by the comments generated during this round of rulemaking. Many are authored by experts of national stature who are trying to help Colorado--via your office--to develop best practices for election audits that can set a high standard for other interested states.

Harvie Branscomb is one of our own who has repeatedly raised concerns about voter privacy and ballot and cast vote record anonymity. He and Dr. Philip Stark and members of the State Audit Working Group have proposed rule modifications to give Coloradans assurance that our state constitution's provision for secrecy in voting is preserved. No governmental process should rob us of this assurance regardless of cost or convenience.

Likewise, Coloradans have indicated that they want to vote on paper ballots, and I think the vast majority would tell you if you asked them that they want the paper record to be used in any recount, not a scan of QR codes or any dependence on computer images. I fully support the Branscomb, Stark, et al. comments regarding Rule 10.9.2. That proposed rule takes us away from our gold-standard paper ballots.

Verified Voting (VV) President Schneider and VV Volunteer McCarthy provided a well-thought-out series of suggestions. I admit to having been startled when I learned that our first statewide Risk-Limiting Audit would be so manipulated by the powers that be. Surely you see that confidence would be raised when the contests for auditing are chosen randomly, and thus such an approach should be our goal.

I also support the other VV suggestions. Use full hand counts if the audit indicates they are needed. Several commenters have written to you about standardization of names and labels, which seems reasonable and not onerous to implement. Give the smart Colorado public all the data needed for checking the audit's veracity. How the ballots are sampled is critical and must be software independent. Again, the importance of ballot anonymity and voter privacy cannot be overstated--please apply gentle pressure, encouragement, assistance to reduce the number of ballot styles, and even the force of rule to bring all the counties into line to protect these values. Require the real ballots for the audit and for any recount. Let us keep to the gold standards, stick to the high road.

Finally, I found this statement by Phillip Stark to be heartbreakingly true:

"While it is commonly said that RLAs have a large chance of correcting outcomes that are incorrect, the Auditor's report has lost an important ingredient: that is only true if the paper trail (of ballots) is complete and intact. Other procedures and checks are needed to provide affirmative evidence that the paper trail is itself trustworthy."

[\[http://www.sos.state.co.us/pubs/rule\\_making/written\\_comments/2018/20180228Stark.pdf\]](http://www.sos.state.co.us/pubs/rule_making/written_comments/2018/20180228Stark.pdf)

I say "heartbreakingly true" because over many years of watching elections in various Colorado counties, I have seen fatally broken chains of custody. I hope that once we get the auditing and recounting well sorted out, we can go back to evaluate our whole election process and make rules that strengthen the chains of custody to give voters more confidence than even good auditing of the

tabulation can provide.

Sincerely,

Mary C. Eberle

