

August 3, 2021

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**VIA EMAIL ONLY: [SoS.Rulemaking@sos.state.co.us](mailto:SoS.Rulemaking@sos.state.co.us)**

Department Rulemaking Program Manager  
Colorado Secretary of State  
1700 Broadway, Suite 550  
Denver, CO 80290

Re: Proposed Amendments to Colorado Election Rules (8 CCR 1505-CCR 1)

To the Colorado Secretary of State Department Rulemaking Program Manager:

On behalf of the Colorado Republican Committee, I am transmitting comments on the proposed amendments to the Colorado Election Rules under consideration by your office.

As you know, the Colorado Republican Committee is an unincorporated non-profit association and a major political party in Colorado under Colo. Rev. Stat. § 1-1-104(22). The Committee works to promote fair elections throughout the state of Colorado; seeks to promote the election of Republican candidates; and, most relevant here, has, through its county parties the authority to provide lists of Republicans for service as election judges and to appoint party watchers in general elections.

### **The Colorado Republican Committee's Comments on the Proposed Rulemaking**

I will provide section-by-section comments on the proposed amended regulations below. Before making these specific comments, I make a general observation: several of the proposed amendments will reduce transparency of our election process either directly or by diminishing the discretion and authority of local election officials vis-à-vis the Secretary of State. This is a mistake. Participation in the business of election administration builds faith in our elections. Watchers and election judges should be encouraged to discuss their work and local election officials ought to be the place where the buck ordinarily stops. I hope, in addition to your consideration of the section-by-section comments below you will more broadly reflect upon the beneficial effects of empowered local decision makers in our elections processes.

The foregoing said, the Committee makes the following section-by-section comments on the proposed amended regulation:

Proposed Section 2.13.2. Cancellation of Voter Registration. The Committee believes the responsibility to conduct this list-maintenance activity should remain with county clerks.

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Proposed Section 2.15.7. Evidence of Multi-State Voting. In my experience in the (thankfully rare) circumstances where evidence of this nature is provided to county clerks, it is the practice of clerks to refer these matters to the district attorney for their county. The Committee believes that clerks should continue this practice instead of requiring the information to be forwarded to your office for action.

Proposed Section 7.4.10. Receipt of more than 10 Ballots from a single person. The Committee recommends that this rule be clarified to expressly require referral to the relevant district attorney if more than 10 ballots are dropped by a single person at any location (like a 24-hour a drop box).

Proposed Section 7.7.13(a). Elimination of Language Requiring a Test of Signature Verification Before Use in An Election. The Committee believes the express requirement that equipment be tested “before use in an election” should be maintained.

Proposed Elimination of Section 8.13. Eliminating ability of County Clerks to Permit Watchers to Challenge Signatures. The Committee believes this section should not be eliminated (and that Rule 8.10.2 should be amended to eliminate the requirement that Watchers be permitted to be close enough to conduct such challenges). The ability of Clerks to permit Watchers to challenge signatures at first-level signature verification builds confidence in our elections system, which relies heavily on signature verification to ensure only eligible electors cast ballots and that nobody votes in another’s name. The process should be maintained.

Proposed Section 8.14.5. Prohibition on Watcher Discussion with Election Judge Outside of Working Hours. This proposed rule would forbid election judges from discussing their duties with Watchers even during off-duty hours. The prohibition on Watcher communication with election judges while they are working makes sense: it prevents Watchers from distracting election judges and hindering the processing of ballots. The prohibition on off-duty communication does not advance this legitimate interest and can only inhibit the ability of contentious Watchers to learn about election processes. The Committee routinely has experienced election judges train prospective Watchers – the rule as written would eliminate the ability to conduct such trainings. At a minimum, election judges should be able to initiate such conversations without penalty to themselves or the Watchers.

Proposed Section 9.2.2(b). Elimination of Necessity for Bi-Partisan Agreement on Challenged Mail Ballots. The proposed amendment would require a ballot to be counted without a cure if only one (as opposed to both) members of a bi-partisan team of election judges believes the signature valid. Given the exceeding rarity of such challenges, the Committee believes they are serious enough that the bi-partisan requirement should be retained.

Proposed Changes to Rule 10.3. Duties of the Canvass Board. The Committee believes the entirety of these amendments should be re-considered. The Committee is particularly concerned regarding the proposal to eliminate Rule 10.3.3 which permits Canvas Board members to review ballots at issue where a discrepancy in the statement of ballots is discovered.

Proposed Changes to Rule 20.11. Voting Equipment Chain of Custody and Logging. The Committee believes the entirety of these amendments should be re-considered and the requirement for the security and chain-of-custody documentation for voting equipment be

Secretary of State  
August 3, 2021

maintained in the Rules.

Elimination of Rule 20.19.5. Ballot Scanners. The Committee believes that at a minimum, the requirement of Rule 20.19.5(a) that secrecy envelopes be offered to voters voting in-person should be maintained.

Thank you for permitting us to comment on the proposed regulations. I would be happy to answer any questions you may have concerning our comments, or to discuss them further.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Murray", written in a cursive style.

Christopher O. Murray

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