



Statement of Justification and Reasons for Adoption of Temporary Rules

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

May 16, 2018

New Rule 2.18

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws.

Temporary adoption is necessary both to comply with law and to preserve the public welfare given the close proximity of the 2018 Primary Election. The Secretary of State must adopt rules to provide clear guidance regarding residency as it relates to voter registration in the state.

In *Kuhn v. Williams*², the Colorado Supreme Court held that for voter registration purposes, an elector's "stated intent to live in Colorado in the future is relevant only if he has a fixed habitation in Colorado to which he presently intends to return." On May 14, 2018, at the Secretary of State's request, the Court modified its order to reflect that its holding applied only to a person who is attempting to establish residency in Colorado, not to an elector who is already a resident of Colorado.³

The Court's modification was critical because there are many circumstances in which an elector, having properly registered to vote in Colorado, is able to maintain his or her Colorado residency and voter registration in the absence of a legal interest in a fixed habitation. Colorado residents may be absent from the state for a number of reasons, including to volunteer in the Peace Corps, to do missionary work, or to find seasonal work, to name a few. These residents remain eligible to be registered and to vote in Colorado, despite their absence and regardless of their property interests in the state.

New Rule 2.18 is consistent with the Supreme Court's holding and necessary to ensure uniform application of residency requirements in Colorado for electors who are absent from the state but who remain Colorado residents.

¹ Sections 1-1-107 (1) (c), 1-1-107(2) (a), 1-7.4-104, C.R.S. (2017).

² *Kuhn v. Williams*, 2018 CO 30, ¶ 53 (April 23, 2018).

³ *Kuhn v. Williams*, 2018 CO 30M, ¶ 53 (May 14, 2018).

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.⁴

⁴ Section 24-4-103(3) (6), C.R.S. (2017).