STATE OF COLORADO
Department of State
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Help Shape Colorado's Election Rules

Topic: Rules Concerning Elections

June 1, 2016

What is this about?

Secretary Williams is considering amendments to Colorado's Rules Concerning Elections (8 CCR 1505-1). The changes are intended to improve the administration and enforcement of Colorado election law[1] and to increase transparency and security in the election process.

The main goals of the proposed rulemaking are to:

- Ensure proper administration of legislation recently passed by the Colorado General Assembly;
- Establish uniformity in the administration of current law;
- Organize existing rules for clarity;
- Eliminate obsolete provisions;
- Simplify the language of existing rules; and
- Remove language that is duplicative of statute.

We invite you to share your thoughts and recommendations as we develop a preliminary draft of the proposed rules. Please review the attached working draft.

Why does the Secretary need my help?

The Secretary values your feedback and we would very much like to hear your thoughts. We need your help to identify necessary revisions or additional guidance in order to propose a constructive and comprehensive draft rule for consideration during the rulemaking proceedings. Overall, we invite your opinions and recommendations to help shape Colorado's Election Rules.

How do I submit my comments and what is the deadline?

You may email your comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments before we issue the proposed draft, we must receive your comments by 5:00 p.m. on June 8, 2016.

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[1] Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

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Will my comments become part of the official record for the anticipated rulemaking?

Yes, we will incorporate your comments into the official record when we commence with formal rulemaking. Our office will identify your comments as information received in anticipation of rulemaking to support the development of the proposed draft rule. Please note that you will have an additional opportunity to provide testimony and/or written comments regarding the proposed rule during the rulemaking proceeding.

To promote transparency and to help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We appreciate privacy concerns and will redact apparent personal contact information from your comments prior to posting (including your home address, personal email address, and telephone number). To view the comments that we receive, please visit: http://www.sos.state.co.us/pubs/rule_making/ruleComments.html.

Working Draft of Proposed Rules

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

June 1, 2016

Disclaimer:

The following is a working draft concerning the Election Rules. The Secretary values your input and is seeking feedback about the proposed revisions before a formal notice of rulemaking.

Please send your feedback by 5:00 PM on June 8, 2016. Please reference the specific page and line number in your comments. We will consider all comments submitted by this date for inclusion in the official rulemaking draft.

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
~~Strikethrough~~	Deletions
Italic blue font text	Annotations

1   *Amendments to 8 CCR 1505-1 follow:*

2   *Amendments to Rule 1 concerning definitions:*

3   1.1.12   "Damaged ballot" means a ballot that is torn, bent, or otherwise mutilated or rendered
4   unreadable, so that it cannot be processed by the ~~optical scanner ballot reader~~ BALLOT
5   SCANNER. Damaged ballots include:

6   (a)   All ballots that contain a foreign substance that could interfere with the optical
7   scanner (e.g. food, drink, etc.).

8   (b)   Ballots that are marked in a medium or manner other than indicated in the ballot
9   instructions.

10   (c)   Ballots that the elector marked in a way that would disclose his or her identity.

11   1.1.29   "Optical scanner OR BALLOT SCANNER" means an optical or digital ballot scanner.
12

1 *Amendments to Rule 2.3 concerning voter registration:*

2 2.3 ~~If an elector has a driver's license number or state identification number, he or she must provide it~~
3 ~~when registering to vote. If the elector has neither, he or she may provide the last four digits of~~
4 ~~his or her social security number. If the elector states that he or she does not have a driver's~~
5 ~~license, state identification card number, or social security number, or if the clerk cannot verify~~
6 ~~the elector's information in SCORE, the county clerk must register the elector and mark the~~
7 ~~registration record "ID required".~~ WHEN PROCESSING A NEW VOTER REGISTRATION APPLICATION,
8 THE COUNTY CLERK MUST MARK THE REGISTRATION RECORD "ID REQUIRED" UNLESS: THE
9 ELECTOR PROVIDES HIS OR HER VERIFIABLE DRIVER'S LICENSE NUMBER OR STATE
10 IDENTIFICATION NUMBER; THE ELECTOR PROVIDES THE LAST FOUR DIGITS OF HIS OR HER SOCIAL
11 SECURITY NUMBER; OR THE ELECTOR IS OTHERWISE EXEMPT UNDER LAW. [SECTION 1-2-
12 204(2)(F.5), C.R.S.]

13 *Repeal of Rule 2.3.4:*

14 ~~2.3.4 Documents issued under section 42-2-505, C.R.S., are not acceptable forms of~~
15 ~~identification for any purpose under the Uniform Election Code of 1992 and these rules.~~

16 *Repeal of Rule 2.10.2:*

17 2.10 New voter notification under section 1-2-509(3), C.R.S. ~~2.10.1~~ During the 22 days before an
18 election, the county clerk must defer processing undeliverable new voter notifications. After the
19 election is closed, the clerk must determine an applicant "not registered" under section 1-2-
20 509(3), C.R.S., only if the applicant did not vote in the election.

21 ~~2.10.2 If after the 20-day period outlined in section 1-2-509(3), C.R.S, the United States Postal~~
22 ~~Service returns a new voter notification to the county clerk as undeliverable, the county~~
23 ~~clerk must mark the voter's record "Inactive" and mail a confirmation card.~~

24 *Amendments to Rule 2.11.1 concerning voter registration confidentiality:*

25 2.11.1 Information about an agency's name and location for an application completed at a voter
26 registration agency or driver's license office is confidential. [~~42 USC §§ 1973gg-~~
27 ~~3(c)(2)(D)(iii)~~ 52 USC § 20504(C)(2)(D)(III)]

28 *Amendments to Rule 2.12.1 concerning list maintenance under section 8 of the National Voter*
29 *Registration Act of 1993:*

30 2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data
31 under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each month.

32 (a) The county must process the data to update registration records and send
33 notifications in accordance with section 1-2-302.5, C.R.S., by the end of each
34 month.

35 ~~(1)~~ (B) The county may not change a residential address to a non-residential
36 address, like a post office box, based on the information in the NCOA
37 data.

1   (2) ~~If the county clerk has previously mailed a confirmation card to an~~
2   ~~elector whose record is marked inactive for any reason, the county clerk~~
3   ~~is not required to mail another confirmation card to the elector at the~~
4   ~~same address.~~

5   (3) ~~If an elector moves within a county, the county may not mark the~~
6   ~~elector's record "active" based on the NCOA data if the record is~~
7   ~~incomplete, pending, or canceled.~~

8   ~~(b)~~ (C) When the county updates a voter registration record using NCOA data, the
9   county must use the NCOA transaction source.

10 *Amendments to Rule 2.14.1 concerning voter registration records and data:*

11   2.14.1 ~~Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the county~~
12   ~~clerk may destroy paper voter registration records as soon as they have been digitally~~
13   ~~recorded in SCORE.~~ The SCORE system must retain digital images of voter registration
14   applications in perpetuity in accordance with section 1-5-301, C.R.S.

15 *Amendments to Rule 3.3.3 concerning qualified political organizations:*

16   3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political
17   organization ~~for one year or~~ BY THE FIRST BUSINESS DAY IN JANUARY OF THE ELECTION
18   YEAR, if the organization has not been qualified ~~for one year~~, the candidate must have
19   been registered as unaffiliated ~~for one year~~ BY THE FIRST BUSINESS DAY IN JANUARY OF
20   THE ELECTION YEAR.

21 *New Rule 6.9 concerning election judges:*

22 6.9   THE COUNTY CLERK MUST ARRANGE FOR A CRIMINAL BACKGROUND CHECK ON EACH
23   SUPERVISOR JUDGE AND EACH STAFF MEMBER CONDUCTING VOTER REGISTRATION ACTIVITIES.

24   6.9.1 THE CRIMINAL BACKGROUND CHECK MUST BE CONDUCTED BY OR THROUGH THE
25   COLORADO BUREAU OF INVESTIGATION, THE COUNTY SHERIFF'S DEPARTMENT IN
26   ACCORDANCE WITH SECTION 24-72-305.6(3), C.R.S., OR SIMILAR STATE OR FEDERAL
27   AGENCY.

28   6.9.2 A PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE CONTAINING AN
29   ELEMENT OF FRAUD MAY NOT HANDLE VOTER REGISTRATION APPLICATIONS OR
30   CONDUCT VOTER REGISTRATION AND LIST MAINTENANCE ACTIVITIES.

31 *New Rule 7.5.1(e) concerning receipt and processing of ballots:*

32   7.5.1 The county clerk must adequately light all stand-alone drop-off locations and use either
33   an election official or a video security surveillance recording system as defined in Rule
34   1.1.42 to monitor each location.

35   (a) Freestanding drop-off locations must be monitored ~~at all times~~ WHEN THEY ARE
36   OPEN TO RECEIVE BALLOTS.

1		(b)	If the drop-off location utilizes a drop-slot into a building, the ballots must be
2			collected in a locked container, and both the drop-slot and container must be
3			monitored at all times.

4		(c)	Signage at each drop-off location must inform voters that it is a violation of law
5			for any person to collect more than ten ballots for mailing or delivery in any
6			election, and that electioneering is prohibited within 100 feet of any drop-box.

7		(d)	The minimum number of drop-off locations must be open during reasonable
8			business hours as defined in Rule 7.9.1(a) and from 7:00 a.m. through 7:00 p.m.
9			on election day.

10		(E)	VIDEO SECURITY SURVEILLANCE IS AN ELECTION RECORD UNDER SECTION 1-1-
11			104(11), C.R.S. AND MUST BE RETAINED BY THE COUNTY CLERK IN
12			ACCORDANCE WITH SECTION 1-7-802, C.R.S.

13 *Amendments to Rule 8.1.5 concerning watchers:*

14	8.1.5	A watcher must complete a training provided by or approved by the Secretary of State
15		before observing election activities where confidential or personally identifiable
16		information may be within view. TO VERIFY COMPLETION OF THE TRAINING, A WATCHER
17		MUST PROVIDE HIS OR HER TRAINING CERTIFICATE OF COMPLETION WITH THE
18		CERTIFICATE OF APPOINTMENT.

19 *Amendments to Rule 11.10 concerning election night reporting:*

20	11.10	Election Night Reporting ~~(ENR)~~. The county must USE THE SECRETARY OF STATE'S ELECTION
21		NIGHT REPORTING (ENR) SYSTEM TO report ~~election night~~ results for all primary, general,
22		coordinated, and recall elections IN ACCORDANCE WITH THIS RULE.

23	11.10.1	A data entry county must ~~program the election to support the exporting of election night~~
24		UPLOAD A RESULTS DATA FILE TO ENR CONTAINING THE ELECTION results ON THE DATES
25		AND TIMES SPECIFIED IN RULES 11.10.3 THROUGH 11.10.5. THE COUNTY MUST PROGRAM
26		ITS ELECTION DATABASE SO THAT THE RESULTS FILE EXPORTED FROM THE VOTING
27		SYSTEM IS FORMATTED in accordance with the following ~~upload~~ requirements:

28		(a)	~~List contest names and candidate names exactly as provided on the certified list.~~
29			CONTEST NAMES: EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (1) – (3)
30			OF THIS RULE, THE RESULTS FILE MUST CONTAIN THE CONTEST NAMES AS THEY
31			ARE CERTIFIED FOR THE BALLOT.

32		(1)	FOR PRIMARY ELECTIONS, THE COUNTY MUST APPEND TO THE END OF
33			THE CERTIFIED CONTEST NAME THE SCORE ABBREVIATION OF THE
34			POLITICAL PARTY AFFILIATION OF THE CANDIDATES IN THE CONTEST
35			(E.G., "UNITED STATES SENATOR – DEM," "STATE SENATOR – DISTRICT
36			21 – REP," "COUNTY TREASURER – LIB,").

37		(2)	FOR BALLOT MEASURES OTHER THAN JUDICIAL RETENTION QUESTIONS,
38			THE CONTEST NAME MUST INCLUDE THE POLITICAL SUBDIVISION THAT
39			REFERRED THE MEASURE TO THE BALLOT, THE BALLOT MEASURE TYPE,
40			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," "1ST JUDICIAL DISTRICT– JUDGE SMITH," "ADAMS COUNTY COURT – JUDGE DOE,").

(b)   ~~For counties that use the ES&S and Premier voting systems, arrange the contests in the order prescribed by section 1-5-403(5), C.R.S.~~ 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., GROUPED IN ASCENDING 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(F).

    (3)   A COUNTY USING THE DOMINION, HART, OR SEQUOIA 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 ES&S OR 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)   ~~Capitalize candidate names (e.g., John A. Smith).~~ 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)   ~~Present a precinct name as a ten-digit precinct number.~~ PRECINCT NAMES: IF A COUNTY REPORTS RESULTS BY PRECINCT, ITS RESULTS FILE MAY ONLY INCLUDE THE TEN-DIGIT PRECINCT NUMBER FROM SCORE.

(e)   ~~For counties that use the Hart voting systems, use the "Split_name" field for split precinct naming purposes.~~

1   (f) (E)   ~~Create a "Provisional" precinct.~~ PROVISIONAL RESULTS: THE RESULTS FILE
2   MUST INCLUDE A "PROVISIONAL" PRECINCT AS A PLACEHOLDER FOR
3   SEPARATELY REPORTED PROVISIONAL BALLOT RESULTS IF REQUIRED BY
4   SECTION 1-8.3-110(2), C.R.S.

5   ~~(g)   Use only the party codes certified by the Secretary of State.~~

6   ~~(h)   Do not include the party name or code in the candidate name field.~~

7   ~~(i)   For a primary election, contest names must include, at a minimum, party~~
8   ~~abbreviation.~~

9 *Amendments to Rule 14.2 concerning voter registration drive training:*

10   14.2   Training

11   14.2.1   To receive a VRD number, the VRD organizer must successfully complete the online
12   training and test provided by the Secretary of State and submit a Statement of Intent and
13   Training Acknowledgment form to the Secretary of State.

14   ~~14.2.2   The mandatory training provided by the Secretary of State will include:~~

15   ~~(a)   The use of the VRD Application;~~

16   ~~(b)   Information on where to obtain the VRD Application;~~

17   ~~(c)   Information on how to ensure that a VRD Application is filled out completely,~~
18   ~~including which fields are optional and which are required;~~

19   ~~(d)   Notice of statutory deadlines relating to Voter Registration Applications and~~
20   ~~VRDs;~~

21   ~~(e)   The requirements for delivering the completed Voter Registration Applications;~~

22   ~~(f)   Penalties for violating statutory prohibitions including fraud, intimidation,~~
23   ~~mishandling Applications, failing to turn in Applications and other penalties~~
24   ~~relevant to VRDs;~~

25   ~~(g)   The handling and treatment of confidential information on the Voter Registration~~
26   ~~Applications;~~

27   ~~(h)   Notice that circulators cannot be paid per Voter Registration Application, but if~~
28   ~~compensated, they must be paid by the hour or day; and~~

29   ~~(i)   A brief training video that the organizer must show to the circulators as part of~~
30   ~~the VRD's training program.~~

31   14.2.2   BEFORE CIRCULATING, A VRD CIRCULATOR MUST COMPLETE A TRAINING PROVIDED BY
32   THE VRD ORGANIZER AND SUBMIT A TRAINING ACKNOWLEDGMENT FORM TO THE VRD
33   ORGANIZER. THE TRAINING MUST INCLUDE, AT A MINIMUM, THE CONTENT CONTAINED IN
34   THE SECRETARY OF STATE'S CIRCULATOR TRAINING.

1 14.2.3 The VRD ORGANIZER training is provided online, but a VRD organizer or circulator may
2   schedule a time to view the training at the Secretary of State's office.

3 14.2.4 After completing the VRD ORGANIZER training, the VRD organizer must complete the
4   training test and answer the questions 100% correctly before the Secretary of State will
5   issue a VRD number.

6 14.2.5 After completing the VRD ORGANIZER training and test, the VRD organizer must sign a
7   Statement of Intent and Training Acknowledgment Form confirming that the training and
8   test have been completed and that he or she was informed of rules, laws and penalties
9   relating to voter registration drives.

10 14.2.6 A VRD organizer must complete the training and test every calendar year in which he or
11   she intends to conduct a VRD.

12 14.3   Number Assigned

13 14.3.1 After successful completion of the required training and test, and submission of the
14   Statement of Intent and Training Acknowledgment Form, the Secretary of State will
15   assign a unique number to the VRD. After issuing a unique number to the VRD, the
16   Secretary of State will:

17   (a)   Advise the VRD organizer of their unique number;

18   (b)   Notify the county clerks within 24 hours after each VRD number has been issued
19   by the Secretary of State; and

20   (c)   Post the agent and the name of the group conducting the drive on the Secretary of
21   State website.

22 14.3.2 All assigned VRD numbers are valid through December 31 of the year that the number is
23   assigned.

24 14.3.3 THE VRD MUST ASSIGN EACH CIRCULATOR A UNIQUE CIRCULATOR IDENTIFICATION
25   NUMBER AND MAINTAIN A RECORD OF EACH NUMBER ISSUED.

26 *Amendments to Rule 14.4 concerning Voter Registration Drive voter application forms:*

27 14.4   Voter Registration Drive Voter Application Forms

28 14.4.1 The Secretary of State will approve a standard Colorado Voter Registration Drive
29   Application Form. The VRD may also use the National Mail Voter Registration Form.

30 14.4.2 A VRD organizer can obtain Colorado Voter Registration Drive Application Forms from
31   County Clerks and the Secretary of State.

32 14.4.3 The organizer is responsible for placing the VRD number on the application form.

33 14.4.4 The VRD organizer must receive a VRD number before he or she can receive the
34   approved Colorado Voter Registration Drive Application Forms.

1   14.4.5   THE CIRCULATOR MUST INCLUDE HIS OR HER UNIQUE CIRCULATOR IDENTIFICATION
2   NUMBER ON EACH VOTER REGISTRATION FORM HE OR SHE SUBMITS.

3   ~~14.4.5~~ 14.4.6   Any voter registration drive that provides a voter registration application on its
4   website or a link to such voter registration form must direct the applicant to return the
5   completed form directly to the county clerk of the applicant's legal residence. No VRD
6   may provide a voter registration form on its website or a link to such voter registration
7   form which instructs or directs, in any way, the applicant to return the completed form to
8   anyone or any group other than directly to the county clerk of the applicant's legal
9   residence or, in the case of overseas electors or UOCAVA electors, the county clerk or
10   the Secretary of State.

11   ~~14.4.6~~ 14.4.7   A VRD organizer or circulator MUST OFFER THE APPLICANT A BLUE OR BLACK
12   INK PEN TO COMPLETE THE APPLICATION, AND may not highlight or otherwise mark the
13   approved voter registration drive application form other than to write the VRD number
14   and circulator information.

15   *Amendments to Rule 18 concerning uniform ballot counting standards:*

16   **Rule 18.**   **Uniform ~~Ballot~~ Counting Standards FOR PAPER BALLOTS**

17   18.1   In any election where a multiple page printed ballot is used, a voter must vote and return all pages
18   of the ballot at the same time. Any voter who returns at least one page of a multiple page printed
19   ballot will be considered to have voted and the county clerk or designated election official must
20   count the votes on the submitted pages. The county clerk must not count votes on additional
21   pages returned at a later time. The county clerk must appropriately mark, set aside, and preserve
22   the ballots as election records in accordance with section 1-7-802, C.R.S.

23   18.2   ~~Uniform Counting~~ Standards for hand-~~counted Paper Ballots~~ COUNTING PAPER BALLOTS

24   18.2.1 In accordance with section 1-7-309, C.R.S., and Rule ~~18.6~~ 18.5, judges counting ballots
25   ~~on election day~~ must consider the intent of the voter.

26   18.2.2 If a race or ballot measure is overvoted, the judges must not count any vote for that race
27   or ballot measure.

28   18.2.3 If a race or ballot measure contains no markings by the voter, no tally will be made for
29   that race or ballot measure. But all other candidate races or ballot measures properly
30   marked by the voter on the ballot must be counted.

31   18.2.4 A ballot which has no markings for any candidate races or ballot measures must be tallied
32   as a blank ballot.

33   18.3   ~~Uniform Counting~~ Standards for ~~Optical Scan Ballots~~ COUNTING PAPER BALLOTS ON BALLOT
34   SCANNERS

35   18.3.1 ~~Optical Scan~~ Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS at ~~a~~
36   ~~voter service and polling center~~ POLLING LOCATIONS

37   (A)   THE COUNTY CLERK MUST PROGRAM POLLING LOCATION BALLOT SCANNERS TO
38   SORT BALLOTS WITH WRITE-IN VOTES TO A SEGREGATED BIN OF THE BALLOT

BOX AND TO INITIALLY REJECT BLANK BALLOTS AND BALLOTS WITH
OVERVOTES.

~~(a)~~ (B) Voters whose ballots are INITIALLY rejected ~~or sorted by a voter service and polling center~~ BY A POLLING LOCATION 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 CAST 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.

~~(b)~~ (C) ~~Ballots~~ AT THE CONCLUSION OF VOTING EACH DAY, BALLOTS sorted to a write-in bin must be ~~tallied at the conclusion of the voting and~~ delivered to the central ~~counting center~~ COUNT LOCATION in a secure container FOR RESOLUTION IN ACCORDANCE WITH RULE 18.5.3.

18.3.2 ~~Central Count Optical Scan~~ Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS AT CENTRAL COUNT LOCATIONS

(a) SEGREGATION OF DAMAGED BALLOTS. BEFORE SCANNING, A RESOLUTION BOARD MUST DUPLICATE DAMAGED BALLOTS IN ACCORDANCE WITH RULE 18.4. ~~Judges~~ ELECTION JUDGES may complete a visual inspection of every ballot for the limited purpose of ~~separating~~ SEGREGATING damaged ballots ~~into a unique batch~~ FOR DUPLICATION.

(b) ~~Judges must resolve, and where applicable, duplicate, every damaged ballot and all ballots sorted by the optical scan machine in accordance with this Rule.~~ SEGREGATION OF BALLOTS REQUIRING RESOLUTION. A COUNTY MUST SORT BALLOTS THAT REQUIRE RESOLUTION ACCORDING TO THE CAPABILITIES OF ITS VOTING SYSTEM.

(1) DIGITAL BALLOT RESOLUTION. 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, BALLOTS WITH OVERVOTES, AND BALLOTS WITH MARGINAL OR AMBIGUOUS MARKINGS ACCORDING TO THE THRESHOLDS SPECIFIED BY THE SYSTEM PROVIDER 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 18.4.2.

(2) MANUAL BALLOT RESOLUTION. 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 18.4.2.

(c) ~~A resolution board, consisting of a bipartisan team of two election judges for partisan elections or two qualified election judges for nonpartisan elections, must resolve all ballots sorted by the central count optical scan equipment.~~

RESOLUTION BOARD. A RESOLUTION BOARD MUST DUPLICATE DAMAGED
BALLOTS AND RESOLVE BALLOTS SORTED OR REJECTED FOR RESOLUTION.

    (1)   ~~The board must be observed by two additional election judges, who in any partisan election must be representatives of each major political party.~~ IN PARTISAN ELECTIONS, A RESOLUTION BOARD MUST CONSIST OF AT LEAST TWO ELECTION JUDGES AFFILIATED WITH DIFFERENT MAJOR POLITICAL PARTIES.

    (2)   ~~The resolution board must maintain a log for each step of verification, duplication, and counting.~~ 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 A SINGLE RESOLUTION BOARD. IN COUNTIES WITH A VOTING SYSTEM THAT SUPPORTS DIGITAL RESOLUTION, A RESOLUTION BOARD MUST WORK AT EACH RESOLUTION WORKSTATION.

~~(d)   Sequence of Resolution Procedures~~

    ~~(1)   The resolution board must run a zero tape, or similar report, indicating no votes cast or counted before the counting begins.~~

    ~~(2)   The board must review all ballots with overvotes, blank ballots, and write-in ballots sorted by the optical scanner. Ballots sorted by the optical scan equipment are subject to review by the resolution board. If there are no legally qualified write-in candidates, the write-in sort option must not be utilized.~~

    ~~(3)   A voter's intent must be reviewed for every ballot that requires resolution.~~

    ~~(4)   All ballots sorted by the optical scanner and resolved by the resolution board by duplication must be marked as duplicated.~~

    ~~(5)   The resolution board must maintain an official audit log for all ballots resolved setting forth the duplicate ballot number where applicable, specific reason that the ballot was resolved, date of resolution, and the initials of the members of the duplication board responsible for resolving the ballot.~~

    ~~(6)   The county must separately log the seal number of each box containing one or more valid write-in votes.~~

~~(e)   Resolution of damaged ballots~~

    ~~(1)   The resolution board must duplicate damaged or defective ballots utilizing the ballot duplication procedures in Rule 18.5.~~

(2)   The resolution board must examine blank ballots to determine if the ballot is a true blank ballot or one that has been marked with a non-detectable mark. Resolution board members must make a duplicate copy of the ballot which has been marked with a non-detectable mark utilizing the ballot duplication procedures in Rule 18.5. If a ballot is truly blank, the board must rescan the ballot and tabulate it with no races or ballot measures voted.

(3)   The resolution board must inspect and resolve overvoted ballots in accordance with Rule 18.6.

(4)   Write-in votes sorted by the optical scan equipment must be delivered to the assigned write-in board for hand counting.

    (A)   During the initial ballot count, the oval must be darkened or the arrow connected according to the appropriate voting instructions. The county may count only votes for legally qualified write-in candidates.

    (B)   If, following the initial count, the number of undervotes in that race could change the outcome or force the election into a mandatory recount if attributed to a legally qualified write-in candidate, the county must count votes for that candidate 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.

(5)   The resolution board must duplicate ballots by clearly labeling the new duplicate ballot as a "DUPLICATE" and assign a serial number which shall be recorded on both the original and duplicate ballot. For example, the first ballot in Precinct # 1 to be duplicated could be labeled as #1/001 with the duplicate labeled D#1/001. Original ballots must be separated from the duplicate ballots and placed in a sealable container clearly marked "ORIGINAL BALLOTS." The duplicate ballots must be counted in lieu of the original ballots.

(6)   The resolution board must maintain an official audit log setting forth the precinct number, duplicate ballot number, reason (with specificity) that the ballot was duplicated, date of duplication, and the initials of the members of the duplication board responsible for duplicating the ballot.

(f)   Recount Procedures for Optical Scan

(1)   Optical scan equipment must be set to consistent sensitivity standards for each system type, must be tested before the recount, and must be programmed to sort undervotes for the individual race(s) or ballot measure(s) being recounted.

(2)   The county will conduct a recount of a race with a write-in candidate as outlined in Rule 18.6.4.

1   18.4   Uniform Counting Standards for DREs. A vote that is properly recorded, as specified by the
2   voting instructions, on the voting device for an office or ballot measure must be counted.

3   18.5 18.4   BALLOT Duplication of Ballots

4   18.4.1   A DAMAGED BALLOT WILL REQUIRE RESOLUTION IF IT IS A BLANK BALLOT OR CONTAINS
5   OVERVOTES, WRITE-IN VOTES, OR OTHER AMBIGUOUS MARKINGS. THE VOTER'S
6   MARKINGS FROM THE DAMAGED BALLOT, AS RESOLVED BY THE RESOLUTION BOARD,
7   MUST THEN BE MARKED ON THE DUPLICATED BALLOT DURING THE DUPLICATION
8   PROCESS.

9   18.5.1 18.4.2   Using the damaged ballot as the guide, the duplicating team A RESOLUTION
10   BOARD must mark a blank ballot OF THE SAME BALLOT STYLE so that the votes recorded
11   are identical to those indicated on the damaged ballot. The duplication must be proofed to
12   ensure it is marked properly and accurately.

13   18.5.2   Every duplicated ballot must be subject to the process for determining voter intent
14   outlined in Rule 18.6.

15   18.5.3   A unique number must be assigned to both the original and duplicated ballot. This will
16   reference the two ballots together and provide an audit trail. (Example: the ballots may be
17   marked XX-NNN, where XX is the precinct number and NNN are consecutive numbers
18   starting with the number one.)

19   18.4.3   A RESOLUTION BOARD MUST REVIEW THE ORIGINAL BALLOT AND THE DUPLICATED
20   BALLOT, AND CONSULT THE VOTER INTENT GUIDE IF NECESSARY, TO ENSURE THAT
21   EACH DAMAGED BALLOT HAS BEEN PROPERLY AND ACCURATELY DUPLICATED AND, TO
22   THE EXTENT APPLICABLE, RESOLVED.

23   18.4.4   IN ORDER TO MATCH EACH DAMAGED BALLOT TO ITS CORRESPONDING DUPLICATED
24   BALLOT AND PROVIDE A DOCUMENTED AUDIT TRAIL, THE RESOLUTION BOARD MUST
25   IDENTIFY THE TYPE OF BALLOT AND A UNIQUE NUMBER, SIMILAR TO THE FOLLOWING
26   EXAMPLE: MARK THE DAMAGED BALLOT "ORIG 0001," AND THE COUNTERPART
27   DUPLICATED BALLOT "DUPE 0001."

28   18.4.5   THE RESOLUTION BOARD MUST MAINTAIN A WRITTEN LOG ITEMIZING ALL DAMAGED
29   BALLOTS THAT IT DUPLICATES. THE DUPLICATION LOG MUST INCLUDE AT LEAST EACH
30   DAMAGED BALLOT'S UNIQUE NUMBER, THE DATE ON WHICH IT WAS DUPLICATED, THE
31   NATURE OF THE DAMAGE NECESSITATING DUPLICATION, AND THE PRINTED NAMES AND
32   SIGNATURES OF THE MEMBERS OF THE RESOLUTION BOARD.

33   18.5.4 18.4.6   The duplicated ballots must be counted A COUNTY MUST COUNT DUPLICATED
34   BALLOTS in the same manner as all other PAPER ballots to be counted.

35   18.5.5   The damaged or unreadable original ballot must be marked "DUPLICATED" to indicate
36   that the ballot has been duplicated and the duplication is completed. All duplicated
37   original ballots for a precinct along with any applicable printed material must be placed
38   in a sealable container and clearly marked "ORIGINAL BALLOTS."

39   18.4.7   THE RESOLUTION BOARD MUST DEPOSIT ALL DAMAGED BALLOTS THAT HAVE BEEN
40   DUPLICATED AND THE 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.

18.6 18.5 ~~Determination of Voter Intent~~ 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) 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.

(1) COUNTIES WITHOUT DIGITAL RESOLUTION CAPABILITY. IF THE BALLOT IS TRULY BLANK, THE RESOLUTION BOARD MUST DIRECT THE COUNTING JUDGES TO RE-SCAN THE BALLOT AND OVERRIDE THE INITIAL REJECTION SETTING, WHICH WILL CAUSE THE VOTING SYSTEM TO TABULATE THE BALLOT AS A BLANK BALLOT CONTAINING NO VALID VOTES. 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 18.4.2.

(2) COUNTIES WITH DIGITAL RESOLUTION CAPABILITY. IF THE BALLOT IS TRULY BLANK, THE RESOLUTION BOARD MUST CODE THE BALLOT AS A BLANK BALLOT CONTAINING NO VALID VOTES 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 VOTES IN ACCORDANCE WITH THE VOTER'S INTENT IN THE VOTING SYSTEM'S RESOLUTION APPLICATION.

~~18.6.1~~ (B) If a voter uses a consistent alternate ballot marking method that deviates from the method specified by the voting instructions (such as circling or placing a check mark behind a candidate's name or ballot response) and does not place an "X", check or other appropriate mark in ~~the~~ ANY target area, ~~the voter will be considered to have voted for the appropriate candidates and or ballot responses and the ballot must be duplicated. But~~ THE RESOLUTION BOARD MUST RESOLVE THE BALLOT IN ACCORDANCE WITH THE VOTER'S INTENT BY COUNTING THE VOTES INDICATED BY THE ALTERNATE BALLOT MARKING METHOD. THIS RULE DOES NOT APPLY if ~~a~~ THE voter marks any of his or her choices by placing an "X", check or other appropriate mark in any target area on the ~~voter's~~ ballot, IN WHICH EVENT only those choices where the target area is marked may be counted.

~~18.6.2 A ballot that has a mark correctly in the target area that partially extends into another target area must be counted as a vote for the candidate or ballot response so marked.~~

1 18.6.3 ~~When resolving an overvoted race, marks indicating the voter's intent include, circling~~
2   ~~the candidate's name and strike-outs or corrections of choices.~~

3 ~~18.6.4~~ 18.5.3 ~~Write-in~~ RESOLUTION OF WRITE-IN votes

4   (a)   If a voter designates a vote for a named candidate on the ballot and writes in the
5   name of the same candidate in the write-in area, the vote FOR THE NAMED
6   CANDIDATE must be counted.

7   (b)   If a voter ~~designates~~ VOTES FOR a named candidate ~~on the~~ IN A ballot CONTEST
8   and writes in the name of a different candidate in the write-in area, ~~it must be~~
9   ~~considered~~ THE RESOLUTION BOARD MUST RESOLVE THE MARKINGS AS an
10   overvote ~~for that office~~ if the number of chosen candidates exceeds the
11   MAXIMUM number ~~permitted to be voted for in that office and no vote may be~~
12   ~~counted~~ OF CHOICES FOR THAT BALLOT CONTEST.

13   (c)   During any recount ~~of votes~~, if the number of undervotes in ~~that race~~ A BALLOT
14   CONTEST could change the outcome if attributed to ~~a legally qualified write-in~~
15   ~~candidate~~ AN ELIGIBLE WRITE-IN CANDIDATE, votes for that candidate must be
16   counted whether or not the target area designating the selection of a write-in
17   candidate has been marked, provided that the number of candidates chosen does
18   not exceed the number permitted in that office.

19 *Numbering corrections to Rule 21.4.14:*

20 21.4.14 Ballot-level Cast Vote Records and Exports. All voting systems certified by the Secretary
21   of State for use in Colorado on or after January 1, 2016 must meet the following
22   requirements for ballot-level cast vote records and exports on or before December 31,
23   2016:

24   (a)   The voting system must capture a ballot-level cast vote record (CVR) consisting
25   of a single record for each ballot tabulated, showing the manner in which the
26   voting system interpreted and tabulated the voter's markings on the ballot, as
27   adjudicated and resolved by election judges, if applicable.

28   (b)   The voting system must be able to aggregate in a single file and export all CVRs
29   in comma-separated value (CSV) text format.

30   (c)   The CVR export must contain the following fields, with values or data populated
31   by the voting system:

32   (1)   CVR Number. A sequential number from one to the number of CVRs in
33   the export file. This can be used as an alternate method to identify each
34   CVR.

35   (2)   Batch ID. Identifies the batch in which the paper ballot corresponding to
36   the CVR is located.

37   (3)   Ballot Position. Identifies the position of the paper ballot corresponding
38   to the CVR within the batch. Target cards scanned to identify the batch
39   must not be included in this count.

	(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 of the paper ballot corresponding to the CVR.
	(6)	Device ID. Identifies the scanning device by model, serial number, and/or scanning station identifier.
	(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.
(a) (D)		The header or field names in the CVR export must unambiguously correspond to names of the contests and choices on the paper ballots. The use of choice ID and contest ID to identify each choice must be avoided because they require cross-referencing to other sources to determine the choice and contest names.
(b) (E)		The contests and choices must be listed in the same order as they appear on the ballots.
(c) (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.

Numbering corrections and amendments to Rule 21.4.15(d):

(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.
	(2) (3)	Precinct ID. If the county defines the election to report results by precinct, a unique integer for each precinct or precinct split.
	(3) (4)	Registered Voters. The number of registered voters eligible to vote each unique ballot style, or in each precinct or precinct split, as applicable.
	(4) (5)	Ballots Cast. The number of ballots cast of each unique ballot style, or in each precinct or precinct split, as applicable.
	(5) (6)	Contest Name. The contest name as it appears on the ballots. If the contest name contains carriage return(s) for ballot formatting purposes, then the carriage return(s) must not appear in the export.
	(6) (7)	Contest ID. A unique integer for each contest.

1	~~(7)~~ (8)	Contest Sequence Number. A unique integer that defines the sequence of
2		contests as they appear on the ballots.
3	~~(8)~~ (9)	Votes Allowed. The maximum number of choices that a voter may select
4		in each contest (e.g., "Vote for 2").
5	~~(9)~~ (10)	Choice Name. The choice name as it appears on the ballots. Party
6		affiliation may not be included in the choice name.
7	~~10)~~ (11)	Choice ID. A unique integer for each choice within a contest.
8	~~(11)~~ (12)	Party Code. An indicator of party affiliation for each choice, if
9		applicable.
10	~~(12)~~ (13)	Vote Count. The total number of votes cast for each choice.
11	~~(13)~~ (14)	Reporting Flag. The reporting flag field must contain a value of
12		"0".
13	(15)	PRECINCT SEQUENCE NUMBER. A UNIQUE INTEGER THAT DEFINES THE
14		SEQUENCE OF PRECINCTS.
15	(16)	CHOICE SEQUENCE NUMBER. A UNIQUE INTEGER THAT DEFINES THE
16		SEQUENCE OF CANDIDATES AS THEY APPEAR ON THE BALLOT.