



Notice of Temporary Adoption

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

December 19, 2016

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a temporary basis and immediately effective. (SMALL CAPS indicate proposed additions to the current rules. ~~Stricken type~~ indicates proposed deletions from current rules. *Annotations* may be included):

Amendments to 8 CCR 1505-1 follow:

New Rule 24:

RULE 24. PRESIDENTIAL ELECTORS

24.1 OATH

24.1.1 AS USED IN SECTION 1-4-304 (1), C.R.S., "THE OATH REQUIRED BY LAW FOR PRESIDENTIAL ELECTORS" MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

"I,, DO SOLEMNLY SWEAR OR AFFIRM THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES AND OF THE STATE OF COLORADO, THAT I WILL FAITHFULLY PERFORM THE DUTIES OF THE OFFICE OF PRESIDENTIAL ELECTOR THAT I AM ABOUT TO ENTER, AND THAT I WILL VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE."

24.1.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO TAKE AND SUBSCRIBE THE OATH IN RULE 24.1.1, THE REFUSAL OR FAILURE CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2015).

² Section 24-4-103, C.R.S. (2015).

³ 8 CCR 1505-1.

24.2 VOTING

24.2.1 AS SPECIFIED IN SECTION 1-4-304 (5), C.R.S., EACH PRESIDENTIAL ELECTOR MUST VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE.

24.2.2 IF A PRESIDENTIAL ELECTOR-ELECT REFUSES OR OTHERWISE FAILS TO VOTE FOR THE PRESIDENTIAL CANDIDATE AND VICE-PRESIDENTIAL CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES AT THE PRECEDING GENERAL ELECTION IN THIS STATE, THE REFUSAL OR FAILURE CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3 FILLING VACANCIES

24.3.1 AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S., THE PRESIDENTIAL ELECTORS PRESENT MUST IMMEDIATELY PROCEED TO FILL ANY VACANCY IN THE ELECTORAL COLLEGE. A QUORUM IS NOT REQUIRED TO FILL A VACANCY. IN THE EVENT OF A TIE VOTE, THE VACANCY WILL BE FILLED BY LOT.

24.3.2 IF A REMAINING PRESIDENTIAL ELECTOR REFUSES TO FILL A VACANCY IN THE ELECTORAL COLLEGE, THE REFUSAL CONSTITUTES A "REFUSAL TO ACT" AS THAT TERM IS USED IN SECTION 1-4-304 (1), C.R.S., AND CREATES A VACANCY IN THE OFFICE OF PRESIDENTIAL ELECTOR. A VACANCY CREATED IN ACCORDANCE WITH THIS RULE MUST BE FILLED BY THE REMAINING PRESIDENTIAL ELECTORS PRESENT AS SPECIFIED IN SECTION 1-4-304 (1), C.R.S.

24.3.3 NOMINEES TO FILL VACANCIES MUST BE SELECTED IN ACCORDANCE WITH SECTION 1-4-302 (2), C.R.S. THE PARTY SELECTING NOMINEES TO FILL VACANCIES MUST SELECT AT LEAST ONE MORE PERSON THAN THERE ARE VACANCIES.

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of this new rule on a temporary basis follows this notice and is incorporated by reference.⁴

IV. Effective Date of Adopted Rules

This new rule is immediately effective on a temporary basis.

⁴ Section 24-4-103(6), C.R.S. (2016).

Dated this 13th day of December, 2016,



Suzanne Staiert
Deputy Secretary of State

For

Wayne W. Williams
Colorado Secretary of State



Statement of Basis, Purpose, and Specific Statutory Authority

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

December 19, 2016

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws,¹ improve elections administration in Colorado, and increase the transparency and security of the election process.

Temporary Rule 24 is necessary given the close proximity of to the December 19, 2016 meeting of the presidential electors. The Secretary of State must adopt rules to provide clear guidance regarding the presidential elector voting process and potential vacancy procedures.

II. Rulemaking Authority

The constitutional and statutory authority is as follows:

1. Section 1-1-107(2) (a), C.R.S., (2016), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”
2. Section 1-4-304, C.R.S. (2016).

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.



Statement of Justification and Reasons for Adoption of Temporary Rules

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

December 19, 2016

New Rule 24:

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 to the December 19, 2016 meeting of the presidential electors. The Secretary of State must adopt rules to provide clear guidance regarding the presidential elector voting process and potential vacancy procedures.

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.²

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-7.4-104, C.R.S. (2016).

² Section 24-4-103(3)(6), C.R.S. (2016).