STATE OF COLORADO
Department of State

1700 Broadway
Suite 200
Denver, CO 80290

Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

SECRETARY OF STATE ORDER 13-002

Background

Applicable Statutory Law

- The Secretary of State supervises the conduct of elections in Colorado and enforces the provisions of the Colorado election Code.
- Part 1 of article 12 of title 1 governs recall elections.

Procedural Facts

- On July 18, 2013, the Governor set the date for a recall election of District 11 State Senator John Morse of El Paso County and District 3 State Senator Angela Giron of Pueblo County.
- The Governor designated September 10, 2013, as the date for the recall elections.

Order

In accordance with my authority under sections 1-1-107(1)(a) and (1)(b), C.R.S., I order Wayne Williams, the El Paso County Clerk and Recorder, and Gilbert Ortiz, the Pueblo County Clerk and Recorder, to conduct the recall elections in accordance with the following procedures. If a situation arises that is not covered by these procedures, I further order the respective Clerks contact my office for direction.

Main Number	(303) 894-2200		Web Site	www.sos.state.co.us
Fax	(303) 869-4861		E-mail	public.elections@sos.state.co.us
TDD/TTY	(303) 869-4867			

RECALL PROCEDURES

Voter Registration

- *Paper voter registrations*

If the county receives a paper voter registration application between 21 and 7 days before election day, it must send the applicant notification that the applicant's new registration will not be processed until after the election and the applicant will not receive a ballot by mail for the recall election. The county must send the notice by mail, or email if it is the applicant's preferred means of communication, within one business day after accepting the application. The notice must state that:

- o The county has received the registration application but will not process it until after the election;
- o The applicant will not automatically receive a mail ballot for the recall election; and
- o If the applicant wants to vote in the recall election, he or she must either:
  - Register to vote through the state's online voter registration website up to and on the eighth day before the election, or
  - Register to vote in person at the county's voter registration offices or voter service and polling centers up to and on election day.

The Secretary of State will provide the county with a notice template, which will include the required information.

- *In-person registration: Identification requirements*

An applicant who wants to both register in person and vote at a voter service and polling center must provide an acceptable form of identification or driver's license number that verifies when entered into SCORE. If the applicant is unable to do so, he or she has two options for voting:

- o I.D.-required mail ballot: The county may designate the applicant as "I.D. required" and issue an I.D.-required mail ballot packet. When the applicant returns the mail ballot, he or she must include a copy of acceptable identification.
- o Provisional ballot: The county may issue the applicant a provisional ballot, which the applicant must cure with acceptable identification before the county may count the ballot.

- *In-person registration: Required affidavit*

Every elector who wants to register or update his or her voter registration information at a voter service and polling center must complete the following self-affirmation:[1]

I affirm that:
- o I am a citizen of the United States;
- o I have been a resident of the state of Colorado for at least 22 days;
- o I am at least 16 years old and understand that I must be 18 years old to be eligible to vote;
- o I meet the registration qualifications;

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[1] *See* sections 1-2-204(1), 1-2-205, and 1-2-501(1)(d)(I), C.R.S.

- o   The information I have provided on this application is true to the best of my knowledge and belief;
- o   I will not cast more than one ballot in any election;
- o   I am aware that if I register to vote in Colorado I am also considered a resident of Colorado for motor vehicle registration and operation purposes and for income tax purposes;
- o   My present address as stated on this form is my sole legal place of residence;
- o   I claim no other place as my legal residence; and
- o   I will be living at this legal residence on the day of the election.

The elector must also make the following oath:[2]

- o   I hereby certify under penalty of perjury that, to the best of my knowledge, I have not, nor will I, cast more than one ballot in this election.

The Secretary of State will provide the county with a voter service and polling center registration form, which will contain the affirmations above, along with the following warning:

- o   Warning: A violation of the self-affirmation you are about to make is a criminal act under the laws of this state and will subject you to the penalties provided by law. It is a Class 1 Misdemeanor to swear or affirm falsely as to your qualifications to vote.

- • *Undeliverable 20-day notifications: Deferment*

During the 22 days before the election, the county must defer processing undeliverable 20-day notifications. After the election is closed, the county may deem an applicant "not registered" under section 1-2-509(3), C.R.S., only if the applicant did not vote in the election.

- • *Cancelled voter reinstatement*

An elector whose registration record was cancelled during the previous six years under section 1-2-605(7), C.R.S., may request reinstatement of the record. The elector must provide proof that he or she has continuously resided at the address shown on the registration record since the record was cancelled.

- • *Individuals who register voters at voter service and polling centers*

A person registering voters or updating voter registration information in a voter service and polling center must:

- o   Be an employee of the county clerk and recorder's office; and
- o   Successfully pass a criminal background check. Any person who has been convicted of an election offense or an offense with fraud as an element is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities.

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[2] Section 1-2-217.7(4)(b), C.R.S.

Election Judges

- *Supervisor judges at voter service and polling centers*

The county must have at least one supervisor judge per voter service and polling center.

A supervisor judge in a voter service and polling center must successfully pass a criminal background check. Any person who has been convicted of an election offense or an offense with fraud as an element is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities.

- *Election judge recommendations by county political parties*

The county should work with the local political parties to ensure that it has enough election judges to staff the election.

Mail Ballot Election Procedures

- *Mail ballot plans*

The county must follow all procedures set forth in the recall mail ballot election plan. The county must notify the Secretary of State immediately if it amends its plan after approval.

- *Processing new registrations and mailing ballots*

The county must process all new mail registration applications and updates received by the 22-day deadline in order to mail applicants a ballot in accordance with section 1-7.5-107(3), C.R.S.

The county must process new online registration applications, in-person registration applications, and mail registration updates that it receives by the eighth day before the election. The county must mail a ballot to the elector within 24 hours after the county has processed the application.

- *Absentee voting*

An elector may request that the county mail his or her ballot to an address other than the elector's address of record by submitting an application in accordance with section 1-7.5-116, C.R.S. The county must continue mailing ballots in future elections to the address provided until the elector indicates otherwise.

- *Receipt and processing of ballots*

The county must collect ballots from drop-off locations according to the following schedule:

- o At least two times each week until the date that the drop-off locations must open (four days before the election).
- o At least once each day during the days that drop-off locations must be open.

If an elector was issued a replacement ballot, the county must count the first ballot returned. If an elector was issued a new ballot because of an address change but returns the first ballot issued under the old address, the county must count all races and issues for which the voter is eligible on the first ballot returned.

Each day when ballots come in, an election judge must count the received ballots, batch them, and record the number of ballots received.

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An election judge must date-stamp and receive the ballots into SCORE immediately upon receipt.

If the county receives ballots after the close of the election, the ballot must be date-stamped but not counted.

Election judges must record the number of ballot packets returned as undeliverable.

The designated election official must seal and store ballots in a safe, secure place until the counting of the ballots.

The county must dissociate any batch number that could trace a ballot back to the specific voter who cast it no later than the final certification of the abstract of votes cast.

- *Voter service and polling centers*

The county must designate and open the minimum number of voter service and polling centers and the locations must be open during reasonable business hours for the minimum number of days outlined in section 1-7.5-107(4.5), C.R.S.

Reasonable business hours means at least eight hours per day Monday through Friday, and at least four hours on Saturday.

All voter service and polling centers must be open from 7:00 a.m. to 7:00 p.m. on election day.

The county must provide all services outlined in section 1-5-102.9, C.R.S., at every designated voter service and polling center.

- *Voter check-in at voter service and polling centers*

Each voter service and polling center must include and adequately staff a designated voter-check-in table or area where a check-in judge must verify each elector's registration information, including address.

If an elector has moved or is not registered, the check-in judge must direct the elector to the registration area. If the elector is registered and has no updates, the check-in judge must direct the elector to the voting table.

- *Voter service and polling center connectivity*

The county must have real-time access to SCORE at every voter service and polling center.

At no time may an election judge open both the SCORE voter registration screen and the voting module on a single workstation.

Every voter service and polling center must meet the minimum security procedures for transmitting voter-registration data as outlined in section 1-5-102.9, C.R.S., and Rule 43.

- *Issuing paper ballots*

If an elector wants to vote at the county clerk's office or a voter service and polling center between 22 and 9 days before the election, the county may:

- o Direct the elector to a direct record electronic voting device (DRE) so that he or she can vote in person; or
- o Issue the elector a mail ballot packet.

If an elector wants to vote in person at a voter service and polling center beginning eight days before the election and continuing through election day, the county may:

- o Direct the elector to a DRE; or
- o Issue a paper ballot to the elector.

If an elector decides to vote in person at any time during the election period and the county sent that elector a mail ballot, the county must void the elector's mail ballot in SCORE before allowing the elector to vote in person.

- *Drop-off locations*

The county must designate and open the minimum number of drop-off locations and the locations must be open during reasonable business hours for the minimum number of days outlined in section 1-7.5-107(4.3), C.R.S.

UOCAVA

- *Registration*

If the county receives a timely Federal Write-in Ballot or online Last Chance Ballot from an unregistered UOCAVA elector, the county must process the registration and count the ballot so long as the voter is eligible to register and vote under 42 U.S.C. §1973ff and Articles 2 and 8.3 of Title 1, C.R.S.

- *Ballot Delivery*

The county must send UOCAVA ballots by the requested method to UOCAVA voters as soon as possible after ballot certification. Everyone Counts is available to the county for online ballot delivery. Everyone Counts will set up a direct link for the county.

The state will provide the voter registration exports to Everyone Counts, but the county must provide and proof ballot content. The county is also responsible for sending the link to its eligible UOCAVA electors.

Watchers

- *Who may appoint watchers*

A major or minor political party with a candidate on the ballot, an unaffiliated candidate who is on the ballot, or a registered issue committee supporting or opposing the question on the ballot may appoint one or more watchers to observe election activities.

- *Watcher access*

A watcher may witness and verify the conduct of elections, which includes all activities in a voter service and polling center as well as ballot processing and counting.

Watchers may be present at each stage of the conduct of the election, including but not limited to:

- receiving and bundling of ballots;
- provisional ballot processing;
- signature verification; and
- UOCAVA ballot processing.

Watchers may not have access to confidential voter information at any time.

If election officials or election judges are conducting election activities in separate rooms or areas of a building or buildings, the county must allow watchers to observe activities in each room or area in the building or buildings.

- *Prohibited items*

A watcher may not have a cell phone, camera, recording device, computer, tablet, or other personal electronic equipment in the voter service and polling center.

Provisional Voting

- *Provisional voting at voter service and polling centers*

If a voter service and polling center loses connectivity to SCORE, the judges must issue provisional ballots to electors until the county restores connectivity.

- *Processing provisional ballots*

The county must process and tabulate all regular ballots before processing provisional ballots.

The county must use the acceptance code "ALC" for all accepted provisional ballots that the county issued due to a loss of connectivity at a voter service and polling center.

- *Public access to provisional ballot information*

The list of voters who cast a provisional ballot and the accept/reject code for the ballot is available for public inspection.

The county may not release an original or copy of the elector's:

- Month and day of date of birth;
- Driver's license or Department of Revenue identification number;
- Social security number; or
- Signature.

If a voter has requested confidentiality under section 24-72-204(3.5), C.R.S., the county may not release the elector's address or telephone number.

If a voter has requested confidentiality under section 24-30-2101, C.R.S., the county may not release the provisional ballot affidavit.

Post-Election Audit

After the election, the county must conduct a post-election audit in accordance with section 1-7-514, C.R.S., and Election Rule 11.

Canvass

The county must conduct the canvass in accordance with section 1-12-119, and Article 10, Title 1, C.R.S.

- *Transmitting returns to the Secretary of State*

No later than the 18th day after the election, the county must transmit the abstract of votes cast to the Secretary of State.

In the abstract, the canvass board must certify the number of votes cast for the recall question and for each qualified successor candidate. The county need not report results by precinct.

Election Night Reporting

The Secretary of State will work with the county to establish the procedures for uploading results to the Secretary of State's election night reporting site on the night of the election.

The county must upload results at the following times:

- No later than 8:00 p.m. on election day;
- At the end of the night on election day; and
- After the canvass board has completed its duties and certified the official results.

NCOA

Because of the short timeline for conducting the recall election, the county may defer its processing of NCOA data until the election has been closed in SCORE.

SCORE Enhancement Training

In order to become familiar with the SCORE enhancements related to administering the election under the requirements of HB13-1303, the county must complete the webinar training that will be offered before the new SCORE enhancements are placed into production.

Dated August 8, 2013.

Suzanne Staiert
Deputy Secretary of State

Andrea Gyger

From:	State Election Division
Sent:	Thursday, August 22, 2013 8:17 AM
To:	SoS Rulemaking
Subject:	FW: Watcher Question---"6 foot rule"
Categories:	Red Category

From: Marilyn Marks
Sent: Thursday, August 15, 2013 4:26 PM
To: State Election Division
Cc: Suzanne Staiert; Becky Mizel; Andrew Cole; Becky Mizel; Ryan Parsell
Subject: Watcher Question---"6 foot rule"

I heard some reference to the "6 foot rule." That needs to be discussed to explain that there is no 6 foot rule other than around the voter is present voting.

From: State Election Division [mailto:State.ElectionDivision@SOS.STATE.CO.US]
Sent: Thursday, August 15, 2013 4:17 PM
To: Marilyn Marks
Subject: RE: Question/suggestion on finding judges

Your comment is received.

Colorado Department of State
Elections Division

From: Marilyn Marks
Sent: Thursday, August 15, 2013 4:16 PM
To: State Election Division
Cc: Andrew Cole; Ryan Parsell; Jeff Orrok, LPCO State Chair; Becky Mizel; Suzanne Staiert
Subject: Question/suggestion on finding judges

If it is going to be difficult for the two major parties and minor parties to find enough judges to nominate in the two counties, can the SOS ask for court's authority to appoint judges from neighboring counties if they helps get volunteers? And maybe the parties can recruit more broadly.

From:	State Election Division
Sent:	Thursday, August 22, 2013 8:17 AM
To:	SoS Rulemaking
Subject:	FW: Previous question follow up on appointment of judges.... by precinct
Categories:	Red Category

From: Marilyn Marks ▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮
Sent: Thursday, August 15, 2013 4:45 PM
To: State Election Division
Cc: Jeff Orrok, LPCO State Chair; Becky Mizel; Suzanne Staiert; Ryan Parsell
Subject: Previous question follow up on appointment of judges.... by precinct

Per the statute---the County Chairperson has the right to select and determine the order of preference for judges in each precinct.
Did I understand that the SOS is not planning to support the party's right in this election?
Please clarify. Please see below.

1-6-103. Recommendations by county chairperson. (1) (a) No later than the last Tuesday of April in even-numbered years, the county chairperson of each major political party in the county shall certify to the county clerk and recorder the names and addresses of registered electors recommended to serve as election judges for each precinct in the county.
(b) Repealed.
(2) The county chairperson, or, if there is no county chairperson, the committeepersons who submitted the list of registered electors in accordance with section 1-6-102 (2) shall designate the order of preference of the names of the registered electors recommended to serve as election judges for each precinct. The county clerk and recorder shall select election judges from each precinct list in the county chairperson's, or, if there is no county chairperson, the committeeperson's, order of preference.
(3) In recommending registered electors as election judges, the county chairperson may select only names from the list submitted by the precinct committeepersons. However, the county chairperson may recommend additional registered electors to the county clerk and recorder if the precinct committeepersons do not provide enough names to the county chairperson.
(4) and (5) (Deleted by amendment, L. 98, p. 576, § 3, effective April 30, 1998.)

Marilyn

From:	State Election Division
Sent:	Thursday, August 22, 2013 8:17 AM
To:	SoS Rulemaking
Subject:	FW: please clarify on "candidates" having watchers in addition to parties
Categories:	Red Category

From: Marilyn Marks ████████████████████
Sent: Thursday, August 15, 2013 4:49 PM
To: State Election Division
Cc: Becky Mizel; Jeff Orrok, LPCO State Chair; Ryan Parsell; Suzanne Staiert
Subject: please clarify on "candidates" having watchers in addition to parties

Suzanne has mentioned that candidates can each have watchers. Is this in addition to the party having a watcher?
For example will Mr. Anglund (if petition approved) be allowed to have a watcher in addition to the Democratic party?
If Republicans have more than more candidate on the ballot as successors, how many Republican watchers will be allowed?

In some ways this is like a primary and some ways like a general. So, it may not be appropriate to just have one watcher per party. I doubt the statutes address that. I'm not sure.

From:	State Election Division
Sent:	Thursday, August 22, 2013 8:18 AM
To:	SoS Rulemaking
Subject:	FW: central count or precinct count?
Categories:	Red Category

From: Marilyn Marks ████████████████████████
Sent: Thursday, August 15, 2013 4:55 PM
To: State Election Division
Cc: Suzanne Staiert; Ryan Parsell; Jeff Orrok, LPCO State Chair; Becky Mizel; Andrew Cole
Subject: central count or precinct count?

Where will ballots be counted? Will precinct machines be used in the vote centers or will ballots be counted centrally?

Are you going allow early "counting" of ballots? I hope that you can discourage that, as it frequently leads to improper early disclosure and judges taking inappropriate action on that.

From:	State Election Division
Sent:	Thursday, August 22, 2013 8:18 AM
To:	SoS Rulemaking
Subject:	FW: write -in candidates
Categories:	Red Category

From: Marilyn Marks ███████████████████████
Sent: Thursday, August 15, 2013 5:02 PM
To: State Election Division
Cc: Suzanne Staiert; Andrew Cole
Subject: write -in candidates

How will UOCAVA voters be informed of write in candidates?
And when?
It is hard to honor the "no posting" requirement on write ins.
What is the plan?