

Andrea Gyger

From: Mary Eberle [REDACTED]
Sent: Tuesday, July 14, 2015 4:58 PM
To: SoS Rulemaking; Andrea Gyger; Wayne Williams
Subject: comments and suggestions on Election Rules
Attachments: 8 CCR 1505-1_SOS election rules with proposed changes_5.doc

Dear Secretary of State Williams,

Attached is a Word file with my comments and suggestions. Thank you for considering these, which I hope you will see as improvements.

Sincerely,

Mary C. Eberle
[REDACTED]
[REDACTED]
[REDACTED]

Here are the current rules in Arial blue. I have inserted the proposed rules changes as follows:

Proposed changes as of July 1, 2015, are inserted in black in various typefaces.

Changes made by the SOS since the first posting of changes (May) have gray shading.

Pages with no changes are omitted, so pagination differs from that of current rules.

Changes are tracked: comments are in bold green with yellow highlight.

Here is a note from Andrea Gyger of the SOS Office (Andrea.Gyger@SOS.STATE.CO.US):

If you would please retain the document "unofficial copy" watermark I would really appreciate it. Also, if you make track edits inline and wish to submit those as comments, please cut any other sections of the rules that you do not have comments/recommendations before sending to me. That helps us spare paper for the official record copies and narrows the reviewers focus when I circulate to our elections team members. If I can help with anything else just let me know. Thank you, Andrea

Mary Eberle

DEPARTMENT OF STATE
Secretary of State
ELECTIONS
8 CCR 1505-1

Rule 1. Definitions **I suggest a 1.0 section that lists all acronyms and their explanations.**

1.1 As used in these Rules, unless stated otherwise:

- 1.1.1 "Audio ballot" means a voter interface containing the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote in an election. It also provides the voter with audio stimuli and allows the voter to communicate voting intent to the voting system through vocalization or physical actions.
- 1.1.2 "Audit log" means a record generated by a voting system, in printed or electronic format, providing a record of activities and events relevant to initializing election management software and hardware, including the identification of files containing election parameters, initializing the tabulation process, processing voted ballots, and terminating the tabulation process.
- 1.1.3 "Ballot image" means a digitally captured image of a paper ballot or a representation in electronic form of the marks or vote positions of a cast ballot on a DRE.
- 1.1.4 "Ballot marking device" (BMD) means a device that may integrate components such as an optical scanner, printer, touch-screen monitor, audio output, and a navigational keypad and uses electronic technology to:
 - (a) Mark a paper ballot at voter direction;
 - (b) Interpret the ballot selections;
 - (c) Communicate the interpretation for voter verification; and
 - (d) Print a voter-verifiable ballot.

I have heard that some PERC systems have BMDs that add QR codes containing the voter's intent (i.e., the voters' choices). I think that those choices should not be captured and/or displayed in a non-English manner. QR codes are not transparent, even if a cell phone can read them.

- 1.1.5 "Ballot measure" means a ballot issue or ballot question as defined in sections 1-1-104(2.3) and (2.7), C.R.S.
- 1.1.6 "Blank ballot" means a ballot on which the voter has made no marks in any voting position, has marked with an unreadable marker, or has consistently marked outside of the "read" area of the optical scanner.
- 1.1.7 "Ballot style" means a specific ballot layout or content for an election. The ballot style is the presentation of the unique combination of contests and candidates for which the voter is eligible to vote. It includes the order of contests and candidates, the list of ballot positions for each contest, and the binding of candidate names to ballot positions within the presentation. Multiple precincts may use a single ballot style. Multiple styles may

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election management system typically downloads ballot style information to the election media and uploads results and ballot images from the election media.

- 1.1.20 "Election setup records" means the electronic records, often in the form of a database or a set of databases, generated by election management software to create and define ballots, tabulation instruction, and other functions related to the election.
- 1.1.21 "Election management software" means the software for election equipment or computers that controls election setup vote recording, vote tabulation, and reporting.
- 1.1.22 "Electronic ballot" means a non-paper ballot such as on a touch screen or through audio feedback. After a voter casts an electronic ballot, the voter's choices must be:
 - (a) Marked and printed on a paper ballot for subsequent counting by an optical scanner; or
 - (b) Digitally recorded and counted by the touch screen device, commonly referred to as a Direct Recording Electronic (DRE) device.
- 1.1.23 "Electronic Transmission" means:
 - (a) For the purpose of sending an unvoted ballot by fax, email, or online delivery to:
 - (1) A military or overseas elector under Article 8.3 of Title 1, C.R.S.
 - (2) An elector requesting a replacement for an emergency under section 1-7.5-115, C.R.S.
 - (3) An affected elector requesting a ballot because of a disaster emergency.

(b) For the purpose of returning a voted ballot to the county clerk, fax or email.

I approve of the wording of (b), and I don't want the concept of "web-based return of voted ballots" added. Add "by" before "fax." "Fax" should be defined as "telephone-based fax."

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- 1.1.24 "Firmware" means computer programs stored on read-only memory devices or other electronic circuitry in voting devices that control the basic operation and function of those devices.
- 1.1.25 "Help America Vote Act complaint" or "HAVA complaint" means a complaint filed with the Secretary of State under Title III of the Help America Vote Act (HAVA) and Article 1.5 of Title 1, C.R.S.
- 1.1.26 "Immediate voting area" means the area that is within six feet of the voting equipment, voting booths, and the ballot box.
- 1.1.27 "Manual entry county" means a county that does not use an election management system to export data to the Election Night Results system.

I suggest adding "Minimum matching criteria" definition.

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- 1.1.28 "Official Observer" means either an observer appointed by the Secretary of State or an observer appointed by the federal government and approved by the Secretary of State. Official Observers may be present in all phases of the election process and perform duties as may be assigned by the Secretary of State, but are subject to Rules and regulations as prescribed by the Secretary of State.

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- 1.1.29 "Optical scanner" means an optical or digital ballot scanner.

- 1.1.30 "Overvote" means an instance where the elector marked votes for more than the maximum number of candidates or responses for a ballot measure.
- 1.1.31 "Qualified political organization" means an organization that has placed a candidate for congressional or state office on the ballot in a congressional vacancy or general election, whose officers have filed proof of organization with the Secretary of State, and that continues to meet the requirements of Rules 3.3 and 3.4. [Baer v. Meyer, 728 F.2d 471 (10th Cir. 1984)]
- 1.1.32 "Related to the second degree" means spouse, civil union partner, parents, children, brothers and sisters, grandparents, and grandchildren.
- 1.1.33 "Removable card or cartridge" means a programming card or cartridge, except a voter activation card, that stores firmware, software, or data.
- 1.1.34 "SCORE" means the centralized statewide registration system and the computerized statewide voter registration list described in Part 3 of Article 2 of Title 1.
- 1.1.35 "Seal" means a serial-numbered tamper-evident device that, if broken or missing, indicates that the chain-of-custody is broken and a device is not secure.
- 1.1.36 "Split precinct" means a precinct that contains a geographical divide between two or more political jurisdictions or a boundary that separates a political jurisdiction from the rest of the precinct, which results in the assignment of multiple ballot styles to the precinct for a specific election so that voters in each of the specific jurisdictions will have the correct ballot style.
- 1.1.37 "Statement of Ballots Form" means the form used at the polling location that accounts for all ballots at that location and includes all information required by Rule 10.

When ballots (in envelopes or security sleeves) are collected to be moved from the Post Office, Drop-Off Boxes, or VSPCs, a pair of election judges affiliated with different parties (or one affiliated and one unaffiliated) need to count the number of ballots in secrecy sleeves and return ballot envelopes and sign off on the count. The count should be verified by a receiving pair of election judges affiliated with different parties (or one affiliated and one unaffiliated).

A form similar to a "Statement of Ballots Form" should be developed for this purpose; perhaps it could be called a "Statement of Transported Ballots Form." It should have places to indicate the date, time, and location of the pickup in addition to the numbers of ballots and ballot return envelopes and the judges' signatures. I will mention this in subsequent rules as needed. The Canvass Board must have such data for reconciliation because without it, the number of ballots (envelopes) received (used to be "cast") cannot be known.

- 1.1.38 "Target area" means the square, oval, incomplete line, or incomplete arrow corresponding to the candidate's name or ballot response (examples: "Yes", "No", "For" or "Against") on a paper ballot.
- 1.1.39 "Teleprocessing lines" means secure, dedicated communication transmission facilities used for the purpose of accessing SCORE, and ensuring the security and integrity of voting information so that no deviation can go undetected.
- 1.1.40 "Trusted build" means the write-once installation disk or disks for software and firmware for which the Secretary of State has established the chain-of-custody to the building of the disk(s), which is then used to establish or re-establish the chain-of-custody of any component of a voting system that contains firmware or software. The trusted build is the origin of the chain-of-custody for any software and firmware component of the voting system.
- 1.1.41 "Undervote" means an instance where the voter marked votes for fewer than the maximum number of candidates or responses for a ballot measure.
- 1.1.42 "Video security surveillance recording" means video monitoring by a device that continuously records a designated location or a system using motion detection that records one frame, or more, per minute until detection of motion triggers continuous recording.
- 1.1.43 "Voting system" as defined in section 1-1-104(50.8), C.R.S., means:

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- (a) The total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to:
 - (1) Define ballots;
 - (2) Cast and count votes;
 - (3) Report or display election results; and
 - (4) Maintain and produce any audit trail information.
- (b) The practices and associated documentation used to:
 - (1) Identify system components and versions of such components;
 - (2) Test the system during its development and maintenance;
 - (3) Maintain records of system errors and defects;
 - (4) Determine specific system changes to be made to a system after the initial qualification of the system; and
 - (5) Make available any materials to the voter (such as notices, instructions, forms, or paper ballots).
- (c) "Voting system" does not include any other component of election administration, such as voter registration applications or systems, electronic pollbooks, ballot delivery and retrieval systems, signature verification and envelope sorting devices, ballot on demand printers, election night reporting and other election reporting systems, and other components used throughout the election process that do not capture and tabulate votes.

Why not? This rule is illogical and prevents the requirement of certification for these components of the voting system. I hope you will tighten up the definition of voting system to include everything but the people involved.

- 1.1.44 "Voting system test laboratory" (VSTL) means a federally accredited entity that conducts certification testing for voting systems.
- 1.1.45 "VVPAT" has the same meaning as in section 1-1-104(50.6), C.R.S.
- 1.1.46 "Watcher" has the same meaning as in section 1-1-104(51), C.R.S.

- (a) ~~A watcher may be appointed for a recall election in the same manner as in a primary election. WATCHERS MAY BE APPOINTED FOR A RECALL ELECTION BY EACH QUALIFIED SUCCESSOR CANDIDATE, THE PROPOSITORS AND OPPOSITORS OF THE RECALL BALLOT ISSUE, AND EACH PARTICIPATING POLITICAL PARTY FOR A PARTISAN RECALL ELECTION.~~

[The remainder of Rule 1.1.46 is retained unaltered]

- (b) For the purpose of appointing a watcher, the proponent or opponent of a ballot measure means a registered issue committee supporting or opposing the ballot measure.
- (c) A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado.

- 1.1.47 "Write-in vote" means a vote where the voter physically writes in the name of a qualified write-in candidate in the space reserved on the ballot for write-in votes and properly marks the target area according to voter instructions.

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1.1.48 "Zero tape" means a printout of the internal data registers in electronic vote-tabulating equipment indicating a zero value before any ballots are tabulated on that machine.

Rule 2. Voter Registration

- 2.1 Submission of voter registration forms
 - 2.1.1 An applicant may submit a properly executed voter registration form to the county clerk in person, by mail, by fax, by online voter registration, or as an email attachment.
 - 2.1.2 If any portion of a mail application is illegible, the county clerk must notify the applicant of the additional information required in accordance with section 1-2-509, C.R.S.
 - 2.1.3 For submitting applications by fax, email, or online voter registration, close of business is 11:59 p.m. MT.
 - 2.1.4 Under section 1-2-508, C.R.S., the effective date of a voter registration application received by the Secretary of State is the date of the postmark, if legible. If there is no legible postmark, the effective date is the date the application is received.
 - 2.1.5 The county clerk must implement a data entry review process to ensure that the county accurately processes voter registration applications in SCORE.
- 2.2 For purposes of precinct caucus lists the elector's duration of residency is based upon the date the elector moved to his or her current residence address, as provided by the elector in his or her application. [Section 1-3-101, C.R.S.]
 - 2.2.1 In SCORE, the county clerk must enter the date provided by the elector that he or she moved to his or her current residence address.
 - 2.2.2 If the elector submits an application and does not include the date he or she moved, the county clerk must use the date the application is received or postmarked, whichever is earlier, as the date moved. If the elector submits the application during the 22 days before election day and does not provide the date he or she moved, the county clerk must use as the date moved the twenty-second day before election day based upon the affidavit.

Amendments to Rule 2.3 through 2.5:

2.3 ~~When an elector registers to vote, the elector must provide a verifiable driver's license or state identification card number, or last four digits of his or her social security number. IF AN ELECTOR HAS A DRIVER'S LICENSE NUMBER OR STATE IDENTIFICATION NUMBER, HE OR SHE MUST PROVIDE IT WHEN REGISTERING TO VOTE. IF THE ELECTOR HAS NEITHER, HE OR SHE MAY PROVIDE THE LAST FOUR DIGITS OF HIS OR HER SOCIAL SECURITY NUMBER. If the elector states that he or she does not have a driver's license, state identification card number, or social security number. OR IF THE CLERK CANNOT VERIFY THE ELECTOR'S INFORMATION IN SCORE, the county clerk must register the elector and mark the registration record "ID required".~~

2.3.1 ~~A COUNTY MUST PROCESS THE HELP AMERICA VOTE VERIFICATION FILE AT LEAST ON A MONTHLY BASIS FOR VERIFYING SOCIAL SECURITY NUMBERS AND REMOVE THE "ID REQUIRED" FLAG FOR THOSE NUMBERS THAT ARE VERIFIED.~~

~~Delete "ON," please, And in next rule, please add quotation marks.~~

~~2.3.1~~ 2.3.2 As used in section 1-1-104(19.5), C.R.S., "government document" means a document issued by a city, county, state, or federal government.

[The remainder of New Rule 2.3.2, formerly Rule 2.3.1, is retained unaltered]

- (a) A government document includes:
 - (1) A Certificate of Degree of Indian or Alaskan Native Blood;
 - (2) A letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in SCORE; and

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- (2) Use the substitute address, as defined in section 24-30-2103(14), C.R.S., for all correspondence and mailings placed in the United States mail.
- (3) Keep the participant's address, county, voting precinct, and split number confidential from the public.
- (c) A state or local government agency may request access to an ACP participant's voter registration record using the process in section 24-30-2110, C.R.S.
- (d) Except as specifically provided by Part 21 of Article 30 of Title 24, C.R.S., a program participant's actual address and telephone number is not a public record under Part 2 of Article 72 of Title 24, C.R.S.

Amendments to Rules 2.12 and 2.13:

2.12 List Maintenance under section 8 of the National Voter Registration Act of 1993

2.12.1 When the United States Postal Service returns a new voter notification or confirmation card to the county clerk as undeliverable, or provides the clerk with a postcard notice of mail forwarding, the county clerk must mark the voter's record "inactive – returned mail" and mail a confirmation card. ~~Where a confirmation card sent under this Rule is returned as undeliverable, the county is not required to mail another card.~~

[Current Rule 2.12.1 is amended and recodified as New Rule 2.10.4; subsequent rules are renumbered as follows:]

~~2.12.2.2.12.1~~ 2.12.2.2.12.1 The Secretary of State will provide monthly National Change of Address (NCOA) data under section 1-2-302.5, C.R.S., to the county clerk by the fifth of each month.

[The remainder of New Rule 2.12.1, formerly Rule 2.12.2, is retained unaltered]

- (a) The county must process the data to update registration records and send notifications in accordance with section 1-2-302.5, C.R.S., by the end of each month.
 - (1) The county may not change a residential address to a non-residential address, like a post office box, based on the information in the NCOA data.
 - (2) If the county clerk has previously mailed a confirmation card to an elector whose record is marked inactive for any reason, the county clerk is not required to mail another confirmation card to the elector at the same address.
 - (3) If an elector moves within a county, the county may not mark the elector's record "active" based on the NCOA data if the record is incomplete, pending, or canceled.

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

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Watchers should be able to be present. The clerk should notify potential watchers when this process will take place.

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2.12.3.2.12.2 In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the county clerk in each county must cancel the registrations of electors:

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[The remainder of New Rule 2.12.2, formerly Rule 2.12.3, is retained unaltered]

- (a) Whose records have been marked "inactive – returned mail", "inactive – undeliverable ballot", or "inactive – NCOA";
- (b) Who have been mailed a confirmation card; and
- (c) Who ~~failed to vote in the General Election and the preceding General Election.~~

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- ~~2.12.4-2.12.3~~ The county must process all records designated for cancelation by the Secretary of State within 21 days of receipt.
- ~~2.12.5-2.12.4~~ The county must process and mail all confirmation cards using SCORE so that the elector's voter registration record audit log shows the date on which the county printed or extracted the confirmation card.
- ~~2.12.6-2.12.5~~ To the extent a county has records of confirmation cards it has generated and sent outside of SCORE, the county must retain those records as election records under section 1-7-802, C.R.S.

2.13 Voter registration at a voter service and polling center

- 2.13.1 A person registering voters or updating voter registration information in a voter service and polling center must:
 - (a) Be AN ELECTION JUDGE, a permanent or temporary county employee, state employee, or temporary staff hired by the county clerk;
 - (b) ~~Successfully pass the criminal background check described in Rule 6.5; and~~
 - ~~(c)-(B)~~ Complete a training course provided by OR APPROVED BY the Secretary of State.
- 2.13.2 For the purpose of providing information to watchers, the person registering voters or updating voter registration information in a voter service and polling center must maintain a log that includes the name and residential address of each elector who registers or updates his or her registration record, or verbally confirm each elector's name and residential address.

Watchers should be allowed to see the actual process, not just view a list, whether the process takes place at a VSPC or in the clerk's office.

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[Current Rule 2.13.2 is retained unaltered]

2.14 Voter registration records and data

- 2.14.1 Notwithstanding the retention timelines specified in section 1-2-227, C.R.S., the county clerk may destroy paper voter registration records as soon as they have been digitally recorded in SCORE. The SCORE system must retain digital images of voter registration applications in perpetuity in accordance with section 1-5-301, C.R.S.
- 2.14.2 Under section 24-21-104(3), C.R.S., the Secretary of State must charge a fee for voter information reports and related services. A request for elections data must be submitted using the Elections Data Request Form. The Secretary of State will provide the requested data after payment of the fee as outlined in the fee schedule on the Secretary's website.

There should be an exception for Canvass Boards. No fee should be charged to Canvass Board members.

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- 2.14.3 The county clerk of each county may charge fees for county voter information reports and related services, such as label printing provided by the centralized statewide registration system. But in accordance with federal requirements governing the use of federal funds, fees must not exceed county direct and indirect costs for providing such reports and services.

2.14.4 Custodianship of Voter Registration Information

- (a) The Secretary of State is the official custodian of the information contained in the centralized statewide registration system and the computerized statewide voter registration list created and maintained under section 1-2-301, C.R.S.
- (b) Each county clerk is the official custodian of the voter registration information only for electors within his or her county.

2.15 SCORE username and password administration

2.15.1 The state user administrator assigns county user administrator privileges to the individual designated in each county by the county clerk. The county clerk must submit a request for county user administrator privilege to the state user administrator in writing. The request must specifically state the full name of the county employee that is being assigned as a county user administrator.

2.15.2 Each county is limited to two county user administrators. But a county clerk may apply to the Secretary of State for an additional county user administrator.

- (a) The application must be submitted by the county clerk in writing to the state user administrator and must state the full name of the county employee for which county user administrator privilege is being sought. The application must also state the specific reasons the county clerk is requesting the additional user administrator.
- (b) The state user administrator will notify the county clerk in writing whether the request is approved within five business days after receiving the application.

2.15.3 The county user administrator is responsible for security administration and must assign all access privileges, as well as usernames and passwords for county employees and temporary election workers.

- (a) For county employees, the county user administrator must assign a unique username in accordance with the naming conventions provided by the Secretary of State.
- (b) Passwords must be assigned by the county user administrator upon initial authorization and must be changed by users and maintained confidentially.

2.15.4 If a county employee or temporary election worker is no longer employed by the county, the county user administrator must immediately inactivate the username.

Molly Tayer's (Boulder County) username should have already been inactivated. I hope someone will check.

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2.16 SCORE network security requirements

2.16.1 The county clerk must use only county-controlled access to networks with proper network security controls in place to access SCORE. The county may never use an open or shared public-use network to access SCORE.

- (a) All wireless networks must meet the following minimum requirements:
 - (1) WPA2 or above security must be enabled;
 - (2) Shared wireless passwords or secrets must be changed every three months, at a minimum; and
 - (3) Wireless keys must be a minimum of 14 characters in length and must include at least one number and mixed case letters.

There should also be at least one symbol--right?

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- (b) All networks must employ proper security controls to ensure malicious users cannot connect to the network, intercept SCORE communications, or otherwise attack the SCORE system. These controls must include, at a minimum, network firewalls and securely configured network equipment to prevent common attack mechanisms.

2.16.2 All individuals who access the SCORE system must sign a SCORE Acceptable Use Policy (AUP) before the county provides a SCORE username.

(a) The county clerk, county SCORE user-administrator, and county elections IT manager, if applicable, must submit their signed AUP to the Secretary of State.

(b) The county clerk must retain the AUP for each individual who is assigned a SCORE username.

(1) The Secretary of State will audit the county AUP records for each county selected for annual inspection of its voting system maintenance records under Rule 20.8.5.

The results of these audits should be posted on the SOS's website.

(2) The Secretary will suspend access to SCORE for any individual whose AUP is not on file with the county clerk.

Rule 3. Rules Concerning Qualified Political Organizations

3.1 A qualified political organization, as defined in Rule 1.1, must file proof of organization with the Secretary of State. The proof must include, but is not limited to:

3.1.1 The organization's bylaws, which must include the method for selecting officers, delegates to county, state, and national conventions, and candidates planning to petition to the state's general election ballot; and

3.1.2 The names, addresses, and telephone numbers of the organization's Colorado chairperson, vice chairperson, and secretary, together with the names, addresses, and telephone numbers of all other members elected or appointed to other offices or committees authorized by the bylaws.

3.2 A qualified political organization must meet at least once each calendar year.

3.2.1 During the meeting in odd-numbered years, the organization must elect a chairperson, vice-chairperson, secretary, and other officers or committees required by the organization's bylaws. If the political organization is a new organization, the organization must hold this meeting before placing a candidate on the ballot. In this instance, the organization may hold this meeting in an even-numbered year and may select candidates as described in Rule 3.3.3.

3.2.2 The organization's chairperson and secretary must file with the Secretary of State a full and complete list, under oath, of the persons elected or appointed under this Rule 3.2, together with any amendments to the bylaws adopted at the meeting.

3.2.3 During the meeting in even-numbered years, the organization must select candidates who will attempt to petition onto the ballot for the next general election.

3.3 To remain in good standing, a qualified political organization must place a candidate on the general election ballot every two years. A write-in candidate alone is not sufficient to meet this requirement.

3.3.1 Organization candidates must be nominated in accordance with section 1-4-802, C.R.S.

3.3.2 Each petition must contain the name of one candidate and an affidavit signed under oath by the chairperson and secretary of the qualified political organization. The affidavit form must be approved by the Secretary of State.

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- 3.3.3 To qualify for the ballot, a candidate must have been affiliated with the qualified political organization for one year or, if the organization has not been qualified for one year, the candidate must have been registered as unaffiliated for one year.
- 3.4 The Secretary of State will qualify a political organization if the organization:
- 3.4.1 Files proof of organization with the Secretary of State;
- 3.4.2 Meets and names a candidate to the general election ballot; and
- 3.4.3 Certifies a candidate to the general election ballot.
- 3.5 Once qualified, eligible electors may affiliate with the political organization.
- 3.6 The Secretary of State will revoke the qualified status of a political organization if the organization does not fully comply with Rules 3.3 and 3.4.
- 3.7 If the Secretary of State revokes the qualified status of a political organization, the Secretary will notify county clerks by June 1 of each odd-numbered year. Upon receipt, the county clerk must mark registration records as "unaffiliated", where applicable.
- 3.8 Except for the precinct caucus list furnished to major political parties, a qualified political organization may obtain print-outs, lists, and tapes, of voter registration records at the same rate as political parties.
- 3.9 A voter registration summary report must include major political parties, minor political parties, qualified political organizations, and unaffiliated categories.

Rule 4. Coordinated Elections

- 4.1 Participation in coordinated elections
- 4.1.1 For elections where the electors do not need to be registered electors, political subdivisions may conduct their own elections and must coordinate with the coordinated election official any ballot issue notice required by Article X, Section 20 of the Colorado Constitution.
- 4.1.2 A coordinating political subdivision must enter into an intergovernmental agreement with the county clerk that delineates which tasks are the responsibility of the designated election official of the political subdivision and which are the responsibility of the county clerk.

Rule 4.1.3 is repealed:

- ~~4.1.3 The designated election official of each participating political subdivision must certify the completeness and accuracy of the SCORE address library for addresses within the district no later than the 70th day before election day. For special district elections, the designated election official of each district must certify to the county clerk the list of electors eligible to vote under section 32-1-806, C.R.S.~~

Why is this being repealed? It seems that such accountability is needed.

- 4.2 Procedures for coordinated elections involving jurisdictions shared by multiple counties.
- 4.2.1 For each jurisdiction that is shared by multiple counties, a controlling county must be designated for the purpose of assigning and coordinating the ballot letter/number for the shared races, issues, and questions in coordinated elections.

- 4.2.2 The controlling county is the county where the administrative office of the political subdivision is maintained at the time that the controlling county is designated.
- (a) If the administrative office is not maintained within the boundaries of the political subdivision, the controlling county must be the county where the largest number of active registered electors within the jurisdiction reside at the time that the controlling county is designated.
- (b) Once designated, the controlling county will not change unless approved by the Secretary of State upon request of any of the affected counties.
- 4.2.3 The controlling county must coordinate with each county that shares the jurisdiction to assign the ballot number/letter in accordance with Rule 4.5 no later than the date of ballot certification. All counties within the shared jurisdiction must ensure that the shared races, issues, and questions are printed on the ballot as certified by the Secretary of State or designated election official, and in the order assigned by the controlling county.
- 4.2.4 If any controlling county fails to fulfill its responsibilities in accordance with this Rule, any of the other counties in the shared jurisdiction may make a written request to the Secretary of State to temporarily assume the duties of the controlling county. The Secretary of State may act on behalf of the controlling county or to temporarily designate another county to act as the controlling county to implement this Rule.
- 4.3 November coordinated elections
- 4.3.1 The county clerk is the coordinated election official for coordinated elections held in November of each year and is responsible for coordinating the Article X, Section 20 Ballot Issue notice mailing.
- 4.3.2 Placing measures on the ballot for coordinated odd-year elections
- (a) For a statewide ballot measure, the Secretary of State must determine whether a proposed initiative is eligible to appear on an odd-year election ballot and whether it concerns state matters arising under Section 20 of Article X of the State Constitution.
- (b) For all other ballot measures, the political subdivision certifying the ballot content to the coordinated election official must determine whether the proposed initiative or referred measure is a local government matter arising under Section 20 of Article X of the State Constitution.

New Rule 4.3.3:

- 4.3.3 IN ANY ODD-YEAR NOVEMBER COORDINATED ELECTION IN WHICH THERE IS A STATEWIDE ISSUE ON THE BALLOT, THE CANVASS BOARD MEMBERS MUST BE APPOINTED IN ACCORDANCE WITH SECTION 1-10-101, C.R.S.

Good!

- 4.4 Form of coordinated elections held other than in November
- 4.4.1 For all other elections where political subdivisions hold an election on the same day, the electors or boundaries overlap and ballot issues as defined in section 1-1-104 (2.3), C.R.S., appear on the ballot of overlapping jurisdictions, the governing bodies or the designated election officials of the overlapping jurisdictions must identify the election official responsible for assuring that the Article X, Section 20 notice is given.
- 4.4.2 The political subdivisions may contract with the appropriate county clerk to be the coordinated election official.
- 4.5 Determination of ballot issues and texts.

~~(pages of current rules were cut out)~~

candidate's name, even if the candidate has executed and submitted Parts A and B of Term Limits Declaration One.

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4.8 Ballot format and printing

It would be good to promulgate a rule that only the county name and possibly the county seal be printed at the top of the ballot. The clerk's name should not appear, especially if the clerk is up for reelection as that is unlawful double appearance on the ballot and electioneering. It would be best to totally prohibit the clerk's name on the ballot (except as a candidate) and on the ballot envelopes and voter instructions. Just the title "County Clerk and Recorder" should be used. This is Harvie Branscomb's suggestion over several years, and I agree with him.

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4.8.1 The county clerk must print the candidate names and the text of ballot issues and ballot questions in upper and lower case, except that the clerk must print the text of ballot issues subject to Article X, Section 20 of the Colorado Constitution in all uppercase text.

4.8.2 If there is no candidate for an office, the ballot must state, "There are no candidates for this office."

4.8.3 Printing primary election ballots

(a) If a major political party, as defined in section 1-1-104(22.5), C.R.S., nominates more than one candidate for any office, the county clerk must conduct the primary election for all major political parties.

(1) The county clerk must include on the ballot all offices to which candidates may be nominated in the primary election.

(2) If there are no candidates for any particular office, the county clerk must print on the ballot "There are no candidates for this office".

[Sections 1-4-101 and 1-4-104.5, C.R.S.; Election Rule 10.1.1]

(b) If a minor political party, as defined in section 1-1-104(23), C.R.S., nominates more than one candidate for any office, the county clerk may conduct the primary election for that party only.

(1) The county clerk must include on the ballot only the offices for which there is more than one candidate designated.

(2) If there is only one minor party candidate designated for any office, the candidate will be certified to the general election ballot.

[Sections 1-4-101, 1-4-104.5(3), and 1-4-1304, C.R.S.]

4.8.4 Use of unique numbers on ballots

(a) Except for ballots sent to military or overseas electors by electronic transmission under Rule 16.2, a county may not print a ballot for use in a state or federal election that has a unique number, or a barcode containing a unique number, that is specific to a single ballot.

(1) A county that uses rotating numbers must print at least ten ballots of each ballot style for each number.

(2) Nothing in this Rule prohibits a county from printing a unique number or barcode on a removable stub.

(b) After an election official dissociates a voted ballot from its envelope and removes the stub, if any, the county may write or print unique numbers on the voted ballot for auditing and accounting purposes, including duplication of damaged ballots and risk limiting audits.

~~(pages of current rules were cut out)~~

5.5.3 Beginning the 40th day before the election and through election day, the county clerk must stay current with all voter registration data entry.

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5.5.4 For every registration list sent to the municipality, the county clerk must inform the designated election official of the proper procedures for handling protected or confidential elector information. [Section 24-72-204(3.5), (8), and Part 21, Article 30, Title 24, C.R.S.]

5.6 If an eligible elector attempts to register or update his or her registration at the county clerk's office, the county must process the request and ensure that the elector appears on the next registration list provided to the municipality or issue the elector a certificate of registration.

Rule 6. Election Judges

6.1 Appointment of election judges under section 1-6-104, C.R.S.

6.1.1 The county clerk must request an updated list of election judges from each major party before each election the clerk conducts.

6.1.2 The ~~political party chairs~~ may assign election judges to positions based upon appropriate skill level and interest, though the clerk may override the assignment if the Secretary of State agrees.

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The party chairs need more control of which people work in specific positions.

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6.1.3 The county clerk must reasonably attempt to exhaust the list provided by the major parties before supplementing with minor party or unaffiliated judges, or staff.

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6.2 For purposes of training election judges, an "election cycle" means all elections held during a calendar year beginning January 1 and ending December 31.

6.3 In lieu of the oath for other election judges prescribed in section 1-6-114, C.R.S., each student election judge must take a self-affirming oath or affirmation before serving, in substantially the following form:

" I, _____ do solemnly swear (or affirm) that I am a citizen of the United States and state of Colorado; that I am at least 16 years of age and a High School Junior or Senior; that I will perform the duties of an election judge according to law and to the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as a student election judge such knowledge shall come to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed. "

Amendments to Rule 6.4 and repeal of Rule 6.5:

6.4 A supervisor judge in a voter service and polling center ~~must~~: must

6.4.1 ~~Successfully pass the criminal background check described in Rule 6.5. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling voter registration applications or conducting voter registration and list maintenance activities.~~

Why is this being repealed? It seems very necessary.

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6.4.2 ~~Complete COMPLETE a training course provided by APPROVED BY the Secretary of State.~~

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6.5 ~~The county clerk must arrange for a criminal background check on a supervisor judge and each staff member conducting voter registration activities.~~

~~(pages of current rules were cut out)~~

~~(b) The county clerk must process new online and in-person registration applications and mail registration updates received by the eighth day before election day and mail a ballot within one business day after receipt.~~

Repeal of Rule 7.2.3(c) concerning ballots and ballot packets:

~~(c) In coordinated elections, the county clerk must mail ballots to all active eligible electors of each political subdivision.~~

Is this the "active" vs. "inactive" issue? I am not sure why there is a deletion planned. It would be clearer to maintain this rule and add that inactive voters who are special district property owners (is that the issue?) will receive a ballot for the special district question or race(s).

7.2.4 Voiding ballots due to timely changes in address or affiliation.

(a) If an elector timely changes his or her address or affiliation after the county mails ballots or sends the voter file to the vendor, the county must void the first ballot and generate a second ballot.
(1) If the county processes the change to the elector's record after it sends the voter file to the vendor but before the vendor prints ballots, the county must provide the vendor a voided ballot file to prevent the vendor from printing and preparing voided ballots for mailing.
(2) If the county processes the change to the elector's record after the vendor has printed ballots but before the vendor mails ballots, the county must work with the vendor to make every reasonable effort to remove voided ballots before they enter the mail stream.
(A) If the county mails its own ballots, the county clerk must remove all voided ballots before mailing.
(B) If the county processes the change to the elector's record after it mails ballots, the county must count the first ballot returned by the elector in accordance with section 1-7.5-107(6), C.R.S., except where an elector changed his or her affiliation, the county must count the ballot issued for the elector's new party affiliation.

Amendments to Rules 7.2.5 through 7.2.7:

7.2.5 Effective January 1, ~~2015~~2016, ~~EACH~~ each mail ballot return envelope and mail ballot instruction must include a statement informing voters that it is a violation of law to ~~drop off more than ten ballots~~ RECEIVE MORE THAN TEN BALLOTS FOR MAILING OR DELIVERY in any election.

~~7.2.6 Effective January 1, 2015, each mail ballot return envelope must include the following: "For third party delivery: I am voluntarily giving my ballot to (name and address) for delivery. I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law."~~

I strongly believe that in the current election mode, this statement or a similar one is very necessary. It may not thwart all the illegal ballot harvesting and coercion, but it may stop some, which would be worthwhile. The legislature could put teeth in the rule by a statute change to impose penalties on those who receive more than ten ballots in any election, but language on the return envelope and voter instruction sheet would be a good first step. Plus, such language was agreed on last year to be added this year when the clerks said they had already printed 2014 General Election envelopes.

Here is possibly better language, better because it is shorter and clearer: "[box]" means add a box to be checked. The language is shortened from the FWAB (Federal Write-in Absentee Ballot) language:

7.2.6 Effective January 1, 2015, each mail ballot return envelope must include the following:

[box] I am mailing or personally returning my ballot.
[box] I am voluntarily giving my ballot to _____ (name), who resides at _____ (address) for delivery. I have marked and sealed my ballot in private, unless I asked for assistance from a person authorized to assist voters under state or federal law.

Don't use the changed 7.2.6 wording, Confusing because voter may think or be persuaded that this is required.

7.2.7 A COUNTY MUST ISSUE A MAIL BALLOT TO ANY ELIGIBLE ELECTOR WHO REQUESTS ONE IN PERSON AT THE COUNTY CLERK'S OFFICE BEGINNING 32 DAYS BEFORE AN ELECTION. [SECTION 1-7.5-107(2.7), C.R.S.]

7.3 Absentee voting

7.3.1 An elector may request that the county clerk 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.
7.3.2 The county clerk must mail the ballot to the address provided until the elector indicates otherwise.

7.4 Emergency ballot transmission

7.4.1 The county clerk may deliver a replacement ballot on election day to an elector's authorized representative or to the elector by electronic transmission in the case of an

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emergency replacement ballot under section 1-7.5-115, C.R.S., upon receipt of a completed application by the elector. If the county clerk delivers an emergency replacement ballot to an elector by electronic transmission, the elector may return the ballot by electronic transmission.

Should add "unless there is a more secure method, such as delivery by a trusted family member or friend, available."

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7.4.2 Ballots sent by electronic transmission must include all races, ballot issues, and questions for which the elector is eligible to vote. The ballot must be legible to avoid possible misinterpretations of the elector's intended choice because of poor transmission of the document.

7.4.3 The electronic transmission must include:

- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
- (b) A notice that the ballot may not be duplicated for any other elector;
- (c) Instructions for completing and returning the ballot;
- (d) A notice regarding the ballot return deadline;
- (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk;
- (f) Any other information deemed necessary by the Secretary of State or the county clerk; and
- (g) The ballot packet must be in text format on 8 1/2" x 11" white paper and must include:
 - (1) An electronic transmission coversheet to protect voter privacy;
 - (2) The unvoted ballot;
 - (3) The electronic transmission ballot instructions; and
 - (4) The self-affirmation required by section 1-7.5-107(3)(b.5), C.R.S.

7.4.4 The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must retain the log as part of the official election record along with any other electronic transmission records. The log must include:

- (a) The name of the voter;
- (b) The fax number or email address to which the ballot was transmitted (as applicable);
- (c) The date the ballot packet was transmitted and received; and
- (d) The initials of the employee transmitting and receiving the ballot. **← Should be two election judges of different affiliation, not an employee; watchers should be able to witness and verify.**

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7.4.5 If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.

- 7.4.6 Upon receipt of the ballot, election judges must verify the signature on the affidavit under Rule 7.8. After the signature on the affidavit has been verified, a bipartisan team of election judges must duplicate the ballot following the procedures outlined in Rule 18. Duplicating judges must not reveal how the elector has cast his or her ballot.

Amendments to Rule 7.5.1:

7.5 Receipt and processing of ballots

- 7.5.1 ~~All~~ THE COUNTY CLERK MUST ADEQUATELY LIGHT ALL STAND-ALONE drop-off locations ~~must be monitored by~~ AND USE EITHER an election official or video security surveillance recording system, as defined in Rule ~~20~~1.1.42 TO MONITOR EACH LOCATION.

[The remainder of Rule 7.5.1 and Rules 7.5.2 through 7.5.4 are retained unaltered]

- (a) Freestanding drop-off locations must be monitored at all times.
(b) If the drop-off location utilizes a drop-slot into a building, the ballots must be collected in a locked container, and both the drop-slot and container must be monitored at all times.
(c) Signage at each drop-off location must inform voters that it is a violation of law to ~~receive more than ten ballots in any election.~~ **Also, the deliverer's name and address must appear in the voter's affidavit on the envelope.**
(d) The minimum number of drop-off locations must be open during reasonable business hours as defined in Rule 7.8.1(a) and from 7:00 a.m. through 7:00 p.m. on election day.

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- 7.5.2 Each day, ~~before moving ballots and ballot return envelopes and again when the ballots and ballot return envelopes come into the central counting facility, two election judges of different affiliation must count the ballots and ballot return envelopes, record the numbers on a Statement of Transported Ballots Form, and sign the form to make a chain of custody that can be relied on by the Canvass Board. The receiving judge pair must then batch the ballot return envelopes and record the number of ballots and ballot return envelopes received. Seals and seal logs must also be employed.~~

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These changes are needed so that the Canvass Board has data to rely on for reconciliation.

- 7.5.3 An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Except for ballots submitted by military or overseas electors, any ballot received after the close of polls must be date-stamped but not counted.

- 7.5.4 The county clerk must arrange for the collection of ballots ~~from all drop-off locations by bipartisan teams of election judges who will count the number of ballots and ballot return envelopes, fill out the Statement of Transported Ballots Form, and seal the ballots and ballot return envelopes for transport. On arrival at the central counting facility, the ballots and ballot return envelopes must again be counted and signed off on by paired election judges. The mail ballot envelopes are they received into SCORE; I think this rule needs~~ **clarification: in-person ballots (which are collected) vs. ballots in ballot return envelopes.**

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- (a) At least once every 72 hours after ballots are mailed until the date that voter service and polling centers must open;
(b) At least once every 24 hours during the days that voter service and polling centers must be open; and
(c) At least twice on election day, at approximately 1:00 p.m. and 7:00 p.m.
(d) The county clerk may meet the requirements of this Rule by: **[Whenever ballots or envelopes are moved, there should be unsealing, counting by paired judges, resealing, and judges signing off.]**
(1) Collecting and transporting the ballots to the central counting location for receipt into SCORE;
(2) Collecting and transporting the ballots to the nearest voter service and polling center for receipt into SCORE; or
(3) Receiving the ballots into SCORE at the ballot drop-off location.

Amendments to Rule 7.5.5:

- 7.5.5 Election officials must record the number of ballot packets returned as undeliverable AND RECEIVE THE BALLOT PACKETS IN SCORE upon receipt.

- 7.5.6 The designated election official must seal and store ballots and return envelopes in a safe, secure place until the counting of the ballots.
- 7.5.7 After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve and a voted ballot in a manner, **such as use of a visual barrier**, that ensures no person is able to determine how an individual voted.
- 7.5.8 If the county clerk discovers a violation of section 1-7.5-107(4)(b), C.R.S., prohibiting any person from **receiving** more than 10 ballots in addition to his or her own in any election, the county clerk must refer the information to the District Attorney.
- 7.5.9 **To avoid ballots being traceable back to the voters, county clerks should wherever possible sort ballots (preferably while still in their ballot return envelopes) by style before scanning. <best practice>** The county clerk must dissociate any batch number that could trace a ballot back to the specific voter who cast it from the counted ballots or any reports generated by the tabulation software no later than the final certification of the abstract of votes cast.
- 7.5.10 If an elector delivers a ballot to the wrong county, that county must date stamp the ballot envelope and forward it to the correct county. The correct county must treat the ballot as received as of the date and time of the date stamp.
- 7.6 Ballot returned in unofficial envelope
- 7.6.1 If the county timely receives a mail ballot from an eligible elector in an envelope other than the official ballot return envelope for that particular election, the county must contact the elector in writing within three calendar days of receiving the ballot but no later than two calendar days after election day. The county must use the letter and affidavit prescribed by the Secretary of State and keep a copy as part of the official election record. If the county receives the completed affidavit no later than the eighth day after election day, the county must count the ballot.

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Amendments to Rule 7.7:

- 7.7 Missing signature **In the July 7 hearing, discussion covered the need for a voter to send a copy of his/her ID as well as the signed affidavit. I think both the ID and signature should be requested in the cure letter: "belt and suspenders."**
- 7.7.1 **If a mail or provisional ballot return envelope lacks a signature, the election official must contact the elector in writing no later than two calendar days after election day. The designated election official must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record. Nothing in this Rule prohibits the designated election official from calling the elector, but a phone call may not substitute for written contact. If the designated election official calls any elector he or she must call all electors whose affidavits are unsigned.**[Sections 1-7.5-107.3 and 1-8.5-105(3)(a), C.R.S.] [This section as highlighted in yellow is the original 2014 wording. The change in the black font below is not clear because it doesn't show as "struck out" all the wording that is seemingly proposed to be eliminated. -Mary Eberle]
 - 7.7.1 If a mail or provisional ballot return envelope lacks a signature, ~~the election official must contact the elector in writing no later than two calendar days after election day.~~ THE COUNTY CLERK MUST FOLLOW THE PROCEDURES FOR DISCREPANT SIGNATURES OUTLINED IN SECTION 1-7.5-107.3(2)(A), C.R.S., EXCEPT AS PROVIDED IN RULE 7.7.4.
 - 7.7.2 ~~The letter must inform the elector that the elector must sign the affidavit and return the form in person or by mail, fax, or email, and that the county must receive the form no later than eight calendar days after the election.~~ The designated election official COUNTY CLERK must use the letter and form prescribed by the Secretary of State and keep a copy as part of the official election record.
 - 7.7.3 ~~The election official must use the letter and the signature verification form approved by the Secretary of State. The letter and missing signature affidavit form does not violate section 1-13-801, C.R.S. Nothing in this Rule prohibits the designated election official COUNTY CLERK from calling the elector, but a phone call may not substitute for written contact. If the designated election official COUNTY CLERK calls any elector, the county clerk must ATTEMPT TO call all electors whose affidavits are unsigned.~~
 - 7.7.4 IF AN ELECTOR FAILS TO CURE A MISSING SIGNATURE, THE COUNTY CLERK NEED NOT SEND A COPY OF THE MAIL BALLOT RETURN ENVELOPE TO THE DISTRICT ATTORNEY FOR INVESTIGATION.
I disagree with 7.7.4. I think we need to err on the side of catching people who would try to vote another's ballot.
[Sections 1-7.5-107.3 and 1-8.5-105(3)(a), C.R.S.]
- 7.8 Signature verification procedures
 - 7.8.1 **If we have to have images of the signature on the envelope, please require that they be black on a white background (not like Boulder's). The election judges <Reads like 2 judges—which is good! Please make 2 a rule! must compare the signature on the self-affirmation on each return envelope < best to check against the envelope, not against an image on a monitor.** with the signature in SCORE. The election judges must research the signature further if there is:

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- (a) An obvious change in the signature's slant.
- (b) A printed signature on one document and a cursive signature on the other document.
- (c) A difference in the signature's size or scale.
- (d) A difference in the signature's individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on "y's" or "j's".
- (e) A difference in the voter's signature style, such as how the letters are connected at the top and bottom.
- (f) Evidence that ballots or envelopes from the same household have been switched.
- (g) Any other noticeable discrepancy such as misspelled names.

7.8.2 In conducting further research, the election judges must check SCORE for at least two additional documents signed by the voter, if available. The judges may compare additional information written by the voter on the return envelope, such as the voter's address and date of signing. Any similarities noted when comparing other information may be used as part of the signature verification decision process. If it appears to the judges that members of the same household have inadvertently switched envelopes or ballots, the ballot or ballots must be counted and no letter of advisement to the electors is necessary.

7.8.3 If the election judges dispute the signature they must document the discrepancy and the research steps taken in a log. The election judges must identify the elector in the log using a unique tracking number. The tracking number may not contain the elector's social security number, Colorado driver's license number, or the identification number issued by the Department of Revenue. The log may not contain the elector's signature. The election judges must note the final resolution and ballot disposition on the research log.

7.8.4 The election official must use the letter and the signature verification form approved by the Secretary of State. (Section 1-7.5-107.3(2)(a), C.R.S.) The letter and signature verification form does not violate section 1-13-801 C.R.S.

7.8.5 All uncounted ballots must remain sealed in the return envelope and stored as election records in accordance with section 1-7-802, C.R.S.

7.8.6 Use of ballot envelope sorters and signature capture devices. If the county uses a ballot sorting and signature capture device, the county clerk must test the device before using it in an election to ensure that it properly sorts envelopes, and accurately and clearly captures the signature on the envelope for comparison to the correct voter record. **The signature must be displayed as black on a white background. ← best practice (unlike Boulder)**

Require scanned signatures to be viewed a minimum amount of time, say 10 seconds.

7.8.7 Use of automated Signature Verification Devices under section 1-7.5-107.3(5)(b), C.R.S.

- (a) If the county uses a signature verification device for automated signature verification on ballot envelopes, the county clerk must test the device before using it in an election.

- (1) The testing must verify the accuracy of the device and ensure that the device will not accept a signature that a reasonably trained election judge would reject.

The test procedures and results must be filed with the Secretary of State and posted on the SOS website.

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- (2) The county must pull and test a minimum of 150 ballot envelopes received in the election and conduct an audit of the machine-verified signatures.
 - (A) A team of bipartisan election officials must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
 - (B) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
 - (b) In addition to the initial test, the county must conduct a regular audit of the device during its use.
 - (1) The county must pull a random sampling of no fewer than one in every fifty machine-verified signatures daily.
 - (2) A team of bipartisan election judges must manually review the signatures identified on the Automated Signature Recognition report following the procedures in section 1-7.5-107.3, C.R.S., and this Rule.
 - (3) The election judges conducting the audit must sign and date the Automated Signature Recognition Report and the report must be maintained with all other election records under section 1-7-802, C.R.S.
 - (4) If the device fails the audit, the county must immediately cease use of automated signature verification and notify the Secretary of State. The Secretary of State and the county must work in coordination to identify the issue and implement a solution.
 - (c) The county must operate the device on a dedicated and secure network.
 - (1) The county may connect the device to the county network only for maintenance and support.
 - (2) The device must be secured by the county firewall.
 - (3) The county must maintain a maintenance and support log that includes the name of the person providing maintenance or support, the date and time the device was accessed, and the specific reason for access.
- 7.8.8 If a county uses a signature capture device to compare a ballot envelope signature to a signature maintained in SCORE, the system may display only one voter's signature at a time. **Best practice: Give the voter list for each batch of mail ballot envelopes to watchers. Boulder is displaying two signatures at a time—very hard to watch.**
- 7.8.9 Signage at each voter service and polling center must indicate that it is a violation of law for anyone to receive more than ten ballots in any election to be dropped off for voters.
- 7.9 Voter service and polling centers
- 7.9.1 The county clerk must designate and open the minimum number of voter service and polling centers. The centers must be open during reasonable business hours for the

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minimum number of days outlined in section 1-5-102.9, C.R.S., for a general election and 1-7.5-107(4.5), C.R.S., for all other elections.

- (a) Reasonable business hours means at least eight hours per day Monday through Friday, and at least four hours on Saturday.
- (b) All voter service and polling centers must be open from 7:00 a.m. through 7:00 p.m. on election day.
- (c) The county clerk must provide all services outlined in section 1-2-509, C.R.S., at every designated voter service and polling center.

7.9.2 Voter service and polling center materials include sufficient computer stations for SCORE access, HAVA information, a voting demonstration display, a signature card table, signature cards, paper ballots, voting booths and DREs, a provisional voting area, and a ballot box.

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Amendments to Rule 7.9.3:

7.9.3 Voter check-in at the voter service and polling center **Keep these:**

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(a) ~~Each voter service and polling center must include an adequately staffed designated voter check-in table or area.~~

(b) ~~The check-in judge must verify each elector's registration information, including address.~~

(c) ~~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.~~ IN ORDER TO ASSIST APPLICANTS AND ELECTORS EFFICIENTLY, A COUNTY CLERK MUST CONFIGURE VOTER SERVICE AND POLLING CENTERS TO PROVIDE: SUFFICIENT ELECTION JUDGES, WEBScore WORK STATIONS, VOTING EQUIPMENT, AND MAIL AND IN-PERSON BALLOTS, AND OTHER SUPPLIES. **This change mimics 7.9.2 so should be deleted here and consolidated there.**

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7.9.4 Except for voters with disabilities, the maximum allowable time in a voting booth is 15 minutes if there are voters waiting. The Secretary of State may order additional time based on the length of the ballot. [Section 1-7-115, C.R.S.]

7.9.5 Any eligible elector may vote in-person at a voter service and polling center. An election judge must mark the elector's mail ballot "surrendered" in SCORE before issuing an in-person ballot.

7.9.6 If a voter leaves the voting area without completing the voting process, two judges of different affiliation must, to the extent possible, cover the voter's choices, and cast the ballot as the voter left it.

7.9.7 If an elector votes after the close of polls because a federal or state court issues an order extending the time established for closing the polls by state law, the elector must vote by provisional ballot. The county clerk must keep all provisional ballots cast under this Rule separate from provisional ballots not affected by the court order.

7.10 The county clerk must complete an accessibility survey for all drop-off and voter service and polling center locations annually before designating a location for use, and no later than 90 days before an election, the county clerk must designate drop-off locations and voter service and polling centers.

7.10.1 For the first survey of a location, the county clerk must complete the full ADA Checklist for voter service and polling centers. The county clerk must complete the Annual Voter Service and Polling Center Accessibility Survey form for each location designated for use in an election year after the initial survey is completed. [Section 1-5-703, C.R.S.]

~~(pages of current rules were cut out)~~

at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors. Witness and verify means to personally observe actions of election officials in each step of the conduct of an election ~~such that the watcher would be able to attest to the facts and be able to assist in the correction of discrepancies and errors. "Step" should include printing and mailing, also drop-off boxes.~~

***Don't forget to change "observe" to "witness and verify... and assist in the correction of discrepancies" throughout.**

- (a) Election-related activities include all activities in a polling location and ballot processing and counting, such as:
- (1) Observing voter check-in and registration activities.
 - (2) Witnessing the signature verification of mail ballot envelopes at close enough distance to verify or challenge the signature.
 - (3) Witnessing ballot duplication to verify accuracy according to voter intent.
 - (4) Observing the tabulation process or display screens of voting equipment at any time that an elector is not in the immediate voting area for purposes of voting or casting a ballot.
 - (5) Witnessing hand count tabulations as they are being conducted.
 - (6) Observing all documents and materials during the LAT and post-election audit.
- (b) Watchers must remain outside the immediate voting area while an elector is voting.
- (c) Watchers may be present at each stage of the conduct of the election, including the setup and breakdown of polling locations and ballot receipt and processing.
- (d) Watchers may be present during provisional ballot processing, signature verification, and UOCAVA ballot processing. ~~The county clerk must provide all voter information to watchers, but may obscure confidential voter information in any way practicable. The watcher oath should be strengthened to permit seeing confidential voter information.~~
- (e) The number of watchers permitted in any room at one time is subject to local safety codes. ~~Do not apply the ratios discussed in the Watcher Panel meetings. Ratios likely violate watcher rights.~~
- 8.4.3 A watcher may witness and verify activities described in Title 1, C.R.S., that are outside the immediate voting area, including ballot processing and counting. If election officials are conducting elections activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.
- 8.4.4 Watchers appointed under this Rule 8 may observe the canvass board while it performs its duties.
- 8.4.5 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13. A watcher may observe all activities in a polling location and the processing and counting of ballots. A watcher may be present at each stage of the election including the receiving and bundling of the ballots.

8.5 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:

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- 8.5.1 Attempt to determine how any elector voted or review confidential voter information;
- 8.5.2 Disclose or record any confidential voter information that he or she may observe; or
- 8.5.3 Disclose any results before the polls are closed.
- 8.6 A watcher may not:
 - 8.6.1 Personally interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election.
 - 8.6.2 Write down any ballot numbers or any other identifying information about the electors. **Change this prohibition to make watching able to be effective.**
 - 8.6.3 Touch or handle the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.
 - 8.6.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.
 - 8.6.5 Interact with election judges except for the supervisor judge.
 - 8.6.6 Use a mobile phone or other electronic device to make or receive a call in any polling location or other place election activities are conducted.
 - 8.6.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted. **Problematic—should just prohibit recording of ballots in a way that they are readable or identifiable to the voter.**
 - 8.6.8 Attempt to determine how any elector voted.
 - 8.6.9 Disclose or record any confidential voter information as defined in section 24-72-204(8), C.R.S., that he or she may observe.
 - 8.6.10 Disclose any results before the polls have closed.
- 8.7 The Secretary of State must approve Official Observers appointed by the federal government. Official observers are subject to Colorado law and these Rules as they apply to Watchers. But an Official Observer is not required to be an eligible elector in the jurisdiction. This Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary of State are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers must obtain a letter of authority from the Secretary of State and surrender the letter to the county clerk.
- 8.8 Watchers, Official Observers, and Media Observers may be present during a recount. Watchers, Official Observers, and Media Observers must be qualified and sworn in for a recount as described in Rule 8.1 and are subject to all other provisions related to the recount process. Any political party or candidate involved in the recount or proponents or opponents of an issue or question involved in the recount may appoint one or more watchers to be present at any time during the recount. A candidate who is subject to a recount may appoint himself or herself, or a member of the candidate's family as a watcher at a recount. [Sections 1-7-105 and 1-7-106, C.R.S.]
- 8.9 Media Observers may witness all election activities. A county clerk may, in his or her discretion, require a media observer to appoint a pool reporter and a pool photographer to represent all media observers. All media observers are subject to the Guidelines established by the Colorado

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Press Association in conjunction with the Colorado County Clerks' Association and the Secretary of State as outlined below:

Guidelines for Member of the Media Who Observe Election Counts and Recounts (to be distributed to members of the Colorado Press Association):

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association have collaborated to develop the following guidelines and protocols for use when members of the media observe the counting or recounting of ballots. You are strongly encouraged to follow these guidelines to allow meaningful media access while not disrupting the work of county clerks to count ballots or doing anything to compromise the integrity of the election process.

1. *If practical, please contact the county clerk's office prior to coming to observe the counting of ballots. If the county clerk knows you are coming, it will be easier to accommodate your request for a place to observe the count or to interview an election official.*
2. *At the discretion of the county clerk, a specific viewing area for members of the media and other observers may be available. To the extent practicable, the area will have been designated with sight lines to allow you to observe and take pictures or video of the counting process. If there are insufficient sight lines for you to take the photos or video you need, the county clerk may be able to make arrangements to accommodate your needs.*
3. *Please observe counting procedures without disrupting the count. Please take pictures or video without the use of supplemental lighting. Do not talk to people participating in counting ballots. There may be workers who ask you not to include their images in your pictures or video. We encourage you to honor those requests if you can reasonably do so.*
4. *The Secretary of State's Election Rules state that if observers leave the area during a recount, they may not reenter without the consent of the county clerk. If you have occasion to leave the area, you may be denied re-admittance.*
5. *Please do not use the information you see when observing vote counts to report on partial election results. Please do not report anything that could be used to identify the person who casts a particular ballot.*

The Colorado State Association of County Clerks and Recorders, Colorado Broadcasters' Association and Colorado Press Association are all committed to working together to ensure the media has access to election counts and recounts, but that access is afforded in manners that do not disrupt the counts and do nothing to compromise the integrity of the process. Your cooperation in following these standards will help us to meet all these goals.

- 8.10 To assist Watchers in performing their tasks at a polling location, the county clerk must provide a list of all voters who have voted or returned a ballot in the county. **← Would be good to provide list of voters in a signature verification batch if automated.** The county clerk must make the list available at least daily at the clerk's main office or provide the list electronically.
- 8.11 The county clerk must accept the appointment of all eligible watchers duly certified by a political party, candidate or committee under sections 1-1-104(51), 1-7-105, 1-7-106, or 1-7-107, C.R.S.
- 8.12 Removal of Watchers.

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- 8.12.1 A county clerk or his or her designee may remove a watcher upon finding that the watcher:
 - (a) Commits or encourages fraud in connection with his or her duties;
 - (b) Violates any of the limitations outlined in Rule 8.6;
 - (c) Violates his or her oath; or
 - (d) Is abusive or threatening toward election officials or voters.
- 8.12.2 Upon removal of a watcher, the county clerk must inform the political party, candidate, or committee who appointed the watcher.
- 8.12.3 A removed watcher may be replaced by an alternate watcher duly certified in accordance with sections 1-7-105, 1-7-106, or 1-7-107, C.R.S.

8.13 Watchers may be certified to ~~watch at~~ more than one polling location. See section 1-7-106, C.R.S.

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8.14 Watchers may be appointed to ~~watch at~~ recall elections held under Article 12, Title I, C.R.S., and must be certified in accordance with sections 1-7-106 and 1-7-107, C.R.S.

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Rule 9. Voting Challenges

9.1 Challenging an in-person voter

- 9.1.1 Under Section 1-9-201, C.R.S., an election official, watcher, or eligible elector of the precinct may challenge an elector's right to vote. A person whose eligibility is challenged while voting in-person, must be offered a regular ballot by an election judge if the person satisfactorily answers the applicable challenge questions specified in section 1-9-203, C.R.S., and this Rule. If the person challenged provides unsatisfactory answers or refuses to answer the challenge questions, an election judge must offer the person a provisional ballot.
- 9.1.2 Citizenship. The election judge must ask the elector, "Are you a citizen of the United States?"
- 9.1.3 Residency. The election judge must ask the elector the following questions:
 - (a) "Will you have resided in Colorado for the 22 days before election day?"
 - (b) "Do you reside at the address stated in your voter registration record?"
 - (c) "Have you been absent from Colorado during the past 22 days?" If the elector responds that he or she was absent during the 22-day period, the election judge must also ask the following questions:
 - (1) "Have you been absent for a temporary purpose with the intent of returning, or did you intend to remain outside Colorado?"
 - (2) "While you were absent, did you consider Colorado to be your home or did you maintain a home or domicile elsewhere?"
 - (3) "While you were absent, did you vote in any other state or territory of the United States?"

9.1.4 Age. The election judge must ask the elector, "Will you be 18 years of age or older on election day?"

9.2 **Is this an escalation as compared to a challenge?** If an individual challenges a mail ballot under section 1-9-207, C.R.S., the election judge must forward the ballot to two other election judges of different political party affiliations who must review the elector's eligibility to vote.

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9.2.1 If both election judges determine the elector is not eligible under section 1-9-207, C.R.S., the judges must follow the procedures in section 1-7.5-107.3(2), C.R.S.

9.2.2 If both election judges determine the elector is eligible and that elector's signature is valid, the election judges must count the elector's ballot.

Rule 10. Canvassing and Recount

10.1 Precanvass accounting

10.1.1 Detailed Ballot Log. The designated election official must keep a detailed ballot log that accounts for every ballot issued to the voter and received from the voter beginning when ballots are ordered and received. The election officials must reconcile the log at the conclusion of each workday. The DEO must also cause election judges to count, report, and sign off before and after transporting ballots and ballot return envelopes. Seals must be used.

10.1.2 Daily voter service and polling center ballot accounting. The designated election official must supply each polling location with a Statement of Ballots Form. Election judges must record the following information on a separate statement of ballots form for each day that the polling location is open:

- (a) The name or number of the polling location;
- (b) The number of ballots provided to or printed on-demand at the polling location;
- (c) The number of ballots cast;
- (d) The number of unvoted ballots;
- (e) The number of damaged or spoiled ballots;
- (f) The number of voted provisional ballots; and
- (g) The date.

10.1.3 After a polling location closes for the day election judges must complete and sign off on the following tasks:

- (a) Reconcile the total number of voted ballots with the number of voters who voted.
- (b) Verify that the total number of voted ballots, spoiled or damaged ballots, provisional ballots, and unvoted ballots is the same as the number of total ballots supplied to or printed at the polling location.
- (c) Reconcile the number of people who signed signature cards to the total number of ballots cast.
- (d) Provide a written explanation of any discrepancy in the numbers on the Statement of Ballots form, (for example, the voter signed in but left the polling location without voting, etc.).

10.1.4 After the voter service and polling center closes on election night, election judges must return the completed Statement of Ballots form for each day the location was open along with all voted ballots—~~counted and sealed~~—to one of the election offices designated in the mail ballot plan.

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10.1.5 Designated Election Official's disposition of forms

- (a) The designated election official must review the Statement of Ballots forms for completion and accuracy.
- (b) If the designated election official or the canvass board discovers a problem with a Statement of Ballots form that cannot be easily resolved, they may contact the election judges for an explanation or correction.

10.1.6 Printed scan logs must be complete rather than just first and last page. **← Boulder just printed first and last pages, so no reconciliation was possible.** Each scan log must be signed off on by a pair of election judges of differing affiliation.

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10.2 Appointment to the Canvass Board

10.2.1 In all cases, the canvass board must consist of an odd number of members, and each member has equal voting rights.

10.2.2 For a partisan election, each major party may have no more than two representatives on the canvass board. The board must include an equal number of representatives from each major party, unless a major party fails to certify representatives for appointment.

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10.2.3 Each major party representative on the canvass board must be registered to vote in the county where the representative will serve and affiliated with the party he or she represents **with a minor party, or unaffiliated.** **← best practice—allows more participation**

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10.2.4 A candidate for office and members of the candidate's immediate family may not serve on the canvass board.

10.2.5 Appointment of Canvass Workers. The designated election official may appoint canvass workers to help prepare and conduct the canvass.

10.3 Duties of the Canvass Board

10.3.1 The canvass board must make its determinations by majority vote in accordance with section 1-10-101.5(1)(c), C.R.S. **Require Roberts Rules. Chair must not be clerk.**

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10.3.2 The canvass board's duties are to:

- (a) Conduct the canvass in accordance with section 1-10-101.5, C.R.S., including:
 - (1) Account and balance the election and certify the official abstract of votes;
 - (2) Reconcile the number of ballots counted to the number of ballots cast; and
 - (3) Reconcile the number of ballots cast to the number of voters who voted by reviewing the reconciled detailed daily ballot, scan, and tabulation logs and Statement of Ballots.
- (b) Observe the post-election audit in accordance with section 1-7-514(4), C.R.S., and Election Rule 11.3.3(k);
- (c) In coordination with the county clerk, investigate and report discrepancies found in the audit under section 1-7-514(2), C.R.S.; and

(d) Conduct any recount in accordance with section 1-10.5-107, C.R.S., and this Rule. The canvass board's role in conducting a recount includes selecting ballots for the random test, observing the recounting of ballots, and certifying the results.

10.3.3 If the board identifies a discrepancy in a Statement of Ballots form, the board may review the particular ballots at issue to identify, correct, and account for the error.

10.3.4 The canvass board may not perform duties typically reserved for election judges, including:

- (a) Determining voter intent;
- (b) Evaluating voter eligibility; and
- (c) Requesting new logs or reports that were not created to conduct the election.

10.3.5 Role of Watchers. Watchers appointed under section 1-10-101(1)(a), C.R.S., may witness and verify canvass and assist in the correction of discrepancies and errors as the board while it performs its duties, subject to Rule 8.

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10.4 Procedures for the day of the Canvass

10.4.1 The designated election official must provide the following information to the canvass board:

- (a) The name of each candidate, office, and votes received;
- (b) The number or letter of each ballot issue or question and votes received;
- (c) The number of ballots cast, including the number of accepted and rejected mail ballots;
- (d) The number of provisional ballots cast, including the number accepted and rejected;
- (e) The number of mail ballots received, counted, and rejected;
- (f) The number of UOCAVA ballots received, duplicated, counted, and rejected; **renumber succeeding item**;
- (f) The number of in-person ballots counted;
- (g) The number of provisional ballots counted and the number rejected listed by each rejection code; and
- (h) The number of damaged, duplicated, and resolved mail ballots, and the number of spoiled mail ballots, and the number of spoiled in-person ballots.

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10.4.2 Any written documentation regarding official results must be included as part of the canvass.

10.4.3 Written Complaints

- (a) The designated election official must provide the canvass board with any written complaint submitted by a registered elector about a voting device.
- (b) If the complaint is resolved, the designated election official must provide the details of the resolution.

- (c) If the complaint is pending resolution when the board meets to conduct the canvass, the designated election official must provide a proposal for how the issue will be resolved.

10.5 Official Abstract and Reporting to the Secretary of State

10.5.1 The official county abstract must include, by precinct or ballot style, where applicable: **Should also include the number "cast" by each method—in-person, by drop-off, by U.S. mail, by UOCAVA through mail or through fax or email.**

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- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The statement of votes counted by race and ballot question or issue; and
- (d) The total number of ballots cast in the election.

10.5.2 The state portion of the abstract, which the county must use the format approved by the Secretary of State and transmit to the Secretary of State, must include:

- (a) The total number of active registered electors on election day;
- (b) The total number of registered electors (active and inactive) on election day;
- (c) The summary of votes cast for each state race and each ballot question or issue;
- (d) The total number of ballots cast in the election; and
- (e) The Canvass ENR upload required under Rule 11.10.4.

10.6 The County Abstract is the Official Permanent Record

- 10.6.1 The designated election official must keep all official canvass reports and forms as part of the official permanent election record.
- 10.6.2 Once the canvass board certifies the abstract it may not withdraw the certification. In the event of a recount, the canvass board may only affirm or amend the abstract.

10.7 Role of the Secretary of State

- 10.7.1 As part of the Secretary's duties under section 1-1-107, C.R.S., the Secretary may provide guidance and investigate imperfections as outlined below.
- 10.7.2 The county clerk or the canvass board may request that the Secretary of State provide guidance and support to the canvass board in the exercise of the board's duties.
- 10.7.3 If, in the course of assisting a canvass board, the Secretary of State discovers an imperfection that the Secretary believes may affect the conduct of other canvass boards, the Secretary may provide notice to other counties regarding the nature of the imperfection.

10.8 Recount generally

- 10.8.1 The purpose of a recount is to re-tabulate the ballots. **Please try to do better than this or omit it!**

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- 10.8.2 For statewide or federal races, ballot issues or ballot questions, the county clerk must coordinate scheduling the recount through the Secretary of State's office so that it can ensure adequate observer coverage.
- 10.9 Recount cost estimates and reimbursements
- 10.9.1 A county must submit a request for reimbursement for a mandatory recount of a state or federal race or ballot measure using the Secretary of State approved form. The county may not request reimbursement for meals or normal overhead costs or regular employee compensation. The county must include itemized costs for reasonable expenditures, including:
- (a) Mailings and notices;
 - (b) Election judges, temporary staff, canvass board pay, and overtime pay; and
 - (c) Copies and other office expenses related to the recount.
- 10.9.2 Requested recounts
- (a) The county clerk must provide an itemized cost estimate in accordance with section 1-10.5-106, C.R.S., upon submission of a formal request for a recount.
 - (b) In preparing a cost estimate for a requested recount, the county must use the Secretary of State approved form. The estimate must include reasonable itemized costs for conducting the recount. The county may not request reimbursement for normal overhead costs.
 - (c) The county clerk must submit a cost estimate to the Secretary of State when the clerk provides it to a requesting party.
- 10.10 In accordance with section 1-10.5-107, C.R.S., and Rule 10.3.2(d), the canvass board's role in conducting a recount includes selecting ballots for the test, observing the recounting of ballots, and certifying the results.
- 10.11 Watchers and observers during a recount
- 10.11.1 The Secretary of State may appoint official observers in any recount.
- 10.11.2 Each candidate or the candidate's watcher, media observers, and official observers, may be present ~~to witness and verify~~ the recount in accordance with Rule 8 ~~and assist in the correction of discrepancies and errors.~~
- 10.11.3 The recount board must take the canvass board oath, assisting election judges must take the election judge's oath, and any person observing the recount must take a watcher's oath.
- 10.11.4 Complaints. A watcher ~~or Canvass Board member~~ may submit a complaint in writing to the county clerk or designee. Written complaints during a recount will be addressed in accordance with Rule 13.
- 10.12 Testing recount equipment
- 10.12.1 The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S. To the extent feasible, the board must select equipment for testing that was not included in the post-election audit.

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10.12.2 The county clerk must test all optical scanners that will be used in the recount. The purpose of the test is to ensure that the tabulation machines are counting properly.

(a) The test deck must include 50 ballots or 1% of the total number of ballots cast in the election, whichever is greater, except that the total number of ballots tested may not exceed the total number of ballots comprising the county's test deck for the Logic and Accuracy test before the election. The ballots must be marked to test every option for the race or measure that will be recounted.

(1) In a mandatory recount, the canvass board must select the ballots to be tested from the county's test deck for the Public Logic and Accuracy test.

(2) In a requested recount, the person requesting the recount may mark up to 25 ballots. Any other candidate in the race may also mark up to 25 ballots. The canvass board must randomly select ballots from the county's test deck for the Public Logic and Accuracy test to ensure the minimum number of test ballots required by this Rule.

(b) Sworn judges or staff must hand tally the test ballots for comparison to the tabulation results.

(c) The test is limited to the race or measure that is recounted.

10.12.3 The county clerk must test the VVPAT records from 1% of the DREs that had votes cast for the race or measure being recounted.

(a) Sworn judges or staff must manually verify the results on the machines selected for the test.

(b) The test is limited to the race or measure that is recounted.

10.13 Counting ballots during a recount

10.13.1 In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5. **It would be good to always give the option to hand count, and sort and stack with watchers for each pair of judges is best.**

10.13.2 A clear audit trail must be maintained throughout the recount including, but not limited to, a log of seal numbers on transfer cases or ballot boxes, and the corresponding numbered seal for each transfer case or ballot box.

10.13.3 Ballots must be reviewed for voter intent using the standards in Rule 18.

(a) Every over-vote or under-vote in the race(s) or measure(s) subject to the recount must be reviewed for voter intent under Rule 18.

(b) The judges conducting the voter intent review may resolve the intent differently than the judges in the election.

10.13.4 To recount ballots using "Ballot Now":

(a) Back up the official election database.

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- (b) Open Ballot Now with an unused Mobile Ballot Box (MBB) from the election and create a Ballot Now recount database.
- (c) Scan and resolve all recount ballots according to this Rule 10.
- (d) Save all recount Cast Vote Records to the MBBs after verifying that the number of ballots processed matches the number of ballots cast in the recount contest.
- (e) Open a new recount election in "Tally" and process the recount MBBs following the tabulation procedures above.
- (f) Compare recount results to original results and document any differences.
- (g) Backup the test database and the official recount database.

10.13.5 To recount ballots by hand count.

- (a) If the tabulation of the original count was conducted by hand count, the recount must be conducted by hand count.
- (b) Ballots must be counted in batches of 25. **←Would be better if 30 or 50, so that stacks of 10 can be criss-crossed.** to ensure that the number of ballots recounted matches the number originally counted.
- (c) Votes must be counted by individual hash marks in 25-count sections by two different judges. **←Would be better if 30 or 50. Also, sort and stack better.**

10.13.6 For tabulation of DREs, if there are no discrepancies in the test under Rule 10.12.3, the county clerk must upload the memory cards.

10.13.7 Tabulation of ballots cast must be completed through a precise, controlled process that ensures each container of ballots is retabulated and resealed before tabulation of the next container begins.

10.13.8 The number of ballots counted according to the final results for that race or measure must be available during the recount for comparison purposes.

10.14 Canvass and reporting results for a recount

10.14.1 Totals of recounted ballots must be reported in summary form as follows:

- (a) Sum total of votes cast for each race or measure recounted, under-votes, and over-votes for each location;
- (b) The totals must be a combined total, not totaled by individual precincts or location, unless the tabulation system allows.

10.14.2 In accordance with section 1-10.5-107, C.R.S., and this Rule 10, the canvass board must amend, if necessary, and re-submit the abstract of votes cast.

Rule 11. Voting Systems

11.1 Voting system access

11.1.1 The designated election official must securely store election setup records. Only persons with the clerk's written authorization may access the records.

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- 11.1.2 The county clerk must deputize employees who are authorized to prepare or maintain the voting system or election setup records before the election.

Amendments to Rule 11.1.3 concerning voting system access:

- 11.1.3 In accordance with section 24-72-305.6, C.R.S., all permanent and temporary county staff and all vendor staff who have access to the voting system or any voting or counting equipment must pass the A criminal background check described in Rule 6.5. A PERSON CONVICTED OF AN ELECTION OFFENSE OR AN OFFENSE CONTAINING AN ELEMENT OF FRAUD MAY NOT HAVE ACCESS TO A CODE, COMBINATION, PASSWORD, OR ENCRYPTION KEY FOR THE VOTING EQUIPMENT, BALLOT STORAGE AREA, COUNTING ROOM, OR TABULATION WORKSTATION.

11.2 Voting System Inventory

- 11.2.1 The designated election official must maintain an inventory record for each electronic vote-tabulating device used in an election. The record must include the manufacturer, make, model, serial number, hardware/firmware/software version or release number, hash value documentation where applicable, date of acquisition, description of any services, repairs, maintenance, upkeep, and version upgrades, and the dates the services were performed.
- 11.2.2 If the inventory is in electronic format, it must be exportable to a comma separated (CSV), excel spreadsheet (XLS or XLSX), or quote or tab separated (TXT) file before delivery to the Secretary of State.
- 11.2.3 The designated election official must file the inventory with the Secretary of State no later than ten days before the election for use in the Logic and Accuracy Test and the Post-Election Audit Test.

11.2.4 Secretary of State must post inventory **(this has been happening but too slowly to help very much).**

- 11.3 The clerk must perform a hardware diagnostic test, a logic and accuracy test, and a post-election audit.

11.3.1 Hardware Diagnostic Test

- (a) The designated election official must perform the Hardware Diagnostic Test before the election on each device that the designated election official will use in the election, including spare or back up devices. The test must include the following devices and provide the following information:
- (1) All input and output devices;
 - (2) Communications ports;
 - (3) System printers;
 - (4) System modems when applicable;
 - (5) System screen displays;
 - (6) Boot performance and initializations;
 - (7) Firmware loads;
 - (8) Software loads;
 - (9) Display of firmware or software hash value (MD5 or SHA-1) when possible;
 - (10) Confirmation that screen displays are functioning; and

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- (4) The Testing Board and designated election official must count the test ballots as follows:
 - (A) Optical Scanners:
 - (i) The Testing Board must count test ballots on at least one, but not more than five, **why not all?** central count optical scanners and at least one optical scanner used at a voter service and polling center, if applicable.
 - (ii) The Testing Board must randomly select the machines to test.
 - (iii) The Testing Board must count the board and county's test ballot batches separately and generate reports to verify that the machine count is identical to the predetermined tally.
 - (B) DREs:
 - (i) The Testing Board must count the test ballots on at least one, but not more than five, DREs, **why not all, especially in counties with >5% DRE use for in-person voting?, DREs are getting old.**
 - (ii) The Testing Board must randomly select the machines to test.
 - (iii) The Testing Board must identify and test two ballots as audio ballots.
 - (iv) The Testing Board must count at least 50 of the board's ballots and a random sampling of at least 25 of the county's test ballots separately and generate reports to verify that the machine count is identical to the predetermined tally. For DREs with VVPAT devices, the Testing Board must manually count the paper record to verify that the pre-determined totals of the Testing Board and county test ballot batches match the VVPAT total.
- (e) Completing the Test
 - (1) The county must keep all test materials, when not in use, in a durable, secure box. Each member of the Testing Board must verify the seals and initial the chain-of-custody log maintained by the county clerk. If the records are opened for inspection, at least two election officials must verify the seals and initial the chain-of-custody log.
 - (2) After testing, the Testing Board must watch the county reset and seal each voting device.
 - (3) The Testing Board and the county clerk must sign a written statement attesting to the qualification of each device successfully tested, the number of the seal attached to the voting device at the end of the test, any problems discovered, and any other documentation necessary to provide a full and accurate account of the condition of a given device.

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election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.

- (j) For DREs with a VVPAT, the designated election official must manually verify the entire VVPAT record with the report generated for that specific device.
 - (1) For any device capable of producing or verifying the trusted build hash value (MD5 or SHA-1) of the firmware or software, the designated election official must verify and document the accuracy of the value to be included with the records for the device prior to conducting the audit.
- (k) At least two canvass board members must observe the random audit. The designated election official may assist with the audit.
- (l) If there are discrepancies in the audit, the canvass board or the designated election official must:
 - (1) Confirm that there is no discrepancy in the manual count;
 - (2) Take any steps necessary to check for voter error, which must include but is not limited to: overvotes, stray marks on the ballot, or other voter intent indicia; and
 - (3) Take any action necessary in accordance with the canvass board's powers as described in Part 1, Article 10 of Title 1, C.R.S.
- (m) After the audit, the designated election official must promptly report the results to the Secretary of State's Office by 5:00 p.m. on the last day to canvass. The report must contain:
 - (1) The make, model, and serial number of the voting devices audited;
 - (2) The number of ballots originally counted by each device or the number of ballots audited as identified in paragraph (4) of this section;
 - (3) The count of the specific races on the summary report printed at the close of polls or the report generated for the audit;
 - (4) The count of the specific races as manually verified;
 - (5) Any other information required by section 1-7-514, C.R.S.; and
 - (6) The canvass board members' and designated election official's signatures.
- (n) The designated election official may send the report by regular mail, email, or fax.

11.4 The county must submit election setup records by regular mail to the Secretary of State no later than 5:00 p.m. on the seventh day before election day.

11.4.1 Jurisdictions that contract with either a software service bureau or an electronic vote counting equipment vendor may choose to have the vendor deliver the election setup records.

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15.7.6 The ballot title must consist of the title of the act on which the referendum is demanded, followed by the bill number, in substantially the following form, in which the underlined material is only for example:

"An Act concerning registration requirements for motor vehicles, and, in connection therewith, authorizing two- and five-year registration periods and authorizing discretionary vehicle identification number inspections, and making an appropriation, being House Bill No. 02-1010."

15.7.7 When referendum is demanded on less than an entire Act of the General Assembly, the ballot title and submission clause must consist of the ballot title preceded by words in substantially the following form, in which the underscored material is only for example, and ending in a question mark:

"Shall Section 3 (concerning definition of terms) and Section 4 (eliminating licensing requirements for motor vehicle dealers) of the following Act of the General Assembly be approved." The material in parentheses shall correctly and fairly summarize the subject or the effect of the portion of the Act referenced.

Rule 16. Military and Overseas Voters (UOCAVA)

16.1 General Rules concerning voting by military and overseas electors

16.1.1 For the purposes of this Rule 16, "elector" means a covered voter as defined in section 1-8.3-102(2), C.R.S.

16.1.2 In accordance with the Help America Vote Act of 2002 and this Rule 16, each county clerk's office must have a dedicated fax machine for the purpose of fax ballot transmission.

16.1.3 The county clerk must mail or electronically transmit a ballot to all active eligible electors. An elector who requests covered-voter status must submit an application affirming his or her eligibility to do so in accordance with section 1-8.3-102(2), C.R.S.

16.1.4 If an unregistered elector submits a Federal Write-in Absentee Ballot (FWAB) by the deadline set forth in sections 1-8.3-111 and 1-8.3-113, C.R.S., the FWAB is a timely application for registration and ballot request.

*Current Rule 16.1.5, concerning voting by military and overseas electors, is repealed and subsequent rules are renumbered as follows: **I do not think 16.1.5 should be repealed, but it should be revised to prevent late arrival of emailed ballots.***

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~~16.1.5 In accordance with sections 1-8.3-111 and 1-8.3-113, C.R.S., all ballots cast must be voted and mailed or electronically transmitted no later than 7:00 p.m. MT on election day, and received by the county clerk or the Secretary of State no later than the close of business on the eighth day after election day.~~

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16.1.5 In accordance with sections 1-8.3-111 and 1-8.3-113, C.R.S., all ballots cast must be voted and mailed or electronically transmitted no later than 7:00 p.m. MT on election day. Mailed ballots may be received by the county clerk or the Secretary of State no later than the close of business on the eighth day after election day. **<This is better.**

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~~16.1.6~~ 16.1.5 Ballots received by the Secretary of State

[The remainder of New Rule 16.1.5, formerly Rule 16.1.6, is retained unaltered]

(a) If the Secretary of State timely receives a ballot under section 1-8.3-113, C.R.S., and Rule 16, the Secretary of State will immediately notify the appropriate county clerk and forward the ballot by the most efficient means available no later than the next business day.

(b) To ensure voter secrecy, any county notified that the Secretary of State has received a ballot must retain a minimum of ten voted ballots to be counted with the ballot received by the State.

~~16.1.7~~16.1.6 The county clerk must send a minimum of one correspondence no later than 60 days before the Primary Election to each elector whose record is marked "Inactive." The correspondence may be sent by email or mail and, at a minimum, must notify the electors of:

[The remainder of New Rule 16.1.6, formerly Rule 16.1.7, is retained unaltered—but good to add that voter must still be eligible for UOCAVA status.]

- (a) The status of the elector's record and ballot request;
- (b) The upcoming federal elections;
- (c) How to update the elector's mailing information and request a ballot; and
- (d) Any other information the county clerk deems appropriate.

~~16.1.8~~16.1.7 No later than 45 days before an election, the county clerk must report to the Secretary of State the number ballots transmitted to military and overseas electors by the 45-day deadline.

~~16.1.9~~16.1.8 Failure to meet the 45-day ballot transmission deadline in section 1-8.3-110, C.R.S.

[The remainder of New Rule 16.1.8, formerly Rule 16.1.9, is retained unaltered]

- (a) If a county fails to meet the 45-day ballot transmission deadline provided for any state or federal election, the county clerk must immediately report the failure and reason for the failure to the Secretary of State.
- (b) The county clerk must provide a plan to the Secretary of State for complying with the deadline in the next state or federal election.
 - (1) The county must submit the plan to the Secretary of State no later than 60 days before the transmission deadline.
 - (2) The county must provide a weekly progress report on implementing the plan to the Secretary of State beginning 50 days before the transmission deadline.
 - (3) The county clerk must provide a daily progress report to the Secretary of State beginning five days before the transmission deadline.

16.2 Electronic transmission

16.2.1 In accordance with sections 1-8.3-110 and 1-8.3-113, C.R.S., an elector may request to receive and return his or her ballot by electronic transmission.

- (a) An elector who requests fax transmission must provide a fax number, including the international country code and local area, province, or city code, if applicable, where the ballot is to be faxed.
- (b) An elector who requests email transmission must provide a complete email address where the ballot is to be transmitted. In accordance with section 1-8.3-115, C.R.S., no election official may disclose the email address to the public.

Amendments to Rule 16.2.1(c), concerning electronic transmission for military and overseas electors:

(c) In accordance with section 1-8.3-113(1), C.R.S., an elector who chooses to receive his or her unvoted ballot by ~~online ballot delivery~~ ELECTRONIC TRANSMISSION may return his or her ballot by fax or email ONLY IF THE ELECTOR DETERMINES THAT A MORE SECURE METHOD, SUCH AS RETURNING THE BALLOT BY MAIL, IS NOT AVAILABLE OR FEASIBLE. "NOT FEASIBLE" ~~[delete and replace with the following, largely from Senator Lundberg and Senator Woods: "election day" phrase omitted because it may cause confusion or voter delay in ballot return. "Believes" is too vague.]~~ refers to circumstances where voting in person or by regular or expedited mail is impossible because ~~a covered military voter is out of the state, or a covered overseas voter is out of the country, on election day and expedited or postal mail is unavailable to the covered voter for mail ballot return in time for the ballot to reach the clerk by the close of business on the eighth day after an election.~~

- (d) To return a voted ballot and self-affirmation by email, the elector must scan and return the documents as an email attachment. ~~←The elector must be advised that mail is preferred and no web-based return is acceptable; do not allow clerks to receive ballots through a website.~~
- (e) Clerks must provide UOCAVA voters with data from the federal government concerning time frames for mail ballot delivery for both military and civilian mail services and for both expedited and regular postal mail. ~~[reletter succeeding item]~~

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Deleted: means circumstances where the elector believes the timely return of his or her ballot by mail is not certain.

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- (f) If an elector requests to receive his or her ballot by electronic transmission, the county clerk must transmit the elector's ballot electronically for all covered elections while the elector swears he or she is still UOCAVA eligible and/or until the elector requests otherwise or the elector's electronic transmission method becomes undeliverable.

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- 16.2.2 The electronic transmission must include:
- (a) The county clerk's contact information including mailing address, email address, phone, and fax number;
 - (b) A notice that the ballot may not be duplicated for any other elector;
 - (c) Instructions for completing and returning the ballot;
 - (d) A notice regarding the ballot return deadline;
 - (e) Information regarding how the elector may verify that his or her ballot has been received by the county clerk; and
 - (f) Any other information deemed necessary by the Secretary of State or the county clerk.
 - (g) The ballot packet, which must be in text format on 8 1/2" x 11" white paper and must include:
 - (1) An electronic transmission coversheet to protect voter privacy;
 - (2) The unvoted ballot;
 - (3) The electronic transmission ballot instructions; and
 - (4) The self-affirmation required by section 1-8.3-114, C.R.S., and Rule 16.2.3.

Amendments to Rule 16.2.3:

- 16.2.3 The self-affirmation must include the standard oath required by the Uniformed and Overseas Citizen Voting Act (42 U.S.C sec. 1973ff(b)(7) and 1(a)(5)), the elector's name, date of birth, signature, location (unless I am forbidden by regulation from disclosing my location), **critical to keeping the UOCAVA method working correctly, indicate that military must be out of state and overseas citizen must be out of country.** and the following statement: I also understand that by returning my voted ballot by electronic transmission, I am voluntarily waiving my right to a secret ballot AND THAT COLORADO LAW REQUIRES THAT I RETURN THIS BALLOT BY A MORE SECURE METHOD, SUCH AS MAIL, IF AVAILABLE AND FEASIBLE. (Section SECTIONS 1-8.3-113 AND 1-8.3-114, C.R.S.)

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- 16.2.4 If the county clerk transmits a ballot packet to an elector by fax and the transmission is unsuccessful, the county clerk must attempt to fax the ballot at least two more times.

- 16.2.5 The county clerk must maintain a log of each ballot sent by electronic transmission. The county clerk must maintain the log as an election record along with any other email or fax records. The log must include:

- (a) The name of the elector;
- (b) The fax number or email address to which the ballot packet was transmitted (as applicable);
- (c) The date the ballot packet was transmitted; and
- (d) The initials of the election official transmitting the ballot.

- 16.2.6 Upon receipt of a voted ballot sent by electronic transmission, the county clerk must verify the elector's signature in accordance with Rule 7.8. After the affidavit has been verified, a bipartisan team of judges must duplicate the ballot. Duplicating judges must not reveal how the elector voted.
- 16.2.7 A military or overseas elector whose registration record is inactive may download an application and ballot using the electronic ballot delivery system.
- (a) The elector must submit the ballot and application in accordance with the deadlines in section 1-8.3-111 and 1-8.3.113, C.R.S., for the ballot to be counted.
- (b) Every county must use the approved electronic delivery system to implement this Rule, except that a county may obtain a waiver, ~~which must be posted on the Secretary of State's website.~~ The Secretary will consider the following factors in approving or denying a request for waiver:
- (1) Number of military or overseas electors registered to vote in the county;
- (2) Historical data regarding the number of military and overseas electors who have registered and voted in the county; and
- (3) Staff or other resource limitations.

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New Rule 16.2.8:

16.2.8 NOTHING IN THIS RULE 16.2 PERMITS ~~VOTING BY A WEB-BASED METHOD.~~ **← Important Change.**

Rule 17. Provisional Voting

- 17.1 Provisional voting in the voter service and polling center
- 17.1.1 The county clerk must use the approved provisional ballot affidavit form.
- 17.1.2 If a voter service and polling center loses connectivity to SCORE, the judges must issue provisional ballots until the county restores connectivity unless the election officials are able to contact the elections office to issue vote credit in SCORE immediately.
- 17.1.3 The word "provisional" must be marked on the provisional ballot and on the signature card, if applicable, next to the elector's name.
- 17.2 Verification of Provisional Ballots
- 17.2.1 The county clerk must process and tabulate all mail and in-person ballots before processing provisional ballots.
- 17.2.2 The county must process all mail ballots and signature cards in SCORE before processing provisional ballots.
- 17.2.3 Verification of an elector's eligibility to have his or her provisional ballot counted is limited to the following sources:
- (a) Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of detention or confinement or on parole;
- (b) SCORE; and
- (c) The information provided on the provisional ballot envelope, including the affidavit.

Deleted: INTERNET VOTING. INTERNET VOTING MEANS A SYSTEM THAT INCLUDES REMOTE ACCESS, A VOTE THAT IS CAST DIRECTLY INTO A CENTRAL VOTE SERVER THAT TALLIES THE VOTES, AND DOES NOT REQUIRE THE SUPERVISION OF ELECTION OFFICIALS

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- (e) In each voter service and polling center, the county must provide a minimum of one accessible DRE with a headset that has adjustable volume control.
- 20.3.2 Before attaching a VVPAT to a specific voting device, the county must seal the unit after verifying that no votes were cast. At least two election officials must verify that seals are intact before the start of voting, and at the close of voting, VVPAT records must either remain in the VVPAT canister, or be sealed and secured in a suitable device for protecting privacy or as described in Rule 20.11.
- 20.3.3 Optical scanners
 - (a) The county must place a seal over each card or cartridge inserted into the unit, or over any door or slot containing the card or cartridge.
 - (b) The county must place a seal over each empty card or cartridge slot or door covering the area where the card or cartridge is inserted.
 - (c) Before the start of voting and after the close of voting, two election officials must visually confirm that all seals are intact and that the seal numbers match those logged in the chain-of-custody log.
- 20.3.4 Memory cards or cartridges
 - (a) The county must assign and securely affix a permanent serial number to each removable card or cartridge. The county may use the manufacturer assigned serial number for this purpose.
 - (b) The county must handle removable memory cards and cartridges in a secure manner at all times. The county must transfer and store any removable card or cartridge that is not sealed in a voting machine in a secure container with at least one seal. Upon delivery and receipt, election judges, **wherever something is done, election judges should do it and sign that they did it. Please modify rules throughout to cause this to happen.** must verify, and indicate by signing and dating the chain-of custody log, that all seal numbers match those listed in the log.
 - (c) The county must maintain a written or electronic log to record card or cartridge seal numbers and track seals for each voting unit.

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Amendments to Rule 20.4:

- 20.4 Individuals with access to keys, door codes, and vault combinations
 - 20.4.1 For employees with access to areas addressed in Rule 20.4.3, the county must state in the security plan each employee's title and the date of the criminal background check ~~was performed under Rule 6.5.~~ [Section 24-72-305.6, C.R.S.]

[Current Rule 2.4.2 is retained unaltered]

- 20.4.2 The county must change all keypad door codes or locks, vault combinations, computer and server passwords, encryption key codes, and administrator passwords at least once per calendar year prior to the first election of the year.
- 20.4.3 Employee access. The county may grant employees access to the codes, combinations, passwords, and encryption keys described in this Rule in accordance with the following limitations:
 - (a) Access to the code, combination, password, or encryption key for the voting equipment, ballot storage areas, counting room, or tabulation workstations is restricted to employees who have successfully passed ~~the~~ a criminal background check ~~described in Rule 6.5.~~ Any person who has been convicted of an election

offense or an offense with an element of fraud is prohibited from having access to a code, combination, password, or encryption key for the voting equipment, ballot storage areas, counting room, or tabulation workstations.

[Current Rules 20.4.3(b), 20.4.3(c), and Rule 20.4.5 are retained unaltered]

- (b) Except for emergency personnel, no other individuals may be present in these locations unless supervised by one or more employees. Each individual who has access to the central election management system or central tabulator must have their own unique username and password. No individual may use any other individual's username or password. Shared accounts are prohibited.
- (c) In extreme circumstance, the county may request and the Secretary of State may grant exemption from the requirements outlined in this Rule.

20.4.5 Access to where election management software is used is limited to authorized election officials and watchers only. Messengers or runners delivering ballots between the preparation room and computer room must wear distinguishing identification.

20.5 Internal Controls for the Voting System

20.5.1 The county must enable, create, and use passwords.

20.5.2 In addition to the access controls discussed in Rule 20.4, the county must change all passwords and limit access to the following areas: **Better to require changed passwords before every election.**

- (a) The county must change all software passwords once per calendar year prior to the first election. This includes any boot or startup passwords in use, as well as any administrator and user passwords and remote device passwords.
- (b) The county must change all hardware passwords once per calendar year prior to the first election. This includes any encryption keys, key card tools, supervisor codes, poll worker passwords on smart cards, USB keys, tokens, and voting devices themselves as it applies to the specific system.
- (c) Administrative and user accounts for election management system and election databases.
 - (1) The county may use the administrative user account only to create individual user accounts for each election database.
 - (2) The county must create individual user accounts that are associated and identified with each individual authorized user of the election management system or election database.
 - (3) The county must restrict access to each individual user account with a unique password known only to each individual user. Authorized users must access the election management system and election database using his or her individual user account and unique password.
 - (4) The county may grant administrative privileges to no more than ten individual user accounts per election.
- (d) Other than for the purpose of programming the election, the voting system provider may not have administrative or user access to the county's election management system.

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county must provide a process that ensures that the media is replaced often enough to prevent periods when recording is not available.

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20.7.3 The following are the specific minimum requirements:

- (a) If the county has 50,000 or more registered voters, then the county must maintain a log and make video security surveillance recordings of the following areas, excluding voting booths:
 - (1) All areas in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.
 - (2) All areas used for processing ballots, including but not limited to areas used for Signature Verification, tabulation, or storage of voted ballots beginning at least 35 days before election day and continuing through at least 30 days after election day, unless there is a recount or contest. If a recount or contest occurs, the recording must continue through the conclusion of all related activity.
 - (3) The storage area for all voting equipment.
- (b) If the county has fewer than 50,000 registered voters then the county must maintain a log and make video security surveillance recordings of all areas in which election management software is used, including but not limited to programming, downloading memory cards, uploading memory cards, tallying results, and results reporting.
- (c) The county must adequately light the area(s) subject to video surveillance to provide visibility for video recording. **including drop-off places; and require camera to record person's face during drop off.**

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20.8 Equipment maintenance procedures. In addition to the requirements for voting systems inventory specified in Rule 11.2, the county must adhere to the following minimum standards:

- 20.8.1 The county must store all equipment throughout the year with seals over the memory card slots for each device. The county must maintain a log of the seals used for each device consistent to the logs used for tracking Election Day seals.
- 20.8.2 For equipment being sent to the vendor for offsite repairs/replacements, the county must keep a maintenance log for the device that must contain the following: the model number, serial number, and the type of device; the firmware version; the software version, as applicable; the printed name and signature of the person sending the equipment; and the date of submission to the vendor.
- 20.8.3 An employee must escort the vendor's representative at all times while on-site. At no time may the voting system vendor have access to any component of the voting system without supervision by an employee. [Section 24-72-305.6, C.R.S.]
- 20.8.4 Upon completion of any maintenance, the county must verify or reinstate the trusted build and conduct a full acceptance test of equipment that must, at a minimum, include the hardware diagnostics test, as indicated in Rule 11, and a mock election in which an employee(s) must cast a minimum of five ballots on the device to ensure tabulation of votes is working correctly. The county must maintain all documentation of the results of the acceptance testing on file with the specific device.

- 20.8.5 The Secretary of State will annually inspect county maintenance and chain-of-custody records and verify the integrity of trusted build on a randomly selected basis.
- 20.9 Transportation of equipment, memory cards, ballot boxes, and ballots **Must be judges and must count before and after transporting.**
- 20.9.1 The county must submit detailed plans to the Secretary of State before an election regarding the transportation of equipment and ballots both to remote voting sites and back to the central elections office or storage facility. If there is any evidence of possible tampering with a seal, or if the serial numbers do not match those listed in the chain-of-custody log, the county clerk must be immediately notified and must follow the procedures specific to the incident as described in Rule 20.13. While the method of transportation of equipment may vary, the following standards apply:
- (a) Transportation by county personnel. County personnel must at all times display identification provided by the County. Two employee signatures and date are required at the departure location verifying that the equipment, including memory card or cartridge, is sealed to prevent tampering. Upon delivery of equipment, at least two election officials must verify, and indicate by signing and dating the chain-of-custody log, that all seals are intact and that the serial numbers on the seals match the logged serial numbers.
 - (b) Transportation by election judges. Election officials that are receiving equipment must inspect all components of voting devices and verify the specific numbers by signature and date on the chain-of-custody log for the device.

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Amendments to Rule 20.9.1(c), concerning transportation of equipment, memory cards, ballot boxes, and ballots:

- (c) Transportation by contract. If a county contracts for the delivery of equipment to remote voting locations, each individual delivering equipment must successfully pass ~~the~~ A criminal background check ~~described in Rule 6.5~~. Any person who has been convicted of an election offense or an offense with an element of fraud is prohibited from handling or delivering voting equipment. Two election officials must verify, sign, and date the chain-of-custody log upon release of the equipment to the individual(s) delivering the equipment.
- 20.9.2 Standards for transporting voting equipment to and from the voting location:
- (a) Required procedures if memory cards or cartridges are removed from voting devices at remote voting locations:
 - (1) Before removing a memory card or cartridge, two election officials must inspect and verify that all seals on the device are intact and that the serial numbers on the seals match those listed on the chain-of-custody log. Both election officials must sign and date the chain-of-custody log before breaking the seal.
 - (2) Election officials must place the memory cards or cartridges in a sealable transfer case and must seal the case. The election officials must maintain a chain-of-custody log for the transfer case of the memory cards or cartridges.
 - (3) Election officials must place new seals over the empty memory card/cartridge slot and door and document the seal numbers used.
 - (4) At least two election officials must accompany the transfer case to the processing location. The election officials who receive the equipment must verify, and indicate by signing and dating the chain-of-custody log,

that the seals are intact and seal serial numbers match those listed in the log.

- (5) Election officials transporting secured voting equipment must maintain chain-of-custody logs.
- (b) Required procedures if devices are delivered with memory cards/cartridges intact:
 - (1) Two election officials must verify that all seals are intact at the close of polls. Election judges must sign and date the chain-of-custody log with such indication.
 - (2) At least two election officials must accompany the secured equipment to the drop-off location. The person receiving the equipment must verify the seals and sign and date the logs.
 - (3) Upon confirmation that the seals are intact and bear the correct numbers, election officials must remove and upload the memory cards/cartridges into the central count system.
 - (4) To secure the equipment, election officials must place a tamper-evident seal over the memory card slot and update the chain-of-custody log to reflect the new seal number(s).

20.9.3 Required procedures for transportation of ballot boxes: **Must be judges and must count before and after transporting.**

- (a) Election officials must seal all ballot boxes that contain voted ballots so that no person can access the ballots without breaking a seal. The election officials must record all seals in the chain-of-custody log and two election judges must verify, and indicate by signing and dating the log, that the required seals are intact.
- (b) Two election officials must accompany all ballot boxes that contain voted ballots at all times, except when the ballot box is located in a vault or secure physical location.
- (c) The ballot box exchange requirements of section 1-7-305, C.R.S., are met if a chain-in-custody log is completed for each ballot box.
- (d) If a seal is broken or chain-of-custody is unverifiable, the county clerk must investigate, document his or her findings, and report the incident to the Secretary of State, as appropriate.

20.9.4 Ballot security at a voter service and polling center

- (a) The county must secure unvoted paper ballots during pre-election storage, transportation, and at polling locations.
 - (1) Except when election judges are actively issuing ballots the ballot containers must be sealed and secure.
 - (2) The county must maintain chain-of-custody logs for all ballot containers,
- (b) Unvoted paper ballots must be transported to polling locations in sealed containers. The county clerk must record the seal number on a chain-of-custody

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Ballot on demand

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20.16.1 The county must use the state-provided laptop for ballot on demand purposes only.

20.16.2 Software access, security, and storage.

- (a) The county must change all Windows and ballot on demand application passwords at least once per calendar year, **Before and after each election better.**
- (b) Only election ~~judges~~ or authorized vendor representatives may operate the ballot on demand system.
- (c) The county may connect the ballot on demand laptop to an external network for the purpose of connecting to SCORE only if the county maintains current virus protection, current operating system security patches, and implements firewalls to prevent unauthorized access.
- (d) The county must store the state-provided laptop and unused paper ballot stock in a locked storage area when the printer is not in use.

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20.16.3 Ballot reconciliation

- (a) The county must reconcile ballots printed on demand in accordance with Rules 10.4 and 10.5, **Does this mean no differentiation in the reconciliation process between BOD ballots and mail ballots?**
- (b) The county must maintain damaged, misprinted, or unusable ballots as election records.

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20.17 Voting system conditions for use

20.17.1 The county must use the voting system only on a closed network or in a standalone fashion.

20.17.2 Access logs.

- (a) In addition to the audit logs generated by the election management system, the county must maintain access logs that record the following:
 - (1) The date, time, and user's name for each instance that a user enters or exits the system or the system's report printing functions; and
 - (2) Modifications to the system's hardware, including insertion or removal of removable storage media, or changes to hardware drivers.
- (b) The county may create and maintain the access logs in the manner the county deems most suitable, including key stroke recording software, video surveillance recordings, manually or electronically written records, or a combination of these methods.

20.17.3 The county must create a backup copy of the election setup records on a read-only, write-once CD, immediately after completing the Logic and Accuracy Test.

- (a) The county must identify the master database name and date of election on the label of the backup CD.

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20.20.1 The county must add clarifying text to the display screen during the VVPAT review process that instructs the voter to review his or her ballot choices.

20.20.2 The county must lock the activate button to prevent its use during an election.

20.20.3 A county may not modify the screen display using an override.ini file without approval from the Secretary of State.

Rule 21. Voting System Standards for Certification

21.1 Introduction

21.1.1 For Colorado purposes, no single component of a voting system, or device, meets the definition of a voting system except that nothing in this Rule requires the testing of an entire modified system if the Secretary of State determines in accordance with section 1-5-618, C.R.S., that a modification to any certified voting system requires testing for security and accuracy. Only the modification and any affected features or capabilities must be tested to ensure compliance with this Rule.

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*Require public notification of testing.

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21.1.2 Sufficient components must be assembled to create a configuration that allows the system or modification as a whole to meet the requirements as described for a voting system in this Rule.

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21.1.3 The certification of a voting system is not a requirement that a county purchase or lease all of the components of the voting system. Counties may choose to configure and use a subset of the certified voting system and may use the services of a vendor or third party to provide ballot definition and election programming of memory cards. Counties are not required to use a paper ballot tabulation device if they choose to manually tabulate the election results.

21.2 Certification Process Overview and Timeline

21.2.1 The voting system will be considered as a unit, and all components tested at once, unless the circumstances necessitate otherwise. Any change made to individual components of a voting system will require the entire voting system to be recertified unless the change is a modification that can be approved under section 1-5-618(1.5), C.R.S.

21.2.2 For a voting system to be certified, the voting system provider must successfully complete all phases of the certification process. The certification process includes: submission of a complete application, a documentation review, a public demonstration of the system, and functional testing.

21.2.3 The flow of each phase of certification is as follows:

- (a) Phase I – The voting system provider must submit an application and all documentation required in Rule 21.3. The Secretary of State will review the application and inform the voting system provider whether or not the application is complete. If the application is incomplete, the Secretary of State will identify the deficiencies and the voting system provider will have 30 days to remedy the deficiencies and make the application complete. When the application is complete, the Secretary of State will make arrangements with the voting system provider for a public demonstration.

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- (h) All electronic voting devices supplied by the voting system provider and used at voter service and polling centers must have the capability to continue all normal voting operations and provide continuous device availability during a 2-hour period of electrical outage without any loss of election data.
- (i) The voting system must provide capabilities to protect the anonymity of ballot choices.
 - (1) All optical scanners, associated ballot boxes, and VVPAT storage devices must provide physical locks and procedures during and after the vote casting operation.
 - (2) All DRE devices must provide randomization of all voter choices and stored electronic ballot information during and after storage of the voters' ballot selections.

21.4.6 Physical and design characteristics

- (a) Physical and design characteristics must address any and all external or internal construction of the physical environment of the voting system.
- (b) The voting system provider must submit drawings, photographs and any related brochures or documents to assist with the evaluation of the physical design of the use of the voting system.

21.4.7 Ballot Definition Subsystem

- (a) The ballot definition subsystem of the voting system application consists of hardware and software required to accomplish the functions outlined in this Rule.
- (b) The ballot definition subsystem must be capable of handling at least 200 potentially active voting positions, arranged to identify party affiliations in a primary election, offices with their associated labels and instructions, candidate names with their associated labels and instructions and ballot issues or questions with their associated text and instructions.
- (c) The voting system must accommodate single page ballots (races on one face or both faces) and two page paper ballots (races on three or four faces).
- (d) The ballot definition subsystem must:
 - (1) Provide a facility for the definition of the ballot, including the definition of the number of allowable choices for each office and contest and for special voting options such as write-in candidates; and
 - (2) Generate all required masters and distributed copies of the ballot definition files.

21.4.8 Trusted Build. The voting system must allow the operating system administrative account to verify that the software installed is the certified software by comparing it to the trusted build or other reference information.

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21.10.13 Any cost of using an alternative third party escrow agent must be borne by the voting system provider.

Rule 22. Use of approved and recommended election forms

22.1 Where the Secretary of State issues an approved election form, notice, application, or correspondence, all designated election officials and registration offices must use the approved form.

22.1.1 A designated election official or registration office that wishes to substantively modify the content of any form approved by the Secretary of State must submit a written request via email to the Secretary of State's office stating the requested modification and the reasons it is needed.

(a) The Secretary of State will approve or deny a request to modify an approved form within five business days. Failure of the Secretary of State to issue a decision within five business days does not constitute an approval of the request. If the modification request is denied, the Secretary of State will explain the reason for denying the request.

(b) A non-substantive customization of an approved form, such as placing the form on county letterhead or language translation, does not require the Secretary of State's approval.

22.2 The Secretary of State will approve standard voter registration and ballot application forms for use by political parties and organizations that provide such forms to the public. The Secretary of State will publish on the department's website the current approved registration forms.

22.2.1 Political parties and organizations may also use the National Mail Voter Registration form. Because the forms approved by the Secretary of State contain all information specifically required by Colorado law, the applicants and the organization are afforded greater protection by distributing or using the state forms approved by the Secretary of State.

22.2.2 All political parties and organizations that conduct a mass mailing of either registration or ballot request forms to the public must identify themselves by printing the organization name and contact information on the form.

22.2.3 Any political party or organization may contact the Secretary of State before sending a mailing to request a review of the form and information to be mailed.

22.3 Under section 1-1-107(2)(d), C.R.S., the Secretary of State will seek injunctive action or other remedies for violations of this Rule.

New Rule 23:

RULE 23. COMMISSIONS

23.1 BIPARTISAN ELECTION ADVISORY COMMISSION **Good!**

23.1.1 THE SECRETARY OF STATE FINDS AND DECLARES THAT OPEN DISCUSSION ABOUT THE ADMINISTRATION AND CONDUCT OF ELECTIONS IN COLORADO IS NECESSARY TO ENSURE THAT EVERY ELIGIBLE CITIZEN HAS THE OPPORTUNITY TO PARTICIPATE IN FAIR, ACCESSIBLE, AND IMPARTIAL ELECTIONS, AND HAS THE ASSURANCE THAT ELECTIONS ARE CONDUCTED WITH INTEGRITY AND HIS OR HER VOTE WILL COUNT. BECAUSE THE COLORADO GENERAL ASSEMBLY DISCONTINUED THE COLORADO VOTER ACCESS AND MODERNIZED ELECTION COMMISSION, THE SECRETARY OF STATE WILL ESTABLISH A BIPARTISAN ELECTION ADVISORY COMMISSION (THE COMMISSION) TO IDENTIFY PROCESSES FOR IMPROVEMENT AND WORK TO OBTAIN BIPARTISAN SUPPORT IN THE ADMINISTRATION OF ELECTIONS. THE COMMISSION WILL MAKE RECOMMENDATIONS TO THE SECRETARY OF STATE REGARDING THE DEVELOPMENT AND IMPLEMENTATION OF BEST PRACTICES, ADMINISTRATIVE RULES AND SUGGESTIONS FOR LEGISLATION.

23.1.2 MEMBERSHIP OF THE COMMISSION

(A) THE SECRETARY OF STATE WILL APPOINT AT LEAST 13 MEMBERS TO THE COMMISSION. THE COMMISSION MAY INCLUDE:

- (1) A REPRESENTATIVE OF AN ORGANIZATION THAT ADVOCATES ON BEHALF OF PEOPLE WITH DISABILITIES;
 - (2) A MEMBER OF THE EXECUTIVE BRANCH AND AT LEAST ONE LEGISLATOR FROM EACH PARTY;
 - (3) TWO COUNTY CLERK AND RECORDERS REPRESENTING THE COLORADO COUNTY CLERKS ASSOCIATION PRESIDENTIAL LINE OF LEADERSHIP;
 - (4) IF BOTH CLERKS IN (3) ARE FROM THE SAME PARTY OR IF NOT ALL COUNTIES ARE MEMBERS OF THE CCCA, ADDITIONAL CLERKS MAY BE APPOINTED;
 - (5) TWO REPRESENTATIVES OF ORGANIZATIONS THAT ADVOCATE ON BEHALF OF LOCAL GOVERNMENTS, INCLUDING COUNTIES, MUNICIPALITIES, AND SPECIAL DISTRICTS;
 - (6) CHAIR, PARTY OFFICER, OR LEGAL COUNSEL FOR EACH MAJOR POLITICAL PARTY; AND
 - (7) ~~TEN (OR ELEVEN IF THE COMMITTEE CHAIR IS A VOTING MEMBER)~~ MEMBERS WITH EXPERTISE ON VOTING RIGHTS AND/OR ELECTION INTEGRITY ~~BUT WHO ARE NOT ELECTED OFFICIALS OR MEMBERS OF ELECTED OFFICIALS' OR GOVERNMENT DEPARTMENTS' STAFF OR OTHERWISE ARE PART OF CATEGORIES 1 THROUGH 6.~~ **This commission needs more citizen input to balance the government and other official input. If more government or official members are appointed than listed in categories 1 through 6, then more citizen members should likewise be appointed.**
- (B) THE SECRETARY OF STATE OR HIS OR HER DESIGNEE, WILL BE A MEMBER AND SERVE AS CHAIR OF THE COMMISSION.
 - (C) THE SECRETARY OF STATE'S OFFICE WILL PROVIDE STAFF SUPPORT TO THE COMMISSION AS MAY BE DIRECTED BY THE SECRETARY OF STATE.

23.1.3 MEETINGS

- (A) THE COMMISSION MUST MEET NO FEWER THAN THREE TIMES ANNUALLY.
- (B) THE MEETINGS WILL BE HELD AT THE OFFICE OF THE SECRETARY OF STATE OR REGIONAL LOCATIONS THROUGHOUT THE STATE AS THE COMMISSION DETERMINES APPROPRIATE.
- (C) MEETINGS MUST COMPLY WITH COLORADO OPEN MEETINGS LAW AND WILL PERMIT AN OPPORTUNITY FOR PUBLIC COMMENT.
- (D) NOTICES, RECORDS OF MEETINGS, WRITTEN COMMENTS, AND DOCUMENTS SUBMITTED TO THE COMMISSION WILL BE PUBLISHED ON THE OFFICIAL WEBSITE OF THE SECRETARY OF STATE. DOCUMENTS THAT ARE OTHERWISE PUBLICLY AVAILABLE NEED NOT BE POSTED. ANY SUBMISSION CONTAINING INFLAMMATORY OR OTHERWISE INAPPROPRIATE CONTENT WILL NOT BE POSTED, INCLUDING ANY MATERIAL THAT IS DEFAMATORY, IRRELEVANT, DUPLICATIVE, OR OBSCENE.

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