

**From:** Michael Susek  
**To:** [SoS Rulemaking](#)  
**Cc:** [Jim Candelarie](#)  
**Subject:** Comment on Proposed Rules  
**Date:** Friday, March 2, 2018 10:23:27 AM

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Secretary Williams:

The following comments are submitted for your consideration regarding the proposed amendments to the Colorado Secretary of State Election Rules.

While I am an employee of the City and County of Broomfield Elections Division, my comments are not necessarily a reflection of the organization.

Although not included in this rulemaking, I propose an amendment to Rule 7.5.14:

"(b) If the bipartisan team determines the elector voted in more than one party's primary election, ~~or returned only blank ballots,~~ the county must ~~reject the ballots, not count them, and retain them~~ WITHIN THREE DAYS AFTER RECEIPT OF THE BALLOTS, AND IN NO EVENT LATER THAN TWO DAYS AFTER ELECTION DAY, SEND TO THE ELIGIBLE ELECTOR AT THE ADDRESS INDICATED IN THE REGISTRATION RECORDS A LETTER EXPLAINING THE LACK OF COMPLIANCE WITH 1-4-101 (B) AND A FORM FOR THE ELIGIBLE ELECTOR TO CONFIRM WHICH BALLOT OUGHT TO BE TABULATED.

(i) IF THE COUNTY CLERK AND RECORDER RECEIVES THE FORM WITHIN EIGHT DAYS AFTER ELECTION DAY, AND THE VOTER AFFIRMS WHICH PARTY'S BALLOT OUGHT TO BE TABULATED, THAT PARTY'S BALLOT SHALL BE TABULATED AND THE OTHER PARTY'S BALLOT RETAINED in the mail ballot return envelope as an election record.

(ii) IF WITHIN EIGHT DAYS AFTER ELECTION DAY THE VOTER DOES NOT AFFIRM WHICH PARTY'S BALLOT OUGHT TO BE COUNTED, THE COUNTY MUST REJECT THE BALLOTS, NOT COUNT THEM, AND RETAIN THEM IN THE MAIL BALLOT RETURN ENVELOPE AS AN ELECTION RECORD.

(c) IF THE BIPARTISAN TEAM DETERMINES THE ELECTOR RETURNED ONLY BLANK BALLOTS, THE COUNTY MUST REJECT THE BALLOTS, NOT COUNT THEM, AND RETAIN THEM IN THE MAIL BALLOT RETURN ENVELOPE AS AN ELECTION RECORD."

Admittedly, neither Proposition 108 nor Senate Bill 17-305 provided a cure process for voters who voted and returned both parties' ballots. However, 1-4-101 (2)(c) does provide, "The secretary of state may by rule adopt additional ballot requirements necessary to avoid

voter confusion in voting in primary elections.”

It is unknown how consistently unaffiliated voters will correctly follow the return instructions during this rollout election. Providing a cure process would maximize voter enfranchisement for eligible voters without introducing any new opportunities for voter fraud.

Presumably, a process similar to the one outlined in existing Rule 7.5.13 could be applied to protect voter secrecy.

Thank you, Secretary Williams and staff, for the opportunity to comment on the proposed amendments to the Secretary of State Election Rules.

Sincerely,

Michael Susek, MA, MPA  
Management Analyst  
City and County of Broomfield Elections Division

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**MICHAEL SUSEK, MA, MPA**  
Management Analyst  
City and County of Broomfield  
One DesCombes Drive • Broomfield CO 80020  
303.464.5581  
[www.votebroomfield.org](http://www.votebroomfield.org)