

Colorado Department of State, Rulemaking Hearing, March 7, 2023
Election Rules 8 CCR 1505-1

Implementation of HB21-1071 to conduct instant-runoff voting (IRV) contests

Comments submitted by Celeste Landry

The proposed rules are referenced in each section below, but not altered. Questions and proposed changes are introduced in **boldface**. I make these suggestions in the spirit of working toward successful IRV elections and with the idea of possible implementation of other voting methods, such as proportional ranked voting, in the future.

Logic and Accuracy Tests Should Simulate Real-World Tabulation

I strongly support the following page 3 comment by Boulder and Broomfield Counties:

“... we believe that LAT should mirror the process of an election and if the contests are on the same card, in the election they will be scanned and tabulated on the same card and not separately.”

Every Ballot Style, Every-Precinct (if applicable) for IRV also

For Plurality:

A COUNTY THAT IS CONDUCTING AN ELECTION WITH AT LEAST ONE PLURALITY

28 VOTING CONTEST MUST PREPARE A TEST DECK OF BALLOTS THAT:

29 (A) INCLUDES EVERY BALLOT STYLE AND, WHERE APPLICABLE, PRECINCT;

Why is this every-style, every-precinct requirement seemingly not applicable to IRV?

Fill in some IRV contests on a combination ballot for Plurality LAT and vice versa

D) LEAVES UNMARKED THE INSTANT RUNOFF VOTING CONTESTS IN THE

39 PLURALITY VOTING COUNTY TEST DECK, IF THE BALLOTS COMPRISING

1 THE COUNTY TEST DECK INCLUDE BOTH PLURALITY AND INSTANT

2 RUNOFF VOTING CONTESTS

If the test is supposed to resemble the real-world tabulation, then both Plurality and IRV contests should be filled in on at least some combination ballots to better mirror the actual election. If the tabulation of the different ballot contests will be done separately, then the test ballots will be run through tabulation software multiple times and the LAT should mirror the actual multi-step tabulation process for the combination ballots.

Triggering the instant-runoff feature is an important part of LAT

Testing Board members must mark their test ballots following the

34 instructions printed on the ballots and retain a record of the tally. TESTING

35 BOARD MEMBERS MUST MARK INSTANT RUNOFF VOTING CONTESTS IN SUCH A

36 MANNER SO THAT NO CANDIDATE WILL RECEIVE A MAJORITY OF VOTES IN THE

37 FIRST ROUND OF TABULATION.

If the Testing Board members' test ballots do not result in an instant runoff, then more ballots should be marked later to force an instant runoff in order to test this critical feature of the software.

Test for a tie, particularly in one of the elimination rounds

(D) NOT BE MARKED IN A WAY THAT WILL REQUIRE A WINNING CANDIDATE
15 OR LOSING CANDIDATE TO BE DETERMINED BY LOT;

If the test is supposed to resemble the real-world tabulation, we should test for a tie in the LAT process, just like we test for overvotes, skipped rankings, etc. In particular, the LAT should test for a tie in a penultimate or earlier round since ties in these rounds are unique to instant-runoff voting. Alternatively, the breaking-a-tie procedure could be checked during acceptance testing and then be part of the training for all election administrators conducting a ranked voting election.

Reporting Results

Report every round, but not by precinct

FOR ANY RANKED VOTING ELECTION COORDINATED
8 WITH A COUNTY CLERK, THE COORDINATED ELECTION OFFICIAL MUST PUBLISH PRELIMINARY AND
9 FINAL RESULT REPORTS OF A RANKED VOTING ELECTION ON A WEBSITE. THE REPORTS MUST
10 COMPLY WITH SECTION 1-7-1003 (7)(A)(I) – (III), C.R.S. THE COORDINATED ELECTION OFFICIAL
11 MUST PROVIDE TO THE SECRETARY OF STATE THE WEBSITE WHERE RESULTS WILL BE POSTED NO
12 LATER THAN A WEEK BEFORE ELECTION DAY.

Will each round of tabulation results be reported? If not, voters and candidates will lose trust in the process. I did not see where Rule 26 explicitly mandates the reporting of each round of tabulation.

The ranked voting results should not be reported by precinct as Section 1-7-1003 (7)(A)(III) requires: “A comprehensive report listing the results in the summary report by precinct.” Reporting results by precinct makes sense for summative voting methods, but not ranked voting methods unless the winning candidate is elected by exactly one precinct. The first-choice rankings could be reported for each precinct, but, if so, these rankings should be clearly marked as first-choice rankings, especially if the instant runoff is triggered, to try to avoid confusion.

Entire set of Cast Vote Records should be available

Example: Rule 26.5.3 (a)

If, after receiving the transferred votes, a continuing candidate receives over 50 percent of the votes cast on active ballots, that candidate is the winning candidate and no further rounds will take place.

Even if “no further rounds will take place,” the entire set of cast vote records (CVRs) should be available in anonymized form so that voters and candidates can see more clearly the electorate’s fully expressed opinions. Such a policy will also increase trust in the elections. The August 2022 Alaska special congressional election and the November 2022 Oakland School District 4 election made the CVRs available to the public and an independent tabulator, respectively, resulting in a better understanding of

ranked voting. If the CVRs are not made available, then too much information is hidden, e.g., lower never-tallied rankings and a complete picture of the voters' compliance with ranking instructions.

Use More Expansive Language to Provide for Future Flexibility

Use "ranked voting" rather than "instant runoff voting" where appropriate

To smooth the transition to other forms of ranked voting, such as proportional ranked voting, use the most general term where appropriate. LATs use most of the same rules, e.g., invalid ranking, elimination of lowest vote-getter, for both instant-runoff voting and proportional ranked voting.

Use "summative" rather than "Plurality" in Rule 26

"Summative" would allow for other voting methods, such as Cumulative, Approval and Score Voting, to be used in the future. The current version of Rule 26 does not include the word "Plurality." The seven instances of "Plurality" introduced for this rulemaking process can be easily replaced with "summative."

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