



August 20, 2024

Secretary of State Jena Griswold
Department of State
1700 Broadway, Suite 550
Denver, CO 80290

Submitted via email to SoS.Rulemaking@coloradosos.gov

Dear Secretary Griswold:

The Jefferson County Clerk and Recorder's office is submitting these comments to the Notice of Proposed Rulemaking issued by the Department of State on July 15, 2024. In general, our office supports the points raised in the comments submitted by the Colorado County Clerks Association and we offer these additional comments on four proposed rules to highlight some particular issues from our perspective in administering elections in a diverse community of over 425,000 active registered Coloradans in the Denver metro area.

Proposed Rule 7.4.14

Our Election team notes that there is currently no report in SCORE to pull this data and generate letters for individual voters who have one signature in their record. Moreover, we have concerns because the current report for voters who have no signatures attached to their file has accuracy issues. There are voters who come up on the report who do have signatures attached and we need to manually screen out. Similarly, if the report is inaccurate we could be sending letters to people who have more than one signature. There also doesn't seem to be enough time to make this change before 60 days pre-Election day (a couple weeks from now).

In general, we urge the Secretary to adjust rules to allow for Clerks to have the flexibility to provide communications to no/single signature voters electronically instead of only through US Mail. Often these are younger voters and in Jeffco approximately 50% use the 2VOTE text option to provide the additional signatures. It would be more effective (and

likely generate higher response rates than the 30% or so that we get now) if we are not sending paper mail to tell someone how to text us information. Rules should provide ability to leverage emails provided with voter registration and/or ballot trax sign-ups for email/text notifications as well as possible QR codes and other methods of collecting signatures into the record for young voters. Cost of postage/printing is one of the largest drivers for county & state reimbursement and it seems the state and counties should be trying to make sure outreach is targeted and likely to be successful.

Proposed Rule 7.16.4

We note that voter privacy is of major importance when Jeffco elections is arranging VSPCs in our various locations. Many civic buildings have a number of video cameras and we agree that counties should do their due diligence in knowing where the cameras are pointed and setting up their VSPC with that in mind to prevent camera from being able to record voting. However, Jeffco strongly suggests the Secretary remove the “or appearing to record” language in this proposed rule as both vague and too restrictive on counties. There are no guardrails to this requirement with which counties must comply, and any voter or watcher standing in a room with a camera cannot necessarily see where it is pointed or recording. The only way to truly avoid any appearance of recording would be to cover all cameras; a negotiation nightmare with the site and actually worse outcome for security.

Proposed Rule 20.7.2(d)

Jeffco elections has many concerns about the proposed rule requiring daily sticker seals on 24-hr drop boxes. Extreme hot or cold will likely cause the adhesive to peel off without human tampering, especially since they will need to be removed once or more times per day by a ballot security team. Also, this proposal overcomplicates an already secure process with layers of security. Bipartisan security teams are responsible for keys to secure the box and a chain of custody exists for those keys when in use and in secure storage. If there is concern about inconsistency in procedure across the state, a more targeted rule about chain of custody and secure storage for keys and/or lock mechanisms might be more effective. In addition, cameras on boxes in between election team visits video record all possible security infractions, and boxes are durable enough through testing that any alleged tampering or destruction of the box will leave visible physical evidence. We are not aware of evidence of such tampering or security breaches that require additional sticker seals to these layers of security.

Finally, such stickers may likely invites tampering by the public as people are likely to try to peel the stickers off while waiting at library, public transportation stations or other locations either because they are bored, or children, or possibly malicious. The optics of this may increase risk of mis/mal information in the election that can harm the public trust in elections.

Proposed Rule 20.10.3

Section A of this proposed rule is broadly worded to make these processes apply to CORA inspections, “unofficial recount’ or “any other reason.” That language makes these proposals apply to Jeffco Elections’ regular election administration functions. There are two particular examples where the limitations of this rule will impede our normal secure handling of voted ballots post-election during regular election administration duties:

1. Risk Limiting Audit: RLA processes are not exempted from all the requirements of this proposed rule and parts of this will cause issues for how large counties like Jeffco conduct large scale RLAs. During the RLA, multiple teams of county election staff and/or election judges check seals and open containers in an orderly fashion to remove selected audited ballots and replace with placeholder sheets. Under the requirements of proposed section B4 it will be difficult to return & reseal ballots in a container before moving on to the next one because (1) it is a placeholder sheet, not a ballot and (2) the audit team needs to verify correct ballot is chosen so we usually keep the container unsealed for a certain period of time during the audit (under video surveillance) in case the incorrect ballot was pulled and needs to be swapped. Also, during RLA our audit teams/party representative canvass board members handle the ballots as part of the RLA duties. Therefore, Jeffco so cannot comply with proposed section D during RLA if it does not also include audit boards/canvass board members in addition to staff and election judges.

2. 25-month storage preparations: Jeffco uses temporary ballot boxes (sealed) during the election, RLA, canvass and recount period and then moves those ballots into permanent storage containers for 25-month storage in cooperation with county records management procedures. This transfer is done in a secure room under video cameras with only election staff and the videos are retained under statute and law as part of Jeffco’s regular post-election administration duties. However, this activity would trigger the slower procedures of this proposed rule and also require advance notice under proposed section H to the state and require waiting for state observers to join this routine process.

Similarly, this proposed rule is not explicitly limited to the 25-month retention period. Therefore, all the procedures about who can touch documents, the requirement of state observers and other proposals all apply to the routine orderly disposal/destruction of ballots at the end of the 25-month retention period. Jeffco Elections works with County Records Management professionals and our secure shredding vendor, but most if not all of the proposed procedures in this rule do not match how that destruction process is conducted. We urge the Secretary to explicitly limit the application of this rule to the 25-month retention period or otherwise explicitly exempt out the routine destruction under law after period ends from the requirements of this rule.

Thank you for this opportunity to provide feedback on the proposed Election Rules.

Sincerely,

A handwritten signature in black ink that reads "Amanda Gonzalez". The signature is written in a cursive, flowing style.

Amanda M. Gonzalez
Jefferson County Clerk and Recorder