

Andrea Gyger

From: Mary Eberle [REDACTED]
Sent: Monday, May 22, 2017 4:57 PM
To: SoS Rulemaking
Subject: Comments on Election Rules

Dear Secretary Williams,

Please continue to place the date of each rule's adoption at the bottom of the page(s) where the rule is shown.

Please favorably consider Harvie Branscomb's comments, especially because of his expertise as an election watcher and in the development of the Risk-Limiting Audit (and similarly named activities). I particularly would like watchers to be able to watch all election activities, regardless of the presence of election judges. Furthermore, any SOS-approved training course that must be completed by election judges should also be available to watchers, so that watchers may be effective in watching all steps in the conduct of the election. Also, I know that Al Kolwicz and Margit Johansson have sent excellent input, and I hope you will heed their suggestions.

I agree with Cathy Jarrett's comment (4/6/2017) that the current "un-definition" of "cast" needs to be struck.

I disagree with Emma Livingston's comment (3/15/2017) that supports the incomplete UOCAVA rules, which do not require the information (in any form) that the UOCAVA voter receives to state that Colorado law prohibits the return of ballots via electronic means (that is, via email, email attachment, or website) unless no other method is feasible. The information should include descriptions of methods of secure and timely ballot transmission that the voter is honor-bound to investigate and use if feasible.

I partially agree with Richard Creswell's comments. Every attempt should be made to track down registered voters with apparently matching names and give them a chance to verify their identification or refute inaccurate data. However, more education of Colorado voters concerning when a felon again becomes eligible to vote would be very helpful. TV and web "spots" would be helpful on this point.

I also partially agree with Michelle Courtney's comments. Unchecked boxes should be grounds for declaring a registration incomplete, but should also cause a clerk to diligently try to contact to person to ask that the registration questions be answered so that registration can be completed.

I agree with most of Elena Nunez's first comment (4/7/2017) about the timing of "early" availability of ballots. I would like the rule to specify that the voter may receive a mail ballot packet OR an in-person ballot. The mail ballot packet would need to be returned with the voter's signature on the ballot return envelope, but the in-person ballot should be available only to a voter with proper ID and voted in person at the time and cast into a proper ballot box. No mail ballot return envelope should be used, nor should the in-person, valid-ID-presenting voter have to supply a signature for the ballot to be counted. The voter's signature on a registration or sign-in form could be used to enter into SCORE as a future exemplar, but the voter should be apprised of that usage.

I disagree with Elena Nunez's second comment. There is little need for voters to drop off ballots

outside of their county of residence, and such a practice complicates and stretches out the counting period. If voters become accustomed to dropping off their ballots anywhere in the state, the opportunity for mistakes and even fraud rises as the dropped-off ballots may for various reasons never make it to the correct county to be counted. Mistakes and fraud disenfranchise voters who took the time and care to drop off their ballots in their own county.

RE: the comments of Dan Volkosh (4/7/2017):

I agree with him on

1.1.43,

2.4.3,

(not 2.61)

2.7.4 (OK if it is clear that two out of three of these data types matched. It would be best if the date of birth matched within ten years.)

2.13

2.15.1

2.15.2

6.1.4

(not 6.2.1)

6.7

7.1.1 (OK if the outer envelope is opaque enough to prevent seeing votes through the paper--add a rule about that?)

(not 7.5.1)

(not 7.5.4(c))

7.11.2 (I don't know the pros or cons)

14.5.3

(not 16.2.5(d))

16.2.6 (may need to review his comment after some Dominion experience has taken place)

18.5.3 (may need to review his comment after some Dominion experience has taken place)

20.16.3(a)

20.17.3

I disagree with him on the following:

- 2.6.1--please require more confirmation than a phone call.
- 6.2.1--Please leave the current rule as it is. Clerks should be making the county chairs confident that their party's appointees are the ones with the skills and experience that the party is interested in.
- 7.5.1--Please maintain rule. Critical for the safety of voters and their ballots.
- 7.5.4(c)--At least require the pickup at 7:00 p.m. Otherwise, ballots dropped off late will be counted.
- 16.2.5(d)--require a record be made of who sends ballots. Procedure could differ by county.

William Braun: I don't think there is a legal basis for this request, though I like it.

J.M. Fay: He has some good points.

Michael Ehlers: He raises a point with a high emotional value, but I am required to also ask that you

not make voting easy to scam or otherwise cause fraudulent votes to be counted, which disenfranchises eligible voters' votes--including those voters who have fought for free, fair, and open elections and those voters whose relatives and friends died for such elections.

Brooks Preston: Agreed, though nothing specific refers to the election rules.

Diane Vliem: She has some good points, but they do not relate to the election rules.

John Starr: Good points, the key word being "opportunity"--which means that a resident must be registered and thus proved eligible to vote. For example, babies are residents (he says "all residents"), but they do not have a constitutional right to vote.

David Lenderts, R. Mike Wallace: ?

Michael Shapiro: I completely agree. Ditch this idea, please. We don't need to be voting in others' counties.

John Jackson: I am not clear about the non-residents statement. It would be helpful to provide the CRS language. I am opposed to cross-jurisdiction voting.

Lyn Scott: Good comments. I agree.

Keith Knight: I agree that our country's approach to IDs is antediluvian.

William Beaver: I agree, but I doubt there is any hope.

Todd Boyer: I disagree on the potential x-jurisdictional pilot idea, because I think it would be hard if not impossible to control. Voter ID problems abound but cannot be remedied via these rules. I wish the SOS would limit cellphone usage in VSPCs across the state until the U.S. Supreme Court rules on whether a (very minor) restriction on first amendment rights that would prohibit ballot-identifying photos is constitutional.

Kyra Long: OK about primary voting ("whatever"). I disagree about voting in others' counties. Let's eliminate Columbus Day and make Election Day a state holiday in Colorado.

Sarah Springer: Easy but doesn't disenfranchise others--who can argue with this?

John Kwaak: Good comments. We must not disenfranchise voters by allowing ineligible voters to cancel eligible voters' votes.

Barbara Coddington: If the parties don't know, the election judges, watchers, and canvass board members also don't know, so there is a huge gap in election integrity. Sorry, Barbara, I cannot agree with you. SOS--please hold the line on this.

Mary Susan Carey: I disagree. Does she want her vote to be the one canceled by an ineligible voter?

Michael Day: For Item 2 in Day's email, I agree and prefer option 1. It is a long time to the primary. Can SCORE and the automatic envelope-reading devices be programmed to read a party-defining barcode through a window? Color coding by using color-barred paper would be a good backup and not too expensive to add to the barcode. The rules need to include "option" 2 (actually a necessity) in case some voters do not refold their ballots to make the barcode show, so a backup plan is needed. In fact, I think all ballot styles for all elections need to be checked and entered into SCORE. That is one

reason why I like option 1 here. I agree with Day's third point (regarding problematic and unnecessary cross-jurisdictional pilot).

Curtis Stewart: Interesting comments. I hope there will be more public discussion, as we have several years to think about the issue of presidential electors.

Elizabeth Wickert: Agree, cross-jurisdictional voting is a bad idea. Under General Rules, is Elizabeth correct? As to a danger from color coding the ballot (or the envelope?), the envelope for a primary is already labeled D or R, so if there are shenanigans at the Post Office, they are already enabled. Boulder County did the three-judge method very effectively and efficiently until the advent of the horrible, anti-integrity ballot envelope opening and ballot extracting machines. I think those machines should be outlawed.

Crystal Richards:

2.5.4 OK--but won't the party choice be obvious in SCORE because of Attachment One rules?

2.14.4 Suggest a guide, not necessarily in rules, that outlines which reports can or cannot be run. Is there a threshold? As a small county, some of our reports that include all election information are small, specifically during coordinated elections when we are only doing school and/or special district elections. <-- Good comment. Harvie Branscomb also thought the restriction was onerous, though for different reasons. Let's not do this restriction.

7.5.5 Strongly support. <-- Mary: OK.

7.5.10 Would like more clarification. Mary: I like it a lot!

7.5.11 Strongly support this change. Suggest language be added to direct how to send the ballots, Regular 1st Class, Next day, etc., to create consistency. Suggest eliminating the scanned image requirement or making it optional, if a list would be provided via email including Voter Name, Voter ID, and date received instead.

8.15.8 Strongly support. <-- Mary: OK.

Attachment One: Strongly support Option 3. We would like some clarification about rejecting the ballot packet. Are we to reject both ballots if one ballot is blank? Or reject both ballots only if both are voted? If the voter makes an "X" through or makes other references that they are not voting the ballot, is it considered blank/not voted? <-- Mary: good questions, but I support Option 1. Still, on opening, a second ballot may be found that may have a X drawn through it, for example. Voters are very creative when it comes to not following directions.

Attachment Two: We would support for the purpose of other counties being able to enter into an agreement with each other if they wanted. Kit Carson County would not utilize this option. <-- Mary: Hard to make this work in some counties but not all. I think this is just a bad idea for reasons already stated by many.

JM Fay: I agree with him on the x-jurisdiction idea. But I disagree with him on tracking who votes in which party's primary, because we need that information to balance (check the results of) the election. We will not know how a person votes. Maybe we need to go back to the drawing board and get the

citizens to revote on something better than 107/108.

Carol: good ideas all.

Joan Stephenson: I agree.

Adam Warner: I appreciate his explanations of other countries' elections (awful as some of them are), but we have to deal with our elections as they are. We need to balance the numbers in primaries according to party or there is an opportunity for ballot box stuffing or ballot stealing. So, the ballot voted by a given voter must be a public record (and put in SCORE). That fact does not necessarily define a voter's preference (for a candidate), just what party the voter wanted to make a statement in. The general election is where the voter's preference (for a candidate) is stated.

Ed Nuhfer: Some comments do not refer to specific rules, valid though the comments may be. I liked the complaint about a "county" stamping something. Please fix the wording. And in a primary, the "first-ballot-received-is-counted rule" would hold.

Emily Meadows: I disagree. We need the party ballot (not the votes) recorded by voter for the primary.

Inga Kraus: A full definitions list would be helpful, I agree.

Unknown sender: The comment does not bear on the rules.

Diane Dunn: Yes, the two CB members should be of opposite parties. A list of cronyms and other definitions would be so helpful. Please do this in the future.

Eric Mason: I disagree with Option 2, but prefer the barcode (and color coding) (Option 1) method. However, three election judges are OK, if this process is used statewide for all elections. Cross-jurisdiction voting pilot would be very problematic, as I have stated.

John LeMoine: Instead of employer-sponsored program, I think we should have Election Day be a state holiday (instead of Columbus Day). I disagree--I prefer fewer mail ballots--in person is best. User friendly language is best, I agree.

Bennett Rutledge: Boy, is he right about the timing!!! Very interesting comments. I also am surprised about making a rule about the electoral college, though there was a legal opinion about it in December. Still, that area is outside of the usual bounds of election integrity, so I will not offer any guidance.

Elizabeth Steele: Rule 2.5.4 (what a can of worms, no matter what is done).

7.5.5--I agree.

7.5.11 I disagree--We must be sure that no ballots received after 7:00 p.m. are forwarded and counted. We must be careful not to encourage voters to rely on cross-county transfer of ballots, no matter the legislative intent. We should encourage voters to get their ballots to their county's drop boxes in a timely manner to best assure that their votes will be counted. Having ballots roaming around after 7:00 p.m. but still able to be counted is asking for trouble. Again, making Election Day a state holiday

would solve a lot of problems related to inconvenience of the present system.

7.7.3--yes, treat all voters with discrepant signatures and missing signatures and missing IDs the same.

Attachments One and Two--Option 1 and no cross-jurisdictional voting are my preferences for election integrity.

Corinne Lengel: Good questions! I support the watcher rules as proposed. I disagree with Corinne about 10.5.1(c)--I want all the accepted and rejected mail ballots recorded and announced to the public, including the canvass board. The SOS should help counties afford Option 1 about party ballot voter voted.

Janice Vos: 1.1.10 could include batch and ballot number (not sure--is this a number added after the voted ballot is taken out of the envelope? Surely not before that stage! Maybe the sequence number in the given batch is what is meant). Good comment about Amended Rule 13.2.9 (a) and the need for an improved form. Color-coding not as good as barcoding because cannot be scaled up to show style for all elections. But color-coding good for voters so could be used in addition to barcoding that shows through a window. Other questions good.

Secretary Williams, It would be good to go through another round of rule-making as there is much confusion. Also, I suggest you send the entire rules list with the changes in red vs. blue (as well as struck-out vs. added in small caps) in a Word file with tracked changes. Ask for comments to be added in the Comments field. I think you would get better input.

Thank you for the opportunity to comment.

Respectfully,

Mary C. Eberle

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