

REGULAR ELECTION RULES CHANGES SUMMARY AND ANALYSIS 7/2021

Between every election, election rules change. Usually, the new rules are proposed, the SOS takes in written and verbal comment, a few adjustments are made, and the rules enacted.

Using emergency rule status means the rules are enacted first, public comment via written input and public hearing comes second.

The August 3rd hearing being held by the Secretary of State on rule making is the usual hearing on pending rule changes that have not yet been enacted. It now is also going to address the already enacted emergency rules about third party audits.

There are two times listed for this hearing in various communications from the Secretary of State's office: 1pm and 1:30 pm.

Attached is the file that goes over the changes in election rules that have been proposed through the normal process. The easiest way to review is by starting at page 17 of the pdf file. Unless the SOS changes course due to input, these rules will be enacted for the next election cycle.

20210630_Elections_NoticeRulemakingSBDR (1).pdf 593 KB [View full-size](#) [Download](#)

A few of changes being made by these proposed rules (if enacted):

2.13.2 – Sec of State will now handle inactive voter registration cancelations. (Used to be handled by county clerks.)

7.3.2 through 7.3.5 - Significant reduction of electronic voting/ballot standards, elimination of ballot logs, tracking, etc.

7.6 – Gutting of checks and balances to prevent abuse of online electronic balloting voters with disabilities.

More information about accessible electronic

ballots: <https://www.sos.state.co.us/pubs/elections/accessibleVoting.html>

These ballots can be printed at home on any printer and mailed in via any envelope at this website: <https://myballot.sos.colorado.gov/app/home> In the past, there was an application with an affirmation statement verifying qualifying disability. It appears these signatures/ballots printed on home printer paper are to be processed even without the application and in some cases where ID is required, without that ID submitted.

7.7.1 – Counties that use bipartisan judges for 1st level of signature verification of mail ballot signatures (the main way mail ballot voters are determined eligible) are no longer allowed to do so. It MUST be only one person of one party.

7.7.13(a) – Automatic signature verification software no longer has to be tested prior to the election.

8.10.2 – As per SB 250 and new state law, watchers are no longer allowed to challenge mail ballots based on discrepant signatures... and...

8.13 – The alternative of signature escalation cards are also eliminated. (Escalation cards allowed watchers to require a set number of ballots signatures be reviewed at a second level by a second team before acceptance.)

9.2.2 - Rules around election judge handling of mail ballots of voters determined to be dead by bipartisan election judge teams are very unclear to many.

10.1.5 - Canvass board role is gutted. If canvass board members or the county clerk finds an issue, they no longer have a rule allowing them to contact election judges to resolve it or for an explanation or correction.

10.3.2 - Canvass board no longer accounts and balances the election. They no longer certify the official abstract of votes. They no longer reconcile the number of ballots cast to the number of voters who voted by reviewing a variety of documents they reviewed in the past. They used to review detailed logs and statements of ballots. Now they are not required to review these documents.

10.3.3 -- If the canvass board identifies a discrepancy in a Statement of Ballots form (which they are no longer required to see) the board may no longer review the particular ballots at issue to identify, correct, and account for the error.

20.11.2 - Elimination of seals, chain of custody logs, transfer logs of voting equipment used in vote centers. Reduces ability to catch acts to tamper with machines store overnight in vote centers.

20.19.5 – Secrecy envelopes no longer required in vote centers. No longer required to track serial numbers of voting equipment or log those who are using admin functions to allow election judges to change counting of overvotes.

Written comment on all election rules including these can be found here: https://www.sos.state.co.us/pubs/rule_making/hearings/2021/ElectionsRulesHearing20210803.html

If you have concerns about any of these changes, you can email your comments to SoS.Rulemaking@sos.state.co.us or register to give verbal comment here: <https://register.gotowebinar.com/register/3181275682733744144>

You can give comment about the emergency rule use regarding third party citizen audits and any other issues with the other election rules as well.

Proposed Election Rules Factsheet

Our current Colorado Secretary of State, Jena Griswold, has now proposed non-emergency rules continuing her partisan attack on citizen involvement in elections.

A few of many problematic rule changes are listed below

Signature verification:

7.7.13a - Elimination of the rule requiring signature verification equipment be tested prior to use in the election. Your ballot signature could be evaluated by untested equipment.

8.10.2 - 8.13 - Watchers would no longer be allowed to challenge significantly discrepant signatures on mail ballots or escalate signatures for additional review.

7.7.8 and 7.7.9 - Increased means to remove trained bipartisan citizen signature verification election judges.

Poll watchers:

8.14 - Beefed up means to remove trained citizen poll watchers.

8.14.5 - Gag order on citizen poll watchers speaking about public elections information to other citizens involved in election processes when not watching at an election site.

Dead voters:

9.2.2 - Significantly increased barriers to remove voters from Colorado voter rolls confirmed to be dead by bipartisan citizen election judges. Voter challenges on dead voters can be stopped from being processed by one election judge of one-party objecting to the challenge.

Voter registration

2.13.2 - The Secretary of State will now make the decision when inactive voter registration records are canceled, instead of keeping it under the local control of county clerks

Data, documentation & security:

20.19.5 - Elimination of the log of those who use administrative functions to change what votes are accepted and rejected by vote tallying equipment.

7.3.2 through 7.3.5 - For votes submitted by on electronic (not paper) ballots, there would be a significant reduction of electronic voting security standards. Elimination of rules requiring ballot logs of electronic votes and tracking records.

7.6 - Gutting of checks and balances to prevent abuse of online balloting options for voters with disabilities. (This is a system to allow printing of ballots at home and mailing in via any envelope.)

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Notice of Proposed Rulemaking

Office of the Secretary of State
Election Rules
8 CCR 1505-1

Date of notice: June 30, 2021
Date and time of public hearing: August 3, 2021 at 1:00 p.m.

I. Hearing Notice

As required by the State Administrative Procedure Act,¹ the Secretary of State gives notice of proposed rulemaking. The hearing is scheduled for August 3, 2021 at 1:00 p.m. **This meeting will be conducted via webinar.** Details regarding how to join the webinar and testify during the hearing are outlined in section VI of this notice.

II. Subject

The Secretary is considering amendments to the election rules² to improve the administration and enforcement of Colorado election law.³

Specifically, the Secretary proposes permanent rule revisions necessary to: implement Senate Bills 21-188 and 21-250; update petition review rules, signature verification review rules, and watcher and canvass rules; remove references to Direct Recording Electronic (DRE) voting devices and Voter Verifiable Paper Audit Trail (VVPAT) equipment because those systems are no longer in use in the State of Colorado; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Additionally, the Secretary proposes permanent adoption of voting system emergency rules that were temporarily adopted on 6/17/2021. The Secretary may consider additional rule amendments.

A detailed Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

¹ Section 24-4-103(3)(a), C.R.S. (2020).

² 8 CCR 1505-CCR 1.

³ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.

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