CHAPTER 8: BALLOT PROCESSING AND VOTER INTENT

BALLOT PROCESSING

The county clerk must arrange for the delivery of all returned ballots to the counting facility during the fifteen days prior to and including election day. [Section 1-7.5-203, C.R.S.] In addition, bipartisan teams of election judges must collect ballots from all drop-off locations and receive them into SCORE in accordance with the timelines set forth in Elections Rule 7.5.4.

Each day when ballots come in, an election official must count the ballot envelopes, batch them, and record the number of ballots received. An election official must date-stamp and process the returned ballot envelopes in SCORE immediately upon receipt at the ballot processing location. Ballots and return envelopes must be sealed and stored in a safe, secure place. Except for ballots submitted by military and overseas electors, any ballot received after the close of polls must be date-stamped, but remained sealed and not counted. [Section 1-7.5-107(4)(b)(II), C.R.S., Election Rules 7.5.2, 7.5.3, and 7.5.6] Election officials must also process undeliverable ballots in SCORE immediately upon receipt. [Election Rule 7.5.5]

If an elector delivers a ballot to the wrong county, the receiving county must date stamp the ballot envelope and forward it to the correct county for processing. The correct county must treat the ballot as received as of the date and time of the date stamp. [Section 1-7.5-107(7), C.R.S., Election Rule 7.5.10]

In certain instances where the county has insufficient information to determine eligibility during ballot processing, the county must send a correspondence to the elector:

- Missing identification [Section 1-7.5-107(3.5)(d), C.R.S.]
- Ballot returned in unofficial envelope [Election Rule 7.6]
- Missing or discrepant signature on ballot return envelope [Section 1-7.5-107.3, C.R.S., Election Rule 7.7]

Counties may begin counting ballots 15 days prior to the election and continue until counting is completed. No information concerning the count may be released until after 7 p.m. on election day. [Sections 1-7.5-107.5 and 1-7.5-202, C.R.S.]

The county must dissociate any batch number that could trace a ballot back to the specific voter who cast it from the counted ballots or any reports generated by the tabulation software no later than the final certification of the abstract of votes cast. [Election Rule 7.5.9]

SIGNATURE VERIFICATION

Before opening a mail ballot, receiving judges must compare the signature on the self-affirmation on the return envelope with the signature stored in SCORE. [Sections 1-7.5-107.3 and 1-7.5-204, C.R.S.] In determining whether the signatures match, the election judges should consider:

- An obvious change in the signatures slant.
- A printed signature on one document and a cursive signature on the other document.
- A difference in the signature's size or scale.
- A difference in the signature's individual characteristics, such as how the "t's" are crossed, "i's" are dotted, or loops are made on "y's" or "j's".
- A difference in the voter's signature style, such as how the letters are connected at the top and bottom.
- Evidence that ballots or envelopes from the same household have been switched.
- Any other noticeable discrepancy such as misspelled names.

For more information on the signature verification process, resolution of disputes, and signature verification devices, see Sections 1-7.5-107.3 and 1-7.5-204, C.R.S., and Election Rule 7.8.

After election judges verify the elector's eligibility and signature, the county clerk must dissociate and segregate the mail ballot return envelope from the secrecy sleeve and a voted ballot in a manner that ensures no person is able to determine how an individual voted. [Election Rule 7.5.7]

Ballots must be counted as outlined on Section 1-7.5-205, C.R.S.

All uncounted ballots must remain sealed in the return envelope and stored as election records in accordance with section 1-7-802, C.R.S. and Election Rule 7.8.5.

VOTER INTENT

If a ballot is damaged or defective such that the electronic vote-counting equipment cannot properly count the ballot, election judges must make a true duplicate copy of the damaged ballot in the presence of two witnesses. Election judges must clearly label the duplicate ballot and record it in a duplicate ballot log. [Sections 1-7-309 and 1-7-508, C.R.S., Election Rule 18]

The Voter Intent guide is available on Clerks' Corner > Policy & Legal Resources > Election policy. This guide outlines specific scenarios to aid election judges in determining voter intent consistently with statute and rules. The guide covers topics such as the target area, consistent patterns, overvotes and corrected votes, written instructions, and write-in candidates.

Bipartisan teams of election judges must review ballots for voter intent in the following situations:

- When a county is hand-counting paper ballots;
- When a bipartisan team of election judges is resolving damaged ballots;
- When a bipartisan team of election judges is resolving ballots that are unreadable by an optical scan voting device; or

- When a bipartisan team of election judges is resolving ballots containing votes for write-in candidates.

The Voter Intent guide <u>must</u> be used in every situation requiring resolution of voter intent. [Election Rule 18]

PROVISIONAL BALLOTS

Provisional ballots may not be processed until all mail and in-person ballots have been processed. [Election Rule 17.2] Counties are required to keep a log of every provisional ballot cast and its disposition. [Section 1-8.5-110(4), C.R.S.]

Election judges must determine whether the elector is eligible to have his or her provisional ballot counted. Once eligibility is determined, the judges must also determine what races and ballot measures the elector is eligible to vote.

Judges must use minimum matching criteria to ensure that the record identified in the verification resources belongs to the elector who cast the provisional ballot.

Election judges must complete the "Verification Judge" information on the back of the provisional ballot envelope as they process the ballot. In assigning the accept/reject code, the judge should use the code that most clearly indicates the reason for accepting or rejecting the ballot. Only one code may be entered into the SCORE provisional ballot module. [Election Rules 17.2.9 and 17.2.10]

For a provisional ballot to be counted, verification of eligibility must be limited to the following:

- Sources provided by the Secretary of State or law enforcement agencies regarding felons who are serving a sentence of incarceration or on parole;
- SCORE; and
- The information provided on the provisional ballot envelope, including the affidavit.

[Election Rule 17.2.3]

Counties must provide a way for the elector to find out if his or her provisional ballot was counted, for at least 45 days after election day. [Section 1-8.5-111, C.R.S., and Election Rule 17.7]

Counties must count and store provisional ballots separate from all other ballots. If 25 or more provisional ballots are cast and counted, the county must report the results as a separate total. If fewer than 25 provisional ballots are cast and counted, the county must report the results included with the results of regular voting.

CHALLENGED ELECTORS

If an in-person elector's right to vote is challenged, the elector must fill out a Voter Challenge form (available on Clerks' Corner under SOS approved forms > Voter challenges). In order to be issued a regular ballot, the elector must respond to a series of questions about his or her eligibility and sign the challenged voter oath. [Sections 1-9-201 through 204, C.R.S.; Election Rule 9.1]

If the elector cannot, or will not, satisfactorily answer the questions or sign the oath, the election judge must issue a provisional ballot. [Section 1-9-201, C.R.S.; Election Rule 9.1.1]

If the elector chooses to vote the provisional ballot, the election judge must attach the challenge form to the provisional ballot affidavit/envelope and write "challenge" on the affidavit. If the verification judges determine that the elector is eligible to vote, the ballot is counted; if the elector is not eligible, the ballot is not counted.

If an elector's mail ballot is challenged, the election judge must forward the ballot to two other election judges of different political party affiliations who must review the elector's eligibility to vote. [Section 1-9-207, C.R.S.; Election Rule 9.2]. If both election judges determine the elector is not eligible, the judges follow the procedures outlined in section 1-7.5-107.3(2), C.R.S. [Election Rule 9.2.1]. If both election judges determine the elector is eligible and the signature is valid, the election judges must count the elector's ballot. [Election rule 9.2.2]

TRAININGS AND OTHER RESOURCES

The following trainings are available on Clerks' Corner:

- Voter Intent
- Provisional Ballots

The following approved forms are available on Clerks' Corner:

- Ballot returned in wrong envelope letter
- Missing copy of ID letter – mail ballot and provisional ballot
- Missing signature letter – mail ballot, provisional ballot, and UOCAVA
- Signature verification letter & affidavit
- Signature verification tracking log
- Provisional ballot affidavit
- Provisional ballot log
- In-person challenge
- In-person challenge – special district property owner
- Mail ballot challenge

Policy & Legal resources:

- Voter Intent guide

BEST PRACTICES:

Provisional Ballots:

There are a number of ways to batch and prepare provisional ballots for verification depending upon the county processes. Regardless of the process the county chooses, it is important to be consistent and organized. Some counties separate provisional ballots by precinct or VSPC, others use batches of 25 to 50 ballots. Whatever method the county uses, the county must ensure it can account for all provisional ballots.

Copying and sorting:

Some counties photocopy the provisional ballots before beginning verification and use the copies to conduct all verification activities. Some counties conduct verification activities using the original affidavit and make copies as necessary after the ballots are coded. Other counties choose to print the affidavits on NCR paper so there is an automatic copy of every affidavit. There is no requirement to do this in a particular way. The county should use the process that best suits its needs.

In order to ensure that the process runs smoothly, ballots should be sorted by the reason the provisional ballot was issued. The county should sort out the ballots that are easiest to verify, such as "missing signature" and "ID required" and process those first. Sorting these will help the county get the requisite letters out quickly and will allow the county to keep the more complex affidavits together so the county can train judges on how best to research the issues.