U.S. ELECTION ASSISTANCE COMMISSION

2016 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing Federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2016 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

As appropriate, please provide your state's legal citation for the responses to the questions beginning on the following page.

Please answer each question to the best of your ability. If a term or concept is ambiguous, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference in your state but is widely used in practice, please explain. If election procedures vary at the local level within your state, please explain these variations to the best of your ability.

The Statutory Overview data collection document has two columns below each question.

- On the left, we have provided you with the answer your state provided for the 2014 Statutory Overview. If there has not been a change in your state's laws or legal citation in the response to a question, please mark the box labeled **No Change since 2014** at the top of the left column.

- If the response has changed since 2014 – or your state has not answered this question previously for some reason— please mark the box labeled **Changed since 2014** at the top of the right column and then provide the new answer in the text box provided. If your response is too long to fit in the box, please make a note in the text box and place your response in the "Notes" page at the end of the document. Additionally, if a law was repealed in full, please answer "repealed in full" in the box.

If any of your state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court or by executive decision, please specify.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

State code 1.11 - An attempt to vote for a larger number of candidates than is allowed.

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

This term has no legal definition.

State code 1.12 - An attempt to vote for a smaller number of candidates than is allowed.

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a) Over-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

Section 1-1-104 (23.4), C.R.S. reads, "the selection by an elector of more names than there are persons to be elected to an office or the designation of more than one answer to a ballot question or ballot issue." An overvote means an instance where an elector marks votes for more than the maximum number of candidates or responses for a ballot measure. (Election Rule 1.1.30 [8 CCR 1505-1])

2016 Response:

Election Rule citation change: Election Rule 1.1.31 [8 CCR 1505-1]

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

Section 1-1-104 (49.7), C.R.S. reads, "the failure of an elector to vote on a ballot question or ballot issue, the failure of an elector to vote for any candidate for an office, or the designation by an elector of fewer votes than there are offices to be filled; except that it is not an undervote if there are fewer candidates than offices to be filled and the elector designates as many votes as there are candidates."
An undervote means an instance where the voter marks votes for fewer than the maximum number of candidates or responses for a ballot measure. [Election Rule 1.1.41]

2016 Response:

Election Rule citation change: Election Rule 1.1.42 [8 CCR 1505-1]

c) Blank ballot

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A blank ballot means a ballot on which the voter has made no marks in any voting position, has been marked with an unreadable marker, or has consistently marked outside of the "read" area of the optical scanner. [Election Rule1.1.6

2016 Response:

d) Void/Spoiled ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

There is no legal definition for a voided or spoiled ballot in Colorado. However; both terms are widely understood to mean a ballot that can no longer be used for tabulation purposes. Section 1-7-504, C.R.S., clarifies the spoiled ballot process by stating, "any eligible elector who spoils a ballot or ballot card may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot or ballot card. The spoiled ballots or ballot cards thus returned shall be immediately canceled and shall be preserved and returned to the designated election official."

2016 Response:

e) Provisional/Challenged ballot

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

Provisional ballots:
A provisional ballot must be provided to any elector who appears at the polls, but whose eligibility to vote cannot be established or who does not present appropriate ID. The county clerk and recorder must review each affidavit to attempt to verify that the elector who cast the ballot is eligible to vote. The clerk uses the information on the affidavit, the information in the statewide voter registration database, information provided by the Secretary of State or law enforcement agencies, and information in the DMV database. If the county clerk verifies the elector's eligibility, the ballot will be counted. The county must complete verification within 14 days after a general election

Challenged ballots:
There is no legal definition for a challenged ballot; however, the process for handling challenges is identified in part 2, article 9 of title 1, C.R.S. For an Election Day challenge, a voter may sign a challenge form and vote a regular ballot, or refuse to sign the form and vote a provisional ballot (Section 1-9-201, C.R.S.). For challenges of ballots cast by mail (or a provisional ballot), the ballots are still processed in a normal manner for counting purposes (Section 1-9-207, C.R.S.)

2016 Response:

No change to provisional ballot procedures

Challenged ballots: New election rules clarify the process for challenging a mail ballot voter

If an individual challenges a mail ballot voter under section 1-9-207, C.R.S., two election judges of different party affiliation review the voter's eligibility to vote. If the voter is eligible, the ballot must be counted. If the judges determine that the voter is ineligible under section 1-9-207, C.R.S., the judges must follow the signature discrepancy procedures under section 1-7.5-107.3(2), C.R.S. Unless the challenge is withdrawn, the county clerk must notify the voter. The notification must include a copy of the challenge form, the disposition of the challenge, and notice that the challenge will be referred to the district attorney. The county clerk must provide a copy to the challenger upon request. (Election Rule 9.2 [8 CCR 1505-1])

f) Absentee

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

For all general, primary, odd-year, coordinated, recall, and congressional vacancy elections conducted on or after July 1, 2013, the election must be conducted by mail ballot. (Section 1-7.5-104, C.R.S.) Colorado still has Voter Service Polling Centers (VSPCs) where electors can vote in person. Given that Colorado elections are now conducted by mail ballots, absentee means a request to receive a mail ballot at an address other than the mailing address associated with an elector's registration record. (Section 1-7.5-116, C.R.S. , and Election Rule 7.3)

2016 Response:

g) Early voting

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
An elector may vote in-person at any voter service and polling center in the elector's county beginning fifteen days before a general election . (Section 1-5-102.9, C.R.S., and Election Rule 7.9)	

h) Active Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
An active elector is one who has provided registration information to the county clerk and recorder, has updated registration information, or has voted in the previous election conducted by the county clerk and recorder. (Section 1-2-605 (4), C.R.S.) An inactive elector's status will be changed to active if the elector returns a confirmation card or change of address card sent by the county clerk and recorder. (Section 1-2-605(4)(d), C.R.S.)	

i) Inactive Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

An elector's status can change to inactive for a variety of reasons. If an active elector fails to vote in a general election, the county clerk and recorder will mail a confirmation card. (Section 1-2-605(2), C.R.S.) If that confirmation card is returned by USPS as undeliverable, the county clerk and recorder must mark the elector's registration record as inactive. (Section 1-2-605(2), C.R.S.) If an active elector's mail ballot is returned to the county clerk and recorder as undeliverable, the elector's registration record will be marked "Inactive" and a confirmation card will be mailed. (Section 1-2-605(5), C.R.S.) If the elector fails to respond to the confirmation card, her record shall remain marked "Inactive." (Section 1-2-605(5), C.R.S.) Any registered elector whose registration record is marked "Inactive" remains eligible to vote in any election where registration is required, so long as the elector meets all other requirements to be eligible to vote. (Section 1-2-605(3), C.R.S.)

2016 Response:

j) Other terms (please specify) _____

☐ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. "Significant" does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Colorado's voter registration database system is a top down system.

2016 Response:

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Not applicable.

2016 Response:

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

An elector's status can change to inactive for a variety of reasons. If an active elector fails to vote in a general election, the county clerk and recorder will mail a confirmation card. (Section 1-2-605(2), C.R.S.) If that confirmation card is returned by USPS as undeliverable, the county clerk and recorder must mark the elector's registration record as inactive. (Section 1-2-605(2), C.R.S.) If an active elector's mail ballot is returned to the county clerk and recorder as undeliverable, the elector's registration record will be marked "Inactive" and a confirmation card will be mailed. (Section 1-2-605(5), C.R.S.) If the elector fails to respond to the confirmation card, her record shall remain marked "Inactive." (Section 1-2-605(5), C.R.S.) Any registered elector whose registration record is marked "Inactive" remains eligible to vote in any election where registration is required, so long as the elector meets all other requirements to be eligible to vote. (Section 1-2-605(3), C.R.S.)
The county clerk will mark an "Inactive" record "Active" if: (a) The elector updates his or her registration information; (b)

2016 Response:

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or Federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

In Colorado, SCORE has the following agency interfaces:
1. CDOR Interface – As part of the verification process, the system automatically looks for matching records in the CDOR database based upon the key line information. This information includes the voter's full name, date of birth, gender, driver's license number, and last four of social security number (if provided). The CDOR verification attempts to match the applicant to a CDOR record bearing the same name, date of birth and driver's license number. The system will generate a list of potential matches and rank the confidence of the matches using the ranking criteria.[Sections 1-2-204, 1-2-501, 1-2-302(6.5), C.R.S.,] The user reviews any potential matches, beginning with the highest confidence rank to determine whether the records match. The user evaluates all available information in making the determination. If there is a match in the CDOR database, the user selects the appropriate record. The system will check the "CDOR Verification" box in the voter record to indicate that

2016 Response:

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The Secretary compares the information in the statewide voter registration database against
NCOA monthly. The address change information is provided to each county through secure FTP.
Additionally, a county clerk and recorder may conduct a NCOA search as frequently as he or she sees fit. (Section 1-2-302.5(5), C.R.S.) If the search reveals that an elector has moved within the county, the county clerk and record must mark the registration record "active," update the record with the new address, and send a confirmation card to the elector's old address. (Section 1-2-302.5(2)(b)(I)(A), C.R.S.) If the search indicates that an elector has moved to a different county within the State, the county clerk and recorder must send a confirmation card to the new address. (Section 1-2-302.5(2)(b)(II)(A), C.R.S.) If the search indicates that an elector has moved to another State, the elector's record must be marked "Inactive" and a confirmation card must be sent to the new, out-of-state address. (Section 1-2-302.5(2)(b)(III), C.R.S.)

2016 Response:

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Section 1-2-103, C.R.S. states that "[n]o person while serving a sentence of detention or confinement in a correctional facility, jail, or other location for a felony conviction or while serving a sentence of parole shall be eligible to register to vote or to vote in any election; however, a confined prisoner who is awaiting trial but has not been tried shall be certified by the institutional administrator and shall be permitted to register to vote by mail registration pursuant to part 5 of this article." Thus, a convicted felon serving a sentence of confinement or parole shall not be eligible to register to vote or vote. However, a felon serving a period of probation is eligible to register to vote and vote. Once a convicted felon completes his/her sentence of confinement including any period of parole, his/her voting rights are automatically restored.

2016 Response:

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

Electors who have been issued a Colorado driver's license or state ID card may register to vote online through www.govotecolorado.com. Applicants will be required to enter their driver's license or state ID number and consent to the use of their signature on file with the Department of Revenue for voter registration purposes. Beginning in August 2012, this application is mobileoptimized Applicants who have not been issued a Colorado driver's license or state ID card may access an interactive voter registration application online via the Secretary of State website. They may print the form and complete by hand or use the fillable form option and then print the form. The applicant may mail, fax, or email the form as a PDF to the county.

2016 Response:

Beginning in May, an applicant who has a Driver's License and whose social security number is in their Department of Revenue record may register or update their registration using the last four digits of their social security number.

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Counties have the option to count ballots centrally or at the voter service and polling center.
Provisional ballots are counted centrally after Election Day.
Final tabulation of all returns occurs centrally.

2016 Response:

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Yes. Precinct-level reporting is required in Colorado in general elections. (Sections 1-7-601(1) and 1-10-106(1), C.R.S., Election Rule 10.5)

2016 Response:

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Mail and in-person votes are reported as a single total for each precinct. Provisional ballots are reported as a separate total if 25 or more provisional ballots are cast and counted in a county. But if fewer than 25 provisional ballots are cast and counted, the results are reported with the mail and in-person totals. (Section 1-8.5-110, C.R.S.)

2016 Response:

d. How are UOCAVA ballots counted and reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

UOCAVA ballots are counted and reported as part of the larger totals.

2016 Response:

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

For all general, primary, odd-year, coordinated, recall, and congressional vacancy elections conducted on or after July 1, 2013, the election must be conducted by mail ballot. The county clerk will mail a ballot to all voters whose registration record is marked "Active". (Section 1-7.5-104, C.R.S.)

2016 Response:

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Yes, Colorado does provide for in-person early voting. An elector may vote in-person at any voter service and polling center in the elector's county beginning fifteen days before a general election. (Section 1-5-102.9, C.R.S., and Election Rule 7.9). Counties have the option to count ballots centrally or at the voter service and polling center.

2016 Response:

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

For all general, primary, odd-year, coordinated, recall, and congressional vacancy elections conducted on or after July 1, 2013, the election must be conducted by mail ballot. (Section 1-7.5-104, C.R.S.)

2016 Response:

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

1-8.5-101. Provisional ballot - entitlement to vote.
(1) At any election conducted pursuant to this title, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the registration list for the precinct or upon examination of the records on file with the county clerk and recorder shall be entitled to cast a provisional ballot in accordance with this article.
(2) An elector who desires to vote but does not show identification in accordance with section 1-7-110 (2) may cast a provisional ballot.
(4) No elector shall be denied the right to cast a provisional ballot in any election held pursuant to this title.
(5) Any unaffiliated elector at a primary election may cast a regular party ballot upon openly declaring to the election judge the name of the political party with which the elector wishes to affiliate pursuant to section 1-2-218.5 or 1-7-201.
If a county loses connectivity to SCORE (the voter registration database and system for giving voting credit) the election judges must issue provisional ballots until connectivity is restored. (Election Rule 17.1.2.)
See also SOS Election Rule 17 concerning Provisional Ballots.

2016 Response:

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The relevant citations are included below:
Sections 1-8.5-107, 1-8.5-108, and 1-8.5-109, C.R.S. have been repealed. A voter may vote in person at any voter service and polling center in the county where he or she resides.

2016 Response:

C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.

If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

Section 1-7-514, C.R.S. outlines post-election audits and SOS rule 11.5.4 further defines the process. Section 1-7-515 requires the development and implementation of a risk-limiting audit process beginning with the 2017 coordinated election.
11.3.3 Post-Election Audit
(a) No later than 48 hours after the close of polls on election night, the Secretary of State must notify the designated election official which voting devices and which race or races on the ballots will be audited based on the submitted hardware inventory list referred to in Rule 11.2.
(b) The Secretary of State will randomly select five percent of ballot scanners, and five percent of DRE voting devices.
(1) If the county used a scanner in any voter service and polling center, the county must also audit at least one of the scanners.
(2) If the Secretary of State receives a report of equipment malfunction, the Secretary may select additional equipment for inclusion in the audit.
(c) In accordance with section 1-7-514, C.R.S., the Secretary of State may only select devices used in the election.
(d) The Secretary of State must randomly select at least two races per device for verification to ensure that each race or measure on the ballot is audited in accordance with section 1-7-514, C.R.S.
(e) For optical scanners the designated election official must randomly select either of the following amounts based upon the total number of ballots counted:
(1) If fewer than 500 ballots were counted, then a minimum of 20 percent of the ballots counted on the device.
(2) If 500 or more ballots were counted, then a minimum of 100 ballots plus five percent of the difference between the number of ballots counted and 500, but not more than 500.
(f) The designated election official must reset the public counter of the voting device selected for audit to zero and tabulate the ballots on that device.
(g) The designated election official must manually verify the new report from the electronic count.
(h) The designated election official must seal the ballots and a copy of the report in a separate container.
(i) For DREs without a VVPAT, the designated election official must manually verify the image of all the ballots in

2016 Response:

Election Rule citation change: Election Rule 11.3.3 [8 CCR 1505-1]

C8. Please describe any state requirements for poll worker training.

☒ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

In accordance with section 1-6-101, C.R.S., " (5) the county clerk and recorder…shall hold a class of instruction concerning the tasks of an election judge and a special school of instruction concerning the task of a supply judge not more than forty-five days prior to each election. (6) Each person appointed as an election judge shall be required to attend one class of instruction prior to the first election in an election cycle in which the person will serve as an election judge. The county clerk and recorder…may require a person appointed as an election judge to attend more than one class of instruction in an election cycle." In addition to training provided by the county clerk, a supervisor judge for a voter service and polling center must complete an online training course provided by the Secretary of State. (Election Rule 6.4.2)
For judges training purposes, an "election cycle" includes all elections held during a calendar year beginning with January 1 and ending on December 31. (Election Rule 6.2)

2016 Response:

In addition to the previous requirements:

All judges who access the statewide voter registration database must take the election judge online security training provided by the Secretary of State.

All signature verification judges must take the signature verification training provided by the Secretary of State. (Election Rule 6.8 [8 CCR 1505-1])

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Section 1-5-704(VIII), C.R.S., relating to standards for accessible voting systems, states that the voting system "shall warn the elector of the consequences of overvoting for an office." Furthermore, section 1-5-704 (VII), C.R.S., states that the ballot marking device "shall alert the elector before the ballot is marked that the elector has made an overvote, as defined in section 1-1-104 (23.4), or an undervote, as defined in section 1-1-104 (49.7), and allow the elector to make corrections."
In accordance with Section 1-7-508(2), C.R.S., "Votes cast for an office to be filled or a ballot question or ballot issue to be decided shall not be counted if a voter marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot question or ballot issue. A defective or an incomplete mark on any ballot in a proper place shall be counted if no other mark is on the ballot indicating an intention to vote for some other candidate or ballot question or ballot issue."

2016 Response:

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

When a person registers to vote, he or she must provide:
1. A valid Colorado driver's license number or the number of an identification card issued by the Colorado Department of Revenue.
2. If the applicant has not been issued a valid Colorado driver's license or ID card, the applicant must the four last digits of the social security number.
3. If the applicant has not been issued a Colorado driver's license or ID card, or social security number, the applicant must affirm he or she has neither ID number.
The number provided by the applicant will be verified against the information provided by the Department of revenue. If the number does not match a Department of revenue record containing the same name and date of birth, or the applicant cannot provide the number, the applicant will be required to provide a copy of ID with his or her ballot if he or she votes for the first time in Colorado by mail.

2016 Response:

b. casting an in-person ballot;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

c. casting a mail-in or absentee vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A first time voter who does not provide a verifiable driver's license or state identification number, or last four digits of his or her social security number when he or she registers to vote must provide a copy of identification when voting by mail for the first time.

2016 Response:

d. casting a ballot under UOCAVA;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

In accordance with federal law and section 1-8-113(3)(f), C.R.S., any voter eligible to vote under the provisions of UOCAVA are exempt from the requirement to provide ID.

2016 Response:

e. any other stage in registration or voting process in which identification is required (please specify).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:	2016 Response:
See Appendix A	Watchers: Election Rules 8.1-8.16 outline procedures for watchers. In addition to the procedures outlined in the the 2014 document: Each county must submit a watcher accommodation plan to the Secretary of State 90 days before the election. (Election Rule 8.7 [8 CCR 1505-1]) Election Rule 8.8 further clarifies the minimum number of watchers per appointing entity. In central count locations the minimum number is one per central count process but no fewer than one for every 10 election judges. For signature verification, one watcher for every four election judges. One water at each voter service and polling center or one for each voter service and polling center process. But in all cases the number of watchers permitted is subject to space limitations and local safety codes.

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See Appendix A

2016 Response:

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing Federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 04/30/2017). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2014 Election Administration and Voting Survey, 1335 East West Highway, Suite 4300, Silver Spring MD, 20910.

NOTES – please place longer responses below

Appendix A – Colorado 2014 Data

A2. The significant changes are identified below by original bill number. Bills starting with "13" indicate that they were passed during the 2013 session of the Colorado General Assembly. Bills starting with "14" indicate that they were passed during the 2014 session. Bills starting with SB indicate that they are "Senate Bills." Bills starting with HB indicate that they are "House Bills." HB 13-1303:

Residency. Previously, to be eligible to register to vote, a person must have resided both in the state and in the precinct in which he or she intended to register for at least 30 days prior to an election. The act shortens the time required for state residency to 22 days and eliminates the minimum time that an elector must have resided within a Colorado precinct.

Registration. Under previous law, voter registration was to be effected no later than 29 days before an election for a person to cast a ballot in that election. The act expands the time during which a person may register to vote in an election and describes the deadlines associated with the various methods of voter registration. Specifically, a person may register by:

- Submitting a voter registration application through the mail, a voter registration agency, or a voter registration drive no later than 22 days prior to an election;
- Appearing in person at his or her county clerk and recorder's office when registration is permitted at the office or submitting an application at a high school in accordance with high school registration procedures;
- Applying via a local driver's license examination facility or through the on-line voter registration system maintained by the secretary of state through 8 days prior to an election;
- Visiting a voter service and polling center during the time that such location is open, including on or prior to the date of the election.

Voter service and polling centers and ballot drop-off locations. To complement the implementation of mail ballot elections, the act requires county clerk and recorders to establish a minimum number of voter service and polling centers, depending on the number of active registered voters in the county. Factors that county clerk and recorders must consider in designating voter service and polling centers are enumerated.

Each voter service and polling center must provide the following:

- The ability for an eligible elector to register to vote;
- The ability for an eligible elector to cast a ballot;
- The ability for an eligible elector to update his or her address;
- The ability for an eligible elector who has legally changed his or her name to have his or her name changed in the registration records;
- The ability for an unaffiliated registered elector to affiliate with a political party and cast a ballot in a primary election;
- Secure computer access; except that smaller counties may seek a waiver of this requirement upon demonstrating hardship and securing approval of a plan to access the statewide voter database and conduct real-time verification of voter eligibility via telephone or other means;
- Facilities and equipment for persons with disabilities, including direct record electronic voting machines or other voting systems accessible to electors with disabilities;
- Voting booths;

 Original and replacement ballots for distribution;

 Mail ballots to requesting electors;

 The ability to accept mail ballots that are deposited by electors; and

 The ability of a person to cast a provisional ballot. In addition to voter service and polling centers, certain counties must also establish stand-alone drop-off locations.

Electronic communications transmission. Except for ballots and voter information cards, upon request, county clerks and recorders are authorized to transmit electronically elections-related communications to voters.

SB 14-158: The act, which applies to a recall petition approved for circulation by a designated election official or to any recall election held on or after May 9, 2014, makes the following changes to the laws governing the conduct of recall elections:

 Prohibits a designated election official from suspending or avoiding the requirement that recall elections be conducted by mail ballot and requires a designated election official to develop and submit to the secretary of state a mail ballot plan for a recall election.

 Applies the laws pertaining to initiative and referendum petitions and circulators to recall elections.

 Harmonizes the affidavit contents that recall petition circulators must execute with the affidavits that ballot initiative or petition circulators must execute. Clarifies when the designated election official must certify a recall question to the ballot and call the election.

 Conforms to the state constitution the statutory time within which a recall election date must be set by a designated election official and extends the election date in the case of protest and adjudication.

 Specifies the times during which the office of the designated election official functions as a voter service and polling center and mail ballots must be sent and sets forth the number of voter service and polling centers required for each recall election.

 Applies the general election voter service and polling center (VSPC) requirements when recall elections are combined with a general election, except that there must still be one VSPC open from 22 days before the close of polls through the close of polls.

 Harmonizes with the state constitution the deadline by which a successor candidate must file his or her nomination petition and specifies the times within which such petitions must be verified and the recall election ballot certified.

 Eliminates the statutory "prior participation requirement", i.e. the condition that an elector cast a vote on the question of recall in order to have his or her vote for a successor candidate counted.

 Allows recall ballots for voters covered by the federal "Uniformed and Overseas Citizens Absentee Voting Act" (UOCAVA) to be sent separately to those voters when a recall is combined with a general election, and permits UOCAVA-covered voters to return their voted ballots via electronic methods for recall elections.

 Allows an elector who is registered in the political subdivision of a recalled elected official to file a protest alleging that a winning successor candidate is not qualified to assume the recalled officer's office and requires the vacancy to be filled in accordance with existing procedures if the court finds that the successor candidate is not qualified.

 Specifies that, in case of conflict between the recall laws and other provisions of the "Uniform Election Code of 1992", the former controls. The act also applies the laws regarding recall of elected municipal officers to the recall of local government officers.

SB 14-161: **Voter registration deadlines.** The act modifies voter registration deadlines by imposing the same deadline for voter registration applications by any method of submission, except for applications submitted through voter registration drives or at voter service and polling centers (VSPCs). Further, the act:

 Requires a person to register to vote on or before the 8th day before an election in order to receive a mail ballot for that election;

 Clarifies the time during which voter registration applications may be submitted at VSPCs for elections, other than general elections, coordinated by a county clerk and recorder; and

 Allows voter registration applications to be processed after the 8-day deadline, though voters so registering must still obtain ballots in person.

Changes in voter residence. The act modifies the provision regarding changes in voter precincts to apply to any in-state changes of residence when the elector intends the new residence to be his or her sole legal place of residence. The act also:

 Repeals the requirement that a county clerk and recorder verify the change of address of a voter who, pursuant to information received from the United States post office or a driver's license examination facility, appears to have moved in-state; and

 Eliminates the requirement that a county clerk and recorder send a non-forwardable postcard to an elector's former address of record after the elector effects a change of residence using the on-line voter registration system.

Use of last 4 digits of social security number for certain on-line voter registration activities. The act makes the provision of the last four digits of an elector's social security number in order to change an address or political party affiliation via the on-line voter registration optional.

Self-affirmations. The act harmonizes the self-affirmation a person makes when registering to vote with the statutory residency requirements; harmonizes the self-affirmation contained on signature cards with those that appear on return envelopes for voted mail ballots; and requires a self-affirmation on a mail ballot to be signed by the elector, and not a person acting on the elector's behalf, in order to be valid.

National change-of-address search. Regarding the monthly national change of address search that the secretary of state must undertake, the act:

 Specifies that the search must be performed using the database maintained by the United States postal service;

 Allows elector registration records to be changed only if the elector has signified that his or her move was permanent;

 When a search indicates that an elector has added or changed a post office box, directs the county clerk and recorder to update only the elector's deliverable mailing address and to notify the elector of such change by mailing him or her a conformation card;

 Repeals the prohibition on changing an elector's record within 60 days of a primary or general election; and

 Requires that electors who appear, pursuant to such change of address search, to have moved within a county be treated the same whether active or inactive, and requires the new addresses of such electors be kept current when confirmation cards mailed to their old addresses are returned as undeliverable.

Registration records. Because registration records are maintained and accessible electronically, the act removes obsolete requirements that county clerk and recorders maintain original records at their offices.

Ballot stubs. The act makes the use of ballot stubs and duplicate stubs optional and repeals provisions relating to acceptance and processing of those stubs and instead requires election judges to issue credit for ballots provided to each elector in the voter registration list.

Preparation of signature cards. The act eliminates the requirements for electors to manually write in signature card information and instead directs election judges to prepare signature cards using elector information contained in the on-line voter registration system.

Electors requiring assistance. The act consolidates provisions pertaining to persons who assist electors with disabilities or who do not speak English.

Signature verification. The act requires county clerks and recorders to provide training to election judges who compare signatures in the technique and standards of signature comparison.

Voter service and polling centers. The act modifies the bases on which VSPCs are required for certain elections.

Military and overseas voters. With respect to military and overseas voters, the act:

 Clarifies that ballots cast in accordance with the "Uniform Military and Overseas Voters Act" (UMOVA) are deemed timely and are counted pursuant to that act;

 In the same way that children are covered by the UMOVA, adds spouses and civil union partners of UMOVA-covered voters who are United States citizens to the purview of that act;

 Removes the deadline by which an election official must receive a declaration from such voters in order for processing prior to an election; and

 Deems electronic requests for ballots to be timely if received any time through 7 days prior to election day.

Emergency replacement ballots. The act expands the provision governing emergency replacement ballots by allowing electors to obtain and vote such ballots for nonmedical reasons, including natural disasters.

Challenges. The act makes corrections to the bases on which the residency or age of voters are challenged.

Canvass board members. The act immunizes canvass board members from liability in a proceeding based on members' acts or omissions under certain circumstances.

Criminal offenses. With regard to criminal offenses relating to elections, the act:

 Makes the tampering with, or unauthorized opening of, a ballot box a class 5 felony;

 Changes the classification of the offense of knowingly giving false information regarding an elector's place of present residence from a class 6 felony to a class 5 felony; and

 Makes knowingly aiding or abetting an elector in committing the offense of knowingly giving false information as to the elector's place of present residence a class 6 felony.

Terminology. The act defines "post office box" to mean compartments on premises administered by the United States postal service or other commercial mail service entity.

B3. There are six identified processes for changing a voter's record to "cancelled." They are,

1. Inactive to Cancelled (NVRA)

2. Registration Withdrawn

3. Deceased Elector

4. Convicted Felon

5. Moved out of state

6. Duplicate Registration

Election Rule 2.7 states that no record may be cancelled unless the minimum matching criteria are met. Minimum matching criteria are name, date of birth, and either: driver's license number, last four SSN, or residential address.

2.7 Minimum matching criteria

2.7.1 The county clerk must not transfer, cancel, or consolidate a voter registration record unless the minimum matching criteria as set forth in sections 1-2-603 and 1-2-604, C.R.S., are met. If the minimum matching criteria are not met the county clerk must send a letter to the voter requesting confirmation of the missing or non-matching information in order to transfer, consolidate, or cancel the record.

2.7.2 A match of the name means a match of the full name, except that the following are sufficient to establish a match:

(a) Common variations and nicknames in the first or middle name, i.e. Michael and Mike;

(b) Explainable and documented change of name, including last name, i.e. maiden name and married name; and

(c) Explainable and documented variations in suffix, except that the absence of a suffix in one of the records shall not be considered a variation.

Examples of suffix variations that must be explained include junior in one record and III in another.

Inactive to Cancelled (NVRA)

If a confirmation card or ballot mailed to the elector is returned to the county clerk as undeliverable, the county clerk will mark the elector's record inactive – returned mail or inactive – undeliverable ballot as appropriate, and will mail a confirmation card.

If the elector fails to respond to the confirmation card and does not otherwise update his or her record or vote for the next two consecutive general elections, the county clerk will cancel the record (Section 1-2-605(7), C.R.S.). A confirmation card is a forwardable, postage pre-paid mailing using the approved form. The mailing notifies the elector of the change in status and the consequences of failing to respond to the notice. [Section 1-2-605, C.R.S.;]

Registration Withdrawn

An elector may withdraw his or her registration at any time. To withdraw a registration, the elector must submit a written, signed request with minimum matching criteria to the county clerk. The elector can also submit the request online using his or her driver's license number or last four digits of the social security number. [Section 1-2-601, C.R.S.]

Deceased Elector

The Secretary receives a monthly list of deceased Colorado residents from the Colorado Department of Public Health and Environment. The list is imported into the statewide voter registration database for county processing. The county clerk cancels the registration record for each elector who matches to the list provided minimum matching criteria is met. The state has also recently entered into the ERIC program and provides the Social Security Death Index list to each county on a monthly basis. [Sections 1-2-302(3.5)(a) and 1-2-602(1), C.R.S.]

Convicted Felon

The Secretary receives regular notification from the United States Attorney's office listing individuals convicted of a felony in a federal district court of the United States. The Secretary provides this information to the counties. The county clerk will cancel the registration of an individual currently serving a sentence of incarceration or supervised release for a felony conviction.

The Secretary receives a monthly list from the Colorado Department of Corrections listing individuals currently serving a sentence of confinement or detention, or are on parole for a felony conviction. The list is imported into the statewide voter registration database for county processing. The county clerk cancels the registration record for each elector who matches to the list provided minimum matching criteria is met. [Sections 1-2-302(3.5)(b) and 1-2-606, C.R.S.; Election Rule 2.9]

Moved Out of County/Out of State

If the county clerk receives notice from the Secretary or another state that an elector has moved to the new state and registered to vote, the clerk will cancel the record provided minimum matching criteria is met.

Note: Now that Colorado is on a centralized database, voter moves across counties do not result in a cancellation of their record in the original county. Instead, the new county identifies the record in the database, and "moves" the voter into their county by updating the address of record. [Section 1-2-603(2), C.R.S.]

Duplicate Registration

Because Colorado uses a centralized, real-time voter registration database, counties transfer an elector's record in the database instead of creating a new record in the new county of residence. The significantly reduces the number of duplicate records the counties must review. Counties use a potential duplicate voter report in the statewide database to identify potential duplicate voters both across and within county lines. If the county clerk determines that records are duplicates and minimum matching criteria is met, the clerk will consolidate all records for the same individual into a single record in the current county of residence.

D2b. Casting an in-person ballot

All electors who vote in person must show approved identification. If an elector fails to show ID, he or she will be provided with a provisional ballot. (Section 1-7-110, C.R.S.) Valid identification for voting in person includes:

(I) A valid Colorado driver's license;

(II) A valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S.;

(III) A valid United States passport;

(IV) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;

(V) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;

(VI) A valid United States military identification card with a photograph of the eligible elector;

(VII) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;

(VIII) A valid medicare or medicaid card issued by the United States health care financing administration;

(IX) A certified copy of a birth certificate for the elector issued in the United States;

(X) Certified documentation of naturalization;

(XI) A valid student identification card with a photograph of the eligible elector issued by an institution of higher education in Colorado, as defined in section 23-3.1-102 (5), C.R.S.;

(XII) A valid veteran identification card issued by the United States department of veterans affairs veterans health administration with a photograph of the eligible elector; or

(XIII) A valid identification card issued by a federally recognized tribal government certifying tribal membership. (Section 1-1-104(19.5), C.R.S.) Current in paragraph (VII) means that the date of the document is within 60 days of the date submitted for identification purposes unless the document states a longer billing cycle. (Section 1-1-104(19.5)(a)(VII), C.R.S.; Election Rule 2.3.2)

If a form of identification includes an address, it must be a Colorado address. (Section 1-1-104(19.5)(b), C.R.S.) Government document in paragraph (VII) means a document issued by a city, county, state, or federal government and includes:

1. A certificate of Degree of Indian or Alaskan Native Blood,

2. A letter from the director or administrator of a group residential facility that indicates that the elector is a resident of the facility and that he or she resides at the street address listed in the statewide voter registration system, and

3. A division of youth corrections identification card issued by the Department of Human Services.

A government document does not include any document produced by the statewide voter registration system or using an address label produced by the system. (Sections 1-1-104(18.5), (19.5)(c), (19.5)(d), and 1-7-110, C.R.S.; Election Rule 2.3.1)A Social Security number/card (or last four digits) is not a legal form of identification for voting in person. Documents issued to individuals who are not lawfully present are not valid forms of identification for registration or voting. (Section 42-2-505, C.R.S.; Election Rule 3.3.3)

D3. Relevant statutory provisions:

Section 1-7-105, C.R.S. Watchers at primary elections.

Section 1-7-106, C.R.S. Watchers at general and congressional vacancy elections.

Section 1-7-107, C.R.S. Watchers at nonpartisan elections.

SOS Election Rule 8 concerns party watchers, official observers, and media observers.

Watchers:

A watcher is: “an eligible elector, in the State of Colorado, other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary or recall election, by an unaffiliated candidate at a general, congressional vacancy, nonpartisan, or recall election by a person designated by either the opponents/proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher shall be affiliated with that political party or unaffiliated as shown on the registration books of the county clerk and recorder. A designated watcher need not be a resident of the county he or she is designated in as long as he or she is an eligible elector in the State of Colorado. sSection 1-1-104(51),

C.R.S."

8.4 Watchers are subject to the provisions of section 1-5-503, C.R.S.

8.4.1 The designated election official must position the voting equipment, voting booths, and the ballot box so that they are in plain view of the election officials and watchers.

8.4.2 Watchers must be permitted access that would allow them to attest to the accuracy of election-related activities, including recall elections. This includes personal visual access at a reasonable proximity to read documents, writings or electronic screens and reasonable proximity to hear election-related discussions between election judges and electors. Witness and verify means to personally observe actions of election officials in each step of the conduct of an election.

(a) Election-related activities include all activities in a polling location and ballot processing and counting, such as:

(1) Observing voter check-in and registration activities.

(2) Witnessing the signature verification of mail ballot envelopes at close enough distance to verify or challenge the signature.

(3) Witnessing ballot duplication to verify accuracy according to voter intent.

(4) Observing the tabulation process or display screens of voting equipment at any time that an elector is not in the immediate voting area for purposes of voting or casting a ballot.

(5) Witnessing hand count tabulations as they are being conducted.

(6) Observing all documents and materials during the LAT and postelection audit.

(b) Watchers must remain outside the immediate voting area while an elector is voting.

(c) Watchers may be present at each stage of the conduct of the election, including the setup and breakdown of polling locations and ballot receipt and processing.

(d) Watchers may be present during provisional ballot processing, signature verification, and UOCAVA ballot processing, but may not have access to confidential voter information.

(e) The number of watchers permitted in any room at one time is subject to local safety codes.

8.4.3 A watcher may witness and verify activities described in Title 1, C.R.S., that are outside the immediate voting area, including ballot processing and counting. If election officials are conducting elections activities in separate rooms or areas of a building or buildings, the county clerk must allow additional watchers to observe and verify each separate activity in each room or area in the building or buildings.

8.4.4 Watchers appointed under this Rule 8 may observe the canvass board while it performs its duties.

8.4.5 A watcher may track the names of electors who have cast ballots, challenge electors under section 1-9-203, C.R.S., and Rule 9, and submit written complaints in accordance with section 1-1.5-105, C.R.S., and Rule 13. A watcher may observe all activities in a polling location and the processing and counting of ballots. A watcher may be present at each stage of the election including the receiving and bundling of the ballots.

8.5 In addition to the oath required by section 1-7-108(1), C.R.S., a watcher must affirm that he or she will not:

8.5.1 Attempt to determine how any elector voted or review confidential voter information;

8.5.2 Disclose or record any confidential voter information that he or she may observe; or

8.5.3 Disclose any results before the polls are closed.

8.6 A watcher may not:

8.6.1 Interrupt or disrupt the processing, verification, and counting of any ballots or any other stage of the election.

8.6.2 Write down any ballot numbers or any other identifying information about the electors.

8.6.3 Touch or handle the official signature cards, ballots, mail ballot envelopes, provisional ballot envelopes, voting or counting machines, or machine components.

8.6.4 Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots.

8.6.5 Interact with election judges except for the supervisor judge.

8.6.6 Use a mobile phone or other electronic device to make or receive a call in any polling location or other place election activities are conducted.

8.6.7 Use any electronic device to take or record pictures, video, or audio in any polling location or other place election activities are conducted.

Official Observers:

Official Observers appointed by the federal government must be approved by the Secretary of State and are subject to Colorado law and these rules as they apply to Watchers; however, they need not be eligible electors in the jurisdiction in which they act as watchers. The Rule does not apply to Official Observers appointed by the United States Department of Justice. Official Observers appointed by the Secretary are subject to the rules and regulations as prescribed by the Secretary of State. Official Observers will present letters of appointment to the designated election official in the jurisdiction where they are assigned as observers.

[Election Rule 8.7]

Media Observers:

Media Observers with valid and current media credentials may be present to witness voting and the processing and counting of ballots. However, Media Observers may be required to appoint one member of the media as a pool reporter, and one member as a pool photographer to represent all media observers. Rule 8.9 outlines the Media Observer Guidelines developed by the Secretary of State, Colorado Association of County Clerks, Colorado Broadcasters' Association, and Colorado Press Association.

E1. In accordance with section 1-1.5-105, C.R.S., SOS Election Rule 31 provides the HAVA administrative complaint procedures:

The HAVA Title III complaints may be received by the Secretary of State's office or the designated election official's office. The HAVA Complaint procedure shall be uniform and nondiscriminatory. The Complaint procedure shall conform to section 1-1.5-105(2)(a), C.R.S., as follows:

(a) A uniform and nondiscriminatory complaint procedure;

(b) Authorization for any person who has either been personally aggrieved by or has personally witnessed a violation of title III of HAVA that has occurred, is occurring, or that is about to occur, as applicable, to file a complaint;

(c) A description by the complainant in his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;

(d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;

(e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;

(f) Authorization for the secretary to consolidate two or more complaints;

(g) At the request of the complainant, a hearing on the record;

(h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of title III of HAVA has been violated.

(i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;

(j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this rule if the secretary fails to satisfy the applicable deadline specified in section 1-1.5-105(2)(i), C.R.S., and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;

(k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and

(l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to section 1-1.5-105(2)(i), is found on the basis of clear and convincing evidence to be frivolous, groundless, or vexatious.

Election Rule 13.2 outlines the following:

13.2 Help America Vote Act (HAVA) complaint procedures

13.2.1 Any person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, may file a HAVA complaint with the Secretary of State.

13.2.2 A HAVA complaint must include the approved Secretary of State's HAVA Complaint cover sheet.

13.2.3 Processing and docketing HAVA complaints

(a) Within three business days of receiving a complaint, the Secretary's designee will review the complaint to determine if it satisfies Rule 13.2.2.

(1) If the complaint does not include a cover sheet the Secretary's designee will notify the complainant of the discrepancy.

(2) If a complaint meets the criteria, the Secretary's designee will assign a complaint number, notify the complainant, and send a copy of the complaint to the person or entity alleged to have committed a violation.

(b) After notification, the person or entity alleged to have committed the violation will have 15 business days to submit a written response to the Secretary of State's office.

13.2.4 Amending a HAVA complaint

(a) A complainant may amend a complaint within seven days after filing if he or she discovers new facts relating to the existing complaint.

(b) An amendment may not contain allegations of a new violation.

13.2.5 Investigation

(a) After the response period outlined in Rule 13.2.3, the Secretary's designee will investigate the complaint.

(b) If the Secretary of State determines an immediate investigation is required, the Secretary's designee will begin investigating before the response period has closed. In making the determination, the Secretary will consider whether the issue has the potential to affect an upcoming election.

(c) Depending on the violation alleged, the Secretary's designee may:

(1) Review documents;

(2) Visit the county;

(3) Conduct interviews;

(4) Test equipment; or

(5) Take other steps necessary.

(d) While an investigation is ongoing, county clerk staff must accommodate requests by the Secretary's designee in the timeframe requested.

13.2.6 Hearing and Resolution of HAVA complaints

(a) If the complainant requests, The Secretary of State or his or her designee will hold a hearing.

(b) After the investigation and hearing, if any, the Secretary's designee will:

(1) Dismiss the complaint as not supported by credible evidence;

(2) Refer the complaint to a prosecuting authority under Article 13 of

Title 1, C.R.S.; or

(3) Find a violation, recommend a resolution, forward the recommendation for resolution to the Secretary of State, who will adopt, amend, or reject the recommendation.

13.2.7 The Secretary of State's determination is a final agency action.