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# SPECIAL DISTRICT ADMINISTRATION & ELECTIONS

## FREQUENTLY ASKED QUESTIONS

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**Department of Local Affairs**



*Strengthening Colorado Communities*

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### SPECIAL DISTRICT ASSISTANCE

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# **SPECIAL DISTRICT ADMINISTRATION & ELECTIONS FREQUENTLY ASKED QUESTIONS**

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## **INTRODUCTION**

The following document is intended to offer information about special district elections to the general public and as a guide to special districts in the conduct of elections. The information provided in this document is not to be construed as legal advice.

These FAQs are a supplement to the Division of Local Government's (DLG) *Special District Election Manual*. The *Manual* is provided to Title 32, Article 1 districts to assist in the conduct of the regular election held in May of even-numbered years.

To assist users, the answer to each question in this FAQs document includes a reference to the relevant Colorado Revised Statute (C.R.S.), the State Constitution section, attorney general opinion or Secretary of State (SOS) Election Rule.

The Colorado Constitution and the Colorado Revised Statutes are available at the state's website ([www.colorado.gov](http://www.colorado.gov)). Click on the "Government" tab at the top of the home page, then click on "Colorado Government" and select "Legislative Branch," then under "Bills and Lawmaking" click on "Colorado Statutes."

The SOS Election Rules are available at the Secretary of State's website ([www.sos.state.co.us](http://www.sos.state.co.us)). Click on "Elections Home" and click on the "Election Law, Rules, and Advisory Opinions" header. Under this heading click on a direct link to Title 1, and to the Election Rules and the Campaign & Political Finance Rules.

While the Division of Local Government makes every effort to ensure that the information in these assistance publications is current, users must be certain to use the most current versions of the referenced sources. Districts are urged to consult with legal counsel concerning the conduct of elections.

For additional special district technical assistance publications go to: [www.dola.state.co.us/dlg/resources/publications.html](http://www.dola.state.co.us/dlg/resources/publications.html) and scroll to "Special Districts."

Questions in this technical assistance guide are arranged according to the following outline:

- **Administration**
- **Elections Generally**
- **Notice and Preparation for Elections**
- **Election Judges**
- **Conduct of Elections**
- **Watchers**
- **Mail-In Voting and Permanent Mail-In Voting**
- **Challenges To Voting**
- **Provisional Ballots**
- **Certificates and Abstracts of Election**
- **Recounts**
- **Election Controversies and Contests**
- **Election Offenses**
- **Mail Ballot Elections**
- **Recall Process**
- **TABOR Related Issues**

## **ADMINISTRATION**

### **Do term limits apply to special districts?**

Yes, term limits apply to special district board members. Board members may not serve more than two consecutive four-year terms. In addition, there must be a four-year time gap before a previously elected board member can again run for office.

The voters of any political subdivision may lengthen, shorten or eliminate the limitations on terms of office imposed by Article XVIII, Section 11 of the constitution of Colorado.

Colorado State Constitution - Article XVIII, Section 11

### **Does time served as an appointee to the board count towards term limits?**

No. Term limits only apply to *full* four-year terms, not partial terms. If a director is appointed to fill a vacancy, the period served does *not* count towards the director's term limits.

Attorney General Opinion No. 2000-02

However, a director who resigns from office before the completion of the second full term cannot claim not to have served a full term for the term from which he/she resigned and therefore not be subject to the term limit. A person who resigns will be deemed to have served a complete term.

Attorney General Opinion No. 2005-04

**Can a person be a candidate for more than one special district at the same time?**

Yes. The statute makes a specific exception for special district board members by stating that the statute shall not prohibit a candidate or elected official of any political subdivision from being a candidate or member of the board of directors of any special district or districts in which he or she is an eligible elector.

C.R.S. § 1-4-501(2)

**What is the term of office for a special district board member?**

The basic term of office is four years. A two-year term occurs either during an organizational election (to stagger a board) or when a four-year board position becomes vacant and is filled by appointment. The appointment is valid only until the next regular election. If there is a remaining balance to the original term, it will be for two years. Therefore, the position to be filled will be for a two-year term.

C.R.S. § 32-1-305.5(3); 32-1-905(2)(a)

**What are the oath and bond requirements for a member of a special district board?**

Each director, within 30 days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath. When an election is cancelled, each director who was declared elected shall take the oath required within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the clerk and recorder, by any person authorized to administer oaths in the state (i.e. notaries), or by the chairman of the board and shall be filed with the clerk of the district court and the division of local government.

At the time of the filing of the oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the district, in an amount determined by the board of not less than \$1000 each, conditioned upon the faithful performance of his/her duties as director. For the treasurer, there must be filed a corporate fidelity bond in an amount determined by the board of not less than \$5000, conditioned on the faithful performance of the duties of his/her office.

If any director fails to take the oath or furnish the bond within the period allowed, except for good cause shown, his/her office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

C.R.S. § 32-1-901 & 32-1-902(2)

**Are special district board members compensated for their time?**

Each director may receive as compensation for his/her service, a sum not in excess of \$1,600 per annum, payable not to exceed \$100 per meeting attended.

C.R.S. § 32-1-902(3)(a)(II)

### **How is the board of directors organized?**

After taking the oaths and filing bonds, the board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board of the special district, and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but if such is the case, he/she shall be a member of the board. The board shall adopt a seal, and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts which shall be open to inspection of all electors, as well as to all other interested parties.

C.R.S. § 32-1-902(1)

### **What are the specific duties of the treasurer?**

The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He/she shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount determined by the board of not less than \$5000, conditioned on the faithful performance of the duties of his/her office.

C.R.S. § 32-1-902(2)

### **What causes a vacancy on the board of directors?**

A director's office shall be deemed vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

- a) If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;
- b) If a person who was duly elected or appointed fails, neglects or refuses to subscribe to an oath of office or to furnish the bond;
- c) If a person who was duly elected or appointed submits a written resignation to the board;
- d) If a person who was duly elected or appointed ceases to be qualified for the office to which he/she was elected;
- e) If a person who was duly elected or appointed is convicted of a felony;
- f) If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his/her right to appeal has been waived or otherwise exhausted;
- g) If a person who was duly elected or appointed fails to attend three consecutive regular meetings of the board without the board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness;

- h) If the person who was duly elected or appointed dies during his term of office.

C.R.S. § 32-1-905

**How are vacancies filled on the board of directors?**

Any vacancy on the board shall be filled by appointment by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term.

C.R.S. § 32-1-905(2)(a)

**ELECTIONS GENERALLY**

**Are district elections “nonpartisan” elections?**

Yes. District elections are nonpartisan, meaning that there are no political party affiliations identified with any candidate.

C.R.S. § 1-1-104(23.3)

**What is a regular special district election?**

The election on the Tuesday succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the boards of special districts and for submission of other public questions, if any.

C.R.S. § 32-1-103(17); 32-1-806(1)

**What is a special election?**

A special election is any election called by the board for submission of public questions and other matters. The election shall be held on the first Tuesday after the first Monday in February, May, October, or December. Ballot issue elections or elections held under Article X, Section 20 of the state constitution (“TABOR” elections), may be held only in a state general election (November of even-numbered years), the special district’s biennial regular election (May even-numbered years), or on the first Tuesday in November of odd-numbered years.

A special district may petition the district court which has jurisdiction for permission to hold a special election on a day other than those specified.

A ballot issue election (TABOR election) if not part of a district organizational election must be conducted either as part of a coordinated election or as a mail ballot election (in accordance with the provisions of the “Mail Ballot Election Act”, Article 7.5 of Title 1, C.R.S).

C.R.S. § 32-1-103(21); 32-1-805(2)

### **What are coordinated elections and how are they conducted?**

If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the county clerk and recorder shall be the coordinating election official and shall conduct the election on behalf of all political subdivisions that are not utilizing the mail ballot procedure set forth in the “Mail Ballot Act.”

The political subdivisions for which the county clerk and recorder will conduct the coordinated election shall enter into an intergovernmental agreement (IGA) with the county clerk and recorder for the county or counties in which the political subdivision is located concerning the conduct of the election. The IGA shall be signed no later than 70 days prior to the scheduled election. The agreement shall include, but not be limited to:

- a. Allocation of responsibilities between the county clerk and recorder and the political subdivisions for the preparation and conduct of the coordinated election; and
- b. Provision for a reasonable sharing of the actual costs of the coordinated election among the county and the political subdivision.

If a district has determined by formal action to coordinate with the county clerk and recorder, it must notify the county clerk and recorder, in writing, of its intent to coordinate no later than one hundred days before the election.

C.R.S. § 1-7-116(1), (2) & (5)

### **Can districts “share” polling places and judges?**

Districts can share polling places and, if using counting judges, share the counting judges. Each district would have its own materials (poll books, lists, Self-affirming oaths, polling place sign, etc.) but the elections could take place in the same polling place at separate tables and voting areas.

### **In what manner can elections be conducted?**

District elections may be conducted as “polling place elections” or as “mail ballot elections.” See section on Mail Ballot Elections below.

C.R.S. § 1-5-102; 1-7.5-101

### **Who conducts a special district election?**

The board shall govern and conduct all regular and special district elections and shall render all interpretations and make all decisions as to the controversies or other matters arising in the conduct of the elections.

All powers and authority granted to the board for the conduct of regular or special elections may be exercised in the absence of the board by the secretary or by an assistant secretary appointed by the board. The person named by the board

who is responsible for the conducting of the election shall be the designated election official.

C.R.S. § 32-1-804

All powers and authority granted to the governing board of a political subdivision may be exercised by an election official designated by the board. The governing body may contract with the county clerk and recorder of the county in which the political subdivision is organized to perform all or part of the required duties in conducting the election.

C.R.S. § 1-1-111(2)

**What is a “designated election official”?**

The designated election official is the member of the governing board, secretary of the board, county clerk and recorder, or other person designated by the governing body as the person who is responsible for the running of an election.

C.R.S. § 1-1-104(8)

**Are designated election officials (DEO) required to meet qualifications?**

In an *organizational election*, the court shall name either the clerk and recorder of the county in which the district is to be organized or another eligible elector as the designated election official responsible for the conducting of the election.

C.R.S. § 32-1-305.5(1)

Boards can create their own requirements when designating a person to conduct a regular or special election under their authority.

Here is a list of qualifications for the individual to be named DEO and actions to take when selecting a DEO. Please note: these items are suggestions only and are **not** mandated by law or rules:

- 1) Registered elector of the district or area to be included in the district
- 2) Experience and familiarity with C.R.S. Title 1 Election Law
- 3) Experience and familiarity with C.R.S. Title 32, Article 1 Special District Act
- 4) Customer service oriented and committed to fair elections.
- 5) Criminal background check on DEO before duties begin
- 6) Liability & Faithful performance bond for DEO
- 7) Swear in your chosen designated election official
- 8) Require DEO to take available election training.
- 9) Retain the same DEO for subsequent election cycles so the district can benefit from that person’s cumulative increase in knowledge and experience.

### **Who is eligible to vote in a special district election?**

An eligible elector is a person who, at the designated time or event, is registered to vote in Colorado, **and who is:**

- a resident of the special district or the area to be included in the special district for not less than thirty days; **or**
- Who, or whose spouse, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the district or not.
  - A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner.
  - For all elections and petitions that require ownership of real property or land, a mobile home or a manufactured home shall be deemed sufficient to qualify as ownership of real property or land for the purposes of voting rights and petitions.

**Note:** a partnership, corporation or trust is not a “person” and therefore a person owning property through such a legal entity is not eligible to vote.

C.R.S. § 32-1-103(5)

### **What is a registered elector?**

A registered elector is an elector (a person legally qualified to vote in the district) who has complied with the registration provisions of C.R.S. Title 1 Election Code and who resides within or is eligible to vote in the jurisdiction of the political subdivision calling the election.

The registration provisions of C.R.S. Title 1 state that a person is qualified for registration if the person is eighteen years of age or older on the date of the next election and who has the following qualifications:

- the person is a citizen of the United States; and
- the person has resided in this state and the polling place in which the person intends to register thirty days immediately prior to the election at which the person intends to vote; but in the case of an annexation that changes county boundaries, any person otherwise qualified to register to vote under the provisions of this section who has resided within the territory annexed for the time prescribed shall be deemed to have met the residence requirements for the polling place to which the territory was annexed.

If any provision of the Election Code requires the signing of any document by a registered elector, the person making the signature shall be deemed to be a registered elector if the person’s name and address at the time of signing the document matches the name and address for the person on the registration

document at the county clerk and recorder's office, and as it appears on the master elector list on file with the secretary of state.

C.R.S. § 1-2-101; 1-1-104(35)

**What is taxable property?**

Taxable property is real or personal property subject to general ad valorem taxes (property taxes).

C.R.S. § 32-1-103(22)

**Do severed mineral rights, including natural gas, constitute taxable real and personal property and can someone who owns severed mineral rights, including natural gas, vote in a special district election?**

Yes.

C.R.S. § 39-1-102(14)

**Can the owner of a condominium or time-share vote in a special district election?**

If the property deed as recorded in the office of the county clerk and recorder or tax assessor, includes the name of the condominium owner, (not a corporation, partnership, trust, etc.) and that individual person is registered to vote in Colorado, they may vote.

C.R.S. § 32-1-103(5)

**What is a "property owner's list"?**

The district DEO must order a property owners' list from the county assessor(s). The assessor compiles and certifies a list of all the recorded owners of taxable real and personal property within the boundaries of the district. There is an initial list provided no later than thirty days before an election with a supplemental list provided to the district no later than twenty days before the election. The list shall contain names and addresses of all recorded owners who have become owners no later than thirty days prior to the election. The cost for the lists shall be assessed by the county assessors and paid by the district holding the election. The fee for the lists shall be no less than \$25.00 for both lists nor more than one cent for each name contained on the lists, whichever is greater.

C.R.S. § 1-5-304

The list is used to verify property ownership if an eligible elector votes on the basis of property ownership within the district.

C.R.S. § 1-5-304

**What is a "registered voters' list"?**

The district DEO must order a registered voters' list from the county clerk and recorder(s). The clerk and recorder compiles and certifies a list of all the

registered voters within the boundaries of the district. There is a complete list of all registered electors as of the thirtieth day before an election with a supplemental list provided to the district on the twentieth day of all eligible electors who have become eligible since the earlier list was certified. The cost for the lists shall be assessed by the county clerk(s) and paid by the district holding the election. The fee for the lists shall be no less than \$25.00 for both lists nor more than one cent for each name contained on the lists, whichever is greater.

C.R.S. § 1-5-304

The list is used to verify registration if an eligible elector votes on the basis of being registered to vote and residing within the district.

C.R.S. § 1-5-304

**What does a special district candidate have to file to run for office?**

Not less than 67 days before the date of the regular special district election (which is the Tuesday succeeding the first Monday of May in every even-numbered year. C.R.S. 32-1-805), any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as witness to the signature of the candidate. On the date of signing, the candidate shall be an eligible elector of the special district in which the candidate is running for office. The self nomination and acceptance form or letter shall be filed with the designated election official who will verify and process the form or letter.

C.R.S. § 32-1-804.3

The self-nomination and acceptance form shall contain a statement that the candidate is familiar with the provisions of the Fair Campaign Practices Act, no later than the date established for certification of the special district's ballot (no later than 60 days before the election). The designated election official shall forward copies of all self-nomination forms to the clerk and recorder of the county in which the district court having jurisdiction over the special district pursuant to section 32-1-303 C.R.S. is located.

C.R.S. § 1-45-110 & 1-5-203(3)(a); SOS CPF Rule 8.4

**What is valid identification for presentation at an election?**

- A valid driver's license;
- A valid identification card issued by the department of revenue;
- A valid United States passport;
- 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 the State of Colorado, or by any county, municipality, board, authority, or other political subdivision of Colorado;
- A valid pilot's license with a photograph of the eligible elector issued by the federal aviation or other authorized agency of the United States;

- A valid United States military identification card with a photograph of the eligible elector;
- 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;
- A valid Medicare or Medicaid card issued by the United States health care financing administration;
- A certified copy of a birth certificate for the elector issued in the United States;
- A certified documentation of naturalization; or
- A valid student identification card with a photograph of the eligible elector issued by an institution of higher education in Colorado.

Any of the above forms of identification that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.

C.R.S. § 1-1-104(19.5)

**When and how can an election be cancelled?**

If the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the 63rd day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

C.R.S. § 1-5-108(1.5)

If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be cancelled by the governing body only in the event that there are not more candidates than offices to be filled at the election and that all ballot issues and ballot questions have been withdrawn.

No election may be cancelled in part.

The governing body shall provide notice by publication of the cancellation of the election. A copy of the notice shall be posted at each polling place of the political subdivision, in the office of the designated election official, and in the office of the clerk and recorder for each county in which the political subdivision is located, and a copy of the notice shall be filed with the division of local government. The governing body shall also notify the candidates that the election was cancelled and that they were elected by acclamation.

The results of a special district election (even one that has been legally cancelled) shall be certified to the division of local government within 30 days after the election by sending the division a notice and a copy of the resolution of cancellation.

Each special district shall register its business address, its telephone number, and the name of a contact person with the division when certifying the results of a district election pursuant to section 1-11-103 C.R.S.

C.R.S. § 1-5-208(3) & (6); 1-11-103; 32-1-104(1)

### **How long must election materials and records be kept?**

The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until such time has expired for which the record would be needed in any contest proceedings, whichever is later. Un-voted ballots may be destroyed after the time for a challenge to the election has passed. See retention of provisional ballots under 1-8.5-110.

The Division recommends certain election records be kept permanently. Certified election results, a certified copy of the official ballot and ballot text, ballot tracking forms and accounting forms, oaths of office, evidence of required notices and publications, etc...should be kept as evidence of election outcome and to determine cost accounting and planning for future elections.

C.R.S. § 1-7-802

### **Are election records public records?**

PUBLIC RECORDS: 24-72-204(8) prohibits a DEO from allowing someone other than the “person of interest” to inspect election records that contain the original or electronic, digital or scanned images of the signature, social security number, month and day of birth or identification of the person. Any other election record is open to inspection. However, the following sections are in conflict with this Public Records section.

Section 1-5-504, Documents Are Public Records, specifically lists “acceptances” (Self-Nomination and Acceptance) as a public record. The Self-Nomination has an original signature, therefore is subject to 24-72-204(8) and therefore in conflict with 24-72-204.

Section 1-7-307(3), Polling Place Counting Paper Ballots, above, requires the ballots to be sealed for 25 months unless opened for recount or for a court action. The voted ballots have none of the identifiers listed in 24-72-204, and therefore must be public records, therefore, this section is in conflict with 24-72-204.

If a district faces a situation involving such a statutory conflict, it must consult legal counsel.

## **NOTICE AND PREPARATION FOR ELECTIONS**

### **How does a district inform the electorate of the election and inform voters how to become candidates if interested (What is the Call for Nominations)?**

Not less than 75 days nor more than 90 days before a regular special district election, the designated election official shall provide notice by publication of a “call for nominations” for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official, and information on obtaining a mail-in ballot.

### **What is the Notice of Election?**

The designated election official, at least 10 days prior to the election shall provide notice by publication of the election. The notice shall be published in at least one newspaper having general circulation in the county. The designated election official shall retain a copy of the notice as a record for public inspection for two years or until any election contest is decided, whichever is later. The designated election official of each district shall also mail a notice of the election to the county clerk and recorder. In addition, the designated election official shall post the notice of the election at least 10 days prior to the election and until 2 days after the election in a conspicuous place in their office.

C.R.S. § 1-5-205

The board **may** mail notice (a voter information card) to each household where one or more active eligible electors reside no later than 15 days in advance of the election. If a ballot issue notice is mailed the voter information card may be included in the ballot issue notice.

C.R.S. § 1-5-206(2)(a)

### **How does a person become a candidate?**

Special district candidates are self-nominated. They do not circulate a petition to be nominated. Not less than 67 days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector. (See “Elections Generally” in this document.)

C.R.S. § 32-1-804.1; 32-1-804.3; 1-1-104(34)

### **How does a person become a write-in candidate?**

A person who wishes to become a write-in candidate for an office in an election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. The affidavit shall be filed with the designated election official no later than the close of business on the 64<sup>th</sup> day before the election.

C.R.S. § 1-4-1101; 1-4-1102(2)

**How is “publication” defined?**

Publication means printing one time, in one newspaper of general circulation in the political subdivision if there is such a newspaper, and, if not, then in a newspaper in the county in which the political subdivision is located. For a political subdivision with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the political subdivision, then one publication is required in a newspaper in each county in which the political subdivision is located and in which the political subdivision also has 50 or more eligible electors.

C.R.S. § 1-1-104(34)

**How are polling places established?**

No later than 25 days before the election, the designated election official, with approval of the governing body with authority to call elections, shall divide the jurisdiction into as many election polling places as it deems expedient for the convenience of eligible electors of the jurisdiction and shall designate the polling place for each polling place.

The election polling place(s) shall consist of one or more whole general election polling place(s) whenever practicable, and the designated election official and governing body shall cooperate with the county clerk and recorder and the board of county commissioners of their political subdivisions to accomplish this purpose. Whenever possible, the polling places shall be the same as those designated by the county for partisan elections.

The county clerk and recorder, no later than 100 days prior to a regular special district election, shall prepare a map of the county showing the location of the polling places and polling place boundaries utilized in the last November election. Copies of the map shall be available for inspection at the office of the county clerk and recorder and for distribution to the designated election official of each political subdivision.

The county clerk shall maintain a list of owners or contact persons who may grant permission to political subdivisions to use locations for polling places. The clerk shall, upon request of the designated election official, provide a copy of the list or part of the list as requested by the election official.

C.R.S. § 1-5-102; SOS Election Rule 5.2

**Must an election be held within the district boundaries?**

If there are no appropriate polling place locations within the political subdivision conducting the election, a polling place may be designated outside of the political subdivision in a location that is convenient for the eligible electors of such political subdivision.

SOS election Rule 5.2

**Can polling places be in private locations?**

The polling places shall be in public locations wherever possible. A private location may be used only when no appropriate public location is available.

C.R.S. § 1-5-105(3)

**What provisions must be made for disabled electors?**

Each polling place or walk-in site shall be accessible to persons with disabilities.

C.R.S. § 1-5-107

**What are the requirements for polling place signs?**

Polling places shall be designated by a sign conspicuously posted at least twelve days before each election. The sign shall be substantially in the following form: "Polling place for polling place no. ..." The lettering on the sign and the polling place number shall be black on a white background. The letters and numerals of the title shall be at least four inches in height. In addition, the sign shall state the hours the polling place will be open.

C.R.S. § 1-5-106

**How are ballot questions and issues numbered on the ballot?**

District board members *refer* questions and issues to the voters. A ballot question does not involve financial matters, whereas a ballot issue means financial matters and must follow the TABOR constitutional amendment requirements.

The ballot issue or question shall be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a letter and a number.

Referred ballot issues and questions shall be designated by a letter or a number and a letter in the following series: If a district is in more than one county, its numbering will be from 4A-4Z and 5A-5Z for districts wholly within a county.

SOS Rule 6.5.2

**How do you order candidates, ballot issues, and ballot questions on a ballot?**

- Candidate Names
- Referred measures to increase taxes

- Referred measures to retain excess revenues
- Referred measures to increase debt
- Other referred measures

SOS Election Rule 6.5.2

**How is the order of candidate names on the ballot determined?**

The arrangement of the names shall be established by lot (i.e. putting all the names in a hat and having them drawn out by the designated election official) at any time prior to the certification of the ballot (no later than 60 days before the election). The designated election official shall notify the candidates of the time and place of the lot drawing. The drawing shall be performed by the designated election official or a designee. The names shall be printed without political party designation, without any title or degree designating the business or profession of the candidate, and in the order in which they were drawn.

C.R.S. § 1-5-406; 1-5-407(4)

**What is the deadline for the printing of ballots?**

The designated election official shall provide printed ballots for every election. The official ballot shall be printed and in the possession of the designated election official at least 30 days before the election.

Ballot content must be certified no later than 60 days prior to the election. In a coordinated election, a special district DEO will certify to the county clerk and recorder that the language of the ballot is final and ready for printing. If a district is conducting an election independent of the clerk, then the DEO is certifying the ballot contents to the special district.

Once a ballot is officially certified, the political subdivision should contract with a print vendor and have the ballot packets printed.

Note: The form of paper ballots is described in detail in section 1-5-407. The ballot must have perforated stubs and have a facsimile signature of the DEO. There is a difference in the ballot between a “mail-in” ballot and the ballot used at the polling place. It is sometimes difficult to find a print vendor who has had experience printing ballots and associated forms such as the mail-in or mail ballot outgoing and return envelopes. There are national companies that provide election materials, including ballots and envelopes. Print costs are expensive. If a district has a small number of electors, it is possible to generate the ballots on office computer and printer equipment.

C.R.S. § 1-5-406

**Under what conditions must the ballot and election materials be written in a language other than English?**

The Federal Voting Rights Act (The Act) codifies the 15<sup>th</sup> Amendment of the United States Constitution guaranteeing that no person shall be denied the right to vote on account of race or color. In addition, the Act contains several special

provisions that impose stringent requirements on “covered” jurisdictions in certain areas of the country.

Section 203 of the Federal Voting Rights Act mandates that a state or political subdivision must provide language assistance to voters if more than 5 percent of the voting-age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

The Census Bureau Director has the responsibility to determine which states and political subdivisions are subject to the minority language assistance provisions of Section 203. Current census data is used to identify the geographic areas impacted. The determination of the director is published in the Federal Register.

As of the 2000 Census, the following Colorado counties are required by the Federal Voting Rights Act to provide all voting materials in English and the following languages: Alamosa (Spanish), Conejos (Spanish), Costilla (Spanish), Crowley (Spanish), Denver (Spanish), La Plata (American Ute Indian and American Navajo Indian), Montezuma (American Ute Indian and American Navajo Indian), Otero (Spanish), Rio Grande (Spanish), and Saguache (Spanish).

Federal Voting Rights Act, SOS Office

## **ELECTION JUDGES**

### **What are the qualifications for an election judge?**

The persons appointed as election judges shall certify in writing that they meet the following qualifications:

- a. They are registered electors who reside in the political subdivision, unless otherwise accepted, and are willing to serve;
- b. They are physically and mentally able to perform and complete the assigned tasks;
- c. They will attend a class of instruction concerning the tasks of an election judge prior to each election;
- d. They have never been convicted of election fraud, any other election offense, or fraud; and
- e. They are neither a candidate whose name appears on the ballot in the polling place that they are appointed to serve nor a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot in the polling place that they are appointed to serve.

C.R.S. § 1-6-101(2)

**How many judges are required for a special district election?**

For nonpartisan elections, the designated election official shall appoint no less than two election judges to serve as polling place judges for each polling place to perform the designated functions.

The designated election official may appoint other election judges as needed to perform duties other than polling place duties including but not limited to inspecting ballots, duplicating ballots, and counting paper ballots.

C.R.S. § 1-6-111(4) & (5)

**What if you cannot find enough election judges who are eligible electors of the district?**

If enough registered electors of the political subdivision are not available to work, then the appointing authority (designated election official) may appoint election judges who are registered electors of the state.

C.R.S. § 1-6-101(3)

**What is the role of the supply judge?**

The designated election official shall designate one election judge in each polling place as a supply judge and shall notify the supply judge of the appointment.

Prior to the election, the supply judge shall attend a special school of instruction held by the designated election official.

The supply judge shall coordinate the conduct of the election in the polling place. These responsibilities shall include receiving election supplies and equipment from the designated election official, delivering election supplies and equipment from the designated election official to the polling place, and returning all election supplies, election equipment and ballots to the designated election official once the election is concluded.

C.R.S. § 1-6-109.5(1), (3), & (4)(a)

**What is the compensation for election judges?**

In all elections, each election judge shall receive not less than \$5.00 as compensation for services provided as judge at an election and may be paid expenses and reasonable compensation for attending the judges' election school. Compensation for election judges, including training, supply pick up and drop-off, and Election Day duties shall be determined and paid by the governing body calling the election. The governing body must recognize that the \$5.00 minimum amount set by statute is not a reasonable amount of compensation for a minimum 13 hour day.

Compensation for all judges shall be uniform throughout a political subdivision and judges must give the designated election official their social security number in order to receive compensation; however, service as an election judge shall not be considered employment pursuant to articles 70 to 82 of title 8, C.R.S. Supply

judges are paid no less than \$5 dollars to attend a special school of instruction and shall be paid no less than \$4 for returning the supplies to the DEO after the election.

C.R.S. § 1-6-115

## **CONDUCT OF ELECTIONS**

### **Who is entitled to vote at a special district election?**

A person must be an eligible elector as defined in 32-1-103(5)(a). If the eligible elector wishes to vote the elector shall sign a “Self-Affirming Oath and Affirmation” form provided by the designated election official of the district, see text below. (Found in the Election Manual).

For electors who vote at any election by mail-in or mail ballot, the affidavit on the return envelope as required by Title 1, C.R.S. may be substituted for the self-affirming oath or affirmation required by 32-1-806(2). (Sample forms are found in the Election Manual).

A person who completes the self-affirming oath or affirmation shall be permitted to vote, unless challenged. However, if the election staff person or election judge is unable to confirm eligibility of a voter, the person shall be given a provisional ballot.

The self-affirmation shall be on a form that contains in substance the following:

“I, \_\_\_\_\_ (printed name) \_\_\_\_\_, who reside at \_\_\_\_\_ (address) \_\_\_\_\_, am an elector of this \_\_\_\_\_ (name of special district) \_\_\_\_\_ district and desire to vote at this \_\_\_\_\_ (date & form of election) \_\_\_\_\_ election. I do solemnly swear or affirm that I am registered to vote in the state of Colorado and qualified to vote in this special district election as (check at least one):

- A resident of the district or area to be included in the district for not less than 30 days; or
- The owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or
- A person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or
- The spouse of \_\_\_\_\_ (name of spouse) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

C.R.S. § 32-1-103(5)(a); 32-1-806

### **When are polls open?**

All **polls shall be opened** continuously from 7:00 a.m. until 7:00 p.m. on Election Day. The polls shall remain open after 7:00 p.m. until every eligible elector who was at the polling place at or before 7:00 p.m. has been allowed to vote. Any

person arriving after 7:00 p.m. shall not be entitled to vote. A proclamation shall be made by one of the judges that the polls are open, and, thirty minutes before the closing of the polls a **proclamation** shall be made that the polls will close in thirty minutes.

C.R.S. § 1-7-101

### **Who is entitled to vote?**

At the polling place, no person shall be permitted to vote in any election unless that person is an eligible elector and who presents a valid ID and signs the self-affirming oath or affirmation provided by the DEO to the judges.

C.R.S. § 32-1-806; 1-7-103

### **How do the judges check eligibility and give the voter a ballot?**

When the elector shows his/her ID and has signed the Self-affirming oath form, one judge will announce the voters name and the judge in charge of the registration and property owner's lists will check to find the name on one or the other list. If the name is found, the judge in charge of the poll book will enter the voter's name in the book and enter the number of the ballot to be given to the voter in the poll book next to the voter's name. The name should be entered last name, first; the ballot numbers must be sequential and line spaces cannot be skipped. The judge will initial the stubs on the ballot and separate the ballot from the stub, leaving the duplicate stub on the ballot that is then handed to the voter.

C.R.S. § 1-7-110

### **How does the voter vote and cast the ballot?**

Once the voter receives the ballot, s(he) steps into the voting booth area and marks the ballot clearly according to the instructions on the ballot. The voter then folds the ballot to cover how s(he) voted, leaving the duplicate stub visible. The voter returns to the judge who will announce the voter's name, look to see that the duplicate stub shows the initial of the issuing judge, removes the stub and hands the ballot (still folded) back to the voter who then deposits the ballot (casts) into the ballot box.

### **Can blind or otherwise disabled individuals, or those not able to read, or non-English speaking voters be given assistance?**

Yes. Statute details the type and manner of assistance available to these individuals.

C.R.S. § 1-7-111, 1-7-112

### **What are spoiled ballots?**

If a voter spoils a ballot, that is marks it or damages it in some way that her vote cannot be determined, the voter may return the spoiled ballot and obtain others, one at a time, not to exceed three ballots. The spoiled ballots are immediately cancelled, and notation is made in the poll book where the newly issued ballot is properly recorded.

C.R.S. § 1-7-302

### **How are ballots counted?**

Once the polls are closed, the judges immediately proceed to count the ballots. Only watchers may be present until the count is completed. First, the ballot box is opened and the ballots are counted. If the ballots are found to exceed the number of names entered in the poll book(s), the judges shall examine the official endorsements on the ballots. If any of the ballots in excess of the number on the poll books are deemed not to bear the official endorsement they shall be put into a separate pile and into a separate record labeled "excess ballots." Each ballot is read and counted separately. Two judges will each fill a tally sheets (accounting forms) with a mark or marks in the appropriate spaces (candidate a, candidate b, ballot issue/question yes, no), one ballot at a time.

If a voter marks more names than there are persons to be elected or if for any reason it is impossible to determine the voter's intent, the ballot shall not be counted. The ballots shall be marked "defective" on the back, bundled together, separated from the other ballots and returned to the ballot box. However, if a mark is incomplete or defective on the ballot but in the proper place and no other mark appears on the ballot indicating an intention to vote for some other candidate, the ballot is counted.

## **WATCHERS**

### **What is a watcher?**

Candidates for office in nonpartisan elections, and proponents and opponents of a ballot issue, are each entitled to appoint one person to act as a watcher in every polling place in which they are a candidate or in which the issue is on the ballot. The candidates or proponents and opponents shall certify the names of persons so appointed as "Watcher" to the designated election official on forms provided by the official. To the extent possible, the candidate, proponent, or opponent shall submit the names of watchers to the designated election official by the close of business on the Friday immediately preceding the election.

C.R.S. § 1-7-107

### **What may watchers observe or do?**

Each watcher shall have the right to maintain a list of eligible electors who have voted, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies.

C.R.S. 1-7-108

List of Eligible Electors. To assist Watchers in performing their tasks, the election official or election judge shall provide a list, log, check-in card or other similar information of voters who have appeared in the polling place to vote. The information or documents shall not be removed from the polling place or voting

location. Watchers may maintain a list of eligible electors who have voted by utilizing only that information provided by the election official or election judge, except that they may bring with them into the polling place or location a list of electors previously maintained by the Watcher.

SOS Rule 8.5

Duly appointed watchers may observe polling place voting and the processing and counting of polling place, provisional, mail, and mail-in ballots. For mail ballot elections, or mail-in ballot processing, watchers may be present at each stage of the election including the receiving and bundling of the ballots received by the designated election official. Watchers may be present during provisional ballot processing but may not have access to confidential voter information.

SOS Election Rule 8.7

### **What are the requirements to be a watcher?**

Watchers shall take an *oath* administered by one of the election judges that they are *eligible electors*, that their name has been *submitted to the designated election official* as a watcher for this election, and that they will not in any manner make known to anyone the *result of counting votes* until the polls have closed.

Neither *candidates nor members of their immediate families* by blood or marriage to the second degree may be poll watchers for that candidate.

C.R.S. § 1-7-108

### **What is the limitation of watchers?**

Limitations of Watchers. Duly appointed Watchers may observe election judges but may not interrupt or disrupt the processing, verification and counting of any ballots or any other stage of the election. Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, but may not write down any ballot numbers or any other identifying information about the electors. Watchers may not handle the poll books, self-affirming oath and affirmation forms, ballots, mail ballot envelopes, mail-in ballot envelopes or provisional ballot envelopes, voting or counting machines or machine components. Watchers shall not interfere with the orderly process and conduct of any election, including ballot issuance, receiving of ballots, voting or counting of the ballots. Watchers may not be allowed to interact with election officials or election judges, except that each designated election official shall name at least one individual in each polling place or election location to whom Watchers may direct questions or from whom watchers may seek requested information.

SOS Election Rule 8.8

**MAIL-IN & PERMANENT MAIL-IN VOTING  
(Formerly known as absentee voting)**

**What is the last day to accept an application for mail-in ballot?**

The application for a mail-in ballot (formerly known as absentee) shall be filed with the designated election official of the political subdivision in which the applicant resides or is entitled to vote. The application shall be filed no earlier than January 1 immediately preceding the election and no later than the close of business on the Friday immediately preceding the election; except that, if the applicant wishes to receive the mail-in ballot in the mail, the application shall be filed no later than the close of business on the seventh day immediately preceding the election.

C.R.S. § 1-8-104

**What form should a mail-in ballot follow?**

The ballots shall be in the same form as other official ballots for the same election. On the stub of the mail-in ballot shall be printed "Mail-in Ballot No. M.I.V. . . . ." and such stubs shall be numbered consecutively, commencing with number 1.

C.R.S. § 1-8-101(2)

**What is the process for obtaining and submitting a mail-in ballot application?**

The application for a mail-in ballot shall be made in writing or by fax, using the application form furnished by the designated election official or in the form of a letter that includes the applicant's printed name, signature, residence address, mailing address if the applicant wishes to receive the mail-in ballot by mail, date of birth, and whether the applicant wishes to be designated as a permanent mail-in voter pursuant to section 1-8-104.5.

The application for a mail-in ballot shall be personally signed by the applicant; or in the case of the applicant's inability to sign, the elector's mark shall be witnessed by another person.

C.R.S. § 1-8-104

**How does the registration verification of a mail-in voter occur?**

Upon receipt of an application for a mail-in ballot within the proper time, the designated election official shall examine the records of eligible electors to ascertain whether or not the applicant is eligible to vote as requested. If the applicant is eligible, the designated election official, either personally in the office of the designated election official or by mail to the mailing address given in the application, shall deliver an official mail-in ballot packet to the elector.

The records of eligible electors consist of the list of eligible registered electors provided to the DEO by the county clerk & recorder(s) and the list of district property owners provided to the DEO by the county assessor(s). The DEO may need to refer to the Colorado Secretary of State's voter registration data base to verify registration of property owners not residing in the district (and therefore not on the registered voters' list). Contact the county clerk and recorder to make arrangements to use a county computer to access the Secretary of State's voter registration database or go directly to the Secretary of State's office for access to this information.

C.R.S. § 1-8-106

**How many voted mail-in ballots in return envelopes can one individual deliver to the designated election official?**

An elector may deliver the ballot to any person of the elector's own choice or to any duly authorized agent of the designated election official for mailing or personal delivery to the designated election official; except that no one person other than a duly authorized agent of the designated election official may receive more than **five** mail-in ballots in any election for mailing or delivery to the designated election official.

The designated election official shall keep a list, to the extent possible, of all individuals who deliver more than five voted mail-in ballots to the designated election official or the designated drop site for mail-in ballots, which shall include the individual's mailing address.

The designated election official shall notify each individual on the list by letter that they have violated C.R.S. § 1-8-113 by delivering more than five mail-in ballots to the designated election official. **Note:** Neither the statute nor the SOS Rules state what happens if this violation occurs.

C.R.S. § 1-8-113(3); SOS Election Rule 13.2 & 13.3

**What is the process for delivery and replacement of mail-in ballots?**

The mail-in ballot and other materials shall be delivered or mailed to the elector within seventy-two hours after the receipt of the application, if the official ballots are then printed, or if not then printed, within seventy-two hours after the printed ballots are delivered to the designated election official. If the mail-in ballot and other materials are mailed, the envelope shall be marked "DO NOT FORWARD." or by any similar statement that is in accordance with the United States postal service regulation. (Ballots must be printed and in the possession of the designated election official at least thirty days before the election. C.R.S. § 1-5-406)

Upon a request by an eligible elector, stating an emergency need, the designated election official *may* authorize one or more deputies or may deputize a courier service to deliver the mail-in ballot and return the ballot to the office of the designated election official. (DEOs may consider this option when a voter with disabilities calls for assistance.)

The designated election official may issue a replacement mail-in ballot if an eligible elector applied for a mail-in ballot but did not receive it or if the elector spoiled the mail-in ballot. An affidavit completed by either the elector or the designated election official shall give the reason for requesting a replacement mail-in ballot and shall state that the original mail-in ballot was not received or was spoiled, that the individual has not voted, and that the individual does not intend to vote at the election except by voting the replacement mail-in ballot. The mail-in record shall have the notation "Replacement Issued" entered to indicate the original mail-in ballot was not received or was spoiled, and the replacement mail-in ballot number shall be entered in the mail-in record. The first ballot returned by the elector shall be considered the elector's official ballot.

C.R.S. § 1-8-111

**What language is required on a return mail-in envelope?**

The return envelope for the mail-in ballot shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; that I reside at the address indicated on my application for an mail-in ballot (if applicable); that my signature, name, and address are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accordance with the provisions of the "Uniform Election Code of 1992."

C.R.S. § 1-8-114

**What if an elector registered to vote by mail and did not provide the proper ID upon registration?**

The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope.

SOS Election Rule 13.4

The county clerk shall indicate on the list of registered voters requested by the designated election official those registered voters required to be identified.

SOS Election Rule 13.5

If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. The elector shall also be provided with specific instructions on the requirement to provide such identification.

SOS Election Rule 13.7

**What happens if the return envelope does not contain the proper identification for those electors required to do so?**

If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall

be marked “provisional.” For non-partisan elections, the provisional ballot shall be verified and counted in accordance with SOS Election Rule 26.

SOS Election Rule 13.8 and 13.9

### **Who tracks permanent mail-in applicants for future elections?**

Any eligible elector may apply for permanent mail-in voter status. The application for permanent mail-in voter status shall be made in writing or by facsimile using an application form furnished by the designated election official or in the form of a letter. The application shall contain the same information submitted in connection with an application for a mail-in ballot pursuant to section 1-8-104.

Upon receipt of an application for permanent mail-in voter status, the designated election official shall process the application in the same manner as an application for a mail-in ballot. If it is determined that the applicant is an eligible elector, the designated election official shall place the eligible elector’s name upon the list maintained pursuant to section 1-8-108 of those eligible electors to whom a mail-in ballot is mailed each time there is a coordinated election.

Statute is not clear, except in coordinated elections, whether permanent mail-in voters who requested such status from the county but not the district must be treated as such by a district in conducting its election.

The Division suggests it is important that the district recognize that voters who requested such status from the county and are on the county permanent mail-in ballot list may believe that they automatically have that status with all other political subdivisions. The districts who do not believe that the county status applies to their voters may need to actively inform their citizens of the district’s position on this. The districts are advised to discuss this with their attorneys

C.R.S. § 1-8-104.5

## **CHALLENGES TO VOTING**

### **Who is able to challenge a person’s right to vote?**

A person’s right to vote at any polling place or in any election may be challenged. An election judge shall challenge any person intending to vote who the judge believes is not an eligible elector. In addition, challenges may be made by watchers or any eligible elector of the district.

C.R.S. § 1-9-201

### **How is a challenge presented?**

Each challenge shall be made by written oath, shall set forth the name of the person challenged and the specific factual basis for the challenge of the person’s right to vote, and shall be signed by the challenger under penalty of perjury in the

second degree, as specified in section 1-13-104. The challenged voter and the challenger and election judge should step away from the immediate area in order to allow other voters to proceed to vote. The election judge will ask the challenged voter specific questions relative to the basis of the challenge (i.e., registration, residence, property ownership). If the voter answers the questions and takes the oath, s(he) will be allowed to vote a regular (not provisional) ballot. If the challenged voter does not answer questions or refuses to take the oath, s(he) can vote but it must be a provisional ballot. The challenger, if satisfied with the answers or for any other reason may withdraw the challenge. The election judge shall forthwith deliver all challenges to the designated election official. No oral challenge shall be permitted.

C.R.S. § 1-9-202, SOS Rule 48

## **PROVISIONAL BALLOTS**

### **What is a provisional ballot?**

No elector shall be denied the right to cast a provisional ballot in any election held pursuant to this title.

The following scenarios require the use of the provisional ballot:

- Someone claims proper registration, but it cannot be so established using records of the county clerk and recorder, 1-8.5-101(1) \*
- A voter does not provide an ID at the time of voting (polling place). 1-7-110(4); 1-8.5-101(2)
- A voter who was given a “mail-in” ballot appears at the polling place and wishes to vote there. 1-8.5-101(3)
- A challenged voter refuses to answer questions or to take the oath. 1-9-201(1)(b)

During counting:

- A mail-in ballot must be treated as a provisional ballot if the voter was required to submit a copy of a valid ID, and did not do so. 1-8-113(3)
- A mail ballot must be treated as a provisional ballot if the voter was required to submit a copy of a valid ID, and did not do so. 1-7.5-107(3.5) and (5)

\* **NOTE:** This may be in conflict with section 1-7-103 and section 32-1-806 which permit voting a regular ballot under certain circumstances. The two ballots may result in a different vote outcome because regular ballots will be counted (unless challenged), whereas provisional ballots may not be counted.

C.R.S. § 1-8.5-101

## **Form of Provisional Ballot**

A provisional ballot shall contain text clearly identifying it as a provisional ballot. Generally, this means writing the word “PROVISIONAL” on the face of the ballot when a provisional ballot is needed instead of having preprinted provisional ballots. The DEO must provide sufficient affidavit envelopes and instructions for provisional voting at each polling place.

An elector casting a provisional ballot shall complete an affidavit and receive information and instructions on the voting and handling of provisional ballots. The SOS shall prescribe by rules promulgated in accordance with article 4 of title 24, C.R.S., the language of the affidavit envelope, information, and instructions.

Each polling place using paper provisional ballots shall have on hand a sufficient number of provisional ballots in all ballot styles applicable to that polling place and a sufficient number of provisional ballot affidavit envelopes.

C.R.S. § 1-8.5-102

## **Provisional Ballot Affidavit**

The provisional ballot affidavit shall contain language prescribed by the secretary of state by rule and shall include an attestation, a notice of perjury, a warning of the penalty for falsifying the affidavit, and the information sufficient to verify the elector’s eligibility to vote and to register the elector to vote or transfer the elector’s registration.

The provisional ballot affidavit shall constitute a voter registration application for the voter for future elections. Therefore, special district election officials must forward copies of the affidavits to the clerk and recorder of the county in which the voter resides.

C.R.S. § 1-8.5-103; SOS Election Rules 5.5.3 thru 5.5.12 and Rule 26

## **Provisional ballot voting procedures**

An elector casting a provisional ballot shall complete and sign the provisional ballot affidavit and cast the ballot and the fact that the elector casts a provisional ballot shall be indicated on the signature card or the poll book next to the elector’s name.

The election judge shall examine the provisional ballot affidavit for completeness. Informing the voter that if he/she fails to fill out required information and sign the affidavit, his/her vote will not be counted.

If an elector is casting a provisional ballot for failure to show proper identification, the judge should note “NO ID PROVIDED” or “INVALID ID PROVIDED” or

“INSUFFICIENT ID PROVIDED” on the space provided for election judges on the affidavit.

The provisional ballot envelope containing the marked provisional ballot shall be deposited in a ballot container that is separate from the regular ballots cast and shall be sealed and returned to the designated election official after the close of polls.

The judges shall give the provisional voter a written notice that an elector who casts a provisional ballot has the right to know whether the vote was counted and the reason if the provisional ballot was not counted. The notice shall specify the toll-free number, internet website, or other free access system established by the secretary of state or the designated election official by means of which the elector may receive this information about his/her provisional ballot. The status of provisional ballots shall be made available to voters no later than 30 days following the election.

C.R.S. § 1-8.5-104; 1-8.5-111; SOS Election Rules 5.5.3 thru 5.5.12 and Rule 26.1.6

### **Verification of provisional ballot information – Counting Procedure**

After the close of polls on Election Day, the supply judge will return cast provisional ballots to the designated election official. The designated election official shall attempt to verify that an elector who cast a provisional ballot is eligible to vote. The designated election official or designee shall complete the preliminary verification of the elector’s eligibility to vote before the ballot is counted.

If the elector signs but does not fill in all the information requested on the provisional ballot affidavit, the ballot shall be counted only if the designated election official is able to positively determine that the elector was eligible to vote in the polling place and county.

If a provisional ballot affidavit is not signed, the designated election official shall send a letter to the elector no later than two days after the election informing the elector that the affidavit was not signed and that the provisional ballot cannot be counted unless the affidavit is signed. The letter shall state that the elector may come to the office of the designated election official to sign the provisional ballot affidavit no later than eight (8) days after the election. \* If the elector does not sign, the provisional ballot shall not be counted. A copy of the letter shall be retained as part of the election records.

The designated election official shall determine the time for the verification and counting of provisional ballots to begin in accordance with rules promulgated by the secretary of state. A board appointed by the designated election official shall count all verified provisional ballots in accordance with the procedure prescribed by the designated election official in accordance with Title 1 and the election rules of the secretary of state.

The designated election official shall complete verification and counting of all provisional ballots within 14 days after the election. The designated election official shall count all ballots cast in an election before counting any provisional ballots cast by electors to make sure no voter has already cast a ballot by some other means.

C.R.S. § 1-8.5-105; SOS Election Rules 5.5.3 thru 5.5.12 and Rule 26

**Handling of provisional ballots – reporting results.**

Provisional ballots shall be kept separate from all other ballots and counted separately and last.

If 25 or more provisional ballots are cast and counted in a district, the designated election official shall report the results of voting by provisional ballot as a separate total. If fewer than 25 provisional ballots are cast and counted, the results of voting by provisional ballot shall be included in the results of voting by mail-in ballot (previously known as absentee ballots).

Votes cast by provisional ballot shall not be included in any unofficial results reported and shall be reported only as part of the official canvass.

The designated election official shall keep a log of each provisional ballot cast, each provisional ballot counted, and each provisional ballot rejected. The code for the acceptance or rejection of the provisional ballot as prescribed by the secretary of state shall be marked on the log. The designated election official shall keep all rejected provisional ballots in their unopened envelopes for no less than twenty-five months.

C.R.S. § 1-8.5-110; SOS Election Rules 5.5.3 thru 5.5.12 and Rule 26

The election supplies provided to the supply judge of each polling place shall include an adequate number of provisional ballot envelopes that include the affidavit set forth in Rule 26.8.

SOS Election Rule 5.5.3 and Rule 26.8

The signature and date on the provisional ballot affidavit shall remain on the outside of the envelope.

SOS Election Rule 5.5.4

The provisional ballot affidavit envelope must be uniform in color and size as to differentiate it from other forms or affidavits.

SOS Election Rule 5.5.5

The provisional ballot affidavit envelope shall be numbered to correspond to the number of the provisional elector's name in the poll book, and the word "provisional" shall be marked on the ballot. The word "provisional" shall also be marked on the poll book next to the voter's name or on the signature card next to the voter's name.

SOS Election Rule 5.5.6 & 26.3.3

### **How are provisional ballots verified and counted?**

The designated election official shall verify the information contained in the provisional ballot affidavit pursuant to Rule 26. If the information contained in the affidavit provides adequate criteria such that the designated election official, using the Rule 26 search, can ascertain the registration of the elector, then the provisional ballot shall count. If the information cannot be verified, the ballot shall be rejected. See sections 1-8-105, 1-8.5-106 C.R.S. and Rule 26

SOS Election Rule 5.5.7

The verification and counting of all provisional ballots shall be completed prior to the certification of the official abstract of votes cast in the election by the canvass board, pursuant to Section 1-10-203(1) C.R.S..

SOS Election Rule 5.5.8

A board appointed by the designated election official shall verify all provisional ballots (provisional ballot board). This board can be made up of the election judges used in the election or other staff persons who have been sworn in. The designated election official shall also determine the time that provisional processing begins. The designated election official or designee shall complete preliminary verification without opening the ballots. A board appointed by the designated election official and recorder shall open all approved provisional ballot envelopes and proceed with the counting process utilizing verification information provided by the designated election official. However, all rejected provisional ballots shall be preserved for 25 months without opening the envelopes.

A copy of the provisional ballot affidavit shall be provided to the county clerk and recorder of the county of the elector's residence, and shall constitute a voter registration for future elections. See section 1-8.5-108 C.R.S.

SOS Election Rule 26.7

Verification of an elector's eligibility to have his/her provisional ballot counted shall be limited to the following databases:

- The local election office voter registration database. Call your county clerk and recorder to confirm voter eligibility of the provisional voter. Remember, the person in question had to have been registered to vote no later than 29 days before the election to be eligible to vote in that election. Also inquire as to the ID compliancy status of the provisional voter. If the voter was tagged as not ID compliant then an appropriate ID should have been shown to a polling place judge or election worker.
- Call your county assessor to research if your provisional voter (or the spouse of) owns real taxable property in the district.
- Look up non-resident property owners (or their spouses) in the Secretary of State's voter registration database. If a provisional voter claims to have moved from another county within the state of Colorado at least 30 days prior to the election, confirm previous

voter registration and note the county from which he/she relocated on the provisional affidavit.

- If by this step you are still unable to verify a provisional voter's eligibility, contact the Department of Motor Vehicle and ask the driver's license department to verify if, and when, your provisional voter attempted to register to vote with the agency. Confirm that the voter's address matches what is reported with the driver's license agency.
- Districts will work closely with other agencies to verify the eligibility of provisional voter ballots to determine if they will be counted or rejected.

SOS Election Rule 26.4

If twenty-five or more provisional ballots have been cast and counted, the results shall be reported on the "Judges Certificate of Election Returns" as one total. If less than twenty-five provisional ballots have been cast and counted, the results shall be included along with the mail-in ballots counted in the election.

SOS Election Rule 5.5.10

A copy of the provisional ballot affidavit shall be provided to the county clerk and recorder of the county of the elector's residence and shall constitute a voter registration for future elections. Original affidavits are to be kept as part of the district's official election records. When forwarding copies of the provisional affidavit to the appropriate clerk and recorder, districts should include a cover letter explaining that you are forwarding copies of provisional ballot affidavits and IDs from your regular biennial election for voter registration and/or ID compliancy updates pursuant to C.R.S. 1-8.5-103(2)(a).

SOS Election Rule 5.5.12

Recount procedures for provisional ballots shall be the same as those recount procedures for mail-in ballots as directed by the Secretary of State.

SOS Election Rule 26.7

A log must be kept for audit purposes of each provisional ballot voted, each provisional ballot counted, and each provisional ballot rejected. (See 1-8.5-110(4) C.R.S.)

SOS Election Rule 26.14

### **Counting of Provisional Ballot Rules**

If the information contained in the provisional ballot envelope provides adequate criteria so that the designated election official is able to confirm under election rule 26 that the elector is registered, the provisional ballot shall count.

SOS Election Rule 26.5.1

Codes that the provisional ballot board will use to accept or reject provisional ballots must be noted on the affidavit and the log accordingly:

**Acceptance Codes:**

<b>AOK</b>	Reviewed and confirmed voter's eligibility
<b>AAB</b>	Voter appeared in person and affirmed under oath that he or she applied for a mail-in ballot but he or she has not and will not cast the mail-in ballot. The DEO shall determine that the voter did not previously cast a mail-in ballot for that election pursuant to Rule 26.
<b>AVD</b>	Voter registered through a voter registration drive and the application receipt was surrendered to the election judge, or the elector affirmed as to the approximate date and location of the registration with the voter registration drive in accordance with section 1-2-217.5(2) C.R.S.. (The provisional ballot affidavit becomes an emergency registration affidavit.)
<b>AAG</b>	Voter registered through an agency and application receipt was surrendered to the election judge, or the elector affirmed as to the date, name, and location of the registration with the agency in accordance with section 1-2-217.5(2) C.R.S. (The provisional ballot affidavit becomes an emergency registration affidavit.)
<b>ARD</b>	Voter had deficient or incomplete registration as reported by the county clerk and recorder. The required information was provided by voter on the provisional ballot envelope. Voter's registration will be amended and registration will be complete. Section 1-2-509(3) C.R.S.

**Rejection Codes:**

<b>RNS</b>	Provisional ballot affidavit not signed
<b>RIN</b>	Required information is incomplete and the DEO is unable to confirm voter's eligibility
<b>RNR</b>	Voter did not register by the voter registration deadline or by emergency registration, Colorado voter registration record was not located, or voter was previously cancelled and has not been reinstated pursuant to C.R.S. 1-2-605(10)
<b>REE</b>	Provisional ballot envelope is empty
<b>RAB</b>	DEO has confirmed the voter cast a ballot for this election by mail-in
<b>RFE</b>	Individual was convicted of a felony and is either serving a sentence of confinement or detention or is on parole
<b>RWC</b>	Non-county or non-state resident; therefore voter not eligible to vote in the district where the provisional ballot was cast
<b>RID</b>	First time voter who registered by mail or through a voter registration

	drive, is tagged as ID deficient, and did not provided ID at time of voting.
<b>RRD</b>	Voter had deficient or incomplete registration and the required information needed to complete that registration was not provided prior to or at the time of filling in the provisional ballot affidavit. Voter's eligibility cannot be established. C.R.S. 1-2-509(3)

**How can a voter find out if his/her provisional vote ended up being counted?**

After an elector has cast a provisional ballot, the election official shall give the elector a written notice that the elector has the right to know whether the vote was counted and the reason if the provisional ballot was not counted. The notice shall specify the toll-free telephone number, internet website, or other free access system established by the designated election official by which the elector may receive this information. C.R.S. § 1-8.5-104(6)

**CERTIFICATES AND ABSTRACTS OF ELECTION**

**What is the (Judges) Certificate of Election Returns?**

As soon as all the votes have been counted, the election judges shall make a certificate for each polling place, stating the name of each candidate, the office for which the candidate received votes, and stating the number of votes each candidate received. The number shall be expressed in numerical figures. The certificate will indicate the name of the district, county(ies) and Colorado, and will indicate that at an election held on a specified date, the listed candidates received specified votes, and will have a statement that the certificate is certified by the election judges; it will list the judges' names.

The Certificate of Election Returns may be combined with a Statement of Ballots written by the judges specifying the number of ballots voting, the number of any unofficial or substitute ballots voted, the number of ballots delivered to electors, the number of spoiled ballots, etc. The Statement of Ballots may be a separate document. It is returned with all the unused, spoiled, etc. ballots to the DEO. C.R.S. § 1-7-601

**What is the (Judges) Unofficial Abstract of the Count of Votes?**

Judges at each polling place after completing the count and the Certificate of Election Returns and Statement of Ballots, will complete an Unofficial Abstract of the Count of Votes stating the names of the offices, the names of the candidates, any ballot issue or question text and the number of votes counted for or against each candidate and each ballot issue or question. The Unofficial Abstract is

posted immediately upon the completion of the counting in a conspicuous place that can be seen from the outside of the polling place. The abstract may be removed at any time after forty-eight hours following the election.

C.R.S. § 1-7-602

### **What is the (Canvass Board's) Official Abstract of Votes Cast?**

The Canvass Board no later than seven days after the election shall certify to the DEO the official abstract of votes cast for all candidates, ballot issues and ballot questions in that election. The abstract will state the names of the elected candidates and the votes cast for and against each ballot question and ballot issue so that it is clear what the results of the election are.

C.R.S. § 1-10-203

### **What is the (Canvass Board's) Certificate of Election Results?**

To certify the official abstract of votes cast to the DEO, the Canvass Board will include certification language in the Official Abstract of Votes Cast (see above) or may complete a separate Certificate of Election Results form which would include includes the information from the Official Abstract.

### **What is a Certificate of Election?**

The Certificate of Election is a formal document in the form of a letter or using a template of a certificate (with embossed seal, etc.) delivered to the elected candidate after the required oath of office and bond have been filed in the respective offices of the district court clerk, county clerk and recorder and the Division of Local Government. The certificate of election follows the Notice to Candidates of Election to Office that the DEO provided immediately after the final official abstract of votes cast has been certified by the canvass board.

### **What entities receive copies of the Certificate of Election Results?**

The results of a special district election shall be certified to the division of local government within thirty days after the election as provided in section 32-1-104(1) C.R.S. If an election is cancelled, the notice and a copy of the resolution of cancellation shall be filed with the division of local government.

C.R.S. § 1-11-103(3)

### **What happens if there is a tie vote for directors?**

Statute does not require a recount for nonpartisan elections. If judges have been carefully monitoring the vote tally, it is not necessary for the judges to recount. If any two or more candidates tie for the highest number of votes for the same office and if there are not enough offices remaining for all candidates, the board of canvassers shall determine by lot (drawing) the persons who shall be elected. Reasonable notice shall be given to the candidates who are involved in the tie

breaker of the time when the election will be determined Drawing by lot techniques include tossing a coin and drawing names out of a hat.

C.R.S. § 1-11-102

**What happens if there is a tie vote on a ballot question or ballot issue?**

If any ballot issue or ballot question is approved by less than the majority of the votes cast, the issue or question shall be considered to have failed.

C.R.S. § 1-11-102.5

**RECOUNTS**

**When is a recount required?**

A recount shall occur only after the canvass board certifies the original vote count. Generally, in district elections, the canvass board will meet the day after the election to certify the official abstract of votes cast, however it must do so no later than seven (7) days after the election.

A recount of any election contest must be held if the difference between the highest number of votes cast in that election contest and the next highest number of votes cast in that election contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. If there is more than one person to be elected in an election contest, a recount shall be held if the difference between the votes cast for the candidate who won the election with the least votes and the candidate who lost the election with the most votes is less than or equal to one-half percent of the votes cast for the candidate who won the election with the least votes.

The DEO must order the recount no later than the twenty-fifth day after the election and the recount must be completed no later than the fortieth day after the election.

An interested party may also request a recount (generally a candidate who lost) by notarized written request at candidate's expense. Request made to DEO within twenty-four days after election. The DEO must determine the cost of the recount and notify the interested party and the interested party shall pay the cost by certified funds within one day of receiving the official cost amount. The interested party recount must be completed no later than the thirtieth day after the election.

The canvass board conducts the recount and the candidate may be present, as may be his or her watcher, SOS Rule 14.4.3 and SOS Rule 8.11. The canvass board, candidates and watchers will take an oath.

C.R.S. § 1-10.5-101

**How does a recount process proceed and what is the deadline to conduct one?**

If it appears, as evidenced by the abstract of votes cast, that a recount is required for any office, ballot question, or ballot issue, the designated election official shall order a recount of the votes cast for the office, the ballot issue, or ballot question no later than the twenty-fifth day after the election. Any recount under this section shall be completed no later than the fortieth day after the election.

C.R.S. § 1-10.5-104

Notice prior to the recount shall be given to all candidates. Notice shall be given by certified mail and by telephone, facsimile transmission, or personal service.

C.R.S. 1-10.5-105

- Upon receipt of the notice of a recount by the designated election official or the county clerk, the Secretary of State shall prepare a letter that specifies the procedures to be used for the recount that shall be sent to the designated election official.
- The purpose of a recount is to review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible during the recount, including an examination of the ballots.
- The Secretary of State may have an official observer at every recount location.
- Any candidate who is subject to the recount may be present and observe the recount at any recount location or designate one watcher to observe the recount at any recount location. Watchers must provide the election official with a certificate signed by the candidate.
- Each candidate, his or her watcher, members of the media, and official observers may be present in the room when a recount is conducted. During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.
- The recount board, as defined by the Secretary of State, and all candidates, watchers, members of the media and official observers shall take an oath that they will not convey the results of the recount until the process is complete and an official certification has been issued.
- Candidates, watchers, members of the media and official observers who enter the recount room after the recount begins, must stay until the recount is complete. Anyone who must leave the recount room will not be allowed to re-enter the recount room without the specific consent or authorization of the designated election official.
- All votes for all candidates in any race subject to a recount shall be counted.

SOS Rule 14

## **ELECTION CONTROVERSIES AND CONTESTS**

### **What is an election controversy?**

When any controversy arises between any official charged with any duty or function and any candidate, or any persons who have made nominations or any eligible elector who alleges that a person charged with a duty under the code had committed or is about to commit a breach or neglect of duty or other wrongful act, then the person alleging the breach or neglect of duty or other wrongful act will file a verified petition with the district court. If the court finds good cause, it shall order a hearing and if it is determined that the breach, neglect or other wrongful act occurred, the court orders the official to perform the duty or to desist from the wrongful act.

C.R.S. § 1-1-113(1)

Note that the district statute states that "...the board shall govern the conduct of all subsequent regular and special elections... and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections." If a complainant does not wish to file a petition with the district court, the matter can be taken to the district's board of directors.

C.R.S. § 32-1-804(1)

### **What are the causes of contest of a candidate election?**

The election of any candidate to any office may be contested on any of the following grounds:

- The candidate elected is not eligible to hold the office for which elected.
- Illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election.
- An election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of an election.
- An election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election.
- For any reason, another candidate was legally elected to the office.

C.R.S. § 1-11-201

**What are the causes for contest of an election to determine a ballot issue or ballot question?**

The result of any election to determine a ballot issue or a ballot question may be contested on any of the following grounds:

- Illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the results of the election.
- That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election.
- An election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the result of the election.

In addition, the result of any election to determine a ballot issue that includes approval of the creation of any debt or other financial obligation may be contested if the notice required by C.R.S. § 1-7-908 is not provided in accordance with that section or contains any material misstatement of the information required to be set forth in the notice.

C.R.S. § 1-11-201

**Who may contest an election?**

The election of any candidate or the results of an election on any ballot issue or ballot question may be contested by any eligible elector of the political subdivision. The individual contesting the election must file a written statement of intent to contest the election with the DEO within ten days after the canvass board's certification of election.

C.R.S. § 1-11-202; 1-11-213(4)

**What is the decision-making body for nonpartisan officers, ballot issue and ballot question election contests for nonpartisan elections?**

All contested election cases of nonpartisan officers and ballot issues and ballot questions are tried and decided by the district court for the county in which the contest arises. If a political subdivision is located in more than one county, the district court of either county may take jurisdiction.

C.R.S. § 1-11-212

**ELECTION OFFENSES**

**What do you do if you believe an election offense has occurred?**

Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of the election code and stating the facts that constitute the alleged offense. Upon the filing of such affidavit, the

district attorney shall forthwith investigate, and if reasonable grounds appear therefore, he shall prosecute the violator.

The attorney general shall have equal power with district attorneys to file and prosecute information of complaints against any persons for violating any of the provisions of the election code.

ELECTIONEERING: 1-13-714, 1-5-105; “No person shall do any electioneering on the day of any election within any polling place or in any public street or room or in any public manner within 100 feet of any building within which a polling place is located, as publicly posted by the DEO.” Types of offenses are listed in: 1-13-104 to 1-13-113 and Parts 2 through 8.

C.R.S. § 1-13-101

## **MAIL BALLOT ELECTIONS**

### **What is a mail ballot election?**

An election for which eligible electors may cast ballots by mail and in accordance with article 7.5 of Title 1, C.R.S. that involves only nonpartisan candidates or ballot issues and/or ballot questions.

C.R.S. § 1-7.5-103(4)

### **What makes up a mail ballot packet?**

This is the packet of information provided by the designated election official to eligible electors in the mail ballot election or in a polling place election for electors who apply for a mail-in ballot. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, a return envelope and the outgoing envelope.

C.R.S. § 1-7.5-103(5)

### **What is the return envelope?**

The envelope used by the voter to return his/her voted ballot to the DEO. It is printed with spaces for the name and address of, and a self-affirmation to be signed by an eligible elector voting in a mail ballot election, that contains a secrecy envelope/secrecy sleeve and ballot for the elector, and that is designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

The return envelope shall have printed on it a self-affirmation substantially in the following form:

“I state under penalty of perjury that I am an eligible elector; that my signature, name, and address are as shown on this envelope; that I have not and will not

cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the “Uniform Election Code of 1992”.

C.R.S. § 1-7.5-103(7) & C.R.S. § 1-7.5-107(3)(b.5)(1)

If the elector is required to provide his or her identification, the return envelope shall be marked to clearly identify such a voter. The elector shall also be provided with specific instructions on the requirement to provide such identification.

SOS Election Rules 13.4 and 13.7

**What is the secrecy envelope/secrecy sleeve?**

The envelope or piece of paper used for a mail ballot election, or for a mail-in ballot during a polling place election, that contains the eligible elector’s ballot for the election. A secrecy envelope is designed to conceal and maintain the confidentiality of the elector’s vote until the counting of ballots for that particular election. Voter instructions may be printed directly on the secrecy envelope, in lieu of including a separate document as part of the mail ballot packet.

C.R.S. § 1-7.5-103(8)

**What is the process for conducting a mail ballot election?**

The designated election official responsible for conducting an election that is to be a mail ballot election shall notify the Secretary of State no later than 65 days prior to the election for a regular election and 55 days prior for any other election. The notification shall include a proposed plan for conducting the mail ballot election and a timetable for conducting the mail ballot election with specific dates or range of dates when each activity is to be completed.

The Secretary of State shall approve or disapprove the written plan for conducting a mail ballot election within 25 days after receiving the plan and shall provide written notice to the affected political subdivision. (See the SOS Election Rules 12.3.2 and 12.3.4 for the items to be included in the mail ballot plan and timetable.)

C.R.S. § 1-7.5-105; SOS Election Rules 12.3.2 and 12.3.4

Notice of the election is to be sent to the clerk and recorder of the county in which the election is to be held. The notice is to include the date by which the list of registered electors is to be submitted to the political subdivision by the clerk and recorder.

For multi-county political subdivisions, the notice sent to each clerk and recorder shall also include the names of all other counties in which the election will be held.

SOS Election Rule 12.3.1

**What form should a mail ballot follow?**

A mail ballot will be identical in appearance to a polling place ballot, but it does not require a duplicate stub.

C.R.S. § 1-5-407

**Are there election judges in a mail ballot election?**

The designated election official may appoint an appropriate number of judges or staff to receive ballots, to handle “walk-in” voters, assist mail-in balloters at the sites designated for “walk-in” balloting, to check registrations, to inspect, verify, and duplicate ballots (i.e. re-copy ballots that cannot be read by an optical scanner) when necessary, to count the ballots, and certify the results. (These judges or election staff persons are also compensated for their time at a minimum of five dollars, per C.R.S. 1-6-115(1).)

SOS Election Rule 12.2

**If political subdivisions are coordinating mail ballot elections, what are the best methods to distinguish the individual subdivision’s ballots?**

The mail ballots and return envelopes shall include distinctive markings or colors to identify political subdivisions when the colors or distinctive marking will aid in the distribution and tabulation of the ballots.

SOS Election Rule 12.4.2

**What happens when a mail ballot is returned as undeliverable?**

The designated election official shall note this on the master ballot accounting form. The designated election official is not required to re-mail the ballot packet that was returned as undeliverable.

SOS Election Rule 12.4.6

**What if an elector registered to vote by mail and did not provide the proper ID upon registration?**

The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to provide a copy of their identification.

SOS Election Rule 12.4.8

The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in C.R.S. § 1-1-104(19.5)), with the elector’s ballot in the return envelope if the elector registered to vote by mail and did not provide the required ID upon registration.

SOS Election Rule 12.4.7

If the elector is required to provide his or her identification, the outside of the envelope shall be marked to identify such envelope and instructions shall be provided to ID-deficient voters as part of their ballot packet. Electors must understand whether they are ID compliant or not and what is required of them so their ballots can be counted.

**What happens if the return envelope does not contain the proper identification for those electors required to do so?**

The ballot shall be treated as a provisional ballot. The outside of the ballot shall be marked “provisional.” For non-partisan elections, the provisional ballot shall be verified and counted according to the SOS Election Rule 26.

SOS Election Rule 26

**RECALL PROCESS**

**What are the limitations on recalling an elected official?**

Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district.

C.R.S. § 32-1-906

After one recall petition and election, no further petition shall be filed against the same nonpartisan officer during the term for which the officer was elected, unless the petitioners signing the petition equal one and one-half times the number of signatures required on the first petition filed against the same officer, until one year has elapsed from the date of the previous recall election.

No election petition shall be circulated or filed against any elected officer whose term will expire within six months.

C.R.S. § 1-12-102

**How is a recall initiated?**

A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director shall be filed in the district court.

C.R.S. § 32-1-907

**How many signatures are required for a petition for nonpartisan officers?**

A petition to recall any other nonpartisan officer shall be signed by three hundred eligible electors of the political subdivision who are entitled to vote for a successor to the incumbent sought to be recalled or forty percent of the eligible electors of the political subdivision at the time the form of the petition is approved under section 1-12-108(4), whichever is less.

C.R.S. § 1-12-106

The petition shall contain a general statement, consisting of two hundred words or less, stating the ground or grounds on which the recall is sought. The statement is for the information of the electors who shall be the sole and

exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds shall not be open to review.

C.R.S. § 1-12-103

**Who may circulate the recall petition?**

No person shall circulate a recall petition unless the person is a resident of the state, a citizen of the United States, and at least 18 years of age.

C.R.S. § 1-12-108(6)(a)

**With whom is the petition filed?**

For all nonpartisan elections, the petition shall be filed with the district court in the county in which the political subdivision was organized. The court shall then appoint a designated election official to certify the sufficiency of the petition and call and conduct the election.

C.R.S. § 1-12-107(4)

**TABOR RELATED ISSUES**

**All districts are urged to consult with legal counsel on any TABOR matter. The following information is of a general nature only.**

**For special districts, when can a TABOR related ballot issue be put on the ballot?**

Ballot issues shall be decided in a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years.

Section 20 (3) (a) of Article X of the Colorado Constitution

**What if there is a tie vote on a TABOR ballot issue?**

If any ballot issue or ballot question is approved by less than the majority of the votes cast, the issue or question shall be considered to have failed.

C.R.S. § 1-11-102.5

**What is the TABOR Notice (Ballot Issue notice)?**

This is the notice required by section 20 (3) (b) of article X of the state constitution to be mailed to all registered voters of the district. Specific information about the ballot issue including fiscal information and a summary of pro and con statements filed with the DEO about the ballot issue are included in the TABOR notice. (See this portion of the constitution for the details required of the notice.)

C.R.S. § 1-1-104(2.5)

**What happens to the comments received for a TABOR ballot issue?**

All comments filed in writing shall be received and kept on file with the designated election official for the political subdivision submitting the ballot issue. However, only those filed by persons eligible to vote in the political subdivision submitting the ballot issue to its electors must be summarized in the ballot issue notice. The filed comments shall be retained by the designated election official as election records.

To be summarized in the ballot issue notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signor is registered to vote and shall be filed with the designated election official for the political subdivision.

Since section 20(3)(b)(v) of article X of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five days before the election and since such day is always a Saturday, all comments shall be filed by the end of the business day on the Friday before the forty-fifth day before the election.

C.R.S. § 1-7-901

**Who prepares the fiscal information required in the TABOR notice?**

A governing body submitting a referred measure, or its designee, shall be responsible for providing to its designated election official the fiscal information that must be included in the ballot issue notice. For political subdivisions, the governing body shall be the board that authorized submission of the ballot issue to the electorate.

C.R.S. § 1-7-902

**Who prepares the written comments?**

For referred measures, the designated election official shall summarize the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice. If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state substantially the following in the ballot issue notice where the summary or summaries would appear: "No comments were filed by the constitutional deadline."

C.R.S. § 1-7-903

**Transmittal of notices**

Even if a special district is conducting a mail ballot election in November independently (not as part of a coordinated election) pursuant to section 1-7-116(1), the DEO must prepare and deliver to the county clerk and recorder for the county or counties in which the district is located no later than forty-two days before the election the full text of any required ballot notices.

C.R.S. § 1-7-904

**How are the TABOR notices prepared?**

For coordinated November elections, the county clerk and recorder shall be responsible for placing the ballot issue notices received from the various political subdivisions participating in the election in the proper order in the ballot issue packet.

The designated election officials of overlapping political subdivisions conducting an election other than in November shall confer concerning the preparation of the ballot issue notice and packet no later than forty days prior to the date of the election.

C.R.S. § 1-7-905

**What is the form of the TABOR notice?**

The ballot issue notice shall begin with the words “All registered voters”, regardless of whether the electors of the political subdivision must be registered electors to be eligible to vote in the election, and shall end at the conclusion of the summary of comments. Any information included pursuant to section 1-5-206, information concerning procedure for a mail ballot election, ballot, polling place, or other information included with the ballot issue notice prior to the words “All registered voters” or after the conclusion of the summary of comments shall not be deemed to be part of the ballot issue notice. (See section 20 of article X of the state constitution for the financial information that must be included in the body of the notice.)

Ballot issue notices are not election materials that must be provided in a language other than English.

C.R.S. § 1-7-905.5

**What are the mailing requirements of the TABOR notices?**

For November elections, the county clerk and recorder as coordinated election official shall mail the ballot issue notice packet to each address of one or more active registered electors who reside in the county or portions of the county in which registered voters of those districts submitting ballot issues reside.

The designated election official for the various political subdivisions shall be responsible for mailing the required notice to each address of one or more active registered electors who do not reside within the county or counties where the political subdivision is located.

For regular biennial elections held in May of even-numbered years, the coordinating or designated election official must “confer” regarding the mailing of their respective TABOR notices as part of one packet to “All registered electors” of the overlapping districts’ area. The TABOR notice is to be mailed at least 30 days before a ballot issue election. It may be mailed “Bulk Mail” as it may be mailed “at least cost.”

For an election conducted other than in November, overlapping districts shall by agreement, provide for mailing of any required ballot issue notice package.

C.R.S. § 1-7-906; 1-7-907 C.R.S. § 1-8.5-111, SOS Rule 5.1