

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Denver District Court 1437 Bannock St., Room 256 Denver, CO 80202</p>	
<p>Plaintiff(s): NICOLE S. HANLEN, LYNN D. USSERY, JAMES H. JOY, JUNE MARIE MCNEES, KELLY L. MCNEES, KAREN MARQUEZ, MEAGAN GABALDON, and DAVID J. RODENBAUGH</p> <p>v.</p> <p>Defendant(s): SCOTT GESSLER, as Secretary of State of the State of Colorado; KAREN LONG, as Clerk and Recorder for the County of Adams, State of Colorado; JIM F. CANDELARIE, as Clerk and Recorder for the City and County of Broomfield, State of Colorado; and FRANCES E. MULLINS, as Designated Election Official for the Adams 12 Five Star School District</p> <p style="text-align: right;">▲ COURT USE ONLY ▲</p>	
<p>Attorneys for Plaintiff:</p> <p>Edward T. Ramey, No. 6748 Martha M. Tierney, No. 27521 Heizer Paul LLP 2401 15th Street, Suite 300 Denver, Colorado 80202 Phone Number: (303) 595-4747 FAX Number: (303) 595-4750 E-mail: eramey@hpfirm.com E-mail: mtierney@hpfirm.com</p>	<p>Case Number:</p> <p>Division/Courtroom:</p>
<p>VERIFIED COMPLAINT FOR JUDICIAL REVIEW OF EMERGENCY ELECTION RULE PURSUANT TO C.R.S. §24-4-106(4) AND FOR ORDER REQUIRING SUBSTANTIAL COMPLIANCE BY PUBLIC OFFICIALS WITH STATUTORY REQUIREMENTS PURSUANT TO C.R.S. §1-1-113 AND REQUEST FOR FORTHWITH HEARING</p>	

Plaintiffs Nicole S. Hanlen, Lynn D, Ussery, James H. Joy, June Marie McNees, Kelly L. McNees, Karen Marquez, Meagan Gabaldon, and David J. Rodenbaugh, through counsel, state as follows:

I. Introduction

1. This complaint is brought by registered electors of the Adams 12 Five Star School District. A nonpartisan coordinated mail ballot election was held on November 5, 2013, which election included a contest for the Director District 4 seat on the District Board of Education. Upon belated determination that one of the candidates was ineligible to hold office due to nonresidency in the Director District, the Secretary of State issued an emergency rule at 5:19 p.m. on election night directing that the votes cast for that candidate were to be deemed invalid and “must not be counted.” This emergency rule directly contravenes statutory requirements pertinent to the election and designation of school district directors, exceeds the rulemaking authority of the Secretary of State, compels other election officials to breach their statutory duties, and deprives the registered electors of the Adams 12 Five Star School District – and Director District 4 in particular – of the vacancy-appointment process to which they are statutorily entitled.

II. Jurisdiction and Venue

2. Jurisdiction over this action lies with this Court pursuant to Colo. Const. art. VI, §9(1), as well as C.R.S. §24-4-106(4) regarding the claims against the Secretary of State, and C.R.S. §1-1-113 regarding the claims against the other Defendants.

3. Venue is proper in the District Court for the City and County of Denver pursuant to C.R.S. §24-4-106(4) and C.R.C.P. 98(b)(2) and (c)(1) as the central and determinative issue in this action involves the assumption of improper and excessive rulemaking authority by the Secretary of State and the Secretary of State is deemed under C.R.S. §24-4-106(4) to be a resident of the City and County of Denver.

III. Parties

4. Plaintiffs Nicole S. Hanlen, Lynn D. Ussery, James H. Joy, June Marie McNees, and Kelly L. McNees are residents and qualified and eligible electors of Director District 4 of the Adams 12 Five Star School District. As such, they are adversely affected and aggrieved by the actions of the Secretary of State in exceeding his authority through adoption and issuance of an emergency rule that will prevent the other Defendants in this action, as well as the Board of Education for the Adams 12 Five Star School District, from performing and substantially complying with their official duties and functions and subvert the statutory requirements and processes applicable to determination of the composition of the Adams 12 Five Star School District Board of Education.

5. Plaintiffs Karen Marquez, Meagan Gabaldon, and David J. Rodenbaugh are residents and qualified and eligible electors of director districts other than Director District 4 within the Adams 12 Five Star School District. As such, they are adversely affected and aggrieved as at-large electors in the school district and in the context of the impact of the actions of the Secretary of State upon the processes applicable to determination of the composition of the Adams 12 Five Star School District Board of Education.

6. Defendant Scott Gessler is the Secretary of State of the State of Colorado.

7. Defendant Karen Long is the Clerk and Recorder for the County of Adams, State of Colorado, and, as such, the principal election official for local board of education elections for school districts situate in whole or in part within Adams County, Colorado. The Adams 12 Five Star School District is situate in part in Adams County, Colorado.

8. Defendant Jim F. Candelarie is the Clerk and Recorder for the City and County of Broomfield, State of Colorado, and, as such, the principal election official for local board of education elections for school districts situate in whole or in part within the City and County of Broomfield, Colorado. The Adams 12 Five Star School District is situate in part in the City and County of Broomfield, Colorado.

9. Defendant Frances E. Mullins is the Designated Election Official for the Adams 12 Five Star School District. Defendant Mullins is also a member of the Adams County Post Election Audit and Canvass Board.

IV. Factual Allegations

10. Pursuant to C.R.S. §22-31-104 and 105, a regular nonpartisan biennial school district director election was held on November 5, 2013.

11. Pursuant to C.R.S. §22-31-107(1) and §22-31-109(1), the Adams 12 Five Star School District has adopted a director district plan of representation which requires school board members to reside in the specific director districts they represent though all directors are elected at large by the registered electors of the entire school district.

12. The board seat for Adams 12 Director District 4 was up for election on November 5, 2013.

13. Two persons – Amy M. Speers and Rico L. Figueroa – submitted nomination petitions and were certified by the District's Designated Election Official as candidates for the office of director for Director District 4.

14. Approximately seven days before election day, and after ballots had been distributed and mail-ballot voting had commenced throughout the District, the District's Designated Election Official determined that one of the candidates – Amy Speers – though a resident of the Adams 12 Five Star School District for the 12 months preceding the election, did not reside within the boundaries of Director District 4 as those boundaries had been adjusted in May 2012.

15. By letter of October 30, 2013, the District's Designated Election Official requested Ms. Speers to submit a notice of withdrawal of her candidacy. Ms. Speers has not submitted such a withdrawal notice. On November 1, 2013, the District's Designated Election Official requested the Adams County Clerk and Recorder to withdraw Ms. Speers as a candidate.

Having no authority to take such action, the Adams County Clerk and Recorder, upon information and belief, declined to do so.

16. Upon information and belief, no protest or other proceeding of any kind was or has been commenced to seek to disqualify Ms. Speers as a candidate for office or to adjudicate her eligibility to be a candidate for office.

17. Under Colorado's generally applicable Uniform Election Code, C.R.S. Title 1, articles 1 – 13, the only circumstance in which votes for a candidate are not to be counted are when the candidate either files an affidavit of withdrawal with the appropriate designated election official, or dies, subsequent to the printing of ballots for the election (and a vacancy appointment process is not otherwise triggered). C.R.S. §1-5-412(3).

18. With specific regard to school district board elections, "If the person who was duly elected or appointed . . . *is or becomes* during the term of office a nonresident of the director district which the director represents" – or if a court of competent jurisdiction voids an officer's election "for any cause whatsoever" – the "director office shall be deemed to be vacant" (emphasis added). C.R.S. §22-31-129(1)(d) and (f). Upon occurrence of a vacancy, C.R.S. §22-31-129(2) requires the District Board of Education to follow a specified procedure to appoint an eligible person to fill the vacancy.

19. The vacancy appointment process applicable to nonpartisan school district board elections under C.R.S. §22-31-129 is consistent with the application of vacancy appointment processes to disqualifications of candidates in partisan elections as set forth in C.R.S. §1-4-1002 – with particular reference to C.R.S. §1-4-1002(2.5)(a) after ballots have been printed (referenced as a specific exception to the "no-count" authorization even with regard to deceased or withdrawn candidates under C.R.S. §1-5-412(3)).

20. Having neither died nor withdrawn her candidacy – and in any event in the presence of a specifically applicable vacancy appointment process – if Amy Speers garnered more votes than her opponent in the election for District 4 director in the November 5, 2013, mail ballot election, the effect of her nonresidency in Director District 4 upon commencement of her term of office, or the effect of her disqualification as a candidate for that office, would be to create an immediate vacancy, subject to the Board vacancy appointment process established and mandated by C.R.S. §22-31-129.

21. At 5:19 p.m. on the November 5, 2013, election day, the Secretary of State issued a "temporary" and "immediately effective" Election Rule 10.7.5 that reads as follows:

10.7.5 IF THE DESIGNATED ELECTION OFFICIAL DETERMINES, AFTER BALLOTS ARE PRINTED, THAT AN INDIVIDUAL WHOSE NAME APPEARS ON THE BALLOT IS NOT QUALIFIED FOR OFFICE, THE VOTES CAST FOR THAT INDIVIDUAL ARE INVALID AND MUST NOT BE COUNTED.

A copy of the “Notice of Temporary Adoption,” “Statement of Justification and Reasons for Adoption of Temporary Rules,” and “Statement of Basis, Purpose, and Specific Statutory Authority” issued by the Secretary of State are attached hereto as Exhibit 1.

22. The Secretary of State’s propounded Statement of Justification for Temporary Rule 10.7.5 is that “an individual may not be a candidate for elected office unless that person is an eligible elector and fully meets all qualifications of the office he or she seeks.” The Secretary cites two authorities for this proposition: (1) Colo. Const. art. VII, §6, which states that “No person except a qualified elector shall be elected or appointed to any civil or military office in the state;” and (2) C.R.S. §1-4-501(1), which states in pertinent part that “No person is eligible to be a designee or candidate for office unless that person fully meets the qualifications of that office as stated in the constitution and statutes of this state on or before the date the term of that office begins.”

23. Whether or not Ms. Speers is qualified to hold office, and whether or not she was ever qualified to be a candidate for that office – regarding which there appears to have been no adjudication in which Ms. Speers was afforded an opportunity to be a participant – the Secretary of State has no basis of authority for directing that the votes for Ms. Speers or any other candidate for a school district race “are invalid and must not be counted.”

24. The effect of the Secretary’s Temporary Rule is to directly circumvent the statutorily mandated vacancy appointment process made explicitly applicable to precisely the circumstances posed by the Adams 12 Director District 4 election by C.R.S. §22-31-129, and to expand – wholly without authority – the very limited bases for declining to conduct a vote count established by C.R.S. §1-5-412(3).

25. The further effect of the Secretary of State’s improper action is to deprive the public and the electorate of information regarding the actual results of the voting in the Adams 12 Director District 4 election, improperly declare a winner by default, and prevent the Adams 12 Board of Education from fulfilling its statutory mandate to conduct and complete the requisite vacancy appointment process.

26. Pursuant to C.R.S. §24-4-103(6)(a), a temporary or emergency rule is authorized only upon an agency finding “that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare.” The Secretary of State’s propounded findings do not meet this standard and, in fact, directly contravene applicable state statutory law.

27. The action of the Secretary of State in propounding Temporary Rule 10.7.5 was and is arbitrary and capricious, in excess of his statutory jurisdiction and authority, an abuse of discretion, and contrary to law within the scope of C.R.S. §24-4-106(7).

28. Should the other Defendants in this action, as well as the Adams 12 Board of Education, comply with the Secretary of State’s Temporary Rule 10.7.5, they will be compelled to breach their statutory responsibilities and engage in wrongful acts.

V. Urgency of Matter and Need for Forthwith Determination

29. The Adams 12 Director District 4 mail-ballot election concluded on November 5, 2013, with the vote count therefore required to be completed and the certification of the official abstract of votes cast being due to the Designated Election Official no later than November 22, 2013 (seventeen days after the election) pursuant to C.R.S. §1-10-203(1). This process will not be able to be completed in the statutorily mandated fashion without immediate and forthwith intervention by this Court.

30. C.R.S. §24-4-106(10) authorizes this Court to advance on the docket any case which in the discretion of the Court requires acceleration.

31. A separate Motion for Forthwith Hearing Pursuant to C.R.S. §24-4-106(10) is being submitted concurrently herewith.

VI. First Claim

32. Paragraphs 1 through 31, above, are incorporated herein by reference.

33. Pursuant to C.R.S. §24-4-106(7), Plaintiffs are entitled to entry of an Order holding unlawful and setting aside the Secretary of State's Temporary Rule 10.7.5, and restraining enforcement thereof.

VII. Second Claim

34. Paragraphs 1 through 33, above, are incorporated herein by reference.

35. Pursuant to C.R.S. §1-1-113, and further pursuant to C.R.S. §24-4-106(7), Plaintiffs are entitled to an Order directing all Defendants to substantially comply with their obligations and perform their statutory duties to complete a vote count and certify the official votes cast for all candidates in the Adams 12 Director District 4 election, and to provide the requisite notifications and certifications pursuant to articles 10 and 11, Title 1, C.R.S., without regard to Secretary of State's Temporary Rule 10.7.5

VIII. Prayer for Relief

WHEREFORE, Plaintiffs pray for relief as follows:

A. For an Order declaring Secretary of State's Temporary Rule 10.7.5 to be invalid and unlawful, and for a further Order restraining enforcement thereof;

B. For an Order directing all Defendants to proceed immediately with the exercise and performance of their statutory duties pursuant to, and to substantially comply with their obligations under, articles 10 and 11, Title 1, C.R.S., without regard to Secretary of State's Temporary Rule 10.7.5; and

C. For such further relief as the Court deems appropriate.

Respectfully submitted this 14th day of November, 2013.

HEIZER PAUL LLP

By: s/ _____

Edward T. Ramey

Martha M. Tierney

Heizer Paul LLP

2401 15th Street, Suite 300

Denver, Colorado 80202

Phone Number: (303) 595-4747

FAX Number: (303) 595-4750

E-mail: eramey@hpfirm.com

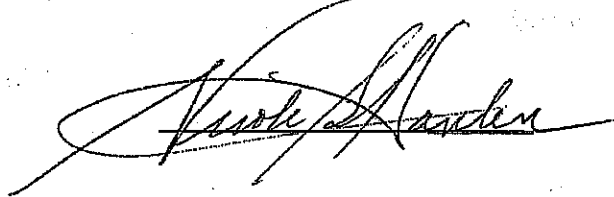
E-mail: mtierney@hpfirm.com

Attorneys for Plaintiffs

In accordance with C.R.C.P. 121 § 1-26(7), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.

VERIFICATION

Nicole S. HANLEN, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.



State of Colorado)
County of Adams) ss.

Subscribed and sworn to before me by Nicole Hanlen, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires: June 6, 2013.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

Lynn Ussery, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

Lynn Ussery

State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by Lynn Ussery, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires: June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

James H Joy, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

[Handwritten signature]

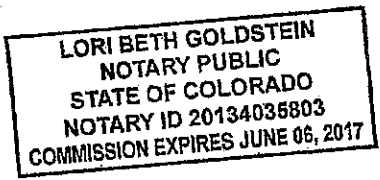
State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by James Joy, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

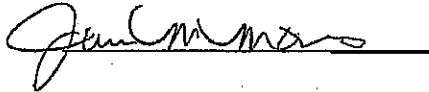
My Commission Expires: June 6, 2017.

Lori Beth Goldstein
Notary Public



VERIFICATION

June Marie McNews, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.



State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by June Marie McNews in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

Kelly L. McNees, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

Kelly McNees

State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by Kelly L. McNees, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

Karen Marquez, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

Karen Marquez

State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by Karen Marquez, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires: June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

Meagan Gabaldon being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

Meagan Gabaldon

State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by Meagan Gabaldon, in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires: June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

VERIFICATION

David J. Rodenbaugh, being first duly sworn upon oath, states and affirms that the factual allegations set forth in this Complaint are true and correct to the best of her/his information, knowledge, and belief.

David J. Rodenbaugh

State of Colorado)
) ss.
County of Adams)

Subscribed and sworn to before me by David J. Rodenbaugh in the County of Adams, State of Colorado, this 13 day of November, 2013.

Witness my hand and official seal.

My Commission Expires: June 6, 2017.

Lori Beth Goldstein
Notary Public

LORI BETH GOLDSTEIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134035803
COMMISSION EXPIRES JUNE 06, 2017

STATE OF
COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290



Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

Notice of Temporary Adoption

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

November 5, 2013

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a temporary basis and immediately effective. (SMALL CAPS indicate proposed additions to the current rules. Stricken type indicates proposed deletions from current rules. Annotations may be included):

New Rule 10.7.5

10.7.5 IF THE DESIGNATED ELECTION OFFICIAL DETERMINES, AFTER BALLOTS ARE PRINTED, THAT AN INDIVIDUAL WHOSE NAME APPEARS ON THE BALLOT IS NOT QUALIFIED FOR OFFICE, THE VOTES CAST FOR THAT INDIVIDUAL ARE INVALID AND MUST NOT BE COUNTED.

II. Basis, Purpose, and Specific Statutory Authority

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

III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of this new rule on a temporary basis follows this notice and is incorporated by reference.⁴

IV. Effective Date of Adopted Rules

This new rule is immediately effective on a temporary basis.

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2013).

² Section 24-4-103, C.R.S. (2013).

³ 8 CCR 1505-1.

⁴ Section 24-4-103(6), C.R.S. (2013).

Main Number (303) 894-2200
Administration (303) 860-6900
Fax (303) 869-4860

TDD
Web Site
E-mail

(303) 869-4867
www.sos.state.co.us
administration@sos.state.co.us



Dated this 5th day of November, 2013.

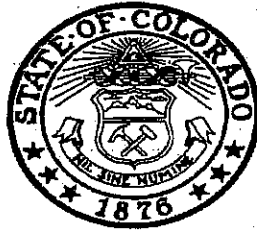
A handwritten signature in black ink, appearing to read 'Suzanne Staiert', is written over a solid horizontal line.

Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

STATE OF
COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290



Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

Statement of Justification and Reasons for Adoption of Temporary Rules

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

November 5, 2013

New Rule: 10.7.5

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws.

Under Colorado law, an individual may not be a candidate for elected office unless that person is an eligible elector and fully meets all qualifications of the office he or she seeks.² If a designated election official mistakenly certifies an ineligible candidate to the ballot and does not discover the mistake until it is too late to correct the ballots, electors might cast votes for the ineligible candidate. This rule is necessary to clarify that all votes cast for an ineligible candidate under the above scenario are invalid.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.³

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2013). The Secretary of State has the power “[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws” and “[the “Help America Vote Act of 2002”, 42 U.S.C. 15301-15545]....”

² Article VII, section 6, Colorado Constitution; Section 1-4-501(1), C.R.S.

³ Section 24-4-103(3)(6), C.R.S. (2013).

STATE OF
COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290



Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

Statement of Basis, Purpose, and Specific Statutory Authority

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

November 5, 2013

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado election laws. The revision is also intended to improve elections administration in Colorado.

Under Colorado law, an individual may not be a candidate for elected office unless that person is an eligible elector and fully meets all qualifications of the office he or she seeks.¹ If a designated election official mistakenly certifies an ineligible candidate to the ballot and does not discover the mistake until it is too late to correct the ballots, electors might cast votes for the ineligible candidate. The purpose of this rule is to clarify that all votes cast for an ineligible candidate under the above scenario are invalid.

II. Rulemaking Authority

The constitutional and statutory authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2013), which authorizes the Secretary of State “[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws.”

¹ Article VII, section 6, Colorado Constitution; Section 1-4-501(1), C.R.S.