

Proposed Rules Summary for June 18, 2018 Hearing

In 2016, the Minnesota Legislature passed a law creating a Presidential Nomination Primary. As part of that legislation, the Office of the Secretary of State was granted rulemaking authority in order to provide the procedures to implement the law codified in Chapter 207A and other sections of Election Law.

Although this rulemaking primarily governs administration of the Presidential Nomination Primary in proposed new chapter 8215, the Office is also proposing a few changes to other administrative rules governing elections.

Summary of Voter Registration Chapter 8200

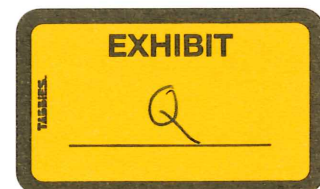
- **8200.1100 PRINTING SPECIFICATIONS.** Removes the reference to the use of pre-2008 voter registration stock.
- **8200.7200 COUNTY ATTORNEY REPORT.** We have been working with the County Attorney Association on refining the existing rule to better define what must be submitted in the County Attorney report. We do have a proposed modification based on the comment submitted by the Minnesota County Attorneys Association which Mr. Black will read after the conclusion of my summary.
- **8200.9939 FORM OF OATH, SPECIFIED BY PART 8200.5100.** This adds a heading to the Voucher Oath to make clear that this only needs to be used when registering to vote with a voucher as part of proof of residence.

Summary of Petitions Chapter 8205

- **8205.1050 VERIFYING PETITIONS.** This language corrects two erroneous cross-references.

Summary of Absentee Voting Chapter 8210

- **8210.0710 FORMAT AND INSTRUCTIONS FOR ABSENTEE BALLOT RETURN ENVELOPES.** Removes a minimum envelope size that was required for previous voting equipment.
- **NEW 8210.2900.** Clarifies that a voter needs to affirmatively request assistance before anyone will assist the voter in voting an absentee ballot in a healthcare facility.



Summary of new Presidential Nomination Primary Chapter 8215

This chapter is constrained by the legislative framework established in Laws 2016, Chapter 162 for implementing the Presidential Nomination Primary. Many of the comments received on the proposed rules that may be considered controversial address matters required by the legislation and which are included again in the proposed rules for the purpose of providing context for the reader's comprehension. Removal of these controversial areas from the proposed rules would not keep them from being implemented as they are required by the legislation and cannot be superseded by these rules.

The key requirements in this legislation are as follows:

- Unless otherwise provided by the Presidential Nomination Primary law, it is to be conducted in the same manner as the state primary [207A.11 (a)];
- Only major parties are eligible to participate in the Presidential Nomination Primary [207A.11 (d)];
- Each major party must have a separate ballot [207A.13 Subd. 1 (b)];
- The chair of each party must submit a list of candidates that will appear on the party's ballot [207A.13 Subd. 2 (a)];
- The chair of each party has the option of including language on the ballot that would allow a voter to indicate a preference for having delegates remain uncommitted or contain a space for a write-in vote [207A.13 Subd. 1 (c)];
- In order to vote in the Presidential Nomination Primary a voter must request which party's ballot they want and will be given only a ballot with that party's candidates [207A.12 (b)];
- The polling place roster used at the Presidential Nomination Primary must state that the individual is in general agreement with the principles of the party and that the individual understands their choice of a party's ballot will be public information; and provides that the felony penalty provided for in the regular roster oath does not apply to this additional statement [204C.10 (b) and 207A.12 (b)]; and

- A voter's choice of party ballot is to be recorded with the voter history and thus will be recorded in the Statewide Voter Registration System and will be public information [207A.12 (b); 201.091 Subd. 4].

Therefore, these rules as proposed are designed to provide additional clarity to elections administrators and voters in the administration of the Presidential Nomination Primary.

- **8215.0100 SCOPE.** Clarifies that the normal rules governing every other election apply, unless otherwise specified in the new Presidential Nomination Primary Chapter 8215.
- **8215.0200 BALLOTS.** Clarifies the form of ballots for the presidential nominating primary. Two separate ballots are required in statute for the presidential primary, and the OSS does not have the authority to change this. This rule:
 - Outlines the heading that the ballots must contain
 - Requires that candidate names conform to the state law regarding candidate names (must be how they are commonly known in the community and cannot give them an advantage), and
 - Specifies that, if the parties designate an "uncommitted" choice, that choice must rotate with the candidate names
- **8215.0300 POLLING PLACE VOTING.** Outlines the specific procedures for polling place voting in a presidential nominating primary. The procedure would be as follows:
 - The roster must contain the additional statement required by law
 - The voter must be instructed to read the statement and, after the voter has read the statement the election judge must ask which party ballot the voter wants to select
 - The election judge must record the party choice on the roster and have the voter sign the roster
 - A voter must then be given a voter receipt to take to the ballot judge, and the voter receipt must identify which ballot the voter selected but may not make this identification using differently colored, shaped, or sized paper; and
 - If a voter refuses to identify which party ballot they want, the voter must not be given a ballot.

- Comments were received objecting to the statement in Subpart 1 that voters must affirm their agreement with party principles. This statement is required by 204C.10 (b) as revised by the Presidential Nomination Primary Laws 2016 Chapter 162.
- A comment was received that the rules are silent about the consequences of a voter making a false affirmation. M.S. 204C.10 (b) as revised by the PNP Laws 2016 Chapter 162 provides that the felony provision does not apply to this statement. The comment further stated that the rule was silent on a challenge to the voter's statement that they agreed with a party's principles. There is no authority in Minnesota Election Law to challenge the voter's statement.
- A comment was received that the statement in Subpart 1 modifies the uniform oath administered at elections, violating the Minnesota Constitution. The rule language is the statement required by M.S. 204C.10 (b).
- Comments were also received objecting to the provision in Subpart 2 for recording the name of the political party whose ballot the voter requested. Recording of this information is required by 207A.12 (b).
- A comment was received objecting to the provision in Subpart 3. M.S. 207A.12 (b) requires a voter to request the ballot of the party whose candidate the individual wishes to vote for.
- A comment was received objecting the provision in Subpart 4. M.S. 207A.13 requires multiple ballots, one for each major party, therefore the voter's receipt must indicate to the ballot judge which ballot to issue to the voter.
- **8215.0400 ABSENTEE VOTING.** Outlines absentee voting in a presidential nominating primary, conforming absentee voting to similar polling place processes.
 - **Subps. 2 & 3.** In order to vote absentee in a presidential nominating primary a domestic absentee voter must:

- Apply for an absentee ballot using a presidential nominating primary application that includes the statutorily-required roster statement and a place for the voter to select which ballot they want, and
 - If the voter returns an application without selecting which ballot they want, the application must be returned to the voter.
 - A comment was received that if the voter wants to jump parties, it is extra work for the voter to re-register and the county auditor to change them in the system. Voters are not registered with a party designation and they do not need to re-register in order to vote in the Presidential Nomination Primary. Absentee voters must note on the absentee application which party's ballot they want, and that choice is recorded with voting history. Their party choice does not update their voter registration.
- **Subps. 4 & 5.** If the voter is a Military or Overseas Voter using federal forms, the county auditor must attempt to obtain the voter's choice of ballot. Specifically:
 - If the voter is using the Federal Post Card Application for an absentee ballot, the county auditor must attempt to collect the party choice by either email, US Mail, or phone during the two weeks before absentee voting begins. If the county auditor is unable to determine which ballot the military or overseas voter wants, the county will not send a ballot.
 - If the voter is using the Federal Write-in Absentee Ballot, the county must accept the absentee ballot only if the voter indicated a political party choice or if the voter's party choice is apparent from the face of the write-in ballot.
- **Subp. 6.** All absentee voters must have their party choice recorded in the Statewide Voter Registration System (SVRS) along with the other standard information recorded in SVRS.
 - A comment was received objecting to this provision. This information is recorded due to the requirement in M.S. 207A.12 (b) that the county auditor include the name of the political party whose ballot the voter requested when posting voter history.

- **Subp. 7.** If the voter wishes to spoil his or her ballot and vote a new absentee ballot with a different party choice, the voter must apply for a new ballot and indicate the new party choice.
 - A comment was received objecting to the provision as limiting the ability of the voter to change political affiliations. Rather than limiting the voter, the rule provides guidance to county auditors on the ability of spoiling a submitted ballot and issuing a replacement when the voter requests a ballot for a different political party. Similar to existing election law for the state primary, the voter has the ability to spoil their submitted ballot and to change the party whose ballot they wish to vote by submitting a new absentee ballot application and receiving a replacement ballot.
- **Subp. 8.** For all absentee voters, the polling place roster must reflect that they have voted by absentee and their party choice.
- **Subp. 9.** The absentee instructions must provide information on what to do if the voter believes they have received the wrong party's ballot.
- **8215.0500 MAIL BALLOTING.** This rule outlines the procedure for those voters voting in all mail ballot precincts.
 - **Subp. 2.** Mail ballot voters must be sent both major party ballots, but they may return only one major party ballot. The signature envelope for the mail ballot voters contains the additional roster statement and a place for the voter to indicate which ballot they chose to vote.
 - **Subp. 3 & 4.** The mail ballot instructions are changed to indicate that a voter should only vote one of the ballots, and destroy the other ballot. These instructions are otherwise the same as those for general election mail balloting.
 - **Subp. 5.** Provides the layout of the voter's certificate on the mail ballot envelope which must include the statutorily required roster statement, including an indication of which party the voter chose.
 - **Subp. 6.** Modifies the checklist for mail ballot voters to include the instruction to destroy the unvoted ballot.

- **Subp. 7.** Provides that, if a voter wishes to change their vote, the voter must contact the county and the county transmits new ballots to the voter.
- **Subp. 8.** Requires ballot boards to examine the voter's certificate to ensure that the voter has identified the political party of the ballot enclosed and signed the certificate. If the voter did not sign the certificate or select a political party, the county must reject the ballot. In addition, if the voter returned a ballot different than they indicated on their voter's certificate or returned two voted ballots, the county must reject the ballot.
- **8215.0600 ELECTION JUDGE TRAINING.** Requires that all election judges receive an additional one-hour training on presidential nominating primary procedures before they can serve as an election judge in a presidential nominating primary.

Summary of Chapter 8240 Election Judge Training Program

- **8240.1655 QUALIFICATIONS FOR TRAINEE ELECTION JUDGES.** The change in subp. 2 updates a cross reference (8240.1650 has been repealed). The change in subp. 6 is to remove language that conflicts with 204B.22, subp. 4.
- **8240.2700; .2800; .2900 (TRAINING REQUIREMENTS).** Adds a requirement that training include training on security practices. Security could include cybersecurity, physical security, and general data security.

Summary of Chapter 8250 Ballot Preparation

- **8250.1810 [FORMAT OF BALLOTS FOR OPTICAL SCAN SYSTEMS].** Adds school districts to the list of jurisdictions using the county and municipal formats for special elections.