



# Update-Rules/Advisory Opinions

## FSASE 2011 Winter Conference

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# Rule 1S-2.0001

- **Designation of Filing Officer –revisions to existing rule**
- ✓ Candidates required to use the qualifying forms incorporated into rule (DS-DE 9), and loyalty oaths (DS-DE24, 24A, 24B, 25, 26, 27, 27A, 27B, and 85 for various candidate offices)
- ✓ Filed forms must be original form except if candidate has filed a full and public disclosure or statement of financial interests with the Elections Commission for current year, then copy is ok
- ✓ Candidate may withdraw his or her candidacy on any document with signature—fax or scanned copy via e-mail is ok
- **Effective November 7, 2010**

# Rule 1S-2.045

- **Candidate Petition Rule (new)**
  - ✓ Incorporates candidate petition form DS-DE 104
  - ✓ Must be reproduced in exact wording and format for use (except may be enlarged)
  - ✓ Subsection (5) of rule contains verification of signature requirements
- **Effective November 7, 2010**
- Always be sure latest version of form is used
- Familiarize yourself with requirements.

# Upcoming rulemaking activity

- **Rule 1S-2.017** Reporting Reqs for Campaign Treasurer's Reports (revisions) –to incorporate a handbook and various forms
- **Rule 1S-2.030** Transmission of Absentee Ballots to Overseas Voters (revisions)—to reflect MOVE Act provisions that provide overseas military and overseas civilians more flexibility in how they request and receive an absentee ballot and to update criteria for submitting and obtaining department approval for pilot programs related to secured remote transmission of absentee ballots to overseas voters
- **Rule 1S-2.031** Recount rule (revisions)—to reflect changes in law that Secretary of State in lieu of Elections canvassing commission orders recount for federal, statewide, and multicounty races and to clarify recount processes

# Upcoming rulemaking activity

- **Rule 1S-2.032** Uniform Ballot Design Rule (revisions)—to eliminate outdated ballot designs and add new ones for voting systems certified since 2004
- **Rule 1S-2.039** FVRS Voter Registration Processes (proposed new)—to codify uniform practices and procedures for registering new voters and updating voter registration records
- **Rule 1S-2.041** FVRS Address/Eligibility Records Maintenance (proposed new)—to codify uniform practices and procedures for keeping the registration rolls up to date and removing voters who are no longer active and residing in the state, and who are ineligible for other reasons

# Upcoming rulemaking activity

- **Rule 1S-2.040** Statewide Voter Registration Application (revisions)—to update instructions on statewide form regarding pre-registrants starting at 16 and to reflect list of acceptable special identifications for first-time mail-in registrants
- **Rule 1S-2.048** NVRA-Voter Registration Agencies (proposed new)—to require NVRA liaison agents at voter registration agencies to identify staff whose jobs trigger NVRA offering of registration, and to report voter registration activities (number of declinations, etc.)
- **Rule 1S-5.001** Voting Systems Standards/Certification Rule (major revisions)—to completely revamp and simplify voting systems standards form DS-DE 101 (last amended in 2005) to incorporate standards from U.S. EAC and other best practices for voting systems certification

# New requirements in rulemaking processes

## Legislative ratification

- Chapter 2010-279, Laws of Florida (eff. November 16, 2010)
- Agency must prepare **Statement of Estimated Regulatory Costs (SERC)** if any proposed new rule or rule revision:
  - Will have an **adverse impact** on small business
  - Will increase **regulatory costs more than \$200,000** in first year of rule
- **Legislative ratification** required if economic analysis shows adverse impact on economic growth, private sector job creation or employment or private-sector investment in excess of \$1 million within 5 years of new rule or revision
- **Adopted rule cannot be effective until ratification**
- **Applies to proposed and adopted but not yet effective rules**



# New requirements in rulemaking processes

- **Executive Order No. 11-01**

- ✓ Moratorium on new rulemaking for all agencies under Governor's direction
- ✓ Establishes the Office of Fiscal Accountability and Regulatory Reform to review all rules (including those suspended by the Order) prior to adoption, and to review agency practices and contracts.
- ✓ Imposes 90-day suspension on execution of any contracts with a value in excess of \$1 million, without prior approval from the Office.
- ✓ Requires rule approval from Office of Fiscal Accountability and Regulatory Reform before they can be adopted.



# How do I find out about active rulemaking?

- <http://election.dos.state.fl.us/rules/rules-index.shtml> (link to rules' index--adopted rules, emergency rules, proposed rules and repealed rules)
- <http://www.dos.state.fl.us/notices.cfm> (link to each DOS Division including Elections regarding upcoming meetings and hearings)
- [www.flrules.org](http://www.flrules.org) (link to DOS statewide agency e-rulemaking program; free subscription to receive notice and submit comments electronically)

# Advisory Opinions

## Activity since June 2010

- ✓ **Rescission of Advisory Opinions DE 77-11** (whether new election in which elected town council member not qualified elector, 88-41 (whether civil procedures time rule governs time periods for municipal recall) 01-04 and portion of DE 82-22 (whether qualifying fees should be returned to nonqualifying candidates), and 01-04 (whether DOJ attorneys can serve as 'law enforcement' observers at polls)
- ✓ **New opinions: DE10-06 and 10-07** (Advertising Expenses-Use of Local Govt Funds), **DE 10-08** (Contributions to Nonpartisan Special District Candidates, **DE 10-09** (candidate date's of election is dependent on case-by-case basis), **DE 10-10** (pre-election day upload of early voting and absentee ballot results), and **DE 10-11** (Campaign Financing –contributions through a conduit and registration as political committee).