

## **RULE 16 RULES FOR EXCEPTIONS PROCESSING**

### **Purpose**

The purpose of this rule is to set forth regulations for an Exceptions Process and identify the alternative documents the Department will accept. Exceptions Processing is the procedure the Department has established for persons who are unable, for reasons beyond their control, to present all the necessary documents required for a Colorado or Colorado Road and Community Safety Act driver's license or identification card, and must rely on alternative documents. For Applicants who are U.S. citizens, Exceptions Processing allows for alternative documents to be presented that establish identity, date of birth and U.S. citizenship. For Applicants who cannot demonstrate lawful presence or for Applicants who can demonstrate temporary or permanent lawful presence, Exceptions Processing allows for alternative documents to be presented that establish identity and date of birth. For Applicants who do not have an established residence, Exceptions Processing allows for an alternative to establish residency.

### **Statutory Authority**

The statutory bases for this regulation are sections 13-15-101(5) (a), 13-15-102, 24-4-103, 24-72.1102(5), 42-1-204, 42- 1-230, 42-2-107, 42-2-302, 42-2-136, and 42-2-501, et seq., C.R.S. This regulation applies to documents issued under Title 42, Article 2, Parts 1, 2, 3, and 5.

### **1.0 Definitions**

- 1.1 Applicant – Any natural person applying to the Department for a Colorado driver's license, identification card or a Colorado Road and Community Safety Act identification document.
- 1.2 CO-RCSA – The Colorado Road and Community Safety Act, section 42-2-501, C.R.S.
- 1.3 Department – The Colorado Department of Revenue.
- 1.4 Document – An original document certified by the issuing agency, an amended original document certified by the issuing agency, or a true copy certified by the issuing agency, excluding miniature, wallet sized, or photocopies of documents.
- 1.5 Driver's License – A driver's license, minor driver's license, or instruction permit.
- 1.6 Exceptions Processing – The procedure the Department has established for persons who are unable, for reasons beyond their control, to present all necessary documents and must rely on alternative documents to establish identity, date of birth or U.S. citizenship.
- 1.7 Full Legal Name – The Applicant's first name, middle name(s), last name or surname, without use of initials or nicknames.
- 1.8 Hearing – Hearing before a Department Administrative Hearing Officer.
- 1.9 Identification Card – Has the same meaning as defined in C.R.S. 42-2-303(1)(a).

- 1.10 Identity – The verifiable characteristics that when taken together make a person unique and identifiable. Evidence of identity includes proof of name, date of birth, and physical characteristics, and must include a verifiable photograph unless approved through Exceptions Processing.
- 1.11 Incomplete Application – An application that does not satisfy all the federal and state requirements for issuance of a Colorado driver’s license, identification card or a CO-RCSA identification document resulting in a Notice of Incomplete Application.
- 1.12 Lawful Presence – For the purposes of this rule, the status of a person who demonstrates U.S. citizenship or Permanent Residency.
- 1.13 Minor Spelling Inconsistencies – Slight variations in the spelling of a full legal name such that the variations are similar in appearance or produce a phonetically similar or identical sound as pronounced.
- 1.14 SSA – The United States Social Security Administration
- 1.15 SSN – The Social Security Number issued by SSA.
- 1.16 SSOLV – The Social Security Online Verification system managed by SSA.
- 1.17 Temporary Lawful Presence – A person whose authority to lawfully remain in the United States is temporary.

## **2.0 Exceptions Processing Procedures**

- 2.1 An Applicant who has applied for a driver’s license, identification card or CO-RCSA identification document and was unable to provide the required documents may request Exceptions Processing after being issued a Notice of Incomplete Application.
- 2.2 For Applicants who are U.S. citizens, Exceptions Processing shall only be used to establish identity, date of birth and U.S. citizenship.
- 2.3 For Applicants with permanent residency status and Applicants who are applying for an identification document pursuant to CO-RCSA, Exceptions Processing shall only be used to establish identity and date of birth.
- 2.4 If an Applicant submits any source document that reflects a name differing from the Applicant’s full legal name (for example through marriage, adoption, court order or other mechanism permitted by state law or regulation), the Department shall require evidence of the name change through the presentation of documents issued by a court, governmental body, or other entity as determined by the Department.
- 2.5 The Department may resolve minor spelling inconsistencies in, or slight misspellings of, the spelling of a full legal name through Exceptions Processing if the totality of the evidence gathered demonstrates the Applicant’s identity and the resolution is not contrary to the public interest.
- 2.6 If the totality of evidence gathered through Exceptions Processing establishes the Applicant’s identity, date of birth, and U.S. citizenship (where applicable), the Applicant may be issued a Colorado driver’s license, identification card or CO-RCSA identification document.

- 2.7 If the totality of evidence gathered through Exceptions Processing does not establish the Applicant's identity, date of birth and U.S. citizenship (where applicable), the Applicant shall be issued a Notice of Denial and thereafter may request a hearing with the Hearings Section of the Department.
- 2.8 For Applicants who do not have an established residence proof of residency documents are waived, if an Applicant provides a letter on letterhead, signed by an authorized staff member of a homeless shelter, certifying that the individual is homeless and is registered at the shelter.

**3.0 Exceptions Processing to Establish Identity and Date of Birth for U.S. citizens.**

- 3.1 The following documents or combination of documents may be used to establish an Applicant's identity and date of birth:
  - 3.1.1 A U.S. Passport expired no more than 10 years.
  - 3.1.2 A driver's license or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that either has not expired or that expired within the last 10 years.
  - 3.1.3 A military identification card or common access card expired no more than 10 years issued by the U.S. Department of Defense that bears a photograph of the Applicant. Such identification cards include active duty, retiree, National Guard, and dependent identification cards.
  - 3.1.4 A life, health, or other insurance record that bears the Applicant's full legal name, date of birth, and place of birth.
  - 3.1.5 An identification card issued within the last 20 years by the Bureau of Indian Affairs or by a federally recognized Native American Tribe, and verified by the issuing authority, that bears a photograph of the Applicant, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the Applicant.
  - 3.1.6 A Veteran's Administration card that bears a photograph of the Applicant and was issued within the last 20 years.
  - 3.1.7 An identity card issued by the Federal Bureau of Prisons or any State Department of Corrections, verified by the issuing authority, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the Applicant.
  - 3.1.8 A valid individual Colorado (issued by the Department) or federal U.S. income tax return, with an Applicant's copy of an Internal Revenue Service form W-2 or 1099. Validity shall be determined using the SSOLV system. If the social security number on the document provided is not validated by the SSOLV system, then the document shall be deemed invalid.
  - 3.1.9 An Affidavit of Identity that includes the name or names by which the Applicant is known.

- 3.1.9.1 The affiant must present the affidavit in person, provide identification, and sign the affidavit in the presence of a Department employee.
- 3.1.9.2 The affiant must be an employee of a government or non-profit agency registered by the Department with proof of agency affiliation.
- 3.1.9.3 The Affidavit of Identity shall be used for Applicants who can demonstrate U.S. Citizenship.
- 3.1.10 Any document that is secure and verifiable pursuant to section 24-72.1-102(5), C.R.S., as determined by the Department, which establishes evidence of the Applicant's identity or date of birth.

#### **4.0 Exceptions Processing for U.S. Citizens Using Alternative Documents to Establish U.S. Citizenship.**

- 4.1 An Applicant may use alternative documents to establish U.S. citizenship.
- 4.2 The following documents or combination of documents may be accepted in support of an Applicant seeking to establish U.S. citizenship:
  - 4.2.1 A certified Order of Adoption of the Applicant bearing the seal or certification of the court of any state, political subdivision, or territory of the United States, or a certified Order of Adoption of that Applicant bearing the seal or certification of the court where a valid adoption took place abroad, so long as the same adoption was the basis of the Applicant's admission into the United States as a legal permanent resident. Any adoption decree must include the date and location of the adoptee's birth.
  - 4.2.2 A U.S. passport expired no more than 10 years.
  - 4.2.3 A city issued birth certificate or hospital birth record that includes the name and date of birth.
  - 4.2.4 Any secure and verifiable document, that serves to provide evidence of the Applicant's U.S. citizenship.

#### **5.0 Exceptions Processing to Establish Identity and Date of Birth for Non-Citizens with Permanent Lawful Presence.**

- 5.1 The following documents or combination of documents may be used to establish an Applicant's identity and/or date of birth:
  - 5.1.1 A driver's license or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that either has not expired or that expired within the last 10 years.
  - 5.1.2 A military identification card or common access card expired no more than 10 years issued by the U.S. Department of Defense that bears a photograph of the Applicant. Such identification cards include active duty,

- retiree, National Guard, and dependent identification cards.
- 5.1.3 A life, health, or other insurance record that bears the Applicant's full legal name, date of birth, and place of birth.
  - 5.1.4 A Veteran's Administration card that bears a photograph of the Applicant and was issued within the last 20 years.
  - 5.1.5 An identity card issued by the Federal Bureau of Prisons or any State Department of Corrections, provided the first and last name and date of birth match the first and last name and date of birth on the document presented by the Applicant.
  - 5.1.6 A valid individual Colorado or federal income tax return, with an Applicant's copy of an Internal Revenue Service form W-2 or 1099. Validity shall be determined using the SSOLV system. If the social security number on the document provided is not validated by the SSOLV system, then the document shall be deemed invalid.
  - 5.1.7 Any document that is secure and verifiable pursuant to section 24-72-1-102(5), C.R.S., as determined by the Department, which establishes evidence of the Applicant's identity or date of birth.

**6.0 Exceptions Processing to Establish Identity and Date of Birth for Non-Citizens Who Cannot Demonstrate Lawful Presence or Non-Citizens Who Can Demonstrate Temporary Lawful Presence.**

- 6.1 The following documents or combination of documents may be used by an Applicant to establish identity and/or date of birth
  - 6.1.1 A driver's license or identification card issued by any state, including a state that does not require proof of lawful presence to obtain such document, that has not expired or that has expired within the last ten years.
  - 6.1.2 A military identification card or common access card issued by the U.S. Department of Defense that contains a photograph of the Applicant that has expired within the previous 10 years. Such identification cards include active duty, retiree, National Guard, and dependent identification cards.
  - 6.1.3 A Veteran's Administration card issued within the last 20 years that bears a photograph of the Applicant.
  - 6.1.4 An identification card issued by the Federal Bureau of Prisons or any State Department of Corrections provided that the first and last name and date of birth match the first and last name and date of birth on the document presented by the Applicant.
  - 6.1.5 A life, health, or other insurance record that bears the Applicant's name, date of birth, and place of birth.
  - 6.1.6 A DHS certified photocopy of a foreign passport
  - 6.1.7 A U.S. Department of State travel authorization document with photograph

6.1.68 Any other document that is secure and verifiable pursuant to section 24-72.1- 102(5), C.R.S., which serves to provide evidence of the Applicant's identity or date of birth as determined by the Department.

## **7.0 Process for Translation**

- 7.1 All documents provided to the Department by the Applicant shall be in English or have been translated into English.
- 7.2 The original and corresponding translated documents shall be presented together at the time of application.
- 7.3 All documents translated must have the following included at the end (must be typed or electronically printed on the same page as the translation, not on separate pieces of paper or the translation will not be accepted by the Department):
  - 7.3.1 An attestation that states: "I, [insert translator's full name], affirm that the foregoing is a complete and accurate translation from [insert foreign language] to the English language to the best of my ability. I further affirm that I am fully competent to translate from [insert foreign language] to the English language and that I am proficient in both languages" and
  - 7.3.2 The number and state of issuance of the translator's unexpired driver's license, identification card or CO-RCSA identification document.
- 7.4 All translated documents and information required by rule 8.3 shall be included in the Applicant's permanent motor vehicle record.
- 7.5 Applicants are responsible for all costs of translation.

## **8.0 Denial of Application**

- 8.1 If an application is incomplete or the Applicant has failed to provide documents verifiable by the Department for identity, date of birth or U.S. citizenship, the Department may provide a Notice of Denial.
- 8.2 Nothing in this regulation shall be construed to prevent the Department from denying an application on the basis that an Applicant has presented documents that are fraudulent or that are not secure and verifiable.
- 8.3 Nothing in this regulation restricts or prohibits the Department from verifying any documents presented by an Applicant.
- 8.4 An application may be denied or ~~canceled~~ if the Applicant presents fraudulent or altered documents or commits any other fraud in the application process. If the authenticity of a document cannot be verified, then the application may be considered incomplete and additional documentation may be required.

## **9.0 Hearing and Final Agency Action**

- 9.1 An Applicant who has received a Notice of Denial may, within 60 days of the date of the Notice of Denial, request a hearing on the denial by filing a written request

- for hearing with the Hearings Section of the Department.
- 9.2 Hearings shall be held in accordance with the provisions of the State Administrative Procedure Act and the provisions of Title 42 of Colorado Revised Statutes.
  - 9.3 The only issue at hearing shall be whether the Applicant has satisfied federal and state requirements for the issuance of a Colorado driver's license, identification card or CO-RCSA identification document.
  - 9.4 The hearing officer shall issue a written decision. If the hearing officer finds that the Applicant has not satisfied state and federal requirements for the issuance of a Colorado driver's license, identification card or CO-RCSA identification document, then the denial shall be sustained. If the hearing officer finds that Applicant has satisfied state and federal requirements for the issuance of a Colorado driver's license, identification card or CO-RCSA identification document, then the denial shall be rescinded and the Department shall issue a Colorado driver's license, identification card or CO-RCSA identification document.
  - 9.5 The decision by the hearing officer shall constitute final agency action, and is subject to judicial review as provided by section 24-4-106, C.R.S.