EMERGENCY RULES ON POLL WATCHERS, VOTE CHALLENGES, AND PROVISIONAL VOTING
(Effective April 22, 2006; Revised March 4, 2014)

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Scope of Rules

These rules set forth the procedures for poll watchers, challenging votes, and for issuing, processing, and counting provisional ballots. These rules are in addition to and not a substitute for the laws of the State of Arkansas.

§ 900 Definitions

(a) Absentee Ballot Processing Site – a place designated by the county board of election commissioners in the courthouse where election clerks for absentee ballots meet on election day for the purpose of processing absentee ballots. ¹

(b) Additional Identification Requirement – documentary identification in addition to proof of identity that certain first-time voters who register by mail must show to cast a regular ballot during early voting or at the polls on election day. Acceptable identification documents include a copy of a current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. ²

(c) Administrator - the administrative head of a long-term care or residential care facility licensed by the state.

(d) Ballot Style – a ballot’s combination of contests and issues to be voted upon that is unique to each precinct or part of a precinct.

(e) Challenged Ballot Form – the applicable portions of a “provisional voter envelope” (see Attachment “A”) that are completed when a poll watcher challenges a voter, identifying the voter whose vote was challenged, the poll watcher, the reason for the challenge, the applicable provisional voter number from the list of provisional voters (see Attachment “B”), poll, precinct, ballot style, and the date and time of the challenge under the signature of both the poll watcher and the challenged voter.

(f) Counting Site – a location selected by the county board of election commissioners with respect to all elections for the processing and/or counting of votes. ³

(g) County Board of Election Commissioners – the three-member board in each of the 75 counties in this State responsible for conducting all elections within their respective county, including two members elected by the county committee of the majority party and one member elected by the county committee of the minority party or persons appointed by the state chair of either the majority or minority parties to fill a vacancy in that party’s position. ⁴

(h) Documentation from the Administrator – a letter on facility letterhead, dated and signed by the administrator which specifically identifies the full name of the resident in the body of the letter

¹ A.C.A. §§ 7-5-414(a), 7-5-416(a)(1)
² A.C.A. § 7-5-201(c) as amended by Act 95 of 2013
³ A.C.A. § 7-1-101
⁴ A.C.A. § 7-4-102(6), as amended by Act 1056 of 2011

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and is valid for one year after the date it is signed and issued. The letter issued by the administrator can be used by a resident of a long-term care facility as identification during early voting, on election day at a polling location, and when voting by absentee ballot.  

(i) Election Clerk – for the purpose of these rules, a person possessing the same qualifications as a poll worker who is designated by the county board of election commissioners to process, count, and canvass absentee ballots under the supervision of the county board.

(j) Election Official – a person who is a member of the county board of election commissioners or a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff.

(k) Eligibility Affirmation – a written affirmation executed by a provisional voter in the presence of the poll worker at the poll stating that he or she is a registered voter in the precinct in which he or she desires to vote and is eligible to vote in that election (see Attachment “A”).

(l) First-time Voter Registered by Mail – any registered voter, except those exempted by Arkansas Code Annotated § 7-5-201(e)(2), who has not previously voted in a federal election in the state and whose registration application arrived at the county clerk’s office or Secretary of State’s office by mail. “First-time voters registered by mail” who do not provide identification when registering are flagged by the county clerk for an additional identification requirement. “First-time voters registered by mail” who provided a valid driver’s license number or the last four (4) digits of their social security number on their voter registration application form are considered as having provided identification if a state or local election official can match the driver’s license or social security number with an existing state identification record bearing the same number, name and date of birth as provided in the registration. Registration applications arriving in bulk by means other than the mail at the registrar’s office or delivered by leaders of voter registration drives are considered to have been delivered in person, not by mail, and are, therefore, not considered “first-time voters registered by mail” and not flagged by the county clerk for the additional identification requirement.

(m) Polling Site – a location selected by the county board of election commissioners where votes are cast.

(n) Poll Watcher – any authorized representative of a candidate, any authorized representative of a group seeking passage or defeat of a measure on the ballot, and any authorized representative of a political party with a candidate on the ballot who is present at a polling site or an absentee ballot processing site to observe and ascertain the identity of persons presenting themselves to vote at the polls or to observe and ascertain the identity of absentee voters for the purpose of challenging any voter in person or for the purpose of challenging any absentee vote. A candidate may be present at an absentee ballot processing site to observe and ascertain the identity of absentee voters for the purpose of challenging any absentee vote. A candidate or an authorized

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5 A.C.A. § 7-5-201(d)(2) as amended by Act 595 of 2013 and §16.0 of the Arkansas Secretary of State’s Rules on Voter Identification
6 A.C.A. § 7-5-414
7 A.C.A. § 7-1-101
8 A.C.A. § 7-5-308(a)(2)
9 A.C.A. §§ 7-1-101; 7-5-201(d)
10 A.C.A. § 7-1-101
representative of a candidate or political party may also be present at all counting sites for the purpose of witnessing the counting of ballots by election officials. A candidate may be present in person during early voting only for the purpose of observing whether or not votes are fairly and accurately cast.\(^\text{11}\)

(o) Poll Watcher Authorization Form – an affidavit, in the form specified by law, designating and authorizing a poll watcher. The “poll watcher authorization form” must be filed with the county clerk and a file-marked copy presented to an election official immediately upon entering the polling site, absentee ballot processing site, or counting site. Candidates in person at early voting, attending a counting site or an absentee ballot processing site must present identification, but are not required to present a Poll Watcher Authorization Form (see Attachment “C”).\(^\text{12}\)

(p) Poll Worker – an election official designated by the county board of election commissioners to be an election clerk, election judge or election sheriff at a polling site.

(q) Precinct—the geographical boundary lines dividing a county, municipality, township, or school district for voting purposes.\(^\text{13}\)

(r) Precinct Voter Registration List – a computerized list provided by the county clerk and used by poll workers in each polling place for every election conducted in the state indicating the name and date of the election; identifying the precinct’s number and county in which located; and containing the name, address, and date of birth of each registered voter, including those who have been designated inactive, within the precinct with a space for each voter’s signature.\(^\text{14}\) In any precinct with more than one (1) ballot style, the precinct voter registration list must also identify the district, sub-district, county, municipality, ward, and school zone in which each voter is qualified to vote.\(^\text{15}\)

(s) Proof of Identity:

(1) A voter identification card issued by the county clerk pursuant to Act 595 of 2013 OR
(2) A document or identification card that meets all of the following conditions:
   (a) Shows the name of the person to whom the document was issued;
   (b) Shows a photograph of the person to whom the document was issued;
   (c) Is issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas; and
   (d) If displaying an expiration date, the document or card is not expired or expired no more than four (4) years before the date of the election in which the person seeks to vote.
(3) Documents or Identification cards that comply with the above requirements for proof of identity may include, without limitation, the following:
   (a) A driver’s license;
   (b) A photo identification card;
   (c) A concealed handgun carry license;

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\(^{11}\) A.C.A. §§ 7-5-312; 7-5-316(a); 7-5-413(d); 7-5-416(a)(4); 7-5-527(b); 7-5-615(a)
\(^{12}\) A.C.A. § 7-5-312(d)(e)
\(^{13}\) A.C.A. § 7-1-101
\(^{14}\) A.C.A. § 7-5-107
\(^{15}\) A.C.A. § 7-5-110
(d) A United States passport;
(e) An employee badge or identification document;
(f) A United States Military identification document;
(g) A student identification card issued by an accredited postsecondary educational institution in the State of Arkansas;
(h) A public assistance identification card; and
(i) A voter identification card as provided under Act 595 of 2013 and rules propounded by the Secretary of State.\textsuperscript{16}

(t) Provisional Ballot - a ballot cast and/or considered by special procedures to record a vote when there is some question concerning a voter’s eligibility or compliance with certain statutory requirements. Provisional ballots are counted upon verification of a voter’s eligibility or compliance with those statutory requirements.\textsuperscript{17}

(u) Provisional Voter Envelope - an envelope used by poll watchers for voter challenges and by poll workers for voter qualification issues containing information relating to provisional voters, including a provisional voter’s eligibility affirmation, the reason for voting provisional, the ballot style voted, the county clerk’s certification of the provisional voter’s registration status, and the disposition of the provisional ballot upon review by the county board of election commissioners. A “provisional voter envelope” shall have printed on it all the information sought by Attachment “A”.

\textsuperscript{16} A.C.A. § 7-1-101 as amended by Act 595 of 2013
\textsuperscript{17} A.C.A. §§ 7-1-101; 7-5-304(c); 7-5-305(a)(8)(B)(ii); 7-5-306(b); 7-5-308; 7-5-312(b); 7-5-412(b); 7-5-416(b)(1)(F)(iii); 7-5-417(a); 7-5-418(d); 7-5-321(c) as provided in Act 595 of 2013
§ 901 Failure to Provide Voter Identification

A. In-person Voters

A person voting at the polls during early voting or on election day who did not present proof of identity, or, if a resident of a long-term care or residential care facility licensed by the state, who did not provide either proof of identity or documentation from the administrator of the facility attesting that the person is a resident of the facility, shall be offered a provisional ballot.\(^\text{18}\)

B. Additional Identification Requirement

A first-time voter voting at the polls during early voting or on election day who was flagged on the Precinct Voter Registration List for compliance with the additional identification requirement and who did not provide required identification shall be offered a provisional ballot.\(^\text{19}\)

C. Absentee Voters

The absentee ballot of a voter who, if required by law, does not submit with the absentee ballot a copy of current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows the name and address of the voter, or documentation from the administrator shall be considered as a provisional ballot.\(^\text{20}\)

§ 902 Precinct Voter Registration List

A. Voter’s Name Missing

When a voter provides his or her name, address, and date of birth to a poll worker, and the voter’s name is not on the precinct voter registration list, the poll worker must:

1) Contact the county clerk’s office to verify the voter’s registration status, and

2) Allow the voter to cast a REGULAR ballot (if the county clerk informs the poll worker that the voter is listed as a registered voter of the precinct),\(^\text{21}\) or

3) Allow the voter to cast a REGULAR ballot (if the county clerk informs the poll worker that the voter transferred his or her registration from another county not later than four (4) days before the election and that the voter is at the correct poll in the new county of registration),\(^\text{22}\) or

4) Send the voter to his or her correct polling site where the voter may cast a REGULAR ballot (if the county clerk informs the poll worker that the voter is listed as a registered voter at a different precinct in the county), or

5) Allow the voter to cast a PROVISIONAL ballot at the disputed polling site (if the county clerk informs the poll worker that the voter is listed as a registered voter at a different precinct in the county, but the voter insists that he or she is at the correct polling site), or

\(^{18}\) A.C.A. § 7-5-321 as provided in Act 595 of 2013

\(^{19}\) A.C.A. § 7-5-201(e) as amended by act 595 of 2013

\(^{20}\) A.C.A. § 7-5-201(e) as amended by act 595 of 2013

\(^{21}\) A.C.A. § 7-5-306(a)

\(^{22}\) Amend. 51, §10 of the Arkansas Constitution
6) Allow the voter to cast a PROVISIONAL ballot (if the county clerk is unable to verify the voter's registration, but the voter contends that he or she is both registered in the precinct in which he or she desires to vote and is eligible to vote).\textsuperscript{23}

B. “Voted Absentee” Notation

Upon delivery of an absentee ballot to an individual authorized to receive an absentee ballot, the county clerk shall mark the electronic voter registration record and the precinct voter registration list to indicate that an absentee ballot has been delivered to the voter under the procedures in this section.\textsuperscript{24}

Any person to whom an absentee ballot is delivered according to the precinct voter registration list, but who chooses to vote by early voting or to vote at his or her polling site on election day, shall be permitted to cast a provisional ballot at the poll.\textsuperscript{25}

§ 903 Poll Watcher Challenges

A. Official Recognition/Credentials

Poll watchers representing a candidate, group, or political party must file a “poll watcher authorization form” (see Attachment “C”) with the county clerk of the county in which the polling site, absentee ballot processing site, or counting site is located and present a file-marked copy of the valid form to the election officials immediately upon entering the polling site, absentee ballot processing site, and/or counting site.\textsuperscript{26}

A candidate may not be present in person at the polls on election day as a poll watcher. A candidate may be present in person as a poll watcher during the counting and tabulation of ballots and the processing of absentee ballots.\textsuperscript{27}

A candidate may be present in person at early voting locations only for the purpose of observing whether or not votes are fairly and accurately cast, but a candidate may not challenge voters as a poll watcher during early voting and may speak only to a designated poll worker.\textsuperscript{28} A candidate who is present in person at an early voting location for the purpose of observing may not speak to voters or disrupt the orderly conduct of the election. A candidate who is a public official and who is present in person at an early voting location for the purpose of observing shall not wear on his or her person any uniform, badge, or other apparel or equipment that identifies the candidate as a public official.

A candidate who is present in person at an early voting location for the purpose of observing or during the counting and tabulation of ballots and the processing of absentee ballots as a poll watcher is not required to present a “poll watcher authorization form”, but must present some form of identification to an election official immediately upon entering the site.

\textsuperscript{23} A.C.A. §§ 7-5-306(b); 7-5-418(d)
\textsuperscript{24} A.C.A. § 7-5-409(g)
\textsuperscript{25} A.C.A. §§ 7-5-201(e); 7-5-305(a)(11); 7-5-411(b)
\textsuperscript{26} A.C.A. § 7-5-312(d)
\textsuperscript{27} A.C.A. § 7-5-312(a)(11)(e)
\textsuperscript{28} A.C.A. § 7-5-413(d)
Only one (1) authorized poll watcher per candidate, group, or party at any one (1) time may be officially recognized as a poll watcher at each location within a polling site where voters identify themselves to election officials and at each location within the absentee ballot processing site where absentee ballots are processed.\(^{29}\)

Only one (1) authorized poll watcher per candidate or party at any one (1) time may be officially recognized as a poll watcher at the counting of ballots at the polling site, central counting location, or absentee ballot counting location.\(^{30}\)

Poll watcher rights and responsibilities must be posted in plain view at each polling site, absentee ballot processing site, and counting site.\(^{31}\)

B. Challenges

Authorized poll watchers who are officially recognized at a polling site may stand close enough to the place where voters check in to vote so as to hear the voter's name and may challenge an ineligible voter upon notifying a poll worker of the challenge before the voter signs the precinct voter registration list and upon completing a “challenged ballot form” (see Attachment “A’”).\(^{32}\)

A poll watcher may challenge a voter only on the grounds that the voter is not eligible to vote in the precinct or that the voter has already voted in the election.\(^{33}\)

When election clerks appointed by the county election commission to process, count, and canvass absentee ballots read the name and voting precinct of an absentee voter, any qualified poll watcher may challenge the vote in the same manner provided by law for personal voting challenges, and the election clerks must consider the absentee ballot as a provisional ballot.\(^{34}\)

§ 904 Court-Ordered Extension

A person who votes in an election as a result of a federal or state court order or any other order extending the time established for closing the polls may vote in the election only by casting a provisional ballot. The provisional ballots cast as a result of the order must be separated and held apart from other provisional ballots cast by provisional voters not affected by the order.\(^{35}\)

\(^{29}\) A.C.A. § 7-5-312(b),(c)

\(^{30}\) A.C.A. § 7-5-312(c),(e)

\(^{31}\) A.C.A. § 7-5-312(f)

\(^{32}\) A.C.A. § 7-5-312(e),(g),(h)

\(^{33}\) A.C.A. § 7-5-312(g)

\(^{34}\) A.C.A. §§ 7-5-414; 7-5-417(a)

\(^{35}\) A.C.A. § 7-5-304(c)
§ 905 Voting a Provisional Ballot

Provisional ballots cast at the polls during early voting or on election day shall be handled as follows:

1) If as a result of a poll watcher challenge, the poll watcher must notify a poll worker of the challenge before the voter signs the precinct voter registration list and must complete a “challenged ballot form” (See Attachment “A”), and a poll worker must inform the voter that his or her ballot is being challenged.  

2) If as a result of failure to meet an identification requirement, a poll worker must inform the voter of the reason the voter is not allowed to cast a regular ballot.

3) The provisional voter must execute a written eligibility affirmation in the presence of the poll worker stating that he or she is both a registered voter in the precinct in which he or she desires to vote and eligible to vote in the election.  

4) The poll worker shall initial the back of the ballot, remove the ballot stub from the provisional ballot, and place the stub in the stub box provided.

5) The provisional voter shall mark his or her ballot.

6) The provisional voter shall place his or her voted ballot in a ballot secrecy envelope marked “PROVISIONAL BALLOT” and seal the envelope (nothing else goes in this envelope).

7) The provisional voter shall then place the sealed ballot secrecy envelope marked “Provisional Ballot,” containing his or her voted provisional ballot in a “provisional voter envelope”, seal it, and give it to the poll worker.

8) The poll worker must provide the provisional voter a copy of the notice prescribed in §906 (a).

9) The poll worker must make and retain a separate list of the names and addresses of all persons casting a provisional ballot (see Attachment “B”).

10) The poll worker must preserve, secure, and separate all provisional ballots from the remaining ballots and forward all sealed “provisional voter envelopes” in a secured container provided for that purpose to the county board of election commissioners after the polls close.

11) The county board of election commissioners will forward in a secured container the sealed “provisional voter envelopes” to the county clerk’s office for completion of the certification portion of the envelope.

12) Upon completion of the certification portion of the envelope, the county clerk returns the secured container of sealed “provisional voter envelopes” to the county board for determination before certification of the election results as to whether the provisional ballots are valid and should be counted.

For absentee ballots which become a provisional ballot, the absentee ballot clerk shall place the absentee ballot materials in a provisional voter envelope and should check the “Other” box and write the word “Absented” next to the box marked “Other” on the form provided on the provisional ballot envelope (Attachment “A”). The absentee ballot clerk should also indicate the reason for making the

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36 A.C.A. §§ 7-5-308(a)(1); 7-5-312(c)(b)
37 A.C.A. § 7-5-308(a)(2)
38 A.C.A. § 7-5-308(a)(3)
39 A.C.A. § 7-5-308(a)(4)
40 A.C.A. § 7-5-308(a)(5)
41 A.C.A. § 7-5-308(a)(6)
42 A.C.A. § 7-5-308(a)(7)
43 A.C.A. § 7-5-308(a)(8)
44 A.C.A. § 7-5-308(b)
45 A.C.A. §§ 7-5-308(d)(1); 7-5-417(c)
absentee ballot provisional (i.e. No ID or Poll Watcher Challenge) on the form provided on the provisional ballot envelope (Attachment "A"). For inconsistent Voter Statements, the absentee clerk should write "inconsistent statement" after the word "Absentee" after the "Other" box on the provisional ballot envelope.

§ 906 Notice to Provisional Voters

(a) Whenever a person casts a provisional ballot at the polls during early voting or on election day, the poll worker must provide the voter a copy of a notice that includes the following information:
- That the provisional voter will be notified by first class mail whether his or her vote was counted and the reason if not counted.\(^{45}\)
- That a provisional voter who cast a provisional ballot for failure to present proof of identity may present proof of identity or an affidavit of indigence or religious objection to the county clerk or the county board of election commissioners by noon of the first Monday following the election in order for the provisional ballot to be counted;
- The address, telephone number, and regular office hours of the county clerk;
- The dates of any meetings of the county board of election commissioners scheduled before noon of the next Monday following the election;
- An explanation of the provisional voting process; and
- The date, time, and address of a hearing for the voter if the provisional ballot is rejected.

(b) Whenever an absentee ballot is made provisional for failure to submit required identification with the ballot, the county election commission must send notice by first-class mail to the voter’s absentee mailing address and the voter’s registration address and deliver such notice electronically or by telephone, if possible. The notice shall include the following information:
- That the provisional voter will be notified by first class mail whether his or her vote was counted and the reason if not counted.\(^{47}\)
- That a provisional voter who cast a provisional ballot for failure to provide required identification may present the required identification or an affidavit of indigence or religious objection to the county clerk or the county board of election commissioners in any matter allowed for in § 806 of the Rules for Voter Identification by noon of the first Monday following the election in order for the provisional ballot to be counted;
- The address, telephone number, and regular office hours of the county clerk;
- The dates of any meetings of the county board of election commissioners scheduled before noon of the next Monday following the election;
- An explanation of the process by which the voter’s ballot was made provisional; and
- The date, time, and address of a hearing for the voter if the provisional ballot is rejected.

(c) The system that the Secretary of State has established for provisional voters to be notified whether their ballot was counted requires written notice mailed first class to the provisional voter by the county board of election commissioners. Sample notices may be obtained from the Secretary of State’s office. The notice shall include the following:
- A statement whether the provisional ballot was counted or was not counted;

\(^{45}\) A.C.A. § 7-5-308(c)
\(^{47}\) A.C.A. § 7-5-308(c)
- If the provisional ballot was preliminarily determined to be invalid, the reason the ballot was not counted; and
- The date, time, and address of a hearing by the county board regarding the voter’s eligibility to vote in the election.

(d) Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.48

§ 907 Review of Provisional Ballots

The county board of election commissioners shall determine whether provisional ballots are valid before certifying the election.49

The county board shall examine the sealed outer “provisional voter envelope” (see Attachment “A”), including the challenged ballot portion, if any, the eligibility affirmation of the provisional voter, if any, and the county clerk’s certification of the provisional voter’s registration status without unsealing the outer “provisional voter envelope” or removing or opening the inner ballot secrecy envelopes marked “PROVISIONAL BALLOT” containing the provisional voter’s voted ballot.

Based upon the examination of the sealed outer “provisional voter envelope” and any additional information available, the county board shall make a determination of whether the provisional ballot was cast by an eligible voter and was the correct ballot for the precinct of the voter’s residence according to the precinct listed on the voter’s eligibility affirmation or the registration address of the absentee voter.50

If the county board makes an initial determination that the provisional ballot will not be counted, the county board must notify the provisional voter of the reason for rejecting the provisional voter’s ballot and of the date, time, and place for a hearing and other information as provided in these rules before a final determination is made.51

When the information on the outer “provisional voter envelope” indicates that a voter at the polls cast a provisional ballot for both failure to present proof of identity and another reason, the county board shall first determine whether the voter is eligible to vote in the precinct. If it is determined that the voter who cast a provisional ballot for failure to provide proof of identity and for another reason is eligible to vote, or if the provisional ballot was cast for the reason that the voter failed to present proof of identity, then the county board shall count the ballot if proof of identity or an affidavit of indigence or religious objection has been provided to the county board or the county clerk by noon of the first Monday following the election.

When the information on the outer “provisional voter envelope” indicates that an absentee ballot is being considered as a provisional ballot for both failure to present identification and another reason, the county board shall first determine whether the voter is eligible to vote in the precinct. If it is determined that the voter whose ballot is being considered as a provisional ballot for failure to

48 A.C.A. § 7-5-308(c)(3)
49 A.C.A. § 7-5-308(d)(1)
50 A.C.A. § 7-5-308(d)(2)
51 Dotson v. Richey, 211 Ark. 789 (1947)
provide identification and for another reason is eligible to vote, or if the ballot was made provisional only for the reason that the absentee voter failed to present identification, then the county board shall count the ballot if identification has been provided to the county board or the county clerk by noon of the first Monday following the election pursuant to these rules and the Rules for Voter Identification.

When reviewing the provisional ballot cast at the polls by a flagged first-time voter who registered by mail and did not meet the additional identification requirement when registering or voting, the county board should not base its initial determination of whether or not to count the ballot solely on the provisional voter's failure to meet the additional identification requirement. As long as proof of identity has already been provided, the provisional ballot should be rejected only if the voter failed to provide additional identification and there is a determination, independent of the failure to meet the additional identification requirement, that the person who voted is not eligible to vote in the precinct.\(^52\)

When reviewing the provisional ballot of any person who was delivered an absentee ballot according to the precinct voter registration list, but then chose to cast a provisional ballot at an early voting or election day polling site, the county board shall:

1) Count the voter's absentee ballot rather than the provisional ballot cast at the polling site, if the absentee ballot was returned and processed for counting on election day before the time of counting provisional ballots, or

2) Count the voter's provisional ballot cast at the polling site, if the voter's absentee ballot was not returned or was not processed for counting on election day by the time of counting provisional ballots.

The county board must complete the disposition portion of the "provisional voter envelope" and notify each provisional voter by first class mail as to whether or not his or her provisional ballot was counted.

\(^{52}\) § 803 of the State Board of Election Commissioners' Rules on Voter Identification
§ 908 Hearing

Provisional voters shall be allowed to appear before the county board to contest the county board’s initial decision to discharge their ballots and to present evidence that they were registered to vote and voted the correct ballot for the precinct of their residence or, if applicable, that they presented required identification during early voting, on election day or by noon of the first Monday after the election.

If these provisional voters do not appear for a hearing or otherwise provide satisfactory evidence of their registration status or required identification, then the ballot shall not be counted.

The commission then completes the election commission’s portion of the list of provisional voters form (see Attachment “B”), and all records are preserved in accordance with the laws governing preservation of ballots and election materials.

The process of hearing and final decision must be completed by the deadline to certify the election results.

§ 909 Counting Provisional Ballots

Unless enjoined by a court of competent jurisdiction, a provisional ballot shall be counted if:
1) it is cast by a registered voter who provided required identification and it is the correct ballot for the precinct of the voter’s residence according to the precinct listed on the voter’s eligibility affirmation; or
2) it is cast by a registered voter who failed to present proof of identity at a polling place during early voting or on election day but who presents proof of identity or an affidavit of indigence or religious objection to having his or her photograph made to the county clerk or the county board no later than the first Monday following the election; or
3) it is the absentee ballot of a voter who is required to provide identification with his or her ballot and who failed to provide the required identification, but who complies with the post-election submission procedures contained in the Rules for Voter Identification § 806.53

In counting provisional ballots, the county board must ensure the secrecy of the ballot pursuant to Amendment 81 of the Arkansas Constitution.

Provisional ballots are counted as follows:
1) the commission completes the election commission’s portion of the list of provisional voters form (see Attachment “B”),
2) an election official opens the outer “provisional voter envelope” (see Attachment “A”) for those on the list marked to be counted (see Attachment “B”),
3) the election official removes the sealed inner ballot secrecy envelope marked “PROVISIONAL BALLOT” containing the provisional voter’s voted ballot,
4) the election official places the sealed inner ballot secrecy envelope marked “PROVISIONAL BALLOT” containing the provisional voter’s voted ballot in a ballot box provided for that purpose,

53 A.C.A. § 7-5-308(d)(2); 7-5-321(c) as provided in Act 595 of 2013
5) when all the outer "provisional voter envelopes" have been opened and all the sealed inner ballot secrecy envelopes placed in the ballot box, the election official shakes the ballot box thoroughly to mix the sealed envelopes containing the provisional ballots,
6) the ballot box is then opened, the secrecy envelopes containing the voted provisional ballot opened, and the provisional ballots canvassed and counted, and
7) all records are preserved in accordance with the laws governing preservation of ballots and election materials.

§ 910 Prosecuting Attorney

Following each election, the county board of election commissioners may review the precinct voter registration lists for voters not providing identification at the polls and forward the information to the prosecuting attorney for investigation of possible voter fraud.\textsuperscript{54}

If, upon examination of any provisional ballot, the county board suspects that a violation of election laws has occurred, the county board may refer the matter to the prosecuting attorney for that county.\textsuperscript{55}

§ 911 Preliminary and Unofficial Results

The processing and counting of provisional ballots, including hearings, shall not delay the declaration of preliminary and unofficial results required by Arkansas Code Annotated § 7-5-701. When reporting preliminary and unofficial results, the county board of election commissioners should also report the number of uncounted provisional ballots pending review and the number of outstanding overseas absentee ballots.

§ 912 Official Certified Results

The official certified results of the election shall include the votes cast on all provisional ballots that were determined by the county board of election commissioners to be valid.

§ 913 Effective Date

These emergency rules are effective upon filing.

\textsuperscript{54} A.C.A. § 7-5-305(a)(8)(B)(iii), (iv)
\textsuperscript{55} A.C.A. § 7-5-308(e)
PROVISIONAL VOTER ENVELOPE

Provisional Voter Number: ___________ Date: ________________ Time: ____________
Poll Name: ________________________ Precinct #: ____________ Ballot Style: ____________

CHALLENGED BALLOT FORM
(To be completed when a poll watcher challenges a voter)

Name of Voter Challenged: _____________________________
Name of Poll Watcher: ________________________________
Entity Represented: _________________________________
Reason for Challenge: ________________________________________________________________________________
(Name of candidate, group or party the poll watcher represents from the Poll Watcher Affidavit)
Signature of Poll Watcher: _________________________________
Signature of Challenged Voter: ____________________________

PROVISIONAL VOTER ELIGIBILITY AFFIRMATION
(To be completed on voter qualification issues)

Voter’s Name: ____________________________ Prior Name: ____________________________
Current Street Address: ____________________ Prior Street Address: ______________________
City, State, Zip: __________________________ Prior City, State, Zip: ______________________
Phone Number(s): __________________________ Provided Identification: Yes [ ] No [ ]
Date of Birth: ____________________________

I, ____________________________, hereby affirm that the information provided is true
and accurate and that to the best of my knowledge I am a registered voter in this precinct and
am eligible to vote in this election.

I understand that the County Board of Election Commissioners will count my ballot only upon
verification of my voter registration status or, if applicable, presentation of proof of identity or
an affidavit of indigence or religious objection.

Witnessed by:

Reason for Voting Provisional
(To be completed by a poll worker)

☐ Poll Watcher Challenge
☐ No Proof of Identity Provided
☐ Not on Precinct Voter Registration List
☐ First-time Voter Flagged to Show Additional ID
☐ Previously Sent Absentee Ballot
☐ Court-ordered Voting Extension
☐ Other

Signature of Poll Worker

Ballot Style
(To be completed by a poll worker)

Ballot Style ______ given to the
provisional voter based upon the
voter’s affirmation of eligibility
for this jurisdiction.

Signature of Poll Worker
CERTIFICATION
(To be completed by the County Clerk’s Office)

County: ____________________________

A. Provisional Voter

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Name: ____________________________
Prior Name: ______________________
Current Address: __________________
Prior Address: ____________________
Date of Birth: ____________________

I, ____________________________, hereby certify that a data search was performed
(printed name of County Clerk or Deputy)
on the foregoing information in an effort to verify the voter registration status for the
individual voting this provisional ballot and hereby confirm that the voter is registered in

(Name of County)  (Precinct Number)

Signature of County Clerk or Deputy

I, ____________________________, hereby certify that a data search was performed
(printed name of County Clerk or Deputy)
on the foregoing information in an effort to verify the voter registration status for the
individual voting this provisional ballot, but was unable to confirm the provisional voter’s
registration status.

Signature of County Clerk or Deputy

DISPOSITION OF PROVISIONAL BALLOT
(To be completed by the County Board of Election Commissioners)

Yes  No
□     □

Provisional Ballot Counted, if not, Reason Not Counted: ____________________________

□     □

Provisional Voter Notified by First Class Mail  Date: ____________________________

County Election Commissioner  County Election Commissioner  County Election Commissioner
(At least one Election Commissioner must sign.)
LIST OF PROVISIONAL VOTERS

Arkansas Code Annotated § 7-5-308 requires poll workers to make a list of the names and addresses of all persons voting a provisional ballot and requires county election commissions to determine the validity of each provisional ballot prior to certification of the election.

<table>
<thead>
<tr>
<th>No.</th>
<th>Voter's Name</th>
<th>Voter's Address</th>
<th>Precinct</th>
<th>Vote counted (Y/N)</th>
<th>If not counted, reason</th>
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Commissioner Signature  Commissioner Signature  Commissioner Signature
POLL WATCHER AUTHORIZATION FORM
[L.C.A. § 7-5-312]

Representative of a Candidate

I, ____________________________________________, state that I am a candidate for the office of _______ in the ____________________ election. I further state that I have designated ___________________________________ as my authorized representative at the election at polling sites ____________________ and absentee ballot processing sites ____________________ in ____________________, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any voter in accordance with Arkansas Code §§ 7-5-312, 7-5-416, 7-5-413, 7-5-416, 7-5-527, and 7-5-615. I further state that I have designated and authorized my representative named above to be present at the ballot counting locations at ____________________, Arkansas, for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-5-416, 7-5-413, 7-5-416, 7-5-527, and 7-5-615.

Representative of a Group

I, ____________________________________________, state that I represent the __________________________ group which is seeking passage/defeat (circle one) of the ballot measure entitled __________________________ on the ballot in the __________________________ election at polling sites ____________________ and absentee ballot processing sites ____________________ in ____________________, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any voter in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417.

Representative of a Party

I, ____________________________________________, state that I am the chair or secretary of the state/county (circle one) committee for the __________________________ party with candidates on the ballot in the __________________________ election. I further state that I have designated ___________________________________ as an authorized party representative at the election at polling sites ____________________ and absentee ballot processing sites ____________________ in ____________________, Arkansas, to observe and ascertain the identity of persons presenting themselves to vote in person or by absentee for the purpose of challenging any voter in accordance with Arkansas Code §§ 7-5-312, 7-5-416, and 7-5-417. I further state that I have designated and authorized my representative named above to be present at the ballot counting locations at ____________________, Arkansas, for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted in accordance with Arkansas Code §§ 7-5-312, 7-5-416, 7-5-413, 7-5-416, 7-5-527, and 7-5-615.

Acknowledged before me this _______ day of _____________, 20 ___.
Notary Public: ____________________________ My Commission Expires: ____________________________

I do hereby state that I am familiar with the rights and responsibilities of a poll watcher as outlined on the back of the poll watcher authorization form and will in good faith comply with the provisions of same.

Signature of the Poll Watcher

Acknowledged before me this _______ day of _____________, 20 ___.
Notary Public: ____________________________ My Commission Expires: ____________________________

I do hereby acknowledge the filing of this poll watcher authorization form with the county clerk's office.

Signature of County Clerk
Attachment “C”

POLL WATCHER RIGHTS AND RESPONSIBILITIES

A poll watcher may be:
(1) A candidate in person, but only during the counting and tabulation of ballots and the processing of absentee ballots;
(2) An authorized representative of a candidate;
(3) An authorized representative of a group seeking the passage or defeat of a measure on the ballot; or
(4) An authorized representative of a party with a candidate on the ballot.

Official recognition of poll watchers:
(1) Only one (1) authorized poll watcher per candidate, group, or party at any one (1) given time may be officially recognized as a poll watcher at each location within a polling site where voters identify themselves to election officials;
(2) Only one (1) authorized poll watcher per candidate, group, or party at any one (1) given time may be officially recognized as a poll watcher at each location within the absentee ballot processing site where absentee ballots are processed; and
(3) Only one (1) authorized poll watcher per candidate or party at any one (1) given time may be officially recognized as a poll watcher at the counting of the ballots.

Poll watcher credentials:
(1) Except for candidates in person, poll watchers must present a valid affidavit in the form of a “Poll Watcher Authorization Form” to an election official immediately upon entering the polling or counting location.
(2) Candidates in person attending a counting site or absentee ballot processing site are not required to present a “Poll Watcher Authorization Form” but must present some form of identification to an election official immediately upon entering the site for the purpose of confirming the poll watcher as a candidate on the ballot.

Poll watchers may:
(1) Observe the election officials;
(2) Stand close enough to the place where voters check in to vote so as to hear the voter’s name;
(3) Compile lists of persons voting;
(4) Challenge ballots upon notification to an election official before the voter signs the precinct voter registration list and upon completing a “Challenged Ballot Form” (see Attachment “A”);
(5) Call to the attention of the election sheriff any occurrence believed to be an irregularity or violation of election law. The poll watcher may not discuss the occurrence unless the election sheriff invites the discussion; and
(6) Be present at the opening, processing, and canvassing of absentee ballots for the purpose of challenging absentee votes in the manner provided by law for personal voting challenges.

Poll watchers representing a candidate or political party may:
(1) Remain at the polling site after the poll closes if ballots are counted at the poll;
(2) Be present at the counting of votes by hand or by an electronic vote tabulating device at a central location;
(3) Be present at the counting of absentee ballots for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted; and
(4) Upon request made to an election official, inspect any or all ballots at the time the ballots are being counted.

Poll watchers may not:
(1) Be within six feet (6’) of any voting machine or booth used by voters to cast their ballot;
(2) Speak to any voter or in any way attempt to influence a voter inside the polling site or within one hundred feet (100’) of the primary exterior entrance used by voters to the building containing the polling site; or
(3) Disrupt the orderly conduct of the election.
EMERGENCY RULES FOR VOTER IDENTIFICATION
(Effective January 1; Revised March 4, 2014)

State Board of Election Commissioners
501 Woodlawn, Suite 401N
Little Rock, AR 72201
(501) 682-1834 or (800) 411-6996
www.arkansas.gov/sbec
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Scope of Rules

These rules will set forth the procedures for processing and administering voter identification requirements. These rules are in addition to and not a substitute for the laws of the State of Arkansas and rules promulgated by the Secretary of State.

§800 Definitions

(a) Additional Identification Requirement – documentary identification in addition to proof of identity that certain first-time voters who register by mail must show to cast a regular ballot during early voting or at the polls on election day. Acceptable identification documents include a copy of current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.¹

(b) Administrator - the administrative head of a long-term care or residential care facility licensed by the state.

(c) Proof of Identity:

   (1) A voter identification card issued by the county clerk pursuant to Act 595 of 2013; OR

   (2) A document or identification card that meets all of the following conditions:

      (a) Shows the name of the person to whom the document was issued;

      (b) Shows a photograph of the person to whom the document was issued;

      (c) Is issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas; and

      (d) If displaying an expiration date, the document or card is not expired or expired no more than four (4) years before the date of the election in which the person seeks to vote.

   (3) Documents or Identification cards that comply with the above requirements for proof of identity may include, without limitation, the following:

      (a) A driver’s license;

      (b) A photo identification card;

      (c) A concealed handgun carry license;

      (d) A United States passport;

      (e) An employee badge or identification document;

      (f) A United States Military identification document;

      (g) A student identification card issued by an accredited postsecondary educational institution in the State of Arkansas;

¹ A.C.A. § 7-5-201(c) as amended by Act 595 of 2013
(h) A public assistance identification card; and
(i) A voter identification card as provided under Act 595 of 2013 and rules propounded by the Secretary of State.²

(d) Documentation from the Administrator—a letter on facility letterhead, dated and signed by the administrator which specifically identifies the full name of the resident in the body of the letter and is valid for one year after the date it is signed and issued. The letter issued by the administrator can be used by a resident of a long-term care facility as identification during early voting, on election day at a polling location, and when voting by absentee ballot.³

§ 801 Proof of Identity Required When Voting at the Polls

All voters except those who reside in a long-term care or residential care facility licensed by the state must present “proof of identity” to cast a regular ballot at the polls during early voting and on election day.

A person who resides in a long-term care or residential care facility licensed by the state may instead provide documentation from the administrator of the facility attesting that the person is a resident of the facility in lieu of the requirement to present proof of identity before voting.⁴

§ 802 Poll Worker Assessment of Validity of Proof of Identity

The proof of identity shall be used to verify the name and appearance of the voter, except that when a voter presents a voter identification card issued by the county clerk pursuant to Act 595 of 2013, the card shall also be used to verify the voter’s identification number. The Precinct Voter Registration List shall be used to verify the address of the voter by comparing the voter’s address in the list to the address stated by the voter.

The poll worker to whom proof of identity is presented shall:

1. Verify that the name on the proof of identity is consistent with the name in the Precinct Voter registration list, allowing for abbreviations and nicknames;
2. If the voter presents a voter identification card issued by the county clerk pursuant to Act 595 of 2013 and rules propounded by the Secretary of State, verify that the registrant identification number on the card is the same as the registrant identification number on the Precinct Voter Registration List.

² A.C.A. § 7-1-101 as amended by Act 595 of 2013
³ A.C.A. § 7-5-201(d)(2) as amended by Act 595 of 2013 and §16.0 of the Arkansas Secretary of State’s Rules on Voter Identification
⁴ A.C.A § 7-5-201(d) as amended by Act 595 of 2013
A first-time voter who registered by mail who did not present the additional identification, if required under §803, shall be offered a provisional ballot.\footnote{A.C.A. § 7-5-305(a)(8)(B)(iii)}

§805 Identification Required When Voting Absentee

The absentee voter must submit with the ballot a copy of current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter.\footnote{A.C.A. § 7-5-201(d)(1)(B) as amended by Act 595 of 2013}

A resident of a long-term or residential care facility licensed by the State of Arkansas may instead provide documentation from the administrator of the facility attesting that the person is a resident of the facility as identification.

The ballot of a voter who failed to provide required identification with his or her absentee ballot shall be considered a provisional ballot.\footnote{A.C.A. §§ 7-5-412(b); 7-5-321}

Uniformed services and merchant marine voters and their spouses and dependents who are away from the county because of the active duty status of a uniformed services or merchant marine member are exempt from the identification requirement for absentee ballots.\footnote{A.C.A. § 7-5-201(d)(1)(B) as amended by Act 595 of 2013}

§ 806 Postelection Submission of Identification or Affidavit of Indigence or Religious Objection

A. Voters At the Polls

A provisional ballot cast because a voter failed to present proof of identity when voting at the polls during early voting or on election day shall be counted and included in the certified results of the election if:

(1) The voter’s ballot is not successfully challenged for any other reason; and
(2) The voter provides to either the county clerk or the county board of election commissioners by noon on the Monday following the election either the voter’s proof of identity or an affidavit that the voter cannot provide proof of identity because of indigence or a religious objection to being photographed.
The voter may provide his or her proof of identity or his or her affidavit of indigence or religious objection to the county board by presenting the proof of identity or the affidavit at any meeting of the county board held before noon on the Monday following the election.

The voter may provide his or her proof of identity or his or her affidavit of indigence or religious objection to the county clerk by presenting the proof of identity or the affidavit to the county clerk before noon on the Monday following the election.

The voter shall present the proof of identity or deliver the affidavit of indigence or religious objection in person.11

B. Absentee Voters

The ballot of an absentee voter that was made provisional for failure to provide required identification with his or her absentee ballot shall be counted and included in the certified results of the election if:

(1) The absentee voter’s ballot is not successfully challenged for any other reason; and
(2) The absentee voter provides to either the county clerk or the county board of election commissioners by noon on the Monday following the election the voter’s required identification or an affidavit that the voter cannot provide the required identification because of indigence or a religious objection to being photographed.

The absentee voter may provide his or her required identification or his or her affidavit of indigence or religious objection to the county board by presenting the required identification or the affidavit at any meeting of the county board held before noon on the Monday following the election.

The absentee voter may alternatively provide his or her required identification or his or her affidavit of indigence or religious objection to the county clerk by presenting the required identification or the affidavit to the county clerk before noon on the Monday following the election.

The absentee voter shall present the required identification or his or her affidavit of indigence or religious objection by mail, in person by the voter, or in person by a third person designated by the voter.

When the identification is delivered by a third person, it must be accompanied by a written statement of the voter, signed and dated by the voter, stating the person’s name and address and that the person has been authorized by the voter to deliver the identification for the voter. Other than the administrator of a long-term care or residential care facility licensed by the state, no person may deliver to the clerk or election commission the identification of more than two

11 A.C.A. § 7-5-321(c) as provided in Act 595 of 2013

Page 7 of 10
(3) If the name is consistent, compare the photograph to the voter to determine whether the voter is the person depicted in the photograph, considering hair color, glasses, facial hair, cosmetics, weight, age, injury and other physical characteristics;

(4) If the poll worker is satisfied that the voter is the person depicted in the photograph and the name is consistent with the name in the Precinct Voter Registration List, then issue the voter a regular ballot;

(5) If the voter's name is different from the name in the Precinct Voter Registration List or the name as stated by the voter but the poll worker is satisfied that the voter is the person depicted in the photograph, issue the person a regular ballot after the voter completes a voter registration application form for the purpose of updating the voter's information; and

(6) If the poll worker determines that the proof of identity does not depict the voter, then the poll worker shall offer the voter a provisional ballot.

§ 803 Additional Identification Requirement for Certain First-Time Voters

Certain first-time voters who register by mail and who, when registering to vote do not provide statutorily required identification documentation, will be flagged on the Precinct Voter Registration List for possible additional identification documentation when voting at the polls during early voting or on election day or by absentee ballot. These first-time voters, like all other voters, are required to present proof of identity in order to vote at the polls during early voting or on election day. A flagged voter who presents a valid proof of identity that is also current (not expired) may vote without presenting an additional identification document. However, if a flagged voter presents a valid proof of identity that is not current (i.e., is expired) and valid for the purpose for which it was issued, the flagged voter must also show a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.\(^5\)

§ 804 Failure to Present Proof of Identity or Other Required Documentation at the Polls

A person voting at the polls during early voting or on election day who did not present proof of identity, or, if a resident of a long-term care or residential care facility licensed by the state, who did not provide either proof of identity or documentation from the administrator of the facility attesting that the person is a resident of the facility, shall be offered a provisional ballot.\(^6\)

---

\(^5\) A.C.A. § 7-5-201 (e) as amended by Act 595 of 2013

\(^6\) A.C.A. § 7-5-321 as amended by Act 595 of 2013

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absentee voters. If no written statement is included with the required identification delivered by a third person, the ballot shall not be counted.

An administrator of a long-term care or residential care facility licensed by the state may deliver to the clerk or election commission the identification documentation from any of the residents of the administrator’s facility who submitted absentee ballots.

§ 807 Assessment ofValidity ofPhoto Identification Submitted Postelection

A. Assessment of Validity of Proof of Identity Submitted Postelection by In Person Voters

The county clerk or county board shall compare the photograph to the voter to determine whether the voter is the person depicted in the photograph, considering hair color, glasses, facial hair, cosmetics, weight, age, injury and other physical characteristics.

The county clerk or the county board receiving a proof of identity shall make a photocopy of the proof of identity and retain the copy with the voter’s provisional ballot envelope. The county clerk or the county board shall provide a receipt to the voter containing the following information:

1. The name of the county clerk, or each county board member present at the meeting where the proof of identity was presented;
2. The name of the voter who presented the proof of identity;
3. The date and time the proof of identity was presented to the clerk or county board;
4. If it is determined that the photograph on the proof of identity depicts the voter, then a declaration of that finding;
5. If it is determined that the photograph on the proof of identity does not depict the voter, then a declaration of that finding including the reason for that finding; and
6. Any additional information the clerk or county board deems relevant.

The county clerk or county board shall retain a copy of the receipt.\textsuperscript{12}

B. Assessment of Validity of Photo Identification Submitted Postelection In Person by Absentee Voters

\textsuperscript{12}A.C.A. § 7-5-321(c) as provided in Act 595 of 2013
The county clerk or county board shall compare the photograph to the voter to determine whether the voter is the person depicted in the photograph, considering hair color, glasses, facial hair, cosmetics, weight, age, injury and other physical characteristics.

The county clerk or the county board receiving the required identification shall make a photocopy of the identification and retain the copy with the voter’s provisional ballot envelope. The county clerk or the county board shall provide a receipt to the voter containing the following information:

1. The name of the county clerk, or each county board member present at the meeting where the identification was presented;

2. The name of the voter who presented the identification;

3. The date and time the identification was presented to the clerk or county board;

4. If it is determined that the photograph on the identification depicts the voter, then a declaration of that finding;

5. If it is determined that the photograph on the identification does not depict the voter, then a declaration of that finding including the reason for that finding; and

6. Any additional information the clerk or county board deems relevant.

The county clerk or county board shall retain a copy of the receipt.\(^\text{13}\)

\(\text{§ 808 Postelection Submission of Affidavit of Indigence or Religious Objection}\)

The county clerk or county board receiving an affidavit of indigence or religious objection in person shall make a photocopy of the affidavit, provide the copy to the voter and retain the original affidavit with the voter’s provisional ballot envelope. The county clerk or the county board shall provide a receipt to the voter containing the following information:

1. The name of the county clerk, or each county board member present at the meeting where the affidavit was delivered;

2. The name of the voter who delivered the affidavit;

3. The date and time the affidavit was delivered to the clerk or county board; and

4. Any additional information the clerk or county board deems relevant.

The county clerk or county board shall retain a copy of the receipt.

\(\text{\textsuperscript{13}A.C.A., § 7-5-321(c) as provided in Act 595 of 2013}\)
§809 County Clerk to Provide Required Identification or Affidavits to Election Commission

The county clerk who receives required identification or an affidavit of indigence or religious objection shall provide the copy of the voter’s required identification or the original affidavit and a copy of the voter’s receipt to the county board.\textsuperscript{14}

§810 Vote Counted When Required Identification or Affidavits Properly Submitted

The county board shall count the vote and include it in the certified returns upon receipt of a copy of a voter’s valid and timely delivered proof of identity, required identification of an absentee voter, or affidavit of indigence or religious objection.\textsuperscript{15}

§811 Effective Date

These emergency rules are effective upon filing.

\textsuperscript{14} A.C.A. § 7-5-321(c) as provided in Act 595 of 2013
\textsuperscript{15} A.C.A. § 7-5-321(c) as provided in Act 595 of 2013
March 14, 2014

Jessica Sutton
Administrator, Administrative Rules Review
Bureau of Legislative Research
One Capitol Mall
5th Floor, Room L-516
Little Rock, AR 72201

Ms. Sutton,

The State Board of Election Commissioners finds that it is necessary for the emergency Rules for Voter Identification and the emergency Rules for Poll Watchers, Vote Challenges, and Provisional Voting to be effective immediately upon filing because of imminent peril to the public welfare. The votes of certain legal absentee voters will not be counted unless the procedures established in these rules are implemented.

Please let me know if any additional information is required.

Sincerely,

Justin Clay
Director
Ms. Burnett,

Please see the email below to Jessica Sutton with BLR. The effective date of these rules is actually today, March 14, 2014 as indicated by the file mark on the attached document.

Please feel free to contact me if I can offer any clarification on this issue.

Thank you,
Justin Clay

-----Original Message-----
From: Justin Clay
Sent: Friday, March 14, 2014 2:03 PM
To: 'Sutton, Jessica C.'
Cc: Humphries Sbec
Subject: RE: SBEC Emergency Rule Info

Thanks Jessica.

Attached is a file marked copy of the statement that was filed with the Secretary of State (please note today's date). Today's date, March 14, 2014 should be the official effective date for these emergency rules. We will deliver a copy of this statement in person to your office today.

Please let me know if there is any additional information that is required.

Thanks again for your assistance with this.

Justin

-----Original Message-----
From: Sutton, Jessica C. [mailto:suttonj@blr.arkansas.gov]
Sent: Friday, March 14, 2014 9:22 AM
To: Justin Clay
Cc: Humphries Sbec
Subject: RE: SBEC Emergency Rule Info

Hi, Justin. In looking at the APA (Administrative Procedure Act), it's not clear whether your emergency effective date would need to be changed due to a later filing of the written findings, so I am unable to advise. I would suggest consulting with your legal counsel on the issue. Just let me know what you decide to do.

Thanks!
Jessica

Jessica C. Sutton  
Administrator, Administrative Rules Review Bureau of Legislative Research One Capitol Mall 5th Floor, Room L-516 Little Rock, AR 72201  
Phone: (501) 682-2080  
Fax: (501) 683-1140

-----Original Message-----
From: Justin Clay [mailto:clay.sbec@sos.arkansas.gov]  
Sent: Thursday, March 13, 2014 7:53 PM  
To: Sutton, Jessica C.  
Cc: Humphries Sbec  
Subject: Re: SBEC Emergency Rule Info

Jessica,

Does this change the effective date of the rules? It was my understanding that emergency rules were effective once the rules were filed with the Secretary of State's Office.

Any information on this issue would be most appreciated.

Thanks,
Justin

> On Mar 13, 2014, at 3:06 PM, "Justin Clay" <clay.sbec@sos.arkansas.gov> wrote:
> Jessica,
> > Attached is the information discussed in your phone conversation with Mr. Humphries.
> > Please feel free to contact me if any additional information is required.
> > Thank you,
> > Justin Clay
> Director, State Board of Election Commissioners
> 501 Woodlane, Suite 401 N
> Little Rock, Arkansas 72201
> (501) 682-1013
> (800) 411-6996
> www.arkansas.gov/sbec
> <Emergency Rule Imminent Peril.doc>
STATE BOARD OF ELECTION COMMISSIONERS
OFFICIAL COMPLAINT FORM

Name: Stuart D. Soffer  
Address: 1901 Triple E Road  
White Hall, AR 71602  
County: Jefferson  
Day Phone: (870) 247-1177  
Email: soффers@sbcdglobal.net  
Election/Date: 11 March 2014

A complaint must be filed with the board in writing within thirty (30) days of an alleged voter registration violation or the election associated with the complaint. Arkansas Code Annotated § 7-4-118(a)(3)

Please begin the details of the complaint below and attach additional pages if needed. Be specific as to the nature of the alleged election irregularities or illegalities, indicate when and where the allegations occurred, provide supporting facts surrounding the allegations, and state your desired resolution.

This is a complaint against Pulaski County Board of Election Commission (PCBEC) Commissioners Leonard A. Boyle, Sr., and Chris Burks for refusing to follow the provisions of State Board of Election Commissioners (SBEC) Emergency Rules for Voter Identification approved on 4 March 2014 thereby disenfranchising approximately 76 absentee voters. These individuals violated the portion of § 805 Identification Required When Voting Absentee which states, "The ballot of a voter who failed to provide required identification with his or her absentee ballot shall be considered a provisional ballot." Boyle and Burks were present when the Emergency Rules were approved and recipients of a 6 March 2014 e-mail from SBEC Director Justin Clay forwarding the Emergency Rules and a summary of changes. A reasonable person would conclude both were aware of this provision of law. I refer to the rule as a provision of law because the Arkansas Code Annotated in §7-4-101(e)(5) gives the state board the authority to formulate and promulgate all necessary rules to assure orderly election procedures. On 11 March 2014 for a Special Election, the PCBEC received 384 absentee ballots; however, they discounted 76 in violation of the SBEC Rule. They did not report 76 provisional ballots on their website at, http://www.votepulaski.net/Elections/2014/EL45A.HTM. Desired resolution is a formal investigation and upon confirmation of this serious violation imposition of the maximum fine of $1,000 and referral of Mr. Burks to the Arkansas Judiciary for a review with regards to their Rules of Professional conduct requiring a lawyer's conduct "to conform to the requirements of the law".

I, Stuart D. Soffer, swear or affirm, under penalty of perjury, that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief.

Signature of Complainant

13 March 2014

Date

State of Arkansas
County of Jefferson

Subscribed and sworn before me this 13 day of March, 2014

Notary Signature

Remit to: State Board of Election Commissioners
501 Woodlane, Suite 401 N  
Little Rock, AR 72201  
501-682-1834 / 800-411-6996

ATTACHMENT W
Info you requested.

Sent from my Verizon Wireless 4G LTE DROID

-------- Original Message --------
Subject: Pulaski County Election Commission Complaint
From: Stu Soffer <soffers@sbcglobal.net>
To: EM-Jason Tolbert <jason@TolbertReport.com>, EM-Max Brantley <maxbrantley@arktimes.com>, EM-Michael Cook <michael@cooksoutlook.com>, EM-Roby Brock <roby@talkbusiness.net>, Dem Gaz Mike Wickline <mwickline@arkansasonline.com>, Dem Gaz Emily Walkenhorst <ewalkenhorst@arkansasonline.com>
CC:

I have mailed the attached complaint to the State Board of Election Commissioners via U.S. mail. I filed the complaint because we are a Republic of Laws, not an entity in which county election commissions march to the beat of their own drum. I did not serve this Republic for over 50 years only to sit by idly when events such as this occur. There was absolutely no reason for the rule to be ignored with the pending lawsuit. I am also contemplating a Judiciary complaint against Pulaski County Attorney Karla Burnett for her role in events but want to ensure my facts are correct with regards to there being an actual violation of the Rules of Professional Conduct before proceeding.

This was an individual act as a concerned citizen as opposed to representing any group or office I hold.

Stuart D. Soffer
White Hall
Arkansas Blog

Arkansas Elections: Voter ID squabble grows
Posted by Max Brandy on Thu, Mar 13, 2014 at 12:23 PM

Stu Soffer of White Hall, a member of the state Board of Election Commissioners, is not happy that the Pulaski County Election Commission has sued over the commission's attempt to correct a clear screwup in the Voter ID law passed by Republicans in the 2013 legislature.

You'll recall that the law makes no provision for what to do about absentee voters who don't include a proper ID in their mailed ballot.

In-person voters get a week to produce an ID.

The state Board of Election Commissioners decided to overlook the advice of the attorney general — who has said the law is deficient — and write up a rule (a new law of their own making, in essence) to provide a cure for deficient absentee ballots. They'd be given time to produce an ID, too.

The Pulaski County Election Commission, though sympathetic, has declined to follow that commission rule. It has sued contesting the commission has no authority to write law.

A courtroom is the place to resolve this. But you don't cross Stu Soffer. He threatens lawyer ethics investigations against Chris Burks, a lawyer who sits on the County Election Commission, and Karla Burnett, the county attorney, who's filed the lawsuit and advised the commission that the state body isn't permitted to make law.

This is a "republic of laws" Soffer declares, even as he sets about to write law without benefit of legislative input.

Here's his brief, filed as a "citizen."

Specifically, he says the Pulaski Commission should have followed what the state body ordered and counted as provisional ballots those submitted without IDs in this week's special election for Pulaski Tech.

Silly stuff, really. Soffer, a bumptious sort, is determined and, I'll grant, independent. He'll call down his own party when warranted. He's fighting an election procedure battle against either a) corruption or b) stupidity in Jefferson County (or maybe e), both that defies easy summary. But here, we have a law that the state election commission's attorney warned its legislative sponsor was deficient before it was introduced. It didn't get fixed. It's embarrassing to disfranchise long-time absentee voters, most of them elderly. To paper over the deficiency, defenders of voter ID want to make the problem go away by legislating on the fly, unconstitutionally, through an appointed committee. A judge should decide this, not a blunderbuss, frivolous threat from Stu Soffer. It ain't the Republic of Stu. Nor is the State Board of Election Commissioners the last word on the law in Arkansas. The Pulaski Commission has every right to refuse a rule it believes to be unconstitutional. Soffer himself is doing that in disputing a would-be Pine Bluff mayor's personal interpretation of state statute to get on the election ballot.

UPDATE: Soffer has decided to "pull" the complaint and instead ask the state Board to consider filing a complaint itself.

UPDATE II: If you're following this at home (and I don't know if I advise it), Chris Burks reports that the state Board of Election Commissioners did not properly promulgate its new rule on handling absentee ballots and thus were not in effect for this week's special election in Pulaski County, according to advice from County Attorney Karla Burnett.

Tags: voter ID, absentee voting, Pulaski County Election Commission, state board of Election Commissioners, Stu Soffer, Arkansas Elections, Image

Speaking of...

Blue Hog raises more questions about the suspended law licenses of judicial candidates. Next up? Judges Tim Fox and Rhonda Wood.
April 1, 2014
by David Ramsey
A recent ruling from Circuit Judge John Cole disqualified Valerie Thompson Bailey from challenging Circuit Court Judge Tim Fox. A past suspension in her law license disqualified her. Cole ruled, though it was merely an administrative suspension, a "suspension is a suspension is a suspension" Cole found. Now it