

STATE OF ALABAMA  
OFFICE OF THE SECRETARY OF STATE  
ADMINISTRATIVE CODE

CHAPTER 820-2-10  
PROCEDURES FOR IMPLEMENTING THE UNIFORMED AND OVERSEAS CITIZENS  
ABSENTEE VOTING ACT ("UOCAVA")

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**820-2-10-.01** Purpose. The purpose of this chapter is to provide for implementation of the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. §1973FF *et seq.*, as Amended by the Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, Subtitle H, §§575-589, 123 Stat. 2190, 2318-2355 (2009) ("MOVE Act") and Act of Alabama 2011-619, for those qualified individuals requesting to vote by absentee ballot pursuant to the Federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The procedures in this chapter are promulgated under authority granted the Secretary of State as Chief Elections Official pursuant to the UOCAVA and Code of Ala. 1975, sections 17-11-42 and 17-1-3(a).

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 et seq., 17-1-3(a), 17-11-4, 17-11-5(d), 17-11-9.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

**820-2-10-.02 Applicability.** This chapter applies to absentee balloting for all elections for individuals eligible to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 et seq., 17-1-3(a), 17-11-4, 17-11-5(d), 17-11-9.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

**820-2-10-.03 Application And Procedures For Issuance Of Absentee Ballot.**

(1) Individuals voting by absentee ballot pursuant to UOCAVA may apply for an absentee ballot by utilizing an application adopted by the State of Alabama pursuant to §§17-11-4 or 17-11-5(d) or by utilizing the Federal Postcard Application provided for by UOCAVA. The application must be submitted by the voter by U.S. mail or hand-delivery to the absentee election manager in the county in which the prospective absentee voter is registered to vote. The application prescribed by the Secretary of State pursuant to §17-11-5(d) shall provide the UOCAVA applicant the means to request delivery of the blank absentee ballot by U.S. mail, by hand-delivery or by electronic transmission.

(2) A voter who chooses to have the blank absentee ballot transmitted to him or her electronically must designate that choice on the Federal Postcard Application or on the state-prescribed absentee ballot application prescribed pursuant to §17-11-5(d). If the voter does not make such designation, the blank absentee ballot shall be delivered to the voter by U.S. mail or hand-delivery.

(3) If the voter requests to have the blank absentee ballot transmitted electronically, the absentee election manager shall:

- (a) verify the voter registration status of the applicant;
  - (b) record in the Alabama Voter Registration and Election Management System the request for the absentee ballot;
  - (c) deliver to the voter the blank absentee ballot by electronic transmission utilizing the electronic blank ballot transmission developed by the Secretary of State;
  - (d) shall notify the voter that to be properly cast and counted, the voted absentee ballot must be returned to the appropriate absentee election manager by the date specified in state law and provide the voter said date;
- (4) Each absentee ballot delivered to a voter pursuant to UOCAVA shall include a "UOCAVA Affidavit" which shall read as prescribed in §17-11-7, Code of Ala. 1975, except:
- (a) the instructions to the voter regarding signing and witnessing of the affidavit shall not include any reference to notarization and shall read "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF AGE OR OLDER, PRIOR TO BEING DELIVERED OR MAILED TO THE ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.", and
  - (b) the affidavit shall not include a section for completion by a notary public.
  - (c) item (5) in paragraph (b) of §17-11-7 shall read "(5) I am entitled to vote an absentee ballot because I am a member of or a spouse or dependent of a member of the Armed Forces of the United States or am otherwise entitled to vote pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff."
- (5) For voters requesting electronic transmission of the absentee ballot, the "UOCAVA Affidavit" shall be provided in electronic format to the voter; otherwise the "UOCAVA Affidavit" shall be provided printed on the ballot return envelope.
- (6) For purposes of the MOVE Act and Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act, the Federal Postcard Application (FPCA) for absentee balloting provided for by Section 101(b)(2), of the Uniformed and Overseas Citizens Absentee Voting Act shall be processed as follows:

(a) An FPCA marked to request delivery of the absentee ballot by e-mail shall be processed as a request for electronic delivery of the blank absentee ballot.

(b) An FPCA marked to request delivery of the absentee ballot by fax shall be processed as a request for delivery by U.S. mail of the blank absentee ballot.

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 et seq., 17-1-3(a), 17-11-4, 17-11-5(d), 17-11-9.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

#### **820-2-10-.04 Return Of Absentee Ballots.**

(1) After the voter marks his or her choices on the ballot, the voter shall:

(a) complete the "UOCAVA Affidavit", including the section for two witnesses as required by §17-11-7, Code of Ala. 1975;

(b) when the voter has requested electronic transmission of the blank absentee ballot, insert and seal the ballot in a blank envelope for secrecy and not write any personally identifying information on the envelope and then insert and seal the blank envelope (which contains the voted ballot) and the completed UOCAVA Affidavit into a second envelope to be used for returning the absentee ballot to the appropriate absentee election manager by hand-delivery, U.S. mail, or commercial air or ground carrier;

(c) when the voter has requested that the absentee ballot be delivered by U.S. Mail or hand-delivery, insert and seal the voted ballot into the secrecy envelope and then insert and seal the secrecy envelope into the envelope on which is printed the "UOCAVA Affidavit" and which is used as the return envelope for delivering the ballot to the absentee election manager by hand-delivery, U.S. mail, or commercial air or ground carrier; and

(d) return the absentee ballot by hand-delivery, U.S. mail, or commercial air or ground carrier, to the appropriate

absentee election manager using the address information provided by the absentee election manager.

(2) In the event a voter does not place the absentee ballot inside a secrecy envelope, the absentee election manager shall immediately upon discovery insert and seal the voter's ballot into a secrecy envelope and place inside an envelope of sufficient size the secrecy envelope, the UOCAVA Affidavit, and the envelope used by the voter to deliver the ballot.

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 *et seq.*, 17-1-3(a), 17-11-4, 17-11-5(d), 17-11-9.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

#### **820-2-10-.05 Counting Of Absentee Ballots.**

(1) As provided in §17-11-10, no poll worker or other election official shall count an absentee ballot unless the appropriate affidavit has been properly completed by the voter.

(2) An affidavit is properly completed if the voter has complied with the provisions of §17-11-7, Code of Ala. 1975, including the requirement for witnessing, except that the affidavit is not required to be notarized.

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 *et seq.*, 17-1-3(a), 17-11-4, 17-11-5(d), 17-11-9.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

#### **820-2-10-.06 Minimum Criteria To Ensure Secure Remote Electronic Transmission Of Blank Absentee Ballots.**

(1) The minimum criteria to ensure the secure electronic transmission of blank absentee ballots shall include the following:

(a) The capability for secure access by the overseas voter to the electronic ballot transmission server.

(b) The capability to verify the identity of the overseas voter before granting access to the electronic ballot transmission server.

(2) (a) **Procedures for Secure Electronic Return of Absentee Ballots.** Eligibility to Return an Absentee Ballot by Electronic Transmission. Only the following voters are eligible to return an absentee ballot by electronic transmission:

1. A member of the uniformed services while in the active service, or an eligible spouse or dependent of such a member, who is a permanent resident of the state and is temporarily residing outside of the territorial limits of the United States and the District of Columbia, who is qualified and registered to vote as provided by law.

2. A member of the Merchant Marine of the United States, or an eligible spouse or dependent of such a member, who is a permanent resident of the state and is temporarily residing outside of the territorial limits of the United States and the District of Columbia, who is qualified and registered to vote as provided by law.

3. Any other citizen of the United States who is a permanent resident of the state and is temporarily residing outside of the territorial limits of the United States and the District of Columbia, who is qualified and registered to vote as provided by law.

(b) The absentee election manager shall determine the eligibility of the absentee voter to return the absentee ballot by electronic transmission by evaluating the absentee ballot application submitted by said voter.

1. If a voter requests to receive the absentee ballot by electronic transmission but the absentee ballot application does not provide sufficient information to determine the voter's eligibility to return an absentee ballot by electronic transmission:

(i) the absentee election manager shall attempt to contact the voter and obtain supplemental information to determine the voter's eligibility to receive and return the absentee ballot by electronic transmission.

(ii) Any supplemental information obtained by the absentee election manager shall be documented and kept with the original absentee ballot application.

2. If the absentee election manager is unable to contact the voter to obtain supplemental information to determine eligibility and the only eligibility requirement that is in question relates to whether the voter is residing outside of the territorial limits of the United States and the District of Columbia, the absentee election manager shall consider the application prima facie evidence that the voter is eligible to return the absentee ballot by electronic transmission and shall document said determination.

3. If a voter requests to return the absentee ballot by electronic transmission but the information available to the absentee election manager, either on the absentee ballot application or as provided by the voter as supplemental information, establishes that the voter is not residing outside of the territorial limits of the United States and the District of Columbia, the absentee election manager shall not permit the voter to return the ballot by electronic transmission.

(c) **Minimum Criteria To Ensure Secure Electronic Return of Voted Absentee Ballots.** The minimum criteria to ensure the secure electronic return of voted absentee ballots shall include the following:

1. The capability for secure access by the overseas voter to the electronic ballot transmission server.

2. The capability to verify the identity of the overseas voter before granting access to the electronic ballot transmission server.

3. The capability for secure transmission of the voted ballot to the local absentee election manager.

4. The capability to verify the identity of the overseas voter transmitting the voted ballot to the local absentee election manager.

5. The use of encrypted information, including, but not limited to, ballots, passwords, and both public and private encryption keys.

(i) A public or private key encryption methodology shall include key generation under the control of the Secretary of State.

(ii) A password protected private key shall be held secure by the county appointing board, as applicable, and never transmitted or otherwise divulged by any means.

(iii) A password protected private key that is unique for each eligible overseas voter to digitally sign the ballot for transmission and storage before decryption by the canvassing board or the absentee election manager.

6. The capability for auditing the secure remote voting application source code, and the capability for this application to be executed on a clean computer which, at a minimum, has a baseline operating system on its hard disk and no other software or driver installed.

7. The capability to secure access to and from the overseas voter and the voting server or the voting database platform or both.

8. The verification of the authenticity of the identity of the overseas voter before granting access to the transmission of election material.

9. The capability for the overseas voter to determine that the secure transmission of election material was successful.

10. The capability for the absentee election manager to segregate rejected ballots before decryption.

11. The capability to record election material received by secure transmission.

12. The capability for the absentee election manager to produce a marked paper ballot for each vote cast by secure transmission.

13. The capability for the overseas voter to securely and electronically execute the "Overseas Voter Certificate" as provided for in §17-11-46, if the UOCAVA voter is submitting the voted ballot by secure electronic transmission.

(d) **Electronic Return Of Absentee Ballots.**

1. When the voter has requested electronic transmission of the blank absentee ballot, that voter may choose to return the voted ballot and completed Overseas Voter Certificate via secure electronic transmission to the local absentee election manager if the voter is eligible to return the ballot by electronic transmission pursuant to rule 820-2-10-.06(2).

2. In the event a voter chooses to return the completed ballot via secure electronic transmission to the local absentee election manager as authorized in (1),

(i) the absentee election manager shall determine if the electronic voted ballot is to be accepted or rejected;

(ii) the absentee election manager shall print the electronic ballot if accepted, including supporting documentation; and

(iii) the absentee election manager shall then place and seal the accepted voted ballot in a secrecy envelope and store with the other voted absentee ballots until they are to be counted on election day by the absentee election officials.

(e) **Counting Of Absentee Ballots Returned by Electronic Transmission.**

1. No poll worker or other election official shall count an absentee ballot returned electronically unless the Overseas Voter Certificate has been properly completed and submitted by the voter.

2. The absentee election manager shall make the determination as to whether the Overseas Voter Certificate is properly submitted.

3. An Overseas Voter Certificate is properly submitted if it is signed and dated by the overseas voter.  
**Authors:** Edward Packard; Jean Brown; William Sutton  
**Statutory Authority:** Code of Ala. 1975, §§17-11-40 *et seq.*  
**History: New Rule:** Filed March 28, 2014; effective May 2, 2014. **Amended:** Filed June 3, 2016; effective July 18, 2016.

**820-2-10-.07 Application Of Postmark Deadline To Delivery Of Ballots By Commercial Carriers.**

For the purpose of delivering an absentee ballot to a county absentee election manager by commercial ground or air carrier, the postmark requirement specified in §17-11-18 shall refer to the date on which the absentee ballot is tendered to the commercial carrier for delivery.

**Author:** Edward Packard; Jean Brown; William Sutton

**Statutory Authority:** Code of Ala. 1975, §§17-11-40 et seq.

**History: New Rule:** Filed March 28, 2014; effective May 2, 2014.

**820-2-10-.08 Delivery Of Printed Ballots And Preparation Of Electronic Ballot Transmission System.**

(1) The Judge of Probate in each county shall prepare the absentee ballots for UOCAVA voters.

(2) Pursuant to Code of Ala. 1975, Section 17-11-12 (2014), the Judge of Probate shall deliver the absentee ballots to the absentee election manager not later than 55 days prior to the primary and general election.

(3) Pursuant to Code of Ala. 1975, Section 17-11-12 (2014), the Judge of Probate shall provide to the Secretary of State as soon as practicable, but in no case later than the 68<sup>th</sup> day prior to the primary and general election, the absentee ballots in electronic format or as electronic ballot definition files for use in the blank electronic ballot transmission system developed by the Secretary of State.

**Author:** Edward Packard, Jean Brown, William Sutton

**Statutory Authority:** Uniformed and Overseas Citizens Absentee Voting Act, 42 USC §1973 ff et seq., as amended by the Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, Subtitle H, §§575-589, 123 Stat. 2190, 2318-2335 (2009); Code of Ala. 1975, §§17-11-40 et seq., 17-1-3(a), 17-11-12.

**History: New Rule:** Filed October 9, 2014; effective November 13, 2014.

**820-2-10-.17 Counting Of Votes.**

(1) An elector's ballot shall be counted for each office to be filled except for each office where it is

impossible to determine the elector's choice for that office. The inability to determine the elector's choice for any particular office to be filled shall not cause the rejection of votes for other offices where the elector's choice can be determined. No ballot shall be rejected for any technical error which does not make it impossible to determine the elector's choices.

(2) (a) In precincts utilizing precinct ballot counters, if the elector has overvoted his or her ballot in in one or more contests, the counters shall be programmed to permit the elector to choose whether to 1) review and correct his or her ballot or 2) have the counter tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(b) If the elector chooses to correct the ballot, the original ballot shall be spoiled by a poll worker and the elector shall be issued a new, blank ballot.

(c) If the elector chooses not to correct the ballot, the elector shall be permitted to have the counter tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(3) In counties utilizing central ballot counters, the counters shall be programmed to permit the ballot to be tabulated by the counter if the elector has overvoted his or her ballot in any contest. The counter shall be programmed to tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(4) (a) In precincts utilizing precinct ballot counters, if the ballot counter detects a blank ballot, that is, a ballot where the elector has not marked any choices in accordance with the instructions for properly marking his or her choices, the ballot counter shall be programmed to return the ballot to the elector. The elector shall be permitted the opportunity to mark his or her choices on the original ballot or a replacement ballot according to the instructions for properly marking the ballot. The ballot may then be tabulated by the ballot counter. The ballot counter shall be programmed to accept a blank ballot in those circumstances where the elector chooses to not remedy his or her blank ballot.

(b) In counties utilizing central ballot counters, if the ballot counter detects a blank ballot, that is, a ballot where the elector has not marked any choices in accordance with

the instructions for properly marking his or her choices, the ballot counter shall be programmed to return the ballot or otherwise divert the ballot to be reviewed by the attending poll workers. The poll workers shall review the ballot to determine if the elector has marked no choices on the ballot or if the elector has marked choices on the ballot inconsistent with the instructions for properly marking the ballot. If the elector has marked choices on the ballot inconsistent with the instructions for properly marking the ballot, the ballot shall be counted by hand as described in paragraphs (1) and (5) of this rule. If the elector has marked no choices on the ballot, the ballot shall be set aside to be sealed with all other ballots in the ballot box after all ballots have been tabulated.

(5) When ballots are to be counted by hand, polling officials shall determine the elector's choice by considering the ballot as a whole and determining the manner in which the elector marked his or her choices on the ballot. Only those choices marked consistently in this manner shall be counted for each office to be filled. As used herein, "marked consistently" pertains to the manner in which the elector expresses his or her choice and not the pattern of candidates selected as between political parties on the ballot. If the polling officials are unable to determine the manner in which an elector marked his or her choices, the ballot shall be rejected in its entirety.

(6) (a) If a precinct ballot counter should malfunction, the poll shall remain open and voters shall deposit their ballots in a ballot box or other suitable container. The inspector shall notify the custodian, who shall attempt to repair or replace the equipment, and the probate judge, who shall maintain a public list of all precincts in which equipment failure has occurred.

(b) If the precinct ballot counter cannot be repaired, after the polls close the ballot box shall be opened and the ballots counted either by hand as described in paragraphs (1) and (4) of this rule or by feeding the ballots into an operable precinct ballot counter. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(c) In counties utilizing precinct ballot counters, any ballot returned by the machine in a post-election recount must be counted by hand following the rules for central ballot counters as provided in paragraphs (1) and (4) of this rule. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(7) If a central ballot counter should malfunction, the count shall be suspended until the equipment is repaired or replaced or the ballots are counted by hand as described in paragraphs (1) and (4) of this rule. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(8) (a) In counties utilizing precinct ballot counters, if a ballot is defective and the counter is unable to accept or read the ballot, 1) the ballot shall be spoiled and the elector shall be issued a new ballot or 2) if the elector does not choose to mark a new ballot, the elector's original ballot shall be counted by hand as described in paragraphs (1) and (4) of this rule. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(b) In counties utilizing central ballot counters, if a ballot is defective and the counter is unable to accept or read the ballot, the ballot shall be counted by hand as described in paragraphs (1) and (4) of this rule. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

**Authors:** Edward Packard; Jean Brown

**Statutory Authority:** Code of Ala. 1975, §17-7-25 (formerly §17-24-7(b)).

**History: New Rule:** Filed February 10, 1998; effective March 7, 1998. **Amended:** Filed February 7, 2002; effective March 14, 2002. **Amended:** Filed October 9, 2014; effective November 13, 2014.

**820-2-10-.18 UOCAVA State Written Plan For Federal Primary Runoff Election.**

(1) Pursuant to 52 U.S.C. Section 20302(a)(9), these rules provide the state written plan for any Federal primary runoff election.

(a) Federal law provides that, when a UOCAVA voter has requested a ballot for a federal election by the 45<sup>th</sup> day before that election, the State must transmit the ballot to that voter by the 45<sup>th</sup> day before the election. 52 U.S.C. Section 20302(a)(8)(A). The U.S. District Court for the Middle District of Alabama and the Eleventh Circuit Court of Appeals have held that this provision applies to federal runoff elections.

Thus, when a UOCAVA voter requests to vote in a federal primary runoff election on or before the 45<sup>th</sup> day before such election, the ballot must be transmitted to the voter on or before the 45<sup>th</sup> day before the primary runoff election by the method of transmission requested by the voter.

For a variety of reasons, it has long been Alabama's preference to hold any runoff elections, also known as second primary elections, less than 45 days after the first primary election. Separating the elections sufficiently to allow for the determination of the primary election results and the printing and transmission of the primary runoff ballots would mean more than two months between the two elections. Accordingly, the State recently implemented instant runoff ballots for UOCAVA voters in order to address the State's concerns about the primary schedule while protecting the rights of UOCAVA voters to participate in federal elections and ensuring the State's compliance with federal law.

This chapter applies only to UOCAVA voters in the circumstances described below. It provides procedures for election officials to follow when there is a federal primary election in a county or portion of a county where three or more candidates have qualified with the same political party to run for the same federal office (other than the office of President).

These rules do not alter in any way the current election cycle.

Instant runoff ballots are not needed for a Presidential race, regardless of the number of candidates qualifying for that office, because Alabama does not hold a second primary election in that race.

(b) To facilitate the participation of UOCAVA voters in Alabama's federal second primary elections, ballot preparation under the UOCAVA State Written Plan for Federal Primary Runoff Election shall be as follows.

1. When three or more candidates have qualified with the same political party to run for the same federal office (other than the office of President), the probate judge shall prepare both a special federal ballot and a special state ballot for the primary election. The special federal ballot materials shall include instructions prepared by the Secretary of State. These instructions shall explain how a UOCAVA voter casts his or her vote using the special federal instant runoff primary ballot.

2. If necessary, the probate judge shall prepare a special state ballot for a second primary election.

(c) The content of special federal and special state ballots shall be as follows.

1. A special federal ballot shall be used in a federal instant runoff primary election. The special federal ballot shall contain a list of all federal offices (other than the office of President) for which three or more candidates have qualified with the same political party to run for the same federal office and said candidates' names. The special federal ballot shall permit the UOCAVA voter to cast a ballot in a federal instant runoff primary election by indicating his or her order of preference for each candidate for each federal office listed on the ballot. UOCAVA voters may also use this ballot to participate in the second federal primary election alone, in which case it shall be specifically labeled "Runoff Only." The labeling may be done in the ballot preparation or manually prior to its transmission to the UOCAVA voter.

2. A special state ballot shall be used when there is the possibility of a federal primary runoff election. This ballot shall contain the office of President in presidential election years, any federal offices for which only two candidates have qualified with the same political party to run for the same office and said candidates' names, all state and

county offices and said candidates' names, and any referenda to be voted on in the primary election.

3. If necessary, a special state ballot for a second primary election shall be used. This ballot shall contain any state or county offices for which a second primary election is required, the names of the candidates who have qualified for said offices, and any referenda to be voted on in a second primary election.

(d) Except with respect to cross-over voting, which is addressed below, issuance and transmission of ballots shall be as follows.

1. When a UOCAVA voter requests an absentee ballot and votes in a precinct where a federal race with the potential for a runoff is on the ballot, the absentee election manager shall initially issue both a special federal ballot and a special state ballot.

2. The ballots shall be transmitted together, with provisions made for both ballots to be returned together.

3. If the UOCAVA voter has requested a runoff ballot, and there is the potential for a runoff in a non-federal race, or if any referenda are contained on a special state second primary election ballot, the absentee election manager shall issue the special state second primary election ballot to the voter when it is ready.

(e) In the event of authorized cross-over voting, issuance and transmission of ballots shall be as follows.

1. Alabama law authorizes the political parties holding a primary election to permit or prohibit cross-over voting. Code of Ala. 1975, Section 17-3-7. Because the instant runoff legislation does not explicitly prohibit UOCAVA voters from taking advantage of any political party's decision to allow voters to cross-over, and because federal law is designed to enable UOCAVA voters to have the same electoral opportunities as Alabama's non-UOCAVA voters, these rules provide for cross-over voting for UOCAVA voters.

2. When a UOCAVA voter applies to participate in the primary election of one political party and the primary runoff election of a second political party, and that second political party allows for cross-over voting, the absentee election

manager shall initially issue the requested primary election ballot and the federal instant runoff primary election ballot (which shall be labeled "Runoff Only"). If the requested first primary ballot is also a special federal instant runoff primary election ballot - and thus only contains federal races - then the absentee election manager shall also issue the special state ballot.

3. The ballots shall be transmitted together, with provisions made for both ballots to be returned together.

4. If the UOCAVA voter has requested a runoff ballot, and there is the potential for a runoff in a non-federal race, or if any referenda are contained on a special state second primary election ballot, the absentee election manager shall issue the special state second primary election ballot to the voter when it is ready.

(f) UOCAVA voters may participate in Alabama's federal primary election and any second federal primary elections using the Federal Write-In Absentee Ballot ("FWAB").

1. UOCAVA voters who vote using a Federal Write-In Absentee Ballot ("FWAB") in a federal primary election in which three or more candidates have qualified with the same political party to run for the same federal office may rank their choices for such candidates on the FWAB in the same manner provided for in Code of Ala. 1975, Section 17-13-8.1(c)(2).

2. UOCAVA voters participating in the primary election of one political party and the primary runoff election of a second political party, when that second political party allows for cross-over voting, may specify their choice for the primary election and may then rank their choices for the federal runoff election candidates on the FWAB in the same manner provided for in Code of Ala. 1975, Section 17-13-8.1(c)(2).

3. The rules contained in the UOCAVA State Written Plan for Federal Primary Runoff Election shall govern the receipt, counting, canvassing, storage, and reporting of FWAB ranked ballots cast in the first federal primary election, and second federal primary election, if necessary.

(g) The deadline for receipt of ballots shall be as follows.

1. Special Federal Ballot, FWAB, or Special State Ballot for Primary Election.

(i) If received by mail, no special federal ballot, FWAB, or special state primary ballot shall be opened or counted in the first federal primary election unless the absentee ballot is postmarked as of the date of the first primary election and received by the absentee election manager no later than noon seven days after the first primary election.

(ii) If received electronically, no special federal ballot or special state primary ballot shall be opened or counted in the first federal primary election unless the absentee ballot is received by midnight on the date of the first primary election.

2. Special Federal Ballot, FWAB, or Special State Ballot for Second Primary Election.

(i) If received by mail, no special federal ballot, FWAB, or special state ballot for a second primary election shall be opened or counted unless the absentee ballot is postmarked as of the date of the second primary election and received by the absentee election manager no later than noon seven days after the second primary election.

(ii) If received electronically, no special federal ballot or special state ballot for a second primary election shall be opened or counted unless the absentee ballot is received by midnight on the night of the federal primary runoff election.

(h) The determination as to whether the special federal ballot is entitled to be counted shall be as follows.

1. For a federal primary election in which three or more candidates have qualified with a single political party to run for the same federal office (other than the office of President), where the voter is required to complete an absentee ballot affidavit, the absentee election poll officials provided for in Code of Ala. 1975, Section 17-11-11 shall follow the procedures set forth in Code of Ala. 1975, Section 17-11-10 to determine whether the UOCAVA absentee ballot affidavit establishes that the UOCAVA voter is entitled to vote by absentee ballot. Where the voter is required to complete an overseas voter certificate in accordance with Code of Ala. 1975, Section 17-11-46, the absentee election manager shall determine

whether the overseas voter certificate establishes that the UOCAVA voter is entitled to vote by absentee ballot.

2. The determination in paragraph (1) governs all ballots submitted together, including for any second federal primary election, such that no new determination as to the adequacy of the same absentee ballot affidavit, or overseas voter certificate, as applicable, need be made.

3. For any ballots submitted separately, such as stand-alone runoff ballots or a special state ballot for a second primary election, where the voter is required to complete an absentee ballot affidavit, the absentee election poll officials provided for in Code of Ala. 1975, Section 17-11-11 shall follow the procedures set forth in Code of Ala. 1975, Section 17-11-10 to determine whether the UOCAVA absentee ballot affidavit establishes that the UOCAVA voter is entitled to vote by absentee ballot. Where the voter is required to complete an overseas voter certificate in accordance with Code of Ala. 1975, Section 17-11-46, the absentee election manager shall determine whether the overseas voter certificate establishes that the UOCAVA voter is entitled to vote by absentee ballot.

4. If the absentee election poll officials or absentee election manager, as applicable, determine(s) that the UOCAVA absentee ballot is entitled to be counted, upon the closing of the polls, the ballot shall be counted in accordance with state law.

5. If the absentee election poll officials determine that an absentee ballot affidavit is insufficient and therefore the UOCAVA absentee ballot is not entitled to be counted, a record shall be made as to the reason for rejection of the ballot and said record of the reason for rejection of any ballot shall be provided to the absentee election manager. If the absentee election manager determines that an overseas voter certificate is insufficient and therefore the UOCAVA absentee ballot is not entitled to be counted, a record shall be made and maintained as to the reason for rejection of the ballot. The absentee election manager shall thereafter record in the statewide election management system which absentee ballots have been accepted or rejected and if rejected, the reason therefor.

(i) The method for counting the special federal ballot and FWAB and securing same shall be as follows.

1. In a federal primary election in which the special federal ballot or FWAB is used, the first choice preference of each voter shall be the vote counted as cast by the voter. Only the first choice preference votes of the voters shall be counted or divulged during the count or upon the conclusion of the primary election. The total count of first choice preference votes received by each federal candidate shall be added to the count of votes produced for candidates pursuant to Section 17-13-13.

2. Upon the conclusion of this count, the special federal ballots or FWABs shall be returned to the absentee election manager, who shall secure and maintain the ballots until the time for counting the ballots for any second primary election. Any FWAB on which the UOCAVA voter has written in a single choice in the federal Congressional races, without crossing-over for the runoff, and where the voter's single choice is facing only one opponent is a FWAB which has not registered a vote for any potential federal runoff election, and it may be returned to the absentee election manager or secured along with the traditional ballots pursuant to governing state law.

3. If a federal second primary election is necessary, the vote to be counted as cast by each voter shall be the highest designated choice of the voter of the two candidates participating in the contest. In the event that the voter has only ranked one choice, the vote will be counted for that candidate if he or she is a candidate in the federal runoff election. The total count of the votes received by each candidate shall be added to the count of votes pursuant to Section 17-13-18.

4. If, on the special federal ballot, the voter marks an "X" or places a check mark by only one candidate's name, circles only one candidate's name, or otherwise clearly designates his or her choice for only one candidate, that candidate shall be counted as the voter's first choice candidate.

5. The votes for any office listed on the special federal ballot or FWAB shall be canvassed, certified, and announced in the manner provided for in Section 17-13-17 and Section 17-13-18.

6. Upon the conclusion of the first federal primary election, and the second federal primary election, if necessary,

the special federal ballots and FWABs shall be stored with the records of election as required by state law, but shall be segregated from regular absentee ballots and labeled.

(j) The method for counting the special state ballot shall be as follows.

1. The special state ballot shall be counted in the manner provided for in Section 17-13-13 or Section 17-13-18, as applicable to a primary election or second primary election.

2. The votes for any office listed on the special state ballot shall be canvassed, certified, and announced in the manner provided for in Section 17-13-17 and Section 17-13-18.

3. If the absentee election officials determine that an absentee ballot affidavit is insufficient and therefore the UOCAVA absentee ballot is not entitled to be counted, a record shall be made as to the reason for rejection of the ballot and said record of the reason for rejection of any ballot shall be provided to the absentee election manager. If the absentee election manager determines that an overseas voter certificate is insufficient and therefore the UOCAVA absentee ballot is not entitled to be counted, a record shall be made and maintained as to the reason for rejection of the ballot. The absentee election manager shall thereafter record in the statewide election management system which absentee ballots have been accepted or rejected and if rejected, the reason therefor.

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**Authority:** 52 U.S.C. Section 20302(a)(9); Code of Ala. 1975, Section 17-13-8.1 (2015).

**History: New Rule:** Filed February 5, 2016; effective March 21, 2016.