

ARKANSAS REGISTER

Transmittal Sheet

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Effective Date _____ Code Number _____

Name of Agency _____

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Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

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Date

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

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CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

Phone Number

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Title

Date

Title 7. Elections

Chapter III. State Board of Election Commissioners

Subchapter F. Voting

Part 90. Rules for the Verification of Voter Registration

Subpart 1. Generally

7 CAR § 90-101. Scope.

(a) This part will set forth the procedures for processing and administering the requirement that voters verify their voter registration before they are permitted to vote.

(b) This part is in addition to, and not a substitute for, the:

- (1) Laws of the State of Arkansas; and
- (2) Rules promulgated by the Secretary of State.

7 CAR § 90-102. Definitions.

As used in this part:

(1)(A) “Additional identification requirement” means documentary identification, separate from that which is required to verify voter registration, 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.

(B) Acceptable identification documents include a copy of:

- (i) Current and valid photo identification; or
- (ii) A current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;

(2) “Administrator” means the administrative head of a long-term care or residential care facility licensed by the state;

(3) “County board” means the county board of election commissioners;

(4)(A) “Documentation of residency” means a statement by the administrator of a residential care facility or long-term care facility that:

(i) Specifically identifies the full name of the resident in the body of the letter; and

(ii) Is valid for one (1) year after the date it is signed and issued.

(B) This documentation shall only be accepted if it is on the form provided by the Secretary of State;

(5) “Long-term care facility” or “Residential care facility” means:

(A) A nursing home;

(B) A residential care facility;

(C) An assisted living facility;

(D) A post-acute head injury retraining and residential care facility; or

(E) Any other facility that:

(i) Provides long-term medical or personal care; and

(ii) Is licensed by the State of Arkansas;

(6)(A) “Photo identification” means a document or identification card that satisfies all of the following conditions:

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

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

(iii) Is issued by:

(a) The United States;

(b) The State of Arkansas;

(c) An accredited postsecondary educational institution in the State of Arkansas; or

(d) A trade school in the State of Arkansas; and

(iv) 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.

(B) Documents or identification cards that comply with the above requirements for photo identification include, without limitation, the following:

(i) A driver's license;

(ii) A photo identification card;

(iii) A concealed handgun carry license;

(iv) A United States passport;

(v) An employee badge or identification document issued to any person by an accredited postsecondary educational institution in the State of Arkansas;

(vi) A United States military identification document;

(vii) A public assistance identification card if the card shows a photograph of the person to whom the document or identification card was issued; and

(viii) A voter identification card as provided under:

(a) Arkansas Code § 7-5-324; and

(b) Rules propounded by the Secretary of State;

(C) A document or identification card may be presented in a digital format on an electronic device if the document or identification card:

(i) Complies with the requirements of subdivision (6)(A) of this section; and

(ii) The digital format has been approved or issued by:

(a) The United States;

(b) The State of Arkansas; or

(c) An accredited postsecondary educational institution
in the State of Arkansas; and

(7) “Verification of voter registration” means the process by which an individual seeking to vote presents a photo identification to an election official for the purpose of confirming that the individual physically present at the poll is the same individual to whose voter registration the vote cast will be credited.

(8) (A) An Assistor is as follows:

(B) A person named by the voter who:

(i) is present in the polling site;

(ii) is eighteen(18) years of age or older; and

(iii) presents a document or identification that meets the requirements established in this Part

7 CAR § 90-103. Verification of voter registration required when voting at the polls.

(a) All voters, except those who reside in a long-term care or residential care facility, must verify their voter registration in order to cast a regular ballot at the polls during early voting and on election day.

(b)(1) 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.

(2) This documentation shall be provided on a standardized form adopted by the Secretary of State.

7 CAR § 90-104. Verification of voter registration by election officials.

(a)(1) The photo identification shall be used to verify the name and appearance of the voter.

(2) The precinct voter registration list shall be used to verify the address of the voter by comparing the voter's address on the list to the address stated by the voter.

(b) The election official verifying the voter registration of a voter shall:

(1) Verify that the name on the photo identification is consistent with the name in the precinct voter registration list, allowing for abbreviations and nicknames;

(2) If the name is consistent, compare the photograph to the voter to determine whether the voter is the person depicted in the photograph, given reasonable allowances for changes in:

(A) Hair color;

(B) Glasses;

(C) Facial hair;

(D) Cosmetics;

(E) Weight;

(F) Age;

(G) Injury; and

(H) Other physical characteristics;

(3) If the election official 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;

(4) If the name appearing on the voter's photo identification varies in part from the name in the precinct voter registration list or the name as stated by the voter, an election official should issue a regular ballot only if the variation can be explained as:

(A) An abbreviation of a given name;

(B) The inclusion of a nickname on the photo identification where the name still bears substantial similarity to the voter's name on the precinct voter registration list;

(C) A lawful change in the voter's name due to marriage or divorce; or

(D) Other similar circumstances that satisfy the election official that the voter is the person depicted in the photograph so long as:

(i) The name still bears substantial similarity to the voter's name on the precinct voter registration list; and

(ii) All variations are explained;

(5) If the variation is due to a change in the voter's name and the name reflected in the precinct voter registration list is the voter's old name, the voter should only be issued a ballot after the voter completes a voter registration application form for the purpose of updating the voter's information;

(6) If the election official determines that the photo identification presented does not depict the voter or the name of the voter in the precinct voter registration list is insufficiently similar to the name appearing on the photo identification, the question of whether the voter is permitted to cast a regular ballot shall be referred to the election judge of that polling site who shall resolve any marginal cases of identity in favor of the voter; and

(7) If the election judge agrees that the photo identification does not depict the voter or that the name that appears on the photo identification is insufficiently similar to the name on the precinct voter registration list, the voter will have failed to verify his or her voter registration and the poll worker shall offer the voter a provisional ballot.

(c) The election judge at any polling site is the election official who is in charge of that polling site regardless of the title used locally to reference this election official.

7 CAR § 90-105. Additional identification requirement for certain first-time voters.

(a) Certain first-time voters who register by mail and who, when registering to vote, do not provide the required identification documentation, will be flagged on the precinct voter registration list for additional identification documentation when voting at the polls during early voting, on election day, or by voting using an absentee ballot.

(b) Before issuing a regular ballot, the poll worker shall require the flagged voter to present:

(1) A current and valid photo identification; or

(2) A copy of a current:

(A) Utility bill;

(B) Bank statement;

(C) Government check;

(D) Paycheck; or

(E) Other government document that shows the name and address of the voter.

7 CAR § 90-106. Failure to verify voter registration or present other required documentation at the polls.

(a) A person voting at the polls during early voting or on election day who did not verify their voter registration or, if a resident of a long-term care or residential care facility licensed by the state, who did not provide documentation of residency from the administrator of the facility attesting that the person is a resident of the facility, shall be offered a provisional ballot.

(b) A first-time voter who registered by mail who did not present the additional identification, if required under 7 CAR § 90-104, shall be offered a provisional ballot.

7 CAR § 90-107. Identification required when voting absentee.

(a)(1) The absentee voter must submit verification of their voter registration when they return their absentee ballot to the county clerk's office.

(2) A photocopy of any document that qualifies as photo identification under this part shall be sufficient to satisfy the photo identification requirement when verifying the voter's registration.

(b) If a resident of a long-term or residential care facility licensed by the State of Arkansas does not submit photo identification in order to verify their voter registration, that resident's ballot will still be counted as a regular ballot if the voter submits documentation

of residency from the administrator of the facility attesting that the person is a resident of the facility.

(c) Active-duty members of the 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 service or merchant marine member are exempt from the identification requirement for absentee ballots.

(d) The ballot of a voter who failed to verify their voter registration and who is not otherwise entitled to have his or her absentee ballot counted without verification under this section shall be considered a provisional ballot.

7 CAR § 90-108. Curing provisional ballots created by the failure to verify the voter's registration.

(a) Voters at the polls.

(1) A provisional ballot cast because a voter failed to verify their voter registration 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:

(A) The voter's ballot is not successfully challenged for any other reason; and

(B) The voter subsequently verifies their voter registration to either the county clerk or the county board of election commissioners by noon on the Monday following the election.

(2) The voter may verify his or her voter registration to the county board of election commissioners by presenting photo identification at any meeting of the county board of election commissioners held before noon on the Monday following the election.

(3) The voter may verify his or her voter registration to the county clerk by presenting the photo identification to the county clerk before noon on the Monday following the election.

(b) Absentee voters.

(1) The ballot of an absentee voter that was made provisional for failure to verify that person's voter registration when returning his or her absentee ballot shall be counted and included in the certified results of the election if:

(A) The absentee voter's ballot is not found deficient for any other reason; and

(B) The absentee voter verifies his or her voter registration in person to either the county clerk or the county board of election commissioners by noon on the Monday following the election.

(2) The absentee voter may verify his or her voter registration to the county board of election commissioners by presenting photo identification to the county board of election commissioners at any meeting of the county board of election commissioners held before noon on the Monday following the election.

(3) The absentee voter may alternatively verify his or her voter registration to the county clerk by presenting the photo identification to the county clerk before noon on the Monday following the election.

7 CAR § 90-109. Assessment of validity of photo identification submitted postelection.

(a) When verifying the voter registration of a voter who cast a provisional ballot at the poll or whose absentee ballot was deemed provisional based on the voter's failure to verify his or her voter registration, the county clerk or county board of election commissioners shall compare the photograph to the voter to determine whether the voter is the person depicted in the photograph, given reasonable allowances for changes in:

(1) Hair color;

(2) Glasses;

(3) Facial hair;

(4) Cosmetics;

(5) Weight;

(6) Age;

(7) Injury; and

(8) Other physical characteristics.

(b) The county clerk or the county board of election commissioners verifying the voter's registration shall:

(1) Make a photocopy of the photo identification; and

(2) Retain the copy with the voter's provisional ballot envelope.

7 CAR § 90-110. County clerk to provide verification of voter registration to county board of election commissioners.

If a voter verifies his or her voter registration to the county clerk after the election, the county clerk who conducts the verification shall provide the copy of the voter's photo identification to the county board of election commissioners before the county board of election commissioners certifies the election.

7 CAR § 90-111. Assistor ID

(a) An assistor named by a voter who is to assist the voter shall:

(1) present photo identification,

(2) present any other photo identification, other than as defined in this part, or

(3) inform the election official that the assistor does not possess photo identification and provide the assistor's home address, name, and date of birth under penalty of perjury.

(b) An election official shall maintain a list of all assistors.

(1) If the non-election official assistor presents photo identification, then the election official shall document the assistor's name and type of identification and state or agency issuing the identification on the list of assistors or on the electronic poll book.

(2) If the assistor presents a photo identification, other than as defined above, (such as a Texas Driver's license) the election official shall document:

- (A) the assistor's name,
 - (B) home address,
 - (C) and the type of identification provided by the assistor,
 - 1. including the issuing state or agency issuing the photo identification, and
 - (D) have the voter being assisted sign or mark that they are being assisted by the assistor.
- (3) If the assistor does not have photo identification, the election official shall document the assistor's
- (A) name,
 - (B) home address,
 - (C) date of birth, and
 - (D) the assistor shall sign an affidavit provided and published by the Arkansas State Board of Election Commissioners confirming the information provided to the election official is true and correct under penalty of perjury, and
 - (E) the election official shall have the voter being assisted sign or mark that the assistor is assisting the voter on the affidavit.