

FREQUENTLY ASKED QUESTIONS

Electioneering at Polls

May a candidate or a candidate's supporters' campaign at a polling place while voting is taking place?

Campaigning is only allowed more than 100 feet from the primary exterior entrance to the polling site used by voters. Candidates and their supporters may not post signs, hand out campaign materials, solicit signatures on petitions, solicit charitable contributions, wear campaign apparel or accessories, or do any electioneering of any kind inside the 100' boundary at a polling place on election day or during early voting. [A.C.A. §§7-1-103(a)(9); 7-1-104(a)(7)]

In addition, no person is permitted to remain in the area outside the poll but inside the 100 foot electioneering exclusion zone except while in the process of entering or exiting the building. See, A.C.A. §7-41-103(a)(23).

Act 728 of 2021 which implemented this provision is subject to pending litigation as of the time of publication.

Campaign Signs & Ads

Where on public property may campaign signs be posted?

Check with city and county government about ordinances or regulations about posting campaign signs on street or road right of ways. Check with the highway department regarding regulations of state highway right of ways. Campaign signs cannot be placed on all public property so check with state, local or federal governmental officials about posting signs on other types of public property.

What are the requirements for campaign advertisements and other materials?

The state election code requires that all literature mailed to electors and "articles, statements, or communications appearing in any newspaper printed or circulated in this state intended or calculated to influence the vote of any elector in any election and for the publication of which a consideration is paid or to be paid shall clearly contain the words 'Paid Political Advertisement', 'Paid Political Ad', or 'Paid for by' the candidate, committee, or person who paid for the message," and also that all "articles, statements, or communications appearing in any radio, television, or any other electronic medium intended or calculated to influence the vote of any elector in any election and for the publication of which a consideration is paid or to be paid shall clearly contain the words: (a) 'Paid political advertisement' or 'paid political ad'; or (b) 'Paid for by', 'sponsored by', or 'furnished by' the true sponsor of the advertisement."

Campaign signs, campaign literature, and other printed campaign materials shall clearly contain the words "Paid for by" followed by the name of the political candidate, political action committee, independent expenditure committee, or person who paid for the sign, mailing, literature, or other printed material. [A.C.A. §7-1-103(7), §7-6-228 (c)(1)]

Poll Watchers

May a candidate have a representative at polling places to observe voting and challenge ineligible voters?

A candidate may have a poll watcher at each polling place on election day and during early voting. Poll watchers may also attend absentee ballot processing and the counting and tabulation of ballots. Poll watchers are persons who observe the election process and can challenge the eligibility of voters at the polls on behalf of candidates, political parties and groups with an interest in measures on the ballot. The poll watcher authorization form is found in this book and must be filed with the county clerk. Poll watchers must present the poll watcher authorization form when entering the polling place. A candidate may designate the poll watcher to attend one or more polls during the election. However, a candidate may have only one poll watcher in a poll at any given time. In order to avoid delays, candidates should process poll watcher forms with the county clerk before election day. [A.C.A. §7-5-312]

Can a candidate be a poll watcher?

A candidate may not be a poll watcher at a polling place on election day. During early voting, a candidate can be present to observe the voting process but not to challenge voters. When the polls close a candidate may serve as a poll watcher for the purpose of observing the processing of absentee ballots and the counting and tabulation of all ballots. A candidate may challenge the absentee ballots of ineligible voters during processing. A candidate may also observe the counting and tabulation of ballots. Candidates who observe early voting or serve as a poll watcher at absentee ballot voter processing must present ID to an election official. [A.C.A. §§7-5-312(a)(1); 7-5-413(d); 7-5-417; Board of Election Commissioners Rules on Poll Watchers, Vote Challenges and Provisional Voting, §903]

Presence at Polls

How should a candidate who has non-election business at the courthouse (or a polling place that is also a business or government facility) while voting is occurring conduct himself/herself?

Any person, including candidates, with non-election business in a polling place must not linger in the voting room any longer than necessary to conduct her/his business and should not do anything that might be construed as electioneering. Candidates should not speak with voters standing in line. It is a crime to electioneer in any manner with persons standing in line to vote inside or outside the courthouse. [A.C.A. §§7-1-103(a)(9)(B); 7-1-104(a)(7); 7-5-310]

Can a candidate or a representative of a candidate go into a polling place to pick up voter data?

Generally, no, unless the “representative” is a credentialed poll watcher. The county election commission has statutory discretion to allow other persons in the polling place. Such arrangements should be worked out before the election. Anyone allowed in the poll may not do anything to disrupt the conduct of the election. [A.C.A. §7-5-310]

Assisting Voters

Who may assist voters in marking and casting their ballot?

A candidate may only assist voters who are related to them within the second degree of consanguinity.

Any voter who is unable to mark or cast a ballot without help may be assisted by either two poll workers or any one person of the voter's choice. The *voter* (not the assistant) must first notify the poll worker that he/she needs assistance. The assistant must mark the ballot according to the voter's wishes and without comment or interpretation. It is a crime to assist more than six voters in any election. [A.C.A. §§7-5-310; 7-1-103(a)(20)(C)]

NOTE: At the time of publication, the prohibition on a person, other than an election official, assisting more than 6 voters is the subject of pending litigation.

Candidate's Name on Ballot

How is the order that the names of candidates appear on the ballot determined?

The county board of election commissioners determines ballot positions for all offices by lot after filing is complete. The date of the ballot draw will be published in a local newspaper. Candidates are encouraged to attend this public meeting and should contact the county election commission for information about the ballot draw. [Generally, see A.C.A. §7-7-305(b)]

What if there is a mistake in the way my name is printed on the ballot?

Candidates may attend the public testing of voting machines, and mistakes caught at that time can usually be fixed. By attending the public testing, candidates can also assure the accuracy of the machines. The dates and times of the public testing are published in a local newspaper. Contact the election commission for more information. If the mistake is on a printed ballot, submit an affidavit to the election commission pointing out the mistake. The election commission must meet to either resolve the mistake or state why the mistake cannot be fixed. [A.C.A. §7-5-209]

Election Official Conflicts

My opponent's husband has been an election official in the past. Can a husband serve as an election official in an election where the wife is on the ballot?

An election official whose spouse, child, parent, brother/sister, or grandparent is a candidate may be disqualified if challenged. The list of election day officials must be posted in a public place in the County Clerk's office no later than 8 days before the early voting begins. The list of early voting election officials must be posted in a public place in the County Clerk's office no later than 8 days before the beginning of early voting. Challenges must be made no later than 7 days after the posting of the list of election officials with regards to the official's relationship or marriage to a candidate and no later than 10 days after the posting with regard to the official's status as: a county party chairman; the spouse of a county party chairman; or the spouse of a county election commissioner. Contact the election commission for the date of posting election officials. [A.C.A. §7-4-109(d), 7-5-202(a) as amended by Act 448 of 2021]

Recounts

How does a candidate ask for a recount?

The county board of election commissioners must conduct a recount for any candidate who is dissatisfied with the results of an election and who makes a timely request for a recount. [A.C.A. §7-5-319]

Generally, a candidate has two days to ask for a recount after the preliminary and unofficial results of the election are declared by the county election commission. This declaration usually is made on election night, so the deadline is usually the next Thursday after the election.

However, if the number of outstanding military and overseas civilian ballots is enough to potentially change the outcome of the election, a candidate may ask for a recount any time before the county election commission certifies the result of the election. Note, that the military and overseas civilian absentee ballots that may be counted if received after election day must arrive at the county clerk's office by the tenth day after the election. A candidate considering asking for a recount under these circumstances should be in frequent contact with the election commission regarding its plans for certification.

The candidate bears the cost of the recount if the result of the election is not changed. If the candidate wins as a result of the recount, the costs are refunded to the candidate. The costs must be paid up front. The actual cost is not to exceed, \$0.25 per vote cast in precincts where a recount is requested with a maximum cost of \$2,500 per county. [A.C.A. §7-5-319]

Candidate Eligibility

What is the process for challenging a candidate based on eligibility?

During the party filing period, a party candidate is required to file an affidavit of eligibility with the party stating that he or she is eligible to serve in the office sought. [A.C.A. §§7-1-101(2); 7-7-301]

A.C.A. §7-5-805 addresses contests to the eligibility and qualifications of members of the State Senate and State House of Representatives, which are ultimately decided by the legislative body itself. Otherwise, any challenge of a candidate's eligibility to run for office would be decided in an election contest by a court of law.