

ABSENTEE / PROVISIONAL BALLOTS

§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

COMMENT: Not all “processing sites” are in the courthouse.

(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~~.

COMMENT: This rule makes the candidate a poll watcher and gives them authority “for the purpose of challenging any absentee vote.” §7-5-312 (a) Poll watchers shall include any: (1) Candidate in person, but only during the counting and tabulation of ballots and the processing of absentee ballots; (c) In accordance with §§ 7-5-316, 7-5-413, 7-5-527, and 7-5-615, a candidate in person or an authorized representative of a candidate or political party may be present at a polling site, central counting location, and absentee ballot counting location **for the purpose of witnessing the counting of ballots by election officials and determining whether ballots are fairly and accurately counted.**

7-5-316...Candidate may be present to **determine whether ballots are fairly and accurately counted**...

7-5-413 (d) Any candidate or political party may be present in person or by a representative designated in writing during the progress of early voting and at the canvass of the results in any election **for the purpose of determining whether or not the votes in any election are fairly and accurately cast and counted.**

§ 903 Poll Watcher Challenges

A. (5th paragraph) 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 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.

COMMENT: See 7-5-316 and 7-5-413 above - candidates at the polls or counting places.

§909 Counting Provisional Ballots

Provisional ballots are counted as follows; (1 thru 7)

COMMENT: It appears that one election official performs each and every step in counting. Suggest that more than one election official perform these duties. Suggestion:

When all is in order.

Clerk #1 opens the outer envelope and verifies that the statement on the Ballot envelope is completed. If present, reads aloud from the voter statement the name and precinct of the voter.

Clerk #2 compares the name, address, date of birth, and signature on the Application against the same information on the Voter Statement.

Clerk #3 enters, in duplicate, the name and precinct of the voter on the Absentee Voter Appearance List (if everything is in order) and places Ballot Envelope/Voter Statement in the absentee voter box, places outer envelope in receptacle for outer envelopes, places the Application for Absentee Ballot in the receptacle for the applications, and places the ID materials in the appropriate receptacle.

Election Clerk #2 places the Ballot envelope in the proper receptacle, unopened, and shuffles to avoid identifying the voter.

Suggestion - when there is a discrepancy.

All materials will be placed in the outer envelope and that envelope will be placed in the Provisional Ballot envelope and annotated with the reason(s) the ballot has been declared as Provisional. This envelope will be signed by all three Election Clerks.

Envelopes containing all ballot materials for each individual voter are then placed in the *List of Provisional Voters* envelope and Clerk #1 fills in the form as prescribed in ACA §7-5-308. The Provisional voter envelope is set aside for the Commissioners to review and make a decision as to whether to count the ballot or not.

Bottom line is that sufficient counting clerks should be assigned so that the decision is not left up to one clerk.

§ 910 Prosecuting Attorney

Guidance is needed as to what to do if the Prosecuting Attorney refuses to accept the document(s) and states that the election commission must present them to the local police or sheriff. This has happened.