

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. Candidates and supporters may not speak to voters standing in line that extend beyond the 100' boundary. [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. The highway department does not allow campaign signs to be posted on 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. If the material is a two-sided sign, the "Paid for by" must appear on both sides [A.C.A. §7-1-103(7), §7-6-228(c)(1) amended by Act 307 of 2023]

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. Poll watchers must have completed an on-line training course approved and administered by the State Board of Election Commissioners. A poll watcher authorization form, found in this book, 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 as amended by Act 444 of 2023]*

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. *[ACA §§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]*

Poll Watcher Training

Beginning in January of 2024, poll watchers must complete the State Board of Election Commissioners poll watchers training program. This training is offered on the SBEC's website and requires that the poll watcher successfully complete a test after reviewing the training materials.

The candidate, party or group appointing the poll is responsible for the ensuring the poll watcher has the technology necessary to access the training materials. This training and the rules governing poll watchers can be accessed at:

www.arkansas.gov/sbec

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 blood relation. The second degree of blood relation extends to grandparents, first cousins, nieces, nephews, and grandchildren. 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)]

Can I review my name on a ballot?

The county board of election commissioners must submit an email to candidates who provide an email address that includes either a proof copy of the ballot or a report that shows candidates' names as they appear on the ballot. This submission will be sent at least 42 days before the election. *[Act 308 of 2023]*

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 found, the election commission must meet to either resolve the mistake or state why the mistake cannot be fixed. Mistakes must be corrected by the commission unless, by unanimous vote, the error can be mitigated. Candidates' names left off a ballot must be corrected. *[A.C.A. §7-5-209, as amended by Act 308 of 2023]*

Election Official Conflicts

When is an election official prohibited from serving due to a conflict of interest?

Prior to every election, a list of every election official must be posted in a public place in the County Clerk's office. Election officials who conduct early voting must be posted no less than 8 days prior to the beginning of early voting. Election officials appointed to conduct election day voting must be posted no less than 8 days prior to the election. The date these lists are posted and how to file an objection must be reflected in the published notice of election.

An election official whose spouse, child, parent, brother/sister, grandparent, niece/nephew, aunt/uncle, or first cousin is a candidate is disqualified from serving in that election if a timely objection is filed. An objection must be filed no later than 10 days after the posting of the relevant official's name.

Also, an election official who is a county party chairman, the spouse of a county party chairman, or the spouse of a county election commissioner is disqualified from serving in that election if a timely objection is filed. An objection must be filed no later than 7 days after the posting of the relevant official's name. *[A.C.A. §7-4-109(d), 7-5-202(a)]*

Recounts

How does a candidate ask for a recount?

To request a recount, a candidate must present a petition to the county board of election commissioners. 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, combined with the number of uncounted provisional ballots, is enough to potentially change the outcome of the election, a candidate may ask for a recount any time before the final certification of the result of the election or by 12:00 noon on the 7th day after the election whichever is sooner. 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. *[Act 321 of 2023]*

Who pays for a recount?

The candidate bears the cost of the recount if the result of the election is not changed. Candidates are required to pay the estimated actual costs of the recount to the county before the recount is conducted. If the candidate wins as a result of the recount, the costs are refunded to the candidate.

The estimated actual cost cannot exceed, \$0.25 per vote cast in precincts where a recount is requested with an overall maximum cost of \$2,500 per county. *[A.C.A. §7-5-319]*

Is it possible for a recount to be held if no candidate requests it?

The county election commission may conduct a recount without a candidate request. If this occurs, the county will pay for the cost of the recount.

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 by a court of law.