

STATE OF ALABAMA OFFICE OF THE SECRETARY OF STATE ELECTIONS
DIVISION
ADMINISTRATIVE CODE

CHAPTER 820-2-4
BALLOT ACCESS FOR POLITICAL PARTIES AND INDEPENDENT CANDIDATES

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820-2-4-.01 Definitions.

Unless otherwise clearly indicated, the following terms shall be given the following interpretations:

(1) Election petition. A petition submitted for any of the purposes identified in 820-2-4-.03(1) or 820-2-4-.03(2).

(2) Verifying authority. The entity charged with the responsibility for verifying petition signatures or providing assistance in the verification of petition signatures.

(3) Raw Count. The total number of unverified signatures affixed to an election petition and submitted to the verifying authority.

(4) Random sample of signatures. Signatures selected at random using a computerized random numbers generator.

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

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820-2-4-.02 **Purpose.**

The purpose of this section is to establish procedures for the submission, verification and certification of election petitions.

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

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820-2-4-.03 **Scope.**

This section shall apply to the verification of signatures on the following types of petitions:

(1) Petitions for the establishment of independent candidacy submitted to a verifying authority pursuant to §§17-7-1(a)(3) and 17-19-2, Code of Ala. 1975, as amended, and

(2) Petitions for the establishment of ballot access for a political party submitted to a verifying authority pursuant to §17-8-2.1(a), Code of Ala. 1975, as amended.

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

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820-2-4-.04 **Effective Date.**

The provisions of this section shall become effective for the first general or special election scheduled to occur after the U.S. Department of Justice notifies the State of Alabama that preclearance for this section is granted pursuant to Section 5 of the Voting Rights Act of 1965.

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

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820-2-4-.05 **Petition Requirements.**

(1) Petitions for the establishment of independent candidacy shall include at the top of each page of said petition pagination and a statement that includes the name of the prospective independent candidate, the type of election for which ballot access is sought (e.g., general or special), the date of the general election for which ballot access is sought, the name of the political subdivision for which ballot access is sought, including district or place number, if applicable, and the name of the office sought, including district or place number, if applicable. Petitions for the establishment of independent candidacy in a special election shall not be required to include the date of the special election at the top of each page.

(2) Petitions for the establishment of ballot access for a political party shall include at the top of each page of said petition pagination and a statement that includes the name of the political party seeking ballot access, the type of election for which ballot access is sought (e.g., general or special), the date of the general election for which ballot access is sought, and the name of the political subdivision for which ballot access is sought or the name of the office for which ballot access is sought, including district or place number, if applicable. Petitions for the establishment of ballot access for a political party in a special election shall not be required to include the date of the special election at the top of each page.

(3) An election petition shall request the following information for each person signing said petition: name, residential address, date of birth, and signature. A signature shall not be deemed invalid for lacking any portion of the requested information if the disclosed information is sufficient for determining the validity of a signature.

Author: Edward P. Packard, David Brewer, Brent Beal, Clay Helms, Hugh Evans, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-6-22, 17-9-3; Attorney General Opinion Nos. 90-00223 and 99-00099.

History: New Rule: Filed January 10, 2001; effective February 14, 2001. **Amended:** Filed January 8, 2015; effective February 12, 2015. **Amended:** Filed October 9, 2018; effective November 23, 2018.

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820-2-4-.06 Random Sample Of Signatures.

(1) A verifying authority may, at its option, elect to use the random sampling procedure set forth in this section or may conduct a verification of all signatures affixed to an election petition, provided that the verifying authority utilizes the same method of verifying signatures for all petitions submitted for the same election.

(2) A random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the verifying authority shall be given equal opportunity to be included in the sample.

(3) The number of signatures to be verified by random sample shall be equal to one hundred (100) signatures or five percent (5%) of the raw count, whichever is greater. In the event that a petition contains less than one hundred signatures, one hundred percent (100%) of the signatures shall be verified.

(4)(a) Petitions may be submitted in whole or continuously in parts to the verifying authority, provided that no petition or part thereof may be submitted after the applicable statutory deadline for submitting the petition in its entirety. The verifying authority shall be under no obligation to verify partial submissions of petition signatures until the submission is complete but may do so at the option of the verifying authority.

(b) In the event that a petition is submitted continuously in parts to the verifying authority, the random sampling procedure set forth in 820-2-4-.07 may be applied to each portion of the petition. The sample size for each portion is to be determined as provided for in subparagraph (b).

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

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820-2-4-.07 Random Sampling Formula For Verification Of Elections Petitions.

(1) Signature verification. The following steps shall be followed when verifying signatures on an election petition:

(a) Determine the number of signatures to be sampled, as provided for in 820-2-4-.06(3).

(b) Draw the random sample of signatures, as provided for in 820-2-4-.06(2).

(c) Verify the signatures in the sample and determine the number of valid signatures in that sample.

(d) Divide the number of valid signatures in the sample by the total number of signatures in the sample. Compute as a percentage to two (2) decimal places.

(e) Multiply the raw count by the number computed in paragraph 820-2-4-.07(1)(d), above. Round up to nearest whole number.

(2) Withdrawn signatures. A person who has signed an election petition may withdraw his or her signature from the petition prior to the petitions being filed with the verifying authority. If the withdrawn signature is selected as part of the random sample, the signature is treated as a signature that is deemed not valid.

(3) Duplicate signatures.

(a) Divide the raw count by the sample size to determine the value of each signature. Compute to four (4) decimal places.

(b) To determine the weight to be assigned to each duplicate signature found in the sample, multiply the value of each signature computed in 820-2-4-.07(3)(a), above, times the value of each signature, as determined in 820-2-4-.07(3)(a), minus one.

(c) To determine the estimated number of duplicate signatures in the entire petition, multiply the number of duplicate signatures found in the random sample by the weight established in 820-2-4-.07(3)(b). Round up to the nearest whole number.

(4) Number of valid signatures based on the verification of a sampling of the signatures. To determine the estimated number of verified signatures on the petition based on the random sampling, subtract the estimated number of duplicate signatures (i.e., the value calculated in 820-2-4-.07(3)(c)) from the number of estimated valid signatures (i.e., the value calculated in 820-2-4-.07(1)(e)).

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

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Ed. Note: Formerly Rule 820-X-11-.07, as per certification Filed January 10, 2001; effective February 14, 2001.

820-2-4-.08 Certification Of Election Petition.

(1) An election petition shall be certified as being sufficient if the number of valid signatures determined pursuant to 820-2-4-.07(4) is in excess of the number of required signatures.

(2) If an election petition fails to be certified under 820-2-4-.08(1) and the difference between the valid number of signatures and the required number of signatures is 5% or less of the required number of signatures, the verifying authority shall automatically conduct a second random sample verification of the election petition. If a second random sample verification of the election petition fails to produce a sufficient number of valid signatures as identified in 820-2-4-.08(1), the election petition shall not be certified.

Author: Edward P. Packard, Charles E. Grainger, Jr.

Statutory Authority: Code of Ala. 1975, §§17-7-1, 17-8-2.1; Attorney General Opinion Nos. 90-00223 and 99-00099.

History: New Rule: Filed January 10, 2001; effective February 14, 2001.

Ed. Note: Formerly Rule 820-X-11-.08, as per certification Filed January 10, 2001; effective February 14, 2001.

820-2-4-.09 Procedures For Amendment Of Certifications Of Candidates By Political Parties.

(1) The following definitions are applicable to this Rule:

(a) "Certification of candidates" means a written listing provided by a political party of candidates legally qualified and entitled to appear on the ballot in a primary, special or general election.

(b) "Political party" is an organization of qualified electors seeking to elect candidates to public office and meeting the requirements of Sections 17-8-2.1, Code of Ala. 1975, or 17-16-2, Code.

(c) "Amendment of certification" means a written modification of a previously submitted certification of candidates submitted before or after a deadline for submitting a certification of candidates but, unless otherwise provided by law or order of a court of competent jurisdiction, prior to the printing of ballots in support of absentee voting.

(2) The following findings of fact and law are made in support of this rule:

(a) The Secretary of State finds that a long-standing practice of permitting amendments to certifications has functioned to correct and modify certifications of candidates by political parties. These amendments are designed to correct errors in certifications (such as name spellings and the office sought) and exercise the authority of the political party in determining candidates for office through correcting omissions, disqualifications, and the filling of vacancies.

(b) Generally, political parties will certify candidates for a primary election or nominees for the general election. Due to the brief time frames often involved and the scope of the political party's responsibility, errors in the certifications and a variety of other changes may compel changes to the certification. Examples include misspelled names, subsequent withdrawal of candidates and subsequent disqualification of candidates. Amending the certification provides a formal process consistent with practice which ensures the accuracy of the ballot.

(c) While silent on a procedure for amending certifications of candidates, Alabama's statutes providing for certifications of candidates are not in conflict with an opportunity to amend such certifications.

(d) The deadline for amending certifications, as a practical matter, occurs when the ballots for a particular race have been printed.

(3) Election officials are authorized to submit, accept and otherwise act on amendments to certifications of candidates to the full extent permitted by the circumstances or until the applicable ballots are printed, whichever occurs first.

Author: Charles E. Grainger, Jr.

Statutory Authority: §1 of Act No. 2003-313; Attorney General Opinion No. 97-00109.

History: New Rule: Filed September 26, 2003; effective October 31, 2003.