STATE OF ALABAMA OFFICE OF THE SECRETARY OF STATE ADMINISTRATIVE CODE

CHAPTER 820-2-10
PROCEDURES FOR IMPLEMENTING THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT ("UOCAVA")

820-2-10-.17 Counting Of Votes.

(1) An elector's ballot shall be counted for each office to be filled except for each office where it is impossible to determine the elector's choice for that office. The inability to determine the elector's choice for any particular office to be filled shall not cause the rejection of votes for other offices where the elector's choice can be determined. No ballot shall be rejected for any technical error which does not make it impossible to determine the elector's choices.

(2)(a) In precincts utilizing precinct ballot counters, if the elector has overvoted his or her ballot in in one or more contests, the counters shall be programmed to permit the elector to choose whether to 1) review and correct his or her ballot or 2) have the counter tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(b) If the elector chooses to correct the ballot, the original ballot shall be spoiled by a poll worker and the elector shall be issued a new, blank ballot.

(c) If the elector chooses not to correct the ballot, the elector shall be permitted to have the counter tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(3) In counties utilizing central ballot counters, the counters shall be programmed to permit the ballot to be tabulated by the counter if the elector has overvoted his or her ballot in any contest. The counter shall be programmed to tabulate all votes on the ballot except in any contest where the elector has overvoted the ballot.

(4)(a) In precincts utilizing precinct ballot counters, if the ballot counter detects a blank ballot, that is, a ballot where the elector has not marked any choices in accordance with the instructions for properly marking his or her choices, the ballot counter shall be programmed to return the ballot to the elector. The elector shall be permitted the opportunity to mark his or her choices on the original ballot or a replacement ballot according to the instructions for properly marking the ballot. The ballot may then be tabulated by the ballot counter. The ballot counter shall be programmed to accept a blank ballot in those

circumstances where the elector chooses to not remedy his or her blank ballot.

(b) In counties utilizing central ballot counters, if the ballot counter detects a blank ballot, that is, a ballot where the elector has not marked any choices in accordance with the instructions for properly marking his or her choices, the ballot counter shall be programmed to return the ballot or otherwise divert the ballot to be reviewed by the attending poll workers. The poll workers shall review the ballot to determine if the elector has marked no choices on the ballot or if the elector has marked choices on the ballot inconsistent with the instructions for properly marking the ballot. If the elector has marked choices on the ballot inconsistent with the instructions for properly marking the ballot, the ballot shall be counted by hand as described in paragraphs (1) and (5) of this rule. If the elector has marked no choices on the ballot, the ballot shall be set aside to be sealed with all other ballots in the ballot box after all ballots have been tabulated.

(5) When ballots are to be counted by hand, polling officials shall determine the elector's choice by considering the ballot as a whole and determining the manner in which the elector marked his or her choices on the ballot. Only those choices marked consistently in this manner shall be counted for each office to be filled. As used herein, "marked consistently" pertains to the manner in which the elector expresses his or her choice and not the pattern of candidates selected as between political parties on the ballot. If the polling officials are unable to determine the manner in which an elector marked his or her choices, the ballot shall be rejected in its entirety.

(6)(a) If a precinct ballot counter should malfunction, the poll shall remain open and voters shall deposit their ballots in a ballot box or other suitable container. The inspector shall notify the custodian, who shall attempt to repair or replace the equipment, and the probate judge, who shall maintain a public list of all precincts in which equipment failure has occurred.

(b) If the precinct ballot counter cannot be repaired, after the polls close the ballot box shall be opened and the ballots counted either by hand as described in paragraphs (1) and (4) of this rule or by feeding the ballots into an operable precinct ballot counter. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(c) In counties utilizing precinct ballot counters, any ballot returned by the machine in a post-election recount must be counted by hand following the rules for central ballot counters as provided in paragraphs (1) and (4) of this rule. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(7) If a central ballot counter should malfunction, the count shall be suspended until the equipment is repaired or replaced or the ballots are counted by hand as described in paragraphs (1) and (4) of this rule. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(8)(a) In counties utilizing precinct ballot counters, if a ballot is defective and the counter is unable to accept or read the ballot, 1) the ballot shall be spoiled and the elector shall be issued a new ballot or 2) if the elector does not choose to mark a new ballot, the elector's original ballot shall be counted by hand as described in paragraphs (1) and (4) of this rule. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

(b) In counties utilizing central ballot counters, if a ballot is defective and the counter is unable to accept or read the ballot, the ballot shall be counted by hand as described in paragraphs (1) and (4) of this rule. If counted by hand, the determination of the elector's choice shall be governed by paragraph (4) of this rule. Poll watchers of opposing interests and members of the media, if any are present, shall be permitted to witness this process. The results of this hand count shall be added to the official results, and the ballots shall be bound separately and returned with the other ballots.

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Statutory Authority: Code of Ala. 1975, §17-7-25 (formerly §17-24-7(b)).
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