

Part 10 Chapter 4: Assistance for Military and Overseas Voters

Rule ___ Secretary of State's Exercise of Emergency Powers. Pursuant to the Military and Overseas Voter Empowerment Act of 2009 ("MOVE Act"), Congress amended the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") to require the transmittal of absentee ballots at least forty-five (45) days prior to an election to every UOCAVA voter who has submitted a valid absentee ballot application.

Pursuant to existing Mississippi law, federal primary runoff and special runoff elections are held twenty-one (21) days after the primary or special election is conducted if no candidate receives a majority of the votes cast for an office.

Under the Secretary of State's authority to exercise emergency powers concerning absentee voting by Mississippi armed services and overseas voters, the Secretary of State promulgates the following temporary administrative rule:

- I. *Runoff Election Absentee Ballots Provided Electronically to UOCAVA Voters.* To ensure UOCAVA voters are afforded sufficient time within which to vote in a federal runoff election, the Circuit Clerk of the voter's county of residence shall transmit a ranked choice runoff absentee ballot simultaneously with the primary or special election absentee ballot to those UOCAVA voters who submit a valid absentee ballot application therefor, specifying receipt of the voter's absentee ballot by electronic means.
 - A. The runoff election ranked choice ballot shall be in the format of a PDF fillable document to enable UOCAVA voters to mark the same on-line and shall be styled so as to distinguish its use for the runoff election only.
 - B. Upon indication of the UOCAVA voter of his/her intention to return the absentee ballot(s) by mail, the Circuit Clerk of the UOCAVA voter's county of residence electronically shall provide to the voter separate official envelopes for the return of each absentee ballot.
 - C. The runoff election ranked choice ballot shall allow the voter to rank candidates in order of preference. To indicate the order of preference for each candidate for each office, the voter shall mark the corresponding oval beside the candidate's name under the appropriate number, indicating the number of the voter's preference for each candidate. The voter shall mark the oval under "1" next to the name of the candidate who is the voter's first choice, the oval under "2" for the voter's second choice, and so forth.
 - i. If a voter marks the same numbered oval for more than one (1) candidate, his or her ballot may not be counted.
 - ii. The voter shall not be required to indicate his or her preference for more than one (1) candidate.
 - D. Additional instructions shall be provided to the UOCAVA voter with the transmittal of the primary or special election absentee ballot and runoff absentee ballot to explain the ranked choice voting process.
 - E. Only one ballot shall be sent to the UOCAVA voter for the runoff election. It is the UOCAVA voter's choice as to when he/she votes and electronically

returns his/her voted runoff election absentee ballot; however, absentee ballots returned electronically must be received by the Circuit Clerk of the voter's county of residence by 7:00 p.m. on the date of the election in order to be counted.

- F. In the event a runoff election is conducted, the UOCAVA voter's runoff election ballot shall be counted in accordance with the order in which the voter has ranked the candidates. The candidate ranked "1" by the voter will be counted if that candidate is included in the runoff election. If the candidate ranked "1" by the voter is not included in the runoff election, the candidate ranked "2" by the voter will be counted if that candidate is included in the runoff election, and so forth.

- II. Runoff Election Absentee Ballots Provided by Mail to UOCAVA Voters. To ensure UOCAVA voters are afforded sufficient time within which to vote in a federal runoff election, the Circuit Clerk of the voter's county of residence shall transmit a ranked choice runoff absentee ballot simultaneously with the primary or special election absentee ballot to those UOCAVA voters who submit a valid absentee ballot application therefor, specifying receipt of the voter's absentee ballot by mail or not specifying a means by which to receive an absentee ballot.
 - A. The runoff election ranked choice ballot shall be printed on paper of a different tint or color and shall be styled so as to show distinguish its use for the runoff election only.
 - B. Upon indication of the UOCAVA voter of his/her intention to return the absentee ballot(s) by mail, the Circuit Clerk of the UOCAVA voter's county of residence shall send to the voter separate official envelopes for the return of each absentee ballot in accordance with Section 23-15-683, Miss. Code Ann.
 - C. The runoff election ranked choice ballot shall allow the voter to rank candidates in order of preference. To indicate the order of preference for each candidate for each office, the voter shall mark the corresponding oval beside the candidate's name under the appropriate number, indicating the number of the voter's preference for each candidate. The voter shall mark the oval under "1" next to the name of the candidate who is the voter's first choice, the oval under "2" for the voter's second choice, and so forth.
 - i. If a voter marks the same numbered oval for more than one (1) candidate, his or her ballot may not be counted.
 - ii. The voter shall not be required to indicate his or her preference for more than one (1) candidate.
 - D. Additional instructions shall be provided to the UOCAVA voter with the transmittal of the primary or special election absentee ballot and runoff absentee ballot to explain the ranked choice voting process.
 - E. No additional ballot shall be sent to the UOCAVA voter for the runoff election. It is the UOCAVA voter's choice as to when he/she votes and returns his/her voted runoff election absentee ballot; however, absentee ballots returned by mail must be received by the Circuit Clerk of the voter's county of residence by 7:00 p.m. on the date of the election in order to be counted.

- F. In the event a runoff election is conducted, the UOCAVA voter's runoff election ballot shall be counted in accordance with the order in which the voter has ranked the candidates. The candidate ranked "1" by the voter will be counted if that candidate is included in the runoff election. If the candidate ranked "1" by the voter is not included in the runoff election, the candidate ranked "2" by the voter will be counted if that candidate is included in the runoff election, and so forth.
- III. Runoff Election Absentee Ballots Returned Electronically to the Circuit Clerk. Upon electronic receipt of a federal runoff election ballot, the Circuit Clerk shall place the runoff election ballot in an absentee ballot envelope and note on the envelope the ballot was received pursuant to Section 23-15-699, Miss. Code Ann., and the signatures across the flap of the envelope are not required. The envelope containing the runoff election absentee ballot shall be placed into a sealed ballot box designated for runoff election absentee ballots only. Such ballot box shall remain sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the runoff election, or the time at which the absentee ballots are separated by precinct ballot boxes and distributed to the individual polling places for the runoff election.
- IV. Runoff Election Absentee Ballots Returned by Mail to the Circuit Clerk. Upon receipt by mail of a federal runoff election ballot, the Circuit Clerk shall place the envelope containing the runoff election absentee ballot into a sealed ballot box designated for runoff election absentee ballots only. Such ballot box shall remain sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the runoff election, or the time at which the absentee ballots are separated by precinct ballot boxes and distributed to the individual polling places for the runoff election.

Source: Miss. Code Ann. § 23-15-701 and § 25-43-1.101, *et seq.* (1972).