

## **Part 3 Absentee Voting**

### **20A-3-301 Voting by absentee ballot.**

- (1) Any person who is registered to vote may vote by absentee ballot.
- (2) Except as provided in Section 20A-3-702, a registered voter may not vote in person if the voter voted by absentee ballot.

Amended by Chapter 198, 2013 General Session

### **20A-3-302 Conducting entire election by absentee ballot.**

- (1) Notwithstanding Section 17B-1-306, an election officer may administer an election entirely by absentee ballot.
- (2) If the election officer decides to administer an election entirely by absentee ballot, the election officer shall mail to each registered voter within that voting precinct:
  - (a) an absentee ballot;
  - (b) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote;
  - (c) a courtesy reply mail envelope;
  - (d) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted; and
  - (e) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the absentee ballot, the voter will be unable to vote in that election because there will be no polling place in the voting precinct on the day of the election.
- (3) A voter who votes by absentee ballot under this section is not required to apply for an absentee ballot as required by this part.
- (4) An election officer who administers an election entirely by absentee ballot shall:
  - (a)
    - (i) obtain, in person, the signatures of each voter within that voting precinct before the election;
    - or
    - (ii) obtain the signature of each voter within the voting precinct from the county clerk; and
  - (b) maintain the signatures on file in the election officer's office.
- (5)
  - (a) Upon receiving the returned absentee ballots, the election officer shall compare the signature on each absentee ballot with the voter's signature that is maintained on file and verify that the signatures are the same.
  - (b) If the election officer questions the authenticity of the signature on the absentee ballot, the election officer shall immediately contact the voter to verify the signature.
  - (c) If the election official determines that the signature on the absentee ballot does not match the voter's signature that is maintained on file, the election officer shall:
    - (i) unless the absentee ballot application deadline described in Section 20A-3-304 has passed, immediately send another absentee ballot and other voting materials as required by this section to the voter; and
    - (ii) disqualify the initial absentee ballot.
- (6) A county that administers an election entirely by absentee ballot:

- (a) shall provide at least one election day voting center in accordance with Title 20A, Chapter 3, Part 7, Election Day Voting Center;
- (b) shall ensure that an election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities; and
- (c) is not required to pay return postage for an absentee ballot.

Amended by Chapter 173, 2015 General Session

**20A-3-303 Form of absentee ballot.**

- (1) For all elections, the election officer shall:
  - (a) cause a sufficient number of official ballots to be known as absentee ballots to be prepared and printed; and
  - (b) ensure that the absentee ballots are prepared and printed in the same form, are of the same size and texture, and contain the same information as the regular official ballot.
- (2) The election officer may prepare absentee ballots as paper ballots or ballot sheets or may use both methods.

Amended by Chapter 193, 2008 General Session

**20A-3-304 Application for absentee ballot -- Time for filing and voting.**

- (1)
  - (a) Any registered voter who wishes to vote an absentee ballot may either:
    - (i) file an absentee ballot application:
      - (A) on the electronic system maintained by the lieutenant governor under Section 20A-2-206; or
      - (B) with the appropriate election officer for an official absentee ballot as provided in this section; or
    - (ii) vote in person at the office of the appropriate election officer as provided in Section 20A-3-306.
  - (b) A person that collects a completed absentee ballot application from a registered voter shall file the completed absentee ballot application with the appropriate election official before the earlier of:
    - (i) 14 days after the day on which the registered voter signed the absentee ballot form; or
    - (ii) the Thursday before the next election.
- (2) As it relates to an absentee ballot application to be filled out entirely by the voter:
  - (a) except as provided in Subsection (2)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:
    - (i) in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot to be voted by me at the election.  
Date \_\_\_\_\_ (month\day\year) Signed \_\_\_\_\_  
Voter"; and
    - (ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:
      - (A) until the voter requests otherwise at a future date; or
      - (B) until a date specified by the voter in the application form; and
  - (b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot for the \_\_\_\_\_ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request.

Dated \_\_\_\_\_ (month\day\year) \_\_\_\_\_ Signed \_\_\_\_\_  
Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

- (A) until the voter requests otherwise at a future date; or
- (B) until a date specified by the voter in the application form.

(3) If requested by the applicant, the election officer shall:

- (a) mail or fax the application form to the absentee voter; or
- (b) deliver the application form to any voter who personally applies for it at the office of the election officer.

(4) As it relates to an absentee ballot application to be filled out for, and finished and signed by, a voter:

(a) except as provided in Subsection (4)(b), the lieutenant governor or election officer shall approve an application form for absentee ballot applications:

(i) in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot to be voted by me at the election.

I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Date \_\_\_\_\_ (month\day\year) Signed \_\_\_\_\_

Voter"; and

(ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:

- (A) until the voter requests otherwise at a future date; or
- (B) until a date specified by the voter in the application form; and

(b) the lieutenant governor or election officer shall approve an application form for regular primary elections and for the Western States Presidential Primary:

(i) in substantially the following form:

"I, \_\_\_\_\_, a qualified elector, residing at \_\_\_\_\_ Street, \_\_\_\_\_ City, \_\_\_\_\_ County, Utah apply for an official absentee ballot for the \_\_\_\_\_ political party to be voted by me at the primary election.

I understand that I must be affiliated with or authorized to vote the political party's ballot that I request. I understand that a person that collects this absentee ballot application is required to file it with the appropriate election official before the earlier of fourteen days after the day on which I sign the application or the Thursday before the next primary election.

This form is provided by (insert name of person or organization).

I have verified that the information on this application is correct.

I understand that I will receive a ballot at the following address: (insert address and an adjacent check box);

OR

I request that the ballot be mailed to the following address: (insert blank space for an address and an adjacent check box).

Dated \_\_\_\_\_ (month\day\year) \_\_\_\_ Signed \_\_\_\_\_  
Voter"; and

- (ii) that asks the voter to indicate whether the voter wishes to maintain absentee voter status:
  - (A) until the voter requests otherwise at a future date; or
  - (B) until a date specified by the voter in the application form.
- (5) The forms described in Subsections (2) and (4) shall contain instructions on how a voter may cancel an absentee ballot application.
- (6) Except as provided in Subsection 20A-3-306(2)(a), a voter who wishes to vote by absentee ballot shall file the application for an absentee ballot with the lieutenant governor or appropriate election officer no later than the Thursday before election day.
- (7)
  - (a) A county clerk shall establish an absentee voter list containing the name of each voter who:
    - (i) requests absentee voter status; and
    - (ii) meets the requirements of this section.
  - (b) A county clerk may not remove a voter's name from the list described in Subsection (7)(a) unless:
    - (i) the voter is no longer listed in the official register;
    - (ii) the voter cancels the voter's absentee status; or
    - (iii) the voter's name is removed on the date specified by the voter on the absentee ballot application form.
  - (c)
    - (i) Each year, the clerk shall mail a questionnaire to each voter whose name is on the absentee voter list.
    - (ii) The questionnaire shall allow the voter to:
      - (A) verify the voter's residence; or
      - (B) cancel the voter's absentee status.
  - (d) The clerk shall provide a copy of the absentee voter list to election officers for use in elections.

Amended by Chapter 394, 2015 General Session

**20A-3-304.1 Election officer to provide voting history information and status.**

- (1) As used in this section:
  - (a) "Qualified absentee ballot application" means an absentee ballot application filed under Section 20A-3-304 from a voter who the election officer determines is eligible to receive an absentee ballot.
  - (b) "Voting history record" means the information about the existence and status of absentee ballot requests required by this section.
- (2)
  - (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters that have cast a vote by:

- (i) absentee ballot; and
- (ii) early voting.
- (b) The voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.
- (3) The election officer shall ensure that the voting history record for each voting precinct contains:
  - (a) for absentee voting:
    - (i) the name and address of each person who has filed a qualified absentee ballot application;
    - (ii) the date that the application was received; and
    - (iii) the current status of each qualified absentee ballot application including specifically:
      - (A) the date that the absentee ballot was mailed to the voter; and
      - (B) the date that the voted absentee ballot was received by the election officer; and
  - (b) for early voting:
    - (i) the name and address of each person who has voted during the early voting period; and
    - (ii) the date the person's vote was cast.
- (4)
  - (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the time limits for a request for records established in any ordinance, the election officer shall ensure that the information required by this section is recorded and made available to the public no later than one business day after its receipt in the election officer's office.
  - (b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in any ordinance, the election officer shall make copies of the voting history record available to the public for the actual cost of production or copying.

Amended by Chapter 382, 2008 General Session

**20A-3-305 Mailing of ballot to voter -- Enclose self-addressed envelope -- Affidavit.**

- (1)
  - (a) Upon timely receipt of an absentee voter application properly filled out and signed less than 30 days before the election, the election officer shall either:
    - (i) give the applicant an official absentee ballot and envelope to vote in the office; or
    - (ii) mail an official absentee ballot, postage paid, to the absentee voter and enclose an envelope printed as required in Subsection (2).
  - (b) No later than 21 days before election day, the election officer shall mail an official absentee ballot, postage paid, to all absentee voters, other than to a uniformed-service voter or an overseas voter, who have submitted a properly filled out and signed absentee voter application before the day on which the ballots are mailed and enclose an envelope printed as required by Subsection (2).
- (2) The election officer shall ensure that:
  - (a) the name, official title, and post office address of the election officer is printed on the front of the envelope; and
  - (b) a printed affidavit in substantially the following form is printed on the back of the envelope: "County of \_\_\_\_\_ State of \_\_\_\_\_  
I, \_\_\_\_\_, solemnly swear that: I am a qualified resident voter of the \_\_\_\_\_ voting precinct in \_\_\_\_\_ County, Utah and that I am entitled to vote in that voting precinct at the next election. I am not a convicted felon currently incarcerated for commission of a felony.

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Signature of Absentee Voter"

- (3) If the election officer determines that the absentee voter is required to show valid voter identification, the election officer shall:
- (a) issue the voter a provisional ballot in accordance with Section 20A-3-105.5;
  - (b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot;
  - (c) provide the voter clear instructions on how to vote a provisional ballot; and
  - (d) comply with the requirements of Subsection (2).

Amended by Chapter 24, 2016 General Session

**20A-3-306 Voting ballot -- Returning ballot.**

- (1)
- (a) Except as provided by Section 20A-1-308, to vote a mail-in absentee ballot, the absentee voter shall:
    - (i) complete and sign the affidavit on the envelope;
    - (ii) mark the votes on the absentee ballot;
    - (iii) place the voted absentee ballot in the envelope;
    - (iv) securely seal the envelope; and
    - (v) attach postage, unless voting in accordance with Section 20A-3-302, and deposit the envelope in the mail or deliver it in person to the election officer from whom the ballot was obtained.
  - (b) Except as provided by Section 20A-1-308, to vote an absentee ballot in person at the office of the election officer, the absent voter shall:
    - (i) complete and sign the affidavit on the envelope;
    - (ii) mark the votes on the absent-voter ballot;
    - (iii) place the voted absent-voter ballot in the envelope;
    - (iv) securely seal the envelope; and
    - (v) give the ballot and envelope to the election officer.
- (2) Except as provided by Section 20A-1-308, an absentee ballot is not valid unless:
- (a) in the case of an absentee ballot that is voted in person, the ballot is:
    - (i) applied for and cast in person at the office of the appropriate election officer no later than the Thursday before election day; or
    - (ii) submitted on election day at a polling location in the political subdivision where the absentee voter resides;
  - (b) in the case of an absentee ballot that is submitted by mail, the ballot is:
    - (i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and
    - (ii) received in the office of the election officer before noon on the day of the official canvass following the election; or
  - (c) in the case of a military-overseas ballot, the ballot is submitted in accordance with Section 20A-16-404.
- (3) An absentee voter may submit a completed absentee ballot at a polling location in a political subdivision holding the election, if the absentee voter resides in the political subdivision.
- (4) An absentee voter may submit an incomplete absentee ballot at a polling location for the voting precinct where the voter resides, request that the ballot be declared spoiled, and vote in person.

Amended by Chapter 124, 2015 General Session

**20A-3-306.5 Emergency absentee ballots.**

- (1) As used in this section, "hospitalized voter" means a registered voter who is hospitalized or otherwise confined to a medical or long-term care institution after the deadline for filing an application for an absentee ballot established in Section 20A-3-304.
- (2) Notwithstanding any other provision of this part, a hospitalized voter may obtain an absentee ballot and vote on election day by following the procedures and requirements of this section.
- (3)
  - (a) Any person may obtain an absentee ballot application, an absentee ballot, and an absentee ballot envelope from the election officer on behalf of a hospitalized voter by requesting a ballot and application in person at the election officer's office.
  - (b) The election officer shall require the person to sign a statement identifying himself and the hospitalized voter.
- (4) To vote, the hospitalized voter shall complete the absentee ballot application, complete and sign the application on the absentee ballot envelope, mark his votes on the absentee ballot, place the absentee ballot into the envelope, and seal the envelope unless a different method is authorized under Section 20A-1-308.
- (5) To be counted, the absentee voter application and the sealed absentee ballot envelope must be returned to the election officer's office before the polls close on election day unless a different time is authorized under Section 20A-1-308.

Amended by Chapter 219, 2013 General Session

**20A-3-307 Receipt and processing of absentee ballot.**

- (1) Except as provided in Subsection (2), upon receipt of an envelope containing an absentee ballot, the election officer shall:
  - (a) enclose the unopened envelope containing the absentee ballot and the written application of the absentee voter in a larger envelope;
  - (b) seal that envelope and endorse it with:
    - (i) the name or number of the proper voting precinct;
    - (ii) the name and official title of the election officer; and
    - (iii) the words "This envelope contains an absentee ballot and may only be opened on election day at the polls while the polls are open."; and
  - (c) safely keep the envelope locked in a secure place in the election officer's office until it is delivered by the election officer to the proper election judges.
- (2) If the election officer receives envelopes containing absentee ballots too late to transmit them to the election judges on election day, the election officer shall retain those absentee ballots in a safe and secure place until they can be processed as provided in Section 20A-3-309.
- (3)
  - (a) Except as provided in Subsection (3)(c), when reasonably possible, the election officer shall deliver or mail valid absentee ballots to the appropriate voting precinct election judges so that they may be processed at the voting precinct on election day.
  - (b) If the election officer is unable to determine the voting precinct to which an absentee ballot should be sent, or if a valid absentee ballot is received too late for delivery on election day to election judges, the election officer shall retain the absentee ballot in a safe place until it can be processed as required by Section 20A-3-309.
  - (c) When the absentee ballots will be centrally counted, the election officer shall deliver those absentee ballots to the counting center on election day for counting.

Amended by Chapter 309, 2012 General Session

**20A-3-308 Absentee ballots in the custody of poll workers -- Disposition -- Notice.**

- (1)
  - (a) Voting precinct poll workers shall open envelopes containing absentee ballots that are in their custody on election day at the polling places during the time the polls are open as provided in this Subsection (1).
  - (b) The poll workers shall:
    - (i) first, open the outer envelope only; and
    - (ii) compare the signature of the voter on the application with the signature on the affidavit.
- (2)
  - (a) The poll workers shall carefully open and remove the absentee voter envelope so as not to destroy the affidavit on the envelope if they find that:
    - (i) the affidavit is sufficient;
    - (ii) the signatures correspond; and
    - (iii) the applicant is registered to vote in that voting precinct and has not voted in that election.
  - (b) If, after opening the absentee voter envelope, the poll worker finds that a provisional ballot envelope is enclosed, the poll worker shall:
    - (i) record, in the official register, whether:
      - (A) the voter included valid voter identification; or
      - (B) a covered voter, as defined in Section 20A-16-102, did not provide valid voter identification as permitted by Public Law 107-252, the Help America Vote Act of 2002;
    - (ii) if any type of identification was included, record the type of identification provided by the voter in the appropriate space in the official register;
    - (iii) record the provisional ballot number on the official register; and
    - (iv) place the provisional ballot envelope with the other provisional ballot envelopes to be transmitted to the county clerk.
  - (c) If the absentee ballot is not a provisional ballot, the poll workers shall:
    - (i) remove the absentee ballot from the envelope without unfolding it or permitting it to be opened or examined;
    - (ii) initial the stub in the same manner as for other ballots;
    - (iii) remove the stub from the ballot;
    - (iv) deposit the ballot in the ballot box; and
    - (v) mark the official register and pollbook to show that the voter has voted.
- (3) If the poll workers determine that the affidavit is insufficient, or that the signatures do not correspond, or that the applicant is not a registered voter in the voting precinct, they shall:
  - (a) disallow the vote; and
  - (b) without opening the absentee voter envelope, mark across the face of the envelope:
    - (i) "Rejected as defective"; or
    - (ii) "Rejected as not a registered voter."
- (4) The poll workers shall deposit the absentee voter envelope, when the absentee ballot is voted, and the absentee voter envelope with its contents unopened when the absent vote is rejected, in the ballot box containing the ballots.
- (5)
  - (a) An election officer shall notify a voter if a poll worker rejects the voter's ballot and specify the reason for the rejection.
  - (b) An election officer shall give the notice described in Subsection (5)(a) to a voter no later than seven days after:

- (i) election day if the election officer receives the ballot before or on election day; and
  - (ii) the canvass if the election officer receives the ballot after election day and before the end of the canvass.
- (6) The election officer shall retain and preserve the absentee voter envelopes in the manner provided by law for the retention and preservation of official ballots voted at that election.

Amended by Chapter 309, 2012 General Session

**20A-3-309 Absentee ballots and provisional ballots in the custody of the election officer -- Disposition -- Counting -- Release of number of absentee ballots cast.**

- (1) The election officer shall deliver all envelopes containing valid absentee ballots and valid provisional ballots that are in the election officer's custody to the place of the official canvass of the election by noon on the day of the official canvass following the election.
- (2)
- (a) Valid absentee ballots and valid provisional ballots may be processed and counted:
    - (i) by the election officer before the date of the canvass; and
    - (ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election.
  - (b) When processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3-308 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing them in a ballot box.
- (3)
- (a) After all valid absentee ballots and valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.
  - (b) After the polls close on the date of the election, the election officer shall publicly release the results of those absentee ballots and provisional ballots that have been counted on or before the date of the election.
  - (c) Except as provided in Subsection (3)(d), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release the results of all absentee ballots and provisional ballots counted on that day.
  - (d)
    - (i) If complying with Subsection (3)(c) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.
    - (ii) The lieutenant governor shall grant a request made under Subsection (3)(d)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.
  - (e) On the date of the canvass, the election officer shall provide a tally of all absentee ballots and provisional ballots counted, and the resulting tally shall be added to the official canvass of the election.
- (4)
- (a) On the day after the date of the election, the election officer shall determine the number of absentee ballots received by the election officer at that time and shall make that number available to the public.
  - (b) The election officer may elect to publicly release updated totals for the number of absentee ballots received by the election officer up through the date of the canvass.

Amended by Chapter 37, 2016 General Session

**20A-3-310 Frauds and malfeasance in absent voting -- Penalty.**

- (1)
- (a) It is unlawful for any person to willfully falsify the absentee voter affidavits required by this part.
  - (b) Any person violating this subsection is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.
- (2)
- (a) It is unlawful for any election officer to:
    - (i) refuse or neglect to perform any of the duties required by this part; or
    - (ii) violate any of the provisions of this part.
  - (b) Any person who violates this subsection is guilty of a class B misdemeanor.

Enacted by Chapter 1, 1993 General Session