

1S-2.030 Electronic Transmission of Absentee Ballots for Overseas (Uniformed Services and Civilian) Voters.

(1) Application. This rule applies solely to the request, transmission and return ~~electronic transmission~~ of absentee ballots for overseas voters as defined in Section 97.021, F.S.

(2) Requests. ~~An overseas voter for absentee ballot. In addition to telephone or written request, the supervisor of elections may accept a request for an absentee ballot by telephone, fax via facsimile, e-mail, online, or any written form or electronic mail from an overseas voter.~~ An immediate family member or legal guardian may also request the ballot on the overseas voter's behalf. The request for an absentee ballot must include:

- (a) ~~The voter's name for whom the ballot is requested of the voter requesting the ballot.~~
- (b) The voter's legal residence in Florida.
- (c) The voter's date of birth.
- (d) An indication of how the voter wants the absentee ballot to be transmitted (e.g., by mail, fax, e-mail, or other means of transmission such as online access or delivery as may be offered in the voter's county of residence.)

- (e) One of the following corresponding destinations for transmission~~One of the following:~~
 - 1. An APO/FPO or other deliverable overseas mailing address,~~if the voter wishes the ballot to be mailed.~~
 - 2. A fax facsimile machine number and to affirm absence, a temporary out-of-country address ~~where return information will be received, if the voter wishes the ballot to be faxed.~~
 - 3. An e-mail address and to affirm absence, a temporary out-of-country address. The e-mail address will be used to send a blank ballot as an attachment or to send instructions to the voter on how to access his or her ballot online or through other electronic means~~The electronic mail address if the voter wishes the ballot to be transmitted via electronic mail.~~
 - 4. Other destination address as may be necessary for direct receipt of or access to a~~A signed application for an electronic ballot by electronic means if such option is offered in the voter's county~~if the voter wishes the ballot to be transmitted or accessed by other secure electronic means that is approved by the Division of Elections for the county in which the voter is registered.

- (f) ~~(e)~~ The voter's signature (written-facsimile requests only).
- (g) If the requester is other than the voter, the requester must also provide his or her name, address, signature (for written requests only), driver's license number (if available), and relationship to the voter.

(3) Processing absentee ballot requests. ~~When a supervisor receives. Upon receipt of a request for an absentee ballot request from an overseas voter, the supervisor shall: must~~

~~(a) Verify the information provided to determine if by the overseas voter and may only provide an absentee ballot if the supervisor determines that the overseas voter is a qualified and registered voter for the election. A request for a ballot to be faxed to the voter is valid for only the upcoming election or the one election specified by the voter.~~

~~(b) (a) Upon verification of the overseas voter's eligibility, the supervisor shall provide in the manner requested by the overseas voter in accordance with the timeframes in Section 101.62, F.S., the appropriate absentee ballot, the instructions for voting and returning the ballot, and the Voter's Certificate to the overseas voter by the means requested by the voter in subsection (2).~~

~~(c) (b) The supervisor of elections shall record the date the request was received made, the date and manner in which way the ballot was provided sent to the voter, and the mailing address, e-mail address, fax number, or other destination to which date the absentee ballot was mailed or transmitted or made available to the voter.~~

~~(d) (c) The supervisor of elections shall ensure that his or her transmitting and receiving equipment is in a secure location with access limited to the supervisor's employees of the supervisor and that the absentee ballot is sent directly to the mailing or e-mail address, or fax number or other delivery destination requested provided by the overseas voter. It is the overseas voter's responsibility to ensure the security of the receiving facsimile machine, computer, or receiving unit.~~

(4) Return of voted absentee ballot. Regardless of the manner in which the ballot was originally transmitted or made accessible to the overseas voter, in order to be counted, the voted ballot must be received by the supervisor no later than 7:00 p.m. election day in the time zone for the county in which the overseas voter is registered. An overseas voter may return thea voted ballot and signed certificate in one of the following ways: either by facsimile, by mail, or by other secure remote electronic access in accordance with subsection (8). Voted ballots returned by regular electronic mail will not be accepted.

(a) If returned by fax, the ballot and Voter's Certificate must be sent~~Overseas voters returning a voted absentee ballot by facsimile must send the ballot and the Voter's Certificate directly to the fax number provided by the supervisor of elections or to a fax number provided by Federal Voting Assistance Program of the Department of Defense. In order for the ballot to be counted it must be received by the supervisor of elections no later than 7:00 p.m. election day in the time zone for the county in which the overseas voter is registered.~~

(b) If returned by mail, the ballot and Voter's Certificate must be returned in the manner described under subsection (6) and sent to the supervisor of elections' office. The Overseas voters returning by mail a voted absentee ballot must be placed initially received by electronic mail or fax must seal the ballot in a secrecy envelope (if the voter received the ballot by mail) or in an unmarked envelope (if the voter received the ballot by e-mail, by fax or by other delivery or transmission method), which is the security envelope. The Voter's Certificate and the security envelope should be placed in a separate ballot transmittal envelope for

~~mailing. The ballot transmittal envelope should be marked "Absentee Ballot Enclosed."~~

(c) If returned by e-mail, the ballot and Voter's Certificate must be sent as scanned attachments in an e-mail directly to the e-mail address provided by the supervisor of elections.

~~(c) Overseas voters submitting a voted absentee ballot by secure remote electronic transmission must send an electronic version of the Voter's Certificate directly to the supervisor of elections. A paper version of the Voter's Certificate may be placed in a separate ballot transmittal envelope for mailing. In order for the ballot to be counted the electronic version must be received by the supervisor of elections no later than 7:00 p.m. on election day in the time zone for the county in which the overseas voter is registered.~~

(5) Voter's Certificate. The Voter's Certificate for absentee ballots ~~sent by mail, electronic means or by facsimile~~ to all overseas voters shall be substantially as follows:

Note: Please Read Instructions Carefully Before Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, _____, swear or affirm, under penalty of perjury, that I am:

Print Name

1. A member of the Uniformed Services or merchant marine on active duty; or an eligible spouse or dependent of such a member; or a U.S. citizen temporarily residing outside the U.S.; or Other U.S. citizen residing outside the U.S.; and

2. I am a U.S. citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; and

3. I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and

4. I am not registering, requesting a ballot, or voting in any other jurisdiction in the U.S., except the jurisdiction cited in this voting form.

In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under State or Federal law. I have not been influenced.

My signature and date below indicate when I completed this document. The information on this form is true, accurate and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury.

Signed: _____

Date: _____

(6) ~~Ballot Instructions to Overseas Voters~~. The instructions to be sent with the absentee ballot to all overseas voters shall be in substantially the following form:

(a) In order to ensure that your absentee ballot will be counted, return the voted ballot and Voter's Certificate ~~it should be completed and returned~~ as soon as possible so that they ~~it can~~ reach the supervisor of elections of the county in which you are registered no later than 7:00 p.m. on the day of the election in the time zone for the county in which you are registered.

(b) Mark your ballot in secret as instructed on the ballot. You must mark your own ballot unless you are unable to do so because of blindness, disability, or inability to read or write.

(c) Mark only the number of candidate or issue choices for a race as indicated on the ballot. If you are allowed to "Vote for One" candidate and you vote for more than one candidate, your vote in that race will not be counted.

(d) VERY IMPORTANT: In order for your ballot to be counted, you must also return a completed ~~complete the~~ Voter's Certificate, which must include your signature and the date you signed the certificate ~~Voter's Certificate~~. Failure to include a signature or a date means your ballot may not be counted. Your absentee ballot will not be counted if your signature on the Voter's Certificate does not match your signature on record. If you need to update your signature for this election, you must send your signature update on a voter registration application to your supervisor of elections so that it is received before absentee ballots are canvassed which could start as early as 15 days before election day.

(e) You may return your voted absentee ballot and Voter's Certificate either by fax ~~facsimile~~, by mail, or by e-mail. If you return the voted ballot by fax or e-mail, you will be voluntarily waiving your right to a secret ballot ~~secure remote electronic access if such option is provided by the supervisor of elections for the county in which you are registered. A voted ballots returned by regular electronic mail will not be counted.~~

(f) To fax your voted absentee ballot and the Voter's Certificate, fax the ballot and certificate to the supervisor of elections at (fax phone number) or to a fax number provided by the Federal Voting Assistance Program (FVAP) of the Department of Defense. If you fax your ballot and certificate to a ~~number provided by FVAP~~ the Federal Voting Assistance program, make sure that FVAP has there is sufficient time for the Federal Voting Assistance Program to get the ballot and certificate ~~transmit it~~ to the supervisor of elections by the 7:00 p.m. deadline so that it is received by 7:00 p.m. on election day in the time zone for the county in which you are registered. If you fax your voted ballot, you will be voluntarily waiving your right to a secret ballot.

(g) To mail your voted absentee ballot and Voter's Certificate to the supervisor of elections:

1. Place your marked ballot in a secrecy envelope or sleeve. If the ballot was mailed to you ~~by the supervisor of elections~~, use the secrecy envelope or sleeve sent to you. If your ballot was faxed, e-mailed, or accessed online or through some other electronic

~~means to you or sent by electronic mail~~, place only your marked ballot in an unmarked envelope and seal the envelope. Do not seal the Voter's Certificate in the unmarked (secrecy) envelope with the ballot.

2. Insert the ~~secrecy envelope or sleeve, or unmarked~~ envelope inside a separate mailing envelope. If the ballot and Voter's Certificate was mailed to you, ~~use the mailing envelope provided and~~ fill out the Voter's Certificate on the back of the mailing envelope provided. If the ballot was faxed, e-mailed, or accessed online or through some other electronic means ~~to you sent by electronic mail~~, place the unmarked (sealed) (secrecy) envelope and the completed Voter's Certificate in a separate mailing ~~another~~ envelope ~~for mailing~~. ~~Do not seal the Voter's Certificate in the unmarked (secrecy) envelope with the ballot. Clearly mark the mailing envelope "Absentee Ballot Enclosed".~~

3. Mail the ballot to the supervisor of elections. ~~Be sure there is sufficient postage.~~ To mail your ballot free of postage using the United States postal system, use the template provided at the following link:
<http://www.fvap.gov/resources/media/returnenvelope.pdf>. Print the template directly onto the mailing envelope or otherwise affix to the mailing envelope. Otherwise, clearly mark the mailing envelope "Absentee Ballot Enclosed" and provide sufficient postage.

(h) To e-mail your voted absentee ballot and Voter's Certificate, scan and attach your voted absentee ballot and certificate as scanned attachments and e-mail directly to the supervisor of elections at (e-mail address). ~~To vote and transmit a voted absentee ballot and Voter's Certificate by secure remote electronic access, you must be registered in a county in which the supervisor of elections provides the option of voting by such transmission. Carefully follow the supplemental instructions given to you by the supervisor of elections to ensure that your ballot will be counted.~~

(i) FELONY NOTICE. It is a felony under Florida law to accept any gift, payment, or gratuity in exchange for your vote for a candidate. It is also a felony under Florida law to vote in an election using a false identity or false address, or under any other circumstances making your ballot false or fraudulent.

(7) Processing Returned Absentee Ballots.

(a) For each voted absentee ballot received from an overseas voter, the supervisor shall record the date such ballot was received and the means by which the ballot was returned.

(b) If any absentee voter mails the voted ballot to the supervisor of elections in an envelope other than an absentee ballot mailing envelope provided by the supervisor, the canvassing board is authorized to open the mailing envelope to determine if the Voter's Certificate is enclosed in the mailing envelope. If the Voter's Certificate is not enclosed, the secrecy envelope containing the ballot shall not be opened and the envelope shall be marked "Rejected as Illegal." If the Voter's Certificate is enclosed, the supervisor of elections shall verify the overseas voter's eligibility, and once verified, the ballot shall be processed as other absentee

ballots.

(c) Upon receipt by ~~fax or e-mail-facsimile~~ of a voted absentee ballot, the supervisor of elections shall enclose the ballot in an envelope and seal it in order to preserve secrecy. The Voter's Certificate shall be attached to the envelope and later reviewed in accordance with Section 101.68, F.S. Upon a determination by the canvassing board that the voter was eligible to vote, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

(d) Upon receipt by mail of a voted absentee ballot that was originally faxed or e-mailed, or delivered or accessed by some other electronic means~~sent via electronic mail or facsimile~~, the Voter's Certificate shall be reviewed in accordance with Section 101.68, F.S. Upon determination by the canvassing board that the voter was eligible to vote, the ballot shall be removed from the envelope and duplicated so that it can be processed through the tabulating equipment.

~~(e) Upon receipt of a voted absentee ballot transmitted by secure remote electronic access in accordance with subsection (8), the electronic version of the Voter's Certificate shall be reviewed. Upon a determination by the canvassing board that the voter was eligible to vote, the ballot shall be selected for decryption and duplicated so that it can be processed through the tabulating equipment.~~

~~(8) Secure Remote Electronic Access. A supervisor of elections may provide the option of voting by secure remote electronic transmission of dated voted ballots, if the following requirements are met:~~

~~(a) The Supervisor of Elections must submit to the Division of Elections for approval a written plan on the procedures for secure remote electronic transmission. The plan must be submitted no later than four (4) months prior to its intended use in an election. The plan must provide at a minimum:~~

- ~~1. A timetable and process for notifying eligible overseas voters of the availability of voting an absentee ballot by secure remote electronic transmission.~~
- ~~2. The instructions to be given the overseas voters regarding voting by secure remote electronic transmission.~~
- ~~3. A timetable for the conduct of the election as it relates to the electronic transmission of absentee ballots.~~
- ~~4. A method of providing the blank ballot to the voter.~~
- ~~5. A method including the criteria for securing the submission of the ballot to the supervisor of elections,~~
- ~~6. The procedures for ensuring the physical security of the remote voting site for receipt and transmission of blank and voted absentee ballots .~~

~~(b) The minimum criteria for establishing the secure transmission of election material by electronic means must include:~~

~~1.— Encrypted transmission of election material. Election material as the term is used in this rule includes the ballot, the passwords, and public/private encryption keys.~~

~~a.— A public/private key encryption methodology that includes key generation under the control of the supervisor of elections.~~

~~b.— A password protected private key that is held secure by the canvassing board and never transmitted or otherwise divulged by any means.~~

~~c.— A password protected private key that is unique for each overseas voter to sign digitally the ballot for transmission and storage before decryption by the canvassing board.~~

~~2.— The capability for auditing the secure remote voting application source code, and the capability for this application to be executed on a clean computer. A clean computer as the term is used herein means, at a minimum, that the baseline operating system is resident on its hard disk and no other software and driver is installed.~~

~~3.— The capability to secure access to and from the overseas voter client and the voting server or the voting database platform.~~

~~4.— The verification of the authenticity of the voter's identity before granting access to the transmission of election material.~~

~~5.— The capability for the voter to determine that the secure transmission of election material was successful.~~

~~6.— The capability for the canvassing board to segregate rejected ballots prior to decryption.~~

~~8.7. The capability to record the election material received by secure transmission.~~

(9) Confidentiality. The supervisor of elections and the supervisor's staff shall take the steps necessary to keep the voted absentee ballots received by fax facsimile or e-mail and ~~secure remote electronic access~~ as confidential as possible.

(10) The effective date of this rule is February 1, 2012.

Rulemaking Specific Authority 20.10(3), 97.012(1), 97.012(1), 101.697 FS. Law Implemented 101.62, 101.64, 101.65, 101.6923, 101.697 FS. History-New 5-27-02, Amended 11-26-03, 9-13-04, 9-6-07, _____.