



October 22, 2013

Administrative Rules 820-2-9-.01 – 820-2-9-.12

Implementation of Photo Voter Identification Law

Action: Notice of Final Rulemaking—Changes to Proposed New Rules

Summary: The Secretary of State has made changes to some of the proposed new rules to implement Alabama’s photo voter identification law. Broadly, the final rules:

1. Remove the requirement that an application for an Alabama free photo voter identification card be notarized;
2. Remove the notarization requirement for the affidavit to be completed by two election officials who swear or affirm that they have positively identified an individual who does not have valid photo identification in his possession at the polls as a voter on the poll list who is eligible to vote;
3. Add supplemental language to specifically reflect that Alabama photo voter identification cards do not have an expiration date;
4. Add supplemental language to specifically reflect the absence of an expiration date for certain Alabama nondriver identification cards;
5. Define the term “valid” as it pertains to photo identification cards in accordance with Attorney General’s opinion No. 2003-212;
6. Clarify the locations where an Alabama elector can obtain an Alabama photo voter identification card;
7. Clarify that issuance and renewal of Alabama nondriver identification cards are governed by the requirements of the Alabama Department of Public Safety;
8. Detail the appeals process for denial or cancellation of an Alabama photo voter identification card or receipt;
9. Detail the grounds on which an Alabama photo voter identification card can be cancelled;
10. Add language to emphasize the exemption from providing a photo identification card for voters voting an absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or any other federal law.
11. Provide guidelines established by the Secretary of State as to the meaning of the term “accessible” as used in the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. Section 1973ee et seq.

EFFECTIVE DATE: October 22, 2013

For further information contact: Jean Brown, Chief Legal Advisor at 334.242.7202; or by U.S. mail at Office of the Secretary of State, Suite 105-E, State Capitol, 600 Dexter Ave., Montgomery 36104; or by email at Jean.Brown@sos.alabama.gov

SUPPLEMENTARY INFORMATION

I. Background

On June 28, 2013 the Secretary of State solicited comments on new proposed administrative rules to implement Alabama's photo voter identification law pursuant to Code of Alabama, section 17-9-30, with photo voter identification requirements to take effect for the June 2014 primary election and all subsequent elections.

The Secretary of State received many thoughtful and constructive comments during the comment period and many of the comments as to how the proposed rules should be changed have been adopted in the final rules. One voter registrar expressed concern as to whether her office would have enough space for equipment needed to photograph electors. However, the Secretary of State does not anticipate that additional space will be needed in Boards of Registrars offices in order to implement photo voter identification. Another registrar expressed concern about the additional work duties that would be imposed on Board of Registrars offices. However, the Secretary of State finds that the Board of Registrars is a logical location to obtain the card and is but one of several offices, in addition to mobile services, where the card can be obtained. Moreover, other states have used the Registrars offices to implement photo voter identification. Several people commented that they did not believe the proposed rules provided enough locations where the free Alabama photo voter identification cards can be obtained and several people stated that voters should be able to get this card on election day at the polling places. There are approximately 4000 polling places in Alabama and the Secretary of State believes that the rules provide adequate locations where the card can be obtained. Moreover, a voter whose vote becomes provisional due to the lack of valid identification has until the Friday after the election to provide his or her identification to the Board of Registrars. Thus, there is a statutory window in which an elector can obtain a valid photo identification after an election and no change was made to expand the locations.

Several comments requested that the rules clarify what documentation is necessary to obtain a free Alabama photo voter identification card. A change has been made to make the required documentation easier to understand. Moreover, a comment suggested that it should be possible to simultaneously register to vote and apply for an Alabama photo voter identification card. The Secretary of State found merit to this comment and this change has been made. A comment requested that the application more clearly state the locations where the card can be obtained and this change was made. Additionally,

several comments asked that the rules provide more detail as to the appeals process when a card is denied or cancelled and this change was made.

One frequent comment expressed concern that it will be difficult for some elderly and non-ambulatory voters to get to locations where they can obtain a free Alabama photo voter identification card or free Alabama nondriver identification card. In addition, several people commented that it will be difficult for some people to leave work in order to go to one of these locations. The Secretary of State is contracting with a vendor to allow the Secretary of State's office to provide mobile services for obtaining the card. This vendor has worked with other governmental entities to help implement photo voter identification. To the extent possible, this service will allow Alabama electors to obtain the cards outside of normal business hours. In addition, the Secretary of State is partnering with both governmental and private groups to facilitate Alabama voters' ability to obtain a card.

Several people expressed concern that not every Board of Registrars office will be open from 8:00 a.m. – 5:00 p.m. during the work week and asked whether such offices would be open on weekends and/or after normal business hours. The Secretary of State believes that providing mobile services will alleviate these concerns.

Several people expressed concern that voters who need to obtain a birth or marriage certificate will incur a charge for these documents. The Secretary of State is working with the Alabama Department of Public Health and such certificates will be provided to the office that processes or issues Alabama photo voter identification cards and Alabama nondriver identification cards at no charge to the voter.

Other comments posed questions such as whether an expired or suspended driver's license would be an acceptable form of photo voter identification or whether a student ID card would be acceptable long after a person no longer attends the school, and generally, whether a photo identification card must be "current." To address this issue, a change was made to define the term "valid" in accordance with Attorney General's Opinion No. 2003-212. Several comments also requested that the Secretary of State define or provide a list of every type of photo identification that can be used by a voter. Again, in accordance with Attorney General's Opinion No. 2003-212, the Secretary of State does not find that he has the authority to provide such a list.

Several comments asked that the rules state more clearly which voters are exempt from producing a valid photo identification when casting an absentee ballot. The rules have been changed to accommodate this request. Moreover, upon consideration of comments asking for clarity as to the exemption from producing a photo voter identification card for elderly and handicapped voters casting an absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act or any other federal law, the Secretary of State has provided guidance as to the definition of the term "accessible."

In the following section of this Notice, additional comments and the responses to those comments are discussed.

II. Comments and Response

The comments and response will be discussed according to the rules' chronological order.

Rule 820-2-9-.01 Purpose. Some comments voiced support for or opposition to photo voter identification but did not offer specific comments regarding individual rules. Because it is the Secretary of State's duty to implement the new law, rather than weigh in on the merits of the law, no action was taken.

Rule 820-2-9-.02 Effective Date. The Secretary of State received some comments regarding which voters are exempt from producing identification prior to voting. This rule was change to emphasize which voters are exempt under Code of Alabama, section 17-9-30.

Rule 820-2-9-.03 Instructions and Application Form for Free Alabama Photo Voter Identification Card. The Secretary of State received a comment requesting that the valid forms of photo identification set forth in subsection (a) of this rule be contained in separate paragraphs so as to be more easily understood. The Secretary of State found merit to this comment and the change was made. As noted above, the Secretary of State received several comments questioning whether various cards can be used as photo identification at the polls. The rule was changed to include a definition of the term "valid" as noted above. Moreover, several comments asked that the application form state more clearly what documentation is necessary for issuance of a card. The application form has been changed to accommodate this request and the locations where an elector can apply for a card are more clearly stated. Further, many comments were received regarding the proposed rule's requirement that the application form be notarized. After further research and study, the Secretary of State determined that removing the notarization requirement for the application would not be inconsistent with the language of Code of Alabama, section 17-9-30. Thus, this change was made. As noted above, the application form was also changed to reflect that a person can simultaneously register to vote and apply for the card. A space was also added to the application form to indicate what documentation is provided by the elector and a space to indicate why the application is denied.

Rule 820-2-9-.04 Free Alabama Nondriver Identification Card Application Form. Several comments were received requesting clarification of what is required to receive or renew this card. The rule was changed to clarify that issuance of these cards is subject to the requirements of the Alabama Department of Public Safety.

Rule 820-2-9-.05 Locations Where Alabama Electors Can Obtain a Free Alabama Nondriver Identification Card or Free Alabama Photo Voter Identification Card. As with Rule 820-2-9-.03, subsection (a) of the rule was changed to separate the forms of valid photo identification into separate

paragraphs so as to be more easily understood. As noted above, several comments were received stating that these cards should be offered at more locations than are allowed under the rules, including all polling places on election day. The Secretary of State believes that the rules provide sufficient locations for obtaining the cards and no additional locations were added to the rules. Moreover, as noted above, a voter whose vote is made provisional due to the lack of valid identification has until the Friday following the election to provide valid identification. Thus, there is a statutory window after an election during which a valid identification can be obtained and provided to the Board of Registrars.

The Secretary of State also received a comment that in some counties, the Board of Registrars office is not located in a courthouse. The Secretary of State found that there was merit to this comment and the rule was changed to reflect this fact.

Rule 820-2-9-.06 Processing Applications for Free Alabama Photo Voter Identification Cards. The Secretary of State received several comments stating that the appeals process for denial or cancellation of a card should be more fully explained. This change has been made.

Rule 820-2-9-.07 Cancellation and Surrender of Free Alabama Photo Voter Identification Card. As noted above, the Secretary of State received several comments that the appeals process should be more fully explained. This change has been made. In addition, the Secretary changed the rule to add four grounds for cancellation of the card, namely, when the Board of Registrars receives official notice that an elector has been convicted of a felony and the Board determines that the felony involves moral turpitude; when an elector dies; when the Board of Registrars receives official notice that an elector has registered to vote in another state; or when an elector is otherwise no longer qualified to vote.

Rule 820-2-9-.08 Replacement of Free Alabama Photo Voter Identification Card. The Secretary of State received comments regarding the fact that a woman who changes her name would incur expense in obtaining a document such as a marriage certificate to establish the name change. As noted above, the Secretary of State is working with the Alabama Department of Public Health and birth and/or marriage certificates will be provided to the processing office at no charge to the voter. This rule was also changed to clarify the process for obtaining a new Alabama photo voter identification card if the card has been lost, destroyed, marred or mutilated, and the procedure for obtaining a new card when the elector's name has changed has been streamlined.

Rule 820-2-9-.09 Validity of Free Alabama Photo Voter Identification Card. The Secretary of State received a comment concerning the word "Expiration" in the rule heading. The Secretary of State found merit to this suggestion and the word "Expiration" was changed to "Validity" to reflect the fact that such cards will not have an expiration date. Moreover, the rule was changed to clarify that certain nondriver identification cards do not have an expiration date.

The Secretary of State received a comment that the language in subsection (b) of the rule does not exactly mirror the statutory language with regard to an elector who moves his or her residence. Given the provision of Code of Alabama, section 17-9-30 (k) that the card shall remain valid “so long as the person resides at that same address” the Secretary of State added language to reflect voter registration requirements when a voter changes his or her residence within the state. The Secretary of State also received several comments stating that an elector should be able to surrender an Alabama photo voter identification card to the local officials who processed the application, rather than having to return it to the Secretary of State. The Secretary of State found merit to this comment and the rule has been changed to allow an elector to return the card to the local Board of Registrars, with that office then forwarding the card to the Secretary of State. The Secretary of State also received comments relating to the overall burden to the elector in having to go to an office to obtain an Alabama photo voter identification card. In response to these concerns, the Secretary of State has streamlined the procedure for getting a new card when an elector who has been issued a card moves his or her residence within the state. In these cases, the rule has been changed to read that such electors may complete a voter update form or voter registration form (depending on whether the person has moved outside the county of registration) reflecting the new address and that the issuance of the elector’s prior card shall establish prima facie that the elector is qualified to receive a new card without being again required to provide documentation of full legal name or date of birth.

Rule 820-2-9-.10 Voting by Provisional Ballot. The Secretary of State received some comments unfavorable to this rule. However, this rule reflects both past and current provisions of state law pertaining to voters who do not provide valid identification at the time of casting their ballot. Thus, no change was made to this rule.

Rule 820-2-9-.11 Identification by Two Election Officials and Affidavit Form. The statutory requirement that two election officials sign a sworn affidavit stating that they have positively identified an elector who does not have an acceptable form of photo identification in his or her possession at the polls and that the elector has been positively identified by both election officials as a voter on the poll list who is eligible to vote is a change to state law. Prior to the amendment of Code of Alabama, section 17-9-30, in such instances two election officials were simply required to sign the voters list “by where the voter signs.” The Secretary of State received comments regarding the rule’s requirement that the election officials’ affidavit be notarized and a number of people commented that it would be difficult to have notaries public at every polling place. Upon further study and review of other forms used by other state departments and agencies, the Secretary of State determined that the notarization requirement of the proposed rule could be changed and the new affidavit form has been changed to reflect said determination. Moreover, the affidavit form has been changed in response to a comment, so that one form is to be signed by both election officials. The Secretary of State determined that the use of one form, rather than two separate forms, would prevent a voter’s not being able to vote a regular ballot, rather than a provisional ballot, due to the loss or misplacement of one official’s affidavit.

Rule 820-2-9-.12. Inapplicability of Photo Voter Identification Requirement to Voters Entitled to Vote by Absentee Ballot Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and Voters Entitled to Vote by Absentee Ballot Pursuant to the Voting Accessibility for the Elderly and Handicapped Act or Any Other Federal Law. The Secretary of State received comments asking for clarification as to the exemption from providing identification for voters voting an absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and voters voting an absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act (“VAEHA”) or any other federal law. The Secretary of State found merit to these comments and changed the heading of this rule to more explicitly state to which voters this exemption applies.

Moreover, the Secretary of State received several comments asking for clarity as to which voters fall within the provisions of the VAEHA. Although the language pertaining to the exemption for voters entitled to vote an absentee ballot pursuant to the VAEHA was contained in Code of Alabama, section 17-9-30 prior to its amendment, the Secretary of State found that no Secretary of State had established written guidelines for the term “accessible” under said Act. Because several comments referred to the lack of clear guidance regarding this term, the Secretary of State, pursuant to Section 8 of 42 U.S.C. 1973ee-6, has established such guidelines and the rule has been changed to reflect this guidance. The Secretary believes that the change to the final rule addresses the comments to this rule.

III. Final Administrative Rules

The final administrative rules are attached to this Notice. Additional copies can be obtained by contacting the Secretary of State’s office at State Capitol, Suite 105-E, 600 Dexter Avenue, Montgomery, AL 36104 or by contacting the Chief Legal Advisor as provided on page 1 of this notice. Copies can also be obtained from the Secretary of State’s website at www.sos.state.al.us

NEW

Implementation of Alabama Photo Voter Identification Law

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820-2-9-.01 Purpose. The purpose of this chapter is to establish procedures for Alabama voters to obtain a free Alabama photo voter identification card or free nondriver identification card. An Alabama photo voter identification card shall be valid only for the purposes of voter identification and said card shall so state. No fee shall be charged or collected from an Alabama elector for the application for or issuance of an Alabama photo voter identification card. Likewise, if an Alabama elector does

not possess any of the forms of valid photo identification set forth in Rule 820-2-9-.03, and said elector completes an application so stating, no fee shall be charged or collected from an Alabama elector for the application for or issuance of an Alabama nondriver identification card by the office located within the elector's county of residence where driver's licenses/ nondriver identification cards are issued or renewed.

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.02 **Effective Date of Alabama Photo Voter Identification.**

Beginning with the first statewide primary election for 2014, unless specifically exempted pursuant to Code of Alabama, section 17-9-30 (c) and Rule 820-2-9-.12, each Alabama elector shall be required to provide valid photo identification to an appropriate election official prior to voting. Unless specifically exempted pursuant to Code of Alabama, section 17-9-30 (c) and Rule 820-2-9-.12, voters casting an absentee ballot shall also be required to submit with the ballot a copy of one of the forms of valid photo identification set forth in Rule 820-2-9-.03.

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.03 **Instructions and Application Form for Free Alabama Photo Voter Identification Card.**

(a) The following instructions and form shall be used by Alabama electors who do not have any of the following forms of valid photo identification:

1. a valid Alabama driver's license;
2. a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;

3. a valid Alabama photo voter identification card;
 4. a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
 5. a valid U.S. passport;
 6. a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;
 7. a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
 8. a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
 9. a valid tribal identification card containing a photograph of the elector.
- (b) As used in these rules, the term "valid" means having legal strength, force, and effect.

INSTRUCTIONS FOR FREE ALABAMA PHOTO
VOTER IDENTIFICATION CARD

If you are a registered voter and you are eligible for a free Alabama photo voter identification card, you can apply for the identification card at your local Board of Registrars office, a mobile services location in your county, or at the office of the Secretary of State.

If you are not already a registered voter and you are eligible for a free Alabama photo voter identification card, you can apply for the card at the same time you turn in your voter registration form. Your voter registration form and this application must be submitted in person to the Board of Registrars. If the Board of Registrars determines that you are qualified to vote in Alabama, that office can then process the card application, so long as all other requirements are met.

You can only receive a free Alabama photo voter identification card if you are registered to vote in Alabama and do not have any of the following:

- (a) a valid Alabama driver's license which was properly issued by the appropriate state or county department or agency;
- (b) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;
- (c) a valid Alabama photo voter identification card;
- (d) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
- (e) a valid U.S. passport;
- (f) a valid employee identification card containing the photograph of the elector and issued by any branch,

department, agency, or entity of the U.S. government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;

- (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
- (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
- (i) a valid tribal identification card containing a photograph of the elector.

If you already possess one of these documents, do not complete this application.

In order to receive this card you must provide a document that contains your full legal name and date of birth. All of the information may be contained in the same document. Verification of voter registration can be electronically verified by issuing office.

Your application must be signed and sworn to under penalty of perjury pursuant to the laws of the State of Alabama. Any falsification or fraud in the making of this application shall constitute a Class C felony.

**OFFICE OF THE SECRETARY OF STATE
APPLICATION FOR FREE ALABAMA PHOTO VOTER IDENTIFICATION CARD**

CARDS WILL BE ISSUED TO ALABAMA REGISTERED VOTERS ONLY

**ANY FALSIFICATION OR FRAUD IN THE MAKING OF THIS APPLICATION
SHALL CONSTITUTE A CLASS C FELONY**

This application must be presented in person at one of the following locations:

- 1) Your local Board of Registrars;

2) The Alabama Secretary of State's Office
State Capitol Building - Suite S-105
600 Dexter Avenue
Montgomery, Alabama 36103-5616; or

3) Mobile Locations to be provided.

Full Legal Name (print) _____

Address as reflected in voter registration record
(street address) _____

City, State and ZIP Code _____

Date of Birth (00/00/0000) _____

Eye Color _____ Gender _____ Height _____ Weight _____ Application Date _____

In order to process your application you must provide the following information:

(All of the following information can be contained in one document.)

- 1) a photo identification document or a non-photo identification document is acceptable if it contains your full legal name and date of birth;
- 2) documentation showing your date of birth;
- 3) documentation showing that you are an Alabama registered voter (can be electronically verified by the processing office);
- 4) documentation showing your name and address as reflected in your voter registration record (can be electronically verified by the processing office).

I, _____, a registered voter (or voter registration applicant if form is filed with Board of Registrars at same time voter registration application is filed)

in the State of Alabama, do hereby swear or affirm that the information contained above is true and correct.

Signature of Alabama registered voter (full legal name)

FOR OFFICE USE ONLY

DOCUMENTATION SHOWING FULL LEGAL NAME AND DATE OF BIRTH PRESENTED WITH APPLICATION:

IF APPLICATION WAS DENIED STATE REASON:

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.04 Free Nondriver Identification Card Application Form.

The following application form shall be used only by Alabama electors who wish to obtain a free nondriver identification card and do not have any of the following forms of valid photo identification:

- (a) a valid Alabama driver's license;
- (b) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;
- (c) a valid Alabama photo voter identification card;
- (d) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama,

any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;

- (e) a valid U.S. passport;
- (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;
- (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
- (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
- (i) a valid tribal identification card containing a photograph of the elector.

APPLICATION FOR FREE NONDRIVER IDENTIFICATION CARD
FOR USE BY ALABAMA REGISTERED VOTERS ONLY

(To be provided to state or county department, license commissioner or agency that issues or renews driver's licenses/nondriver identification cards)

I, _____ (print name), hereby attest that I am an Alabama elector and that I do not currently possess any of the following forms of valid photo identification:

- (a) a valid Alabama driver's license;
- (b) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;

- (c) a valid Alabama photo voter identification card;
- (d) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
- (e) a valid U.S. passport;
- (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;
- (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
- (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
- (i) a valid tribal identification card containing a photograph of the elector.

I understand and acknowledge that if I possess any of the valid photo identification documents set forth above, I am not entitled to apply for a free nondriver identification card. I further understand and acknowledge that the issuance and/or renewal of the nondriver identification card is governed by the requirements of the Alabama Department of Public Safety.

_____ (Printed name)

_____ (Signature)

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.05 Locations Where Alabama Electors Can Obtain Free Nondriver Identification Card or Free Alabama Photo Voter Identification Card.

Alabama electors can obtain a free nondriver identification card or free Alabama photo voter identification card at the following locations:

- (a) Nondriver identification cards. Alabama electors can obtain a free nondriver identification card at the location within the county of residence where driver's licenses/nondriver identification cards are issued or renewed, subject to the requirements of the Alabama Department of Public Safety. Before obtaining a free nondriver identification card, an Alabama elector must complete an application stating that he or she does not possess any of the following:
 - (1) a valid Alabama driver's license which was properly issued by the appropriate state or county department or agency;
 - (2) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;
 - (3) a valid Alabama photo voter identification card;
 - (4) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
 - (5) a valid U.S. passport;
 - (6) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S.

government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;

- (7) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
- (8) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
- (9) a valid tribal identification card containing a photograph of the elector.

Any charge incurred in the production of the nondriver identification card by said offices pursuant to this rule shall be billed to the Secretary of State's office and the elector shall not be charged for the production of the card.

(b) Alabama photo voter identification cards. Alabama photo voter identification cards can be obtained at the following locations:

- (1) at the county Board of Registrars office where the elector is registered to vote. Any charge incurred by the county Board of Registrars shall be billed to the Secretary of State's office and the elector shall not be charged for the production of the card.
- (2) at the Secretary of State's office located at 600 Dexter Avenue, Montgomery, Alabama (State Capitol). The Secretary of State's office shall pay any costs incurred in the production of the card and the elector shall not be charged for the production of the card;
- (3) at mobile locations to be provided by the Secretary of State's office. There shall be no

charge to an elector for production of the card and the Secretary of State shall pay any costs incurred in the production of the card.

- (c) In the event an elector's county of residence has more than one Board of Registrars office, an elector can obtain the free Alabama photo voter identification card at any Board of Registrars location at his or her convenience.

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.06 Processing Applications for Free Alabama Photo Voter Identification Card.

- (a) To process the elector's application for the Alabama photo voter identification card the processing agent shall require the elector to complete, sign, and submit the application form set forth in Rule 820-2-9-.03 and to present documentation showing the applicant's full legal name and date of birth. All of the information may be contained in one document. The applicant's voter registration information can be confirmed electronically. If the elector completes, signs, and submits an application and presents said information as set forth in the application form, the processing agent shall immediately:
- (1) capture a digital photograph of the elector;
 - (2) issue the receipt for the Alabama photo voter identification card to the elector, which shall contain the digital photograph of the elector; and
 - (3) inform the elector that he or she should receive the Alabama photo voter identification card within fourteen (14) days and that the elector can use the receipt for the Alabama photo voter identification card

to vote for forty-five (45) days from the date of issuance.

- (b) If the elector completes, signs, and submits an application for a free Alabama photo voter identification card but the processing agent determines the form of identification presented by the elector does not satisfy the requirements of Rule 820-2-9-.03, the processing agent shall immediately advise the elector of the reason(s) why the application has been denied, and further advise the voter of the availability of an appeal process.
- (c) Right of appeal. In the event an elector is denied issuance of an Alabama photo voter identification card, or a card is subsequently cancelled, the elector shall have the right to appeal the denial or cancellation through the appeals process outlined in Code of Alabama, section 17-3-55. The processing agent and/or issuing agent shall not be made a party to any appeal and shall not be liable for costs. An Alabama elector can appeal the denial or cancellation of an Alabama photo voter identification card, without giving security for costs, within 30 days after such denial or cancellation, by filing a petition in the probate court in the county of residence, alleging that he or she is qualified to receive a free Alabama photo voter identification card. Upon the filing of the petition, the clerk of the probate court shall give notice thereof to the district attorney authorized to represent the state in the county, who shall appear and defend against the petition on behalf of the state. An appeal will lie to the circuit court in favor of the petitioner if taken within 30 days from the date of judgment pursuant to—Section 12-22-20. Final judgment in favor of the petitioner shall entitle him or her to a free Alabama photo voter identification card as of the date of his or her application for the card.

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.07 Cancellation and Surrender of Free Alabama Photo
Voter Identification Card or Receipt.

- (a) The issuing agent for an Alabama photo voter identification card can cancel and require surrender of the card or receipt for said card upon confirmation that the card or receipt was issued to a person not entitled thereto. In the event a card or receipt is cancelled, notice shall be given to the county Board of Registrars who shall immediately record the cancellation in the statewide voter registration system and send notice by U.S. mail to the card recipient at the address shown on the card that was issued. The notice to the elector shall state that the elector shall have the right to appeal the cancellation through the appeals process outlined in Code of Alabama, section 17-3-55, as set forth in Rule 820-2-9-.06.
- (b) After issuance, a free Alabama photo voter identification card or receipt can be cancelled if:
1. The Board of Registrars receives official notice that an elector has been convicted of a felony determined by the Board to be a felony involving moral turpitude.
 2. An elector is deceased.
 3. The Board of Registrars receives official notice that an elector has registered to vote in another state.
 4. An elector is otherwise no longer qualified to vote.

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.08 Replacement of Alabama Photo Voter Identification
Card.

- (a) If a previously issued Alabama photo voter

identification card has been lost, destroyed, marred or mutilated, a replacement card shall be issued to the elector upon application for a new card in accordance with the procedures set forth herein in Rules 820-2-9-.03 and 820-2-9-.06.

- (b) If the name of the elector to whom an Alabama photo voter identification card was issued has changed, a replacement card shall be issued to the elector upon the elector
 - a. updating his or her voter registration record to reflect his or her new name, and
 - b. providing official documentation of the change of name. Issuance of the prior Alabama photo voter identification card shall establish prima facie that the elector is qualified to receive a new card without being required to provide any additional documentation other than said evidence of the legal change of name.

Authors: Ed Packard; Jean Brown; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.09 **Validity of Alabama Photo Voter Identification Card or Nondriver Identification Card.**

- (a) An Alabama photo voter identification card shall not contain an expiration date, but shall remain valid for as long as the elector resides at the same address shown on the card and remains qualified to vote in Alabama. An Alabama nondriver identification card shall remain valid until the expiration date contained on the card.
- (b) It shall be the duty of an elector who moves his or her residence within the county where he or she is registered to vote to surrender his or her Alabama photo voter identification

card to the local Board of Registrars. The elector may thereafter complete a voter update form and apply for a new Alabama photo voter identification card reflecting his or her new address. Issuance of the prior Alabama photo voter identification card shall establish prima facie that the elector is qualified to receive a new card without being required to provide documentation of full legal name and date of birth.

- (c) It shall be the duty of a person who moves his or her residence within this state but outside the county in which he or she is registered to vote to surrender his or her Alabama photo voter identification card to the local Board of Registrars in the new county of residence. The person may thereafter complete a new voter registration form and apply for a new Alabama photo voter identification card. Issuance of the prior Alabama photo voter identification card shall establish prima facie that the person is qualified to receive a new Alabama photo voter identification card without being required to provide any documentation of full legal name and date of birth.
- (d) It shall be the duty of a person who moves his or her residence outside this state or who ceases to be qualified to vote to surrender his or her Alabama photo voter identification card to the Secretary of State.
- (e) Each Board of Registrars shall forward all surrendered Alabama photo voter identification cards to the Secretary of State.
- (f) An Alabama nondriver identification card shall remain valid until the expiration date contained on the card. Pursuant to Code of

Alabama, section 32-6-4.2, an Alabama nondriver identification card issued to a person who is 62 years of age or older shall not have an expiration date. Pursuant to Code of Alabama, section 32-6-4.1, an Alabama nondriver identification card issued to persons who are mentally or physically disabled or legally blind shall not have an expiration date.

Authors: Ed Packard; Jean Brown; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-10-.10 **Voting by Provisional Ballot.** Any elector who is required to produce a valid Alabama photo identification as defined in Rule 820-2-9.03 but is unable to do so at the time his or her vote is cast shall be allowed to vote a provisional ballot and shall be subject to the requirements of Code of Alabama, section 17-10-2(a)(3).

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.11 **Identification by Two Election Officials and Affidavit Form.**

- (a) If an elector does not have a valid Alabama photo identification as defined in Rule 820-2-9-.03 in his or her possession at the polls, he or she shall be allowed to cast a regular ballot if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and both of the election officials sign a sworn affidavit~~s~~ so stating.
- (b) The affidavit form to be used when two election officials positively identify an

individual as a voter on the poll list who is eligible to vote shall read as follows:

County of _____
State of Alabama

I, _____ (print name), and _____ (print name) who are both election officials in the above stated county, do hereby swear or affirm that _____ (print elector's name) does not have a valid Alabama photo identification in his/her possession at the polls. I further swear or affirm that said elector has been positively identified by me as a voter on the poll list who is eligible to vote.

I further swear or affirm under penalty of perjury that all information provided in the affidavit above is true and correct.

_____ (Signature of election official)

_____ (Printed name)

_____ (Signature of election official)

_____ (Printed name)

Authors: Jean Brown; Ed Packard; Julie Sinclair.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.

820-2-9-.12 Inapplicability of Photo Voter Identification Requirement to Voters Entitled to Vote by Absentee Ballot Pursuant to the Uniformed and Overseas Citizens Absentee Voting Act and Voters Entitled to Vote by Absentee Ballot Pursuant to the Voting Accessibility for the Elderly and Handicapped Act or Any Other Federal Law.

- (a) A voter who is entitled to vote by absentee ballot pursuant to the Uniformed and Overseas

Citizens Absentee Voting Act shall not be required to produce identification prior to voting.

- (b) A voter who is entitled to vote by absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act or any other federal law shall not be required to produce identification prior to voting.
- (c) Pursuant to Section 8 of the Voting Accessibility for the Elderly and Handicapped Act (subchapter 1-F of Chapter 20 of Title 42 U.S.C.), the Secretary of State has determined that the term "accessible" as applied to handicapped or elderly voters shall mean that the location of a polling place is physically accessible to handicapped and elderly voters. Moreover, if a handicapped or elderly voter is unable to access his or her assigned polling place due to a neurological, musculoskeletal, respiratory (including speech organs), cardiovascular, or other life-altering disorder that affects the voter's ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear, or speak, that voter's polling place is not "accessible" to him or her.

Authors: Jean Brown; Julie Sinclair; Ed Packard.

Statutory Authority: Code of Alabama, section 17-9-30 (2011).

History: New Rule: Filed June 28, 2013; effective October 22, 2013.