



# ***A Short Guide to Helping Voters Register Under Arkansas Law***

## **WHO IS ELIGIBLE TO VOTE?**

An individual may register to vote in Arkansas if he or she:<sup>1</sup>

- Is a U.S. citizen;
- Is a resident of Arkansas;
  - The residence of a person is that place in which his or her habitation is fixed to which he or she has the intention to return whenever he or she is absent.<sup>2</sup>
  - Persons who are temporarily living in a particular place because of a temporary work-related assignment or duty post or as a result of their performing duties in connection with their status as military personnel, students, or office holders are deemed residents of that place where they established their home prior to beginning such assignments or duties.<sup>3</sup>
- Will be at least 18 years old by Election Day;
- Has not been adjudged mentally incompetent by a court of competent jurisdiction;<sup>4</sup> and
- Has not been convicted of a felony, unless his or her sentence has been discharged or he or she has been pardoned.<sup>5</sup>
  - Convicted felons who want to register to vote must provide the county clerk with proof from the appropriate state or local agency or office that he or she has been discharged from probation or parole and has paid all applicable court costs, fines, or restitution.<sup>6</sup>

## **WHAT CONSTITUTES A COMPLETE VOTER REGISTRATION APPLICATION?**

Federal law<sup>7</sup> requires that voter registration applications include:

- The applicant's Driver's License or State ID number, or, if none,
- Last four digits of Social Security Number, or, if none
- The state will assign the applicant a number, and
- Check boxes for the applicant to indicate whether she is a U.S. citizen and will be 18 by Election Day.

Federal law authorizes states to require only such identifying information as "is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process."<sup>8</sup>

Arkansas law requires the following information:<sup>9</sup>

- Full name
- Mailing address
- Residence address and any other information necessary to identify the residence of the applicant
- If previously registered, the name then supplied by the applicant and the previous address, county and state
- Date of birth
- If the applicant has a current and valid driver's license, the applicant's driver's license number. If the applicant does not have a current and valid driver's license, the last four (4) digits of the applicant's Social Security Number. If the applicant has neither, the state will assign the applicant a number.
- Signature or mark made under penalty of perjury that the applicant meets each requirement for voter registration



- If the applicant is unable to sign his or her name, the name, address and telephone number of the person providing assistance must be provided

The application also includes the following fields that the Secretary of State has deemed are required:<sup>10</sup>

- Checkboxes for the applicant to indicate citizenship, age, mental incompetency status, and felony status
- Date application is signed
- Checkbox to indicate whether the applicant has ever voted in a federal election in Arkansas

Applicants who register by mail and have not voted in a federal election in Arkansas must also submit identification, unless the application was transmitted by state or federal voter registration agencies, the applicant is covered by the Uniformed and Overseas Citizen Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or the person's identification number (see above) was matched by the election official with an existing state identification record bearing the same number, name, and date of birth as provide in the registration. Acceptable documents include a copy of one of the following forms of identification:<sup>11</sup>

- A current and valid photo identification (such as a driver's license, government ID, or passport), or
- A copy of a current utility bill, bank statement, government check, or paycheck that shows the applicant's name and address, or
- Another government document that shows the applicant's name and address

First-time voters who register by mail, do not meet the above exceptions, and do not submit one of these documents with their applications and who do not produce such identification at the polls must be offered a provisional ballot.<sup>12</sup> In addition, registration applications arriving in bulk by means other than the mail at the registrar's office or delivered by leaders of voter registration drives are considered to have been delivered in person, not by mail, and are, therefore, not considered "first-time voters registered by mail" and not flagged by the county clerk for the above identification requirement.<sup>13</sup>

## WHAT IS THE DEADLINE FOR SUBMITTING REGISTRATION APPLICATIONS?

Completed voter registration forms must be submitted to the permanent registrar or postmarked not later than 30 days before Election Day for the applicant to vote in that election.<sup>14</sup>

If a legible and complete voter registration form is received by mail without a postmark, it will be accepted not later than 25 days before Election Day.<sup>15</sup>

If a registration deadline occurs on a Saturday, Sunday or legal holiday, the registration deadline will be the next day that is not a Saturday, Sunday or legal holiday.<sup>16</sup>

## WHAT ARE THE STATE RULES GOVERNING VOTER REGISTRATION DRIVES?

The Secretary must prepare and distribute pre-addressed postcard mail voter registration application forms and make state mail voter registration application forms available for distribution through governmental and private entities with particular emphasis on making them available for organized voter registration programs. Any person may distribute state registration cards. All registration cards must be distributed to the public without charge.<sup>17</sup>

### BEFORE THE DRIVE

- A. Does the state require organizations conducting voter registration drives to register or file other information detailing its voter registration activities?**

No.



**B. Does the state require any training in order to conduct voter registration drives?**

No.

**C. Does the state have restrictions on who may help others register to vote?**

No.

**D. Does the state have restrictions on whether workers may be paid?**

No.

**E. Can canvassers or the voter registration drive offer something of value to a person in exchange for completing a voter registration application?**

Federal law states that whoever "pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years."<sup>18</sup> At least one federal appellate court has interpreted "payment" as "intended to include forms of pecuniary value offered or given directly to an individual voter, and indicated the value should be based on "an assessment of the monetary worth of an item from the perspective of the voter receiving the item." That case held that food vouchers could be "payment."<sup>19</sup>

Another example is California's Secretary of State's interpretation of the federal law to mean that "Any type of incentive is considered 'payment,' even things as seemingly innocent as cookies or admission to an entertainment event."<sup>20</sup>

#### DURING THE DRIVE

**A. Are there special rules requiring the registration drive worker to sign her name to the completed voter registration application?**

No; however the "agency code" for a voter registration drive is required (see question B, below). Further, if the applicant is unable to sign his or her name, then the name, address, and telephone number of the person providing assistance must be provided on the application.<sup>21</sup>

**B. Are voter registration groups prohibited from putting identifying marks on completed voter registration applications?**

No. To the contrary, registration drive workers must print 'VRD01' in the "Agency Code" box on each application that is filled out.<sup>22</sup>

**C. Are there restrictions on copying completed voter registration applications prior to submitting them to the registrar?**

Arkansas law does not address this issue.

**D. Are voter registration groups subject to time limits for submitting the voter registration applications they have collected?**

Any person who assists applicants with a voter registration application as part of a voter registration drive or who in furtherance of a voter registration drive, gathers or possess completed applications for submission must deliver all applications in his or her possession to the permanent registrar or to the Secretary of State within 21 days of the date on the voter registration application and, in any event, no later than the voter registration deadline for the next election.<sup>23</sup>

**E. What are the consequences for failing to submit voter registration applications on time?**

Any person who "maliciously and intentionally . . . unlawfully detain[s]" a voter registration form is guilty of a felony and may be fined not less than \$100 nor more than \$1,000, or imprisoned for not less than 1 year nor more than 5 years, or both. In addition, any person who willfully violates any provision of Arkansas Constitutional Amendment 51 (regarding voter registration) is guilty of a misdemeanor.<sup>24</sup>



**F. How are completed voter registration forms tracked?**

The Secretary of State is required to maintain a computerized voter registration list containing the information of all registrants legally residing within the state as provided on their voter registration forms.<sup>25</sup> Registration records must be entered promptly in the computerized statewide registration record files. If the applicant lacks one or more of the qualifications required by law of voters in Arkansas, the permanent registrar may not register the applicant, but must document the reason for denying the applicant's registration and promptly file or enter the application and the documented reason for denying registration in the statewide registration record files.<sup>26</sup>

The permanent registrar must notify applicants whether their applications are accepted or rejected, or are incomplete. If information required by the permanent registrar is missing from the voter registration application, the permanent registrar must contact the applicant to obtain the missing information.<sup>27</sup> More specifically, if an applicant for voter registration fails to provide any of the information required, the permanent registrar must notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for its completion before the next election for federal office.<sup>28</sup>

**G. Who is responsible for investigating and enforcing the state rules?**

The State Board of Election Commissioners may investigate alleged violations, render findings, and impose disciplinary action for violations of election and voter registration laws, with certain exceptions.<sup>29</sup> The State Board may also report violations to law enforcement.<sup>30</sup>

If a person's registration status or voting eligibility is adversely affected by an administrative determination, he or she may appeal within 5 days to the County Board of Election Commissioners, which must render a decision within 10 days of receipt of the appeal.<sup>31</sup>

The Secretary of State is designated as the chief election official.<sup>32</sup>

## WHAT ARE THE RULES FOR CORRECTING INCOMPLETE APPLICATIONS?

**A. If a voter registration application is incomplete, may the voter registration drive write the missing information on the application with the consent of the applicant?**

Arkansas law does not address this issue.

**B. How may an applicant correct an incomplete application after it has been submitted to county election officials?**

If a registrant fails to provide required information on his or her voter application form, the permanent registrar must notify the registrant and provide him or her with an opportunity to complete the form in a timely manner to allow for its completion before the next election for federal office.<sup>33</sup>

## WEB PAGE WITH STATUTE

Arkansas Constitution:

<http://www.arkleg.state.ar.us/assembly/Summary/ArkansasConstitution1874.pdf>

Arkansas Code: <http://www.lexisnexis.com/hottopics/arcodes/Default.asp> (expand "Title 7 Elections")

For more information, contact:



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<sup>1</sup> Ark. Const. art. 3, § 1

<sup>2</sup> Ark. Code § 7-5-201(b)(1)

<sup>3</sup> Ark. Code § 7-5-201(b)(6)

<sup>4</sup> Ark. Const. Amend. 51, § 9(a)(2)

<sup>5</sup> Ark. Const. Amend. 51, § 9(a)(1)

<sup>6</sup> Ark. Const. Amend. 51, § 11(d)(2)(A)

<sup>7</sup> Help America Vote Act of 2002 (HAVA) §§ 303(a), 303(b)

<sup>8</sup> National Voter Registration Act of 1993 (NVRA), 42 U.S.C. § 1973gg-7(b)

<sup>9</sup> Ark. Const. Amend. 51, § 6(a)(3)

<sup>10</sup> Ark. Sec'y of State, *Conducting a Voter Registration Drive* ("Ark. VR Drive Guide") 2, [http://www.sos.arkansas.gov/elections/Documents/voter\\_registration\\_guide.pdf](http://www.sos.arkansas.gov/elections/Documents/voter_registration_guide.pdf) (last visited March 5, 2014) (discussing Ark. Sec'y of State, *Arkansas Voter Registration Application* (last revised June 2011), available at [http://www.sos.arkansas.gov/elections/Documents/Voter\\_Reg\\_Ap\\_6-11.pdf](http://www.sos.arkansas.gov/elections/Documents/Voter_Reg_Ap_6-11.pdf))

<sup>11</sup> Ark. Code § 7-5-201; Ark. Admin. Code § 108.00.9-900(b) (effective Mar. 4, 2014); *Ark. VR Drive Guide* at 1.

<sup>12</sup> Ark. Admin. Code §§ 108.00.9-900(b); 108.00.9-901(B) (effective Mar. 4, 2014).

<sup>13</sup> Ark. Admin Code § 108.00.9-900(l) (effective Mar. 4, 2014)

<sup>14</sup> Ark. Const. Amend. 51, § 9(b), (c)(3)(A)

<sup>15</sup> Ark. Const. Amend. 51, § 9(c)(3)(A)

<sup>16</sup> Ark. Const. Amend. 51, § 9(l)

<sup>17</sup> Ark. Const. Amend. 51 § 5(b)(1)

<sup>18</sup> 42 U.S.C. § 1973i(c).

<sup>19</sup> *United States v. Garcia*, 719 F.2d 99, 102-03 (5th Cir. 1983).

<sup>20</sup> California Sec'y of State, *Guide to Voter Registration Drives* 10 (last revised Mar. 2013), <http://www.sos.ca.gov/elections/guides/guide-to-vr-drives.pdf>

<sup>21</sup> Ark. Const. Amend. 51, § 6(a)(3)(G)

<sup>22</sup> *Ark. VR Drive Guide* at 1.

<sup>23</sup> Ark. Const. Amend. 51, § 9(c)(2)

<sup>24</sup> Ark. Const. Amend. 51, § 15

<sup>25</sup> Ark. Const. Amend. 51, § 7(a)

<sup>26</sup> Ark. Const. Amend. 51, § 9(f)

<sup>27</sup> Ark. Const. Amend. 51, § 9(d)

<sup>28</sup> Ark. Const. Amend. 51, § 6(a)(8)

<sup>29</sup> Ark. Code § 7-4-118

<sup>30</sup> Ark. Admin. Code § 108.00.6-606

<sup>31</sup> Ark. Const. Amend. 51, § 9(k)

<sup>32</sup> Ark. Const. Amend. 51 § 5(b)(1)

<sup>33</sup> Ark. Const. Amend. 51, § 6(a)(8)