

# Election Statute Navigator: Oklahoma

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of October 19, 2020. Please contact [elect@wm.edu](mailto:elect@wm.edu) with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link: <https://ebenchmark.org/oklahoma/covid/#tracker>.

## *Voter Registration*

- Voters (other than above) register prior to Election Day **4-110.1**
- Online registration available **4-109.4**
  - Currently in Phase 1 – Online form available, but must be signed and mailed
  - [See official Oklahoma registration website](#)
- Registration via mail available **4-103.1(A)(1)**
- In-Person registration available
  - **4-103.1(A)(2)** - Completing a voter registration application in person with any official of an agency described in Section 4-109.2 of this title
  - **4-103.1(A)(3)** - Completing a voter registration application in person as part of an application for issuance, renewal or change of address for a driver license or issuance of a state identification card issued pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes with a designated representative of the Department of Public Safety
  - **4-109** - The Secretary of the State Election Board shall designate locations where voter registration applications will be available for distribution. The secretary of each county election board may, with approval of the Secretary of the State Election Board, designate additional locations where voter registration applications will be available for distribution. Preference shall be given to public libraries, public buildings and other locations where large numbers of potential voters may be located. Particular emphasis shall be placed on making voter registration applications available for organized voter registration programs.
- Preregistration allowed **4-103(B)**
  - Any person who is at least seventeen (17) years and six (6) months of age, but less than eighteen (18) years of age, may submit a voter registration application as provided by law, and shall be entitled to become a registered voter of the precinct of residence upon his or her eighteenth birthday.
- Residency requirement **4-112(G)**



- Prior conviction eligibility
  - **4-101(1)** - Persons convicted of a felony shall be eligible to register to vote when they have fully served their sentence of court-mandated calendar days, including any term of incarceration, parole or supervision, or completed a period of probation ordered by any court
  - **4-120.4** - Convicted felons – cancellation of registration – liability
- Voters judged incapacitated cannot vote
  - **4-101(2)** - Any person who has been adjudged to be an incapacitated person as such term is defined by Section 1-111 of Title 30 of the Oklahoma Statutes shall be ineligible to register to vote. When such incapacitated person has been adjudged to be no longer incapacitated such person shall be eligible to become a registered voter. The provisions of this paragraph shall not prohibit any person adjudged to be a partially incapacitated person as such term is defined by Section 1-111 of Title 30 of the Oklahoma Statutes from being eligible to register to vote unless the order adjudging the person to be partially incapacitated restricts such person from being eligible to register to vote.
  - **4-120.5** - Incapacitated persons – cancellation of registration
- Voter list maintenance guidelines
  - **4-114** - The secretary of each county election board shall cause the registration information of every registered voter in the county to be entered into the voter registration database.
  - **4-115** - The secretary of each county election board shall cause registration forms of every registered voter in said county to be retained in a central registry in alphabetical order. Said central registry shall be maintained in a secure manner in the offices of the county election board.
  - **4-115.1** - The secretary of each county election board is authorized to correct clerical or administrative errors in the voter registration database and to conform voter registration information to recognized standards, as determined by the Secretary of the State Election Board, for promotion of uniformity and consistency in address designations. No corrections shall be made to the original registration form signed by the voter except as provided by law or rule of the State Election Board.
- Other:
  - **4-104** - The secretary of each county election board and his assistant secretary and other designated employees shall be authorized to register voters at any place within the county during the time prescribed by law.



- **4-120.2** - Inactive voters
- **4-120.3** - Deceased Persons – Cancellation of registration
- **4-120.8** - Reregistration of cancelled voter

## *State Absentee, Early, and Mail Voting*

- Early voting allowed **14-115.4**
  - [See official Oklahoma early voting website](#)
- In-Person early voting only **14-115.4**
  - [See official Oklahoma early voting website](#)
- No-excuse absentee voting **14-105**
- Online absentee ballot application available **14-105**
- Absentee ballot application is verified **14-106**
- Notary or witness signatures required on return envelope
  - **14-108** - Witnessing of affidavit
  - **14-108.1** - Notary public restrictions and exceptions
- Absentee ballot verification details **14-108.1**
- Deadline by which election official must receive absentee/mailed ballots **14-104**
- Absentee/Mail ballot processing and counting procedures
  - **7-136** - Canvassing returns
  - **14-125** - Counting procedure
- Spoiling/Replacement/Correction ballot restrictions
  - **7-122** - Spoiled ballots
  - **7-129.1** - Ballots mutilated by electronic counting equipment to be counted
  - **7-129.2** - Substitute ballots
  - **14-121.1** - Replacement absentee ballots
- Other:
  - **7-115** - If a registered voter has requested an absentee ballot, he shall be required by the judge to sign an affidavit swearing or affirming that he has not cast such absentee ballot and is entitled to vote in person.
  - **14-114** - Elector confined to nursing facility outside county
  - **14-115** - Elector confined to nursing facility or veterans center within county – procedures



- **14-115.1** - Incapacitated voter unable to vote in person
- **14-115.6** - Emergency absentee ballots for first responders and emergency workers
- **14-118.1** - Failure to receive mailed ballot in time to be counted – transmission by facsimile device
- **14-121** - Discharged military personnel or personnel on official authorized leave or spouses thereof – authorization to vote

### *In-Person Voter ID*

- ID requirements **7-114**
- Exceptions to Voter ID Requirements **7-114(4)**
  - if the person presents a voter identification card issued by the appropriate county election board, such card may serve as proof of identity without meeting the requirements of paragraphs 2 and 3 of this subsection.
- Options for voters without ID:
  - **7-114(B)(1)** - If a person declines to or is unable to produce proof of identity, the person may sign a statement under oath, in a form approved by the Secretary of the State Election Board, swearing or affirming that the person is the person identified on the precinct registry, and shall be allowed to cast a provisional ballot in a manner consistent with the provisions of Section 7-116.1 of this title

### *Provisional Voting*

- Provisional ballot availability **7-116.1(B)**
- Time allotted to determine the status of provisional ballot
  - **Okla. Admin. Code 230:35-5-177**
- Provisional ballot rejection reasons **7-116.1(C)**
  - A provisional ballot shall be counted only if it is cast in the precinct of the voter's residence and if evidence of the provisional voter's valid voter registration, or of the voter's identity, is found, except a provisional ballot cast by a voter identified in Section 14-121 of this title shall be counted.
- Other:
  - **7-116.1(A)** - Provisional ballots shall be available for all elections conducted by the county election board. Provisional ballots shall include all offices, candidates and questions and shall be identical to the regular ballots for each precinct. The



Secretary of the State Election Board shall promulgate rules and shall prescribe materials necessary for the implementation of provisional ballots.

- **7-116.1(D)** - No information concerning provisional ballots, except the number of provisional ballots cast in the county, shall be made public by any election official prior to 1:00 p.m. on Friday following the election. The county sheriff shall secure sealed ballot transfer cases containing provisional ballots that have been counted after 1:00 p.m. on Friday following the election until 5:00 p.m. on Tuesday next succeeding the election or, in the event a recount contest is filed, until such times as the transfer cases are delivered to the district courtroom.
- **7-116.1(E)** - In the event that the secretary of any county election board is unable to complete the investigation and verification of provisional ballots by 1:00 p.m. on Friday following the election, the Secretary of the State Election Board shall be authorized to extend the period for the investigation and verification of provisional ballots. When such an extension is required by any county for a statewide election, the extension shall apply statewide. The Secretary shall promulgate rules establishing procedures for requesting and granting such extensions.
- **7-116.1(F)** - All materials used for procuring and casting a provisional ballot shall be retained by the secretary of the county election board for a period of twenty-four (24) months after the day of the election.

## *Polling Place*

- Polling Place availability and requirements
  - **3-115** - Establishment of precincts
  - **3-116** - Precinct boundaries
  - **3-117** - Precincts within municipalities
  - **3-118** - Changes in precincts – notice – transfer of affected voters’ registration
  - **3-119** - Creation of subprecincts
  - **3-120** - Polling places – tort liability
  - **3-123** - The board of education of any school district may, and the governing board of any municipality shall, furnish a room or rooms in any school building or municipal building for use as a polling place at no cost.
- Electioneering or campaigning must not be closer than **300** feet to the entrance of the polling place **7-108, 16-111**
- Poll watcher qualifications
  - **7-130** - Watchers – commission – duties



- **8-114** - Procedure for recount
- National Guard permitted to step in as poll workers
  - **22-101(C)** - The Secretary of the State Election Board may request the assistance of the Oklahoma National Guard in the conduct of an election during a declared election emergency, upon approval of the Governor. Such assistance shall not be deemed to be in violation of the provisions of Section 16-113 of this title or Section 4 of Article II or Section 5 of Article III of the Oklahoma Constitution.
- Photography restrictions **7-109**
  - No person shall, within the election enclosure, disclose to any other person how he or she voted; nor shall any person expose his or her ballot to any other person within the election enclosure. A voter may take a digital image or photograph of his or her marked ballot and distribute or share the image via social media or by any other means if performed voluntarily and in compliance with state and federal law. Testimony as to how any individual cast his or her ballot, whether or not said ballot was lawfully cast, shall not be admissible as evidence in any court of law or public hearing in this state.
- Other:
  - **7-108.1** - Any person desiring to conduct an exit poll within three hundred (300) feet of any ballot box shall notify the secretary of the county election board of his intentions to do so no later than 5 p.m. on the Wednesday preceding the election.
  - **7-108.2** - Exit poll pollster – identification
  - **7-108.3** - Pollster restrictions
  - **7-108.4** - A pollster shall be limited to written polling materials. Any oral interviews of voters or recording by electronic means shall be no closer than one hundred fifty (150) feet to any ballot box.
  - **7-108.5** - A pollster may approach only voters who have completed their voting concerning participation in the exit poll. Participation by a voter shall be voluntary.
  - **7-112** - Persons allowed in enclosure – news reporter or photographer
  - **7-121** - No voter who is voting without assistance may remain in the voting booth more than five (5) minutes if other voters are waiting, nor more than ten (10) minutes in any event.
  - **7-123.1**: Physical inability to enter election enclosure
  - **7-123.3**: Blind, disabled or voter unable to read



## *State Emergency Rules and How Elections are Affected*

- Declaration of election emergency – contingency plan **22-101**
- Listed triggers for Emergency Rules **22-101(A)**
- Explicit remedies in election statute
  - **14-135** - Emergency procedures to facilitate voting by uniformed and overseas citizens
  - **22-102** - Ballot printing
  - **22-104** - Method of counting
  - **22-105** - Procedures governing counting
  - **22-106** - Reason for failure to count to be noted
  - **22-109** - Certificate of vote
  - **22-110** - Ballots and materials placed in ballot transfer box

## *Counting Rules*

- Voting system requirements
  - **3-121** - There shall be one voting device and ballot box for each precinct. Each voting device shall be equipped with an opening through which a ballot may be inserted, counted and deposited into an attached ballot box which must be constructed in such a manner that the box must be unlocked before the ballots can be removed.
  - **6-102.1(7)** - “Voting device” means an optical scanning apparatus that electronically counts votes marked on ballots and produces printed results.
  - **9-100** - The Secretary of the State Election Board shall be authorized to allow for the experimental use of one or more vote counting devices or other equipment in one or more election precincts in one or more counties, without a formal purchase thereof. The experimental use of such vote counting device or other equipment in any election shall be as valid for all purposes as if it had been purchased.
- Counting procedures
  - **7-127** - Rules governing counting
  - **7-136** - Canvassing returns
- Other:
  - **3-131** - Subject to available funding, the Secretary of the State Election Board is authorized to employ such security measures as may be necessary to protect the



voting devices, election system or voter registration system, and any associated hardware, software or networks of these systems, from cyber security threats or physical security threats. The Secretary may promulgate rules and procedures to implement the requirements of this section.

## *Contest/Protest, Recount Rules*

- Voter protesting
- Candidate protesting
  - **8-109** - Alleging irregularities or fraud
- Contest filing guidelines
  - **8-109** - Time for filing contest – alleging irregularities or fraud
  - **8-118** - Election contested due to fraud or other irregularity
  - **8-119** - Petition alleging fraud – procedure
  - **8-120** - Petition alleging irregularities – procedure
- Challenging a voter
  - **8-114(A)** - Watcher shall be limited to a challenge, in writing, of any action taken by operators of the voting devices. Such challenge shall be made immediately to the county election board, whose decision on the challenge shall be final.
- Automatic recount
  - **7-134.1** - In counties using voting devices, if on election night the uncounted ballots in a precinct exceed two percent (2%) of the total number of persons voting in the precinct or if the voting device has malfunctioned in such a way that there are no totals on the printout or if the printout is illegible or if, due to the malfunction, properly cast ballots placed in the emergency bin were not processed through the device, the county election board is authorized to open the transfer case and to recount the ballots on election night using a preassigned voting device in public view and in the presence of a representative of the sheriff's office. Upon completion of the recount the transfer case shall be resealed by members of the county election board.
- Contest/Protest recount
  - **8-111** - Petition for recount
- Other:
  - **8-112** - Conduct of recount – duties of presiding judge
  - **8-114** - Procedure for recount





- **8-114(B)** - The watcher shall be limited to a challenge, in writing, of any decision made by the counters with regard to counting of a ballot. Such challenge shall be made immediately to the county election board, whose decision on the challenge shall be final.
- **8-116** - Cessation of recount – rights of contestee
- **8-117** - Expenses of recount

