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GUIDANCE FOR VOTERS WITH COVID-19

FROM: Steve Marshall
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SUBJECT: Emergency Absentee Voting for Voters Who Test Positive for
COVID-19 on or after October 29

For an Alabama voter to vote absentee, he or she generally must submit an absentee ballot application “not less than five days prior to the election” in which he or she intends to vote. ALA. CODE § 17-11-3(a). Therefore, the last day to apply to vote by standard absentee ballot in the November 3, 2020 election is Thursday, October 29. An individual who tests positive for COVID-19 on or after October 29 may not have been able to timely submit a standard absentee ballot application and may not be able to vote in person on Election Day.

However, Alabama law provides an alternate manner of voting absentee in case of a medical emergency:

Any registered elector who requires emergency treatment of a licensed physician within five days of an election may apply for an emergency absentee ballot for the election and may vote by returning the absentee ballot no later than noon on the day the election is held. The attendant physician shall describe and certify the circumstances as constituting an emergency on a special form designed by the Secretary of State and provided by his or her office to local absentee election managers. The special form shall be attached to the application.

ALA. CODE § 17-11-3(c). In accordance with this provision, the Secretary of State has created and published the Application for Emergency Absentee Ballot, Form AV-E1. See <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/absentee/EmergencyAbsenteeAppFillable.pdf>. Voters who require emergency medical treatment must submit this application “no later than the close of the business day one day prior to the election.” ALA. CODE § 17-11-3(d)(2). Therefore, a voter who requires emergency treatment of a licensed physician within five days of the November 3 election may apply for an emergency absentee ballot until the close of business on November 2. Additionally, the application requires a physician to describe and certify the circumstances constituting the emergency either on the application itself or in a physician’s report that may be attached to the application.

A voter who tests positive for COVID-19 on or after October 29, 2020, and for that reason cannot vote in person, requires emergency treatment within five days of an election as provided by section 17-11-3(c) and, therefore, may lawfully vote in Alabama elections via emergency absentee ballot after completing an application for emergency absentee ballot. Such voter may designate an individual to submit his or her application for emergency absentee ballot to the voter's absentee election manager, ALA. CODE § 17-11-4; receive the voter's ballot from the absentee election manager, ALA. CODE § 17-11-5(a); and deliver the completed ballot to the absentee election manager, ALA. CODE § 17-11-18(a). **However, the emergency absentee application must be received by the Absentee Election Manager no later than the close of business on November 2, and the completed ballot must be returned no later than noon on November 3.**