

Farmers' Guide to County Committee Elections in the USDA Farm Service Agency



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December 2024

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This material is based upon work supported by the U.S. Department of Agriculture under Agreement No. 2022-70416-37274.



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I. Introduction

This Guide is meant to help readers become familiar with the rules governing the election of County Committee members within the U.S. Department of Agriculture's (USDA) Farm Service Agency (FSA). The member composition of FSA County Committees is vitally important because these Committees have significant power over the delivery of FSA services by FSA county offices. It is at the county level that farmers and ranchers learn about FSA programs and apply for various types of FSA loans and other major FSA assistance. County Committees provide input on:

- the hiring of the FSA County Executive Director;
- income safety-net loans and payments, including setting county average yields for commodities;
- conservation programs;
- incentive, indemnity, and disaster payments for certain commodities;
- emergency and disaster programs; and
- payment eligibility.

Thus, whether county offices fairly and fully deliver FSA assistance depends in significant part on the decisions of County Committees. In light of this power, it is essential that a wide range of farmers and ranchers run for their local County Committees.

FSA has created guidelines intended to ensure that County Committees are “fairly representative” of all the farmers and ranchers within a voting district, called a Local Administrative Area.¹ As described in more detail in Section V.C, below, the specific strategies for ensuring fair representation and fair elections include (1) providing farmers with adequate notice and opportunity to run for their local Committee and to cast ballots; (2) requiring the public unsealing and counting of ballots; and (3) requiring State and national oversight.

However, County Committees do not always follow the rules and are not always representative of farming communities. In some cases, County Committees have committed discrimination.² Therefore, local communities of farmers and ranchers must organize to ensure that election rules are followed and to vote their preferred representatives onto their County Committees.

To orient yourself on how to use this Guide, please refer to the following Section II.

² USDA EQUITY COMMISSION, FINAL REPORT 37-39 (2024), available at: <https://www.usda.gov/sites/default/files/documents/usda-equity-commission-final-report.pdf>.

II. How to Use This Guide

This Guide provides an overview of the FSA County Committee election process. The Table of Contents serves as a navigating tool to direct the reader to their area of interest. The digital version of this Guide is also word searchable in web browsers or pdf software on most smart phones and computers. A digital version is available on FLAG's website at <http://www.flaginc.org/publication>.

If you are reading this for general knowledge, you can read from beginning to end. We have written the Guide largely in sequence of how an election proceeds.

If you want to review the actual text of the rules on which this Guide is based, you can use the footnote citations to find and read the text of statutes, rules, and other guidelines. Please see Section III (Resources and Legal Authorities) for publicly available copies of the legal authorities.

Many of our descriptions of the rules closely follow the language of the source text. We have used quotation marks where we want to emphasize a specific term or phrase for the reader.

Before this Guide reaches the substance of FSA election rules, there are three preliminary sections that we recommend every reader review:

- Section III, Resources and Legal Authorities;
- Section IV, Discrimination Is Illegal; and
- Section V, Self-Advocacy.

III. Resources and Legal Authorities

This Guide relies on the following publicly available resources and legal authorities. For information about how FSA is currently conducting County Committee elections, we recommend the reader start with FSA's website and review the materials there (no. 1, below). These materials should also be publicly available in hardcopy at local FSA offices.

The majority of the rules on FSA County Committee elections comes from FSA's Uniform Guidelines (no. 2, below) and FSA's regulations published in the Code of Federal Regulations (no. 3, below). Parts of this Guide also rely on both FSA's published fact sheet and its Frequently Asked Questions (available on its website, no. 1), which clarify how FSA interprets its Guidelines and regulations.

A. FSA's Webpage on County Committee Elections

The webpage is located at <https://www.fsa.usda.gov/about-fsa/county-committee-elections>.³

It includes:

- Nomination resources and forms;
- A tool that locates your nearest USDA service center
- A tool that determines which voting district (Local Administrative Area) you reside in;
- Fact sheets, frequently asked questions, posters, flyers, and brochures, each in a number of different languages;
- Election Reports for past years; and
- Election dates for the latest election (2024 at the time of this publication):
 - June 17, 2024 – The nomination period begins.
 - August 1, 2024 – Last day to file nomination forms at the local USDA Service Center.
 - November 4, 2024 – Ballots mailed to eligible voters.
 - December 2, 2024 – Election day; Last day to return completed ballots to the USDA Service Center.
 - January 1, 2025 – Newly elected County Committee members take office.

³ The webpage URLs provided in this Guide are functioning at the time of publication but may change in the future. If you are not able to access a certain URL, searching the web with keywords will likely lead to an updated URL. If you need help finding resources, please feel free to reach out to FLAG at lawyers@flaginc.org.

B. FSA's Uniform Guidelines for Conducting FSA County Committee Elections

The Uniform Guidelines for Conducting FSA County Committee Elections lay out most of the relevant rules that are discussed throughout this Guide. The Guidelines are located in the Federal Register at 70 Fed. Reg. 2837 (Jan. 18, 2005).

They are available online at:

https://www.fsa.usda.gov/sites/default/files/documents/election_guidelines.pdf.

C. FSA Regulations for County Committees – Title 7, Subtitle A, Part 7 in the Code of Federal Regulations

The Code of Federal Regulations contains FSA's regulations governing County Committee elections. The title of Part 7 is "Selection and Functions of Farm Service Agency State and County Committees." The official citations are 7 C.F.R § 7.1 to 7 C.F.R § 7.34.

The regulations are publicly available online at:

<https://www.law.cornell.edu/cfr/text/7/part-7>.

D. Farm Security and Rural Investment Act of 2002

This enacted bill is what directed FSA to create most of the fair election regulations. The official citation is Public Law 107-171, § 10708 and 116 Stat. 134 at page 522.

It is publicly available at: <https://www.congress.gov/107/plaws/publ171/PLAW-107publ171.pdf>.

Section 10708 of this bill is codified in the United States Code at 16 U.S.C. § 590h(b)(5), which is publicly available at <https://www.law.cornell.edu/uscode/text/16/590h>.

IV. Discrimination Is Illegal

As with all USDA programs, discrimination is illegal in County Committee elections. FSA is prohibited from subjecting any person to discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial/parental status, sexual orientation, gender identity, disability, political beliefs, or because all or part of an individual's income is derived from any public assistance program.⁴

Every FSA communication announcing County Committee elections and soliciting nominations is required to contain a nondiscrimination statement.⁵

If a farmer believes FSA or another USDA entity has discriminated against them, they should contact their local community-based farmer advocacy group. They can also contact Farmers' Legal Action Group directly at lawyers@flaginc.org or (651) 223-5400.

⁴ 7 C.F.R. § 15d.3(a) (2024); 7 C.F.R. § 7.5(b) (2024).

⁵ 16 U.S.C. § 590h(b)(5)(B)(iii)(II) (2024); 7 C.F.R. § 7.8(b) (2024).

V. Self-Advocacy

FSA staff do not always know or follow the rules. In situations where you believe that FSA is not following its own election rules, it is important that you be ready to practice the following strategies. Sometimes, these self-advocacy strategies are enough to change FSA staff's behavior. Other times, you may need to escalate the issue to farmer advocacy groups and their attorneys (like FLAG). But it begins with the following.

A. Standing Up for Yourself and Others

Self-advocacy means standing up for yourself. It means demanding fair treatment. We already practice self-advocacy skills in dealing with our families, friends, co-workers, bosses, and local businesses. You must be prepared to stand up for yourself and others when you believe FSA staff are acting contrary to FSA rules or their own prior statements or promises. To help you effectively self-advocate, we recommend the following three strategies.

B. Know the Rules and Bring Copies with You

FSA rules give farmers certain rights. Knowing the rules gives you the ability and confidence to stand up for those rights. If you are having trouble in a specific area, read and then re-read the relevant rules and bring a copy of the actual rules with you to any meetings with FSA.

Be prepared to point to the specific rule that says what FSA must do. Pointing FSA staff to the written rules is a powerful tactic. Of course, doing so politely can help avoid rubbing staff the wrong way and lead to a friendly resolution that allows you to continue working with the FSA staff on future issues. This is not always possible, and farmers generally should not sacrifice their rights to remain friendly with FSA staff.

C. Where the Rules Are Not Clear, Be Prepared to Negotiate for a Reasonable Solution

FSA rules do not cover every possible situation. There are grey areas. When there is uncertainty about how FSA should act, FSA staff have the discretion to decide on a reasonable course of action consistent with their rules. You have the power to argue what that reasonable course of action should be based on the intent and overall goals of the rules.

In the realm of County Committee elections, the overarching goal is fair representation and fair elections by ensuring the following:

- All farmers know about the election with enough time to meaningfully participate if they are eligible (see Section VII);
- All eligible farmers have the opportunity to nominate themselves or others for a seat (see Section XI);
- All nominees have an opportunity to communicate with eligible voters about their candidacy before the election (see Section VIII);

- All eligible farmers have the opportunity to cast a ballot (see Section XII);
- The ballots are publicly and accurately counted (see Section XIII); and
- There is an appeal process and oversight to ensure that the elections are being fairly conducted (see Sections XIV and XVII).

Be prepared to argue how your position on a grey area would achieve these objectives. Be prepared to argue for an ideal outcome, and be prepared to compromise with FSA on a reasonable outcome.

D. Document Everything

Make all requests in writing. Keep copies of these requests. Regardless of whether FSA grants or denies a request, get the response in writing. FSA is required to issue a Receipt for Service every time a farmer makes a request for “any benefit or service.”⁶ FSA staff should prepare such a Receipt automatically, regardless of whether a farmer asks for one. But it does not hurt to ask if FSA staff forget to do so.

Write down legible, dated notes to document all interactions with FSA so that you do not have to rely on your memory in the future.

Documentation serves several important advocacy functions. First, it helps keep FSA staff focused on following the rules. By documenting your requests, FSA’s responses, and other interactions, you are signaling to FSA staff that you are serious about enforcing your rights.

Second, if FSA staff are not following the rules, then you will have evidence to show what happened and hold FSA accountable. You will be able to show the evidence to FSA managers at the State or national level and, if ultimately necessary, to judges in administrative or judicial proceedings.

Third, it helps you remember what happened so that you can keep track of how you and others are being treated and can relay that information to other farmers, community organizations, and, if necessary, their lawyers.

⁶ 7 U.S.C. § 2279-1(e) (2024).

VI. County Committees: Local Administrative Areas, Composition, and Term Limits

The following subsections describe how County Committees are organized.

A. Members Are Elected from Local Administrative Areas

County Committees contain from three to eleven voting members.⁷ Each voting member is from a different voting district called a Local Administrative Area (LAA).⁸

Committees from a single county have three to five LAAs and thus three to five voting members.⁹ Some Committees consist of LAAs from multiple counties. FSA calls these areas multi-county jurisdictions, and the Committees for these areas have three to eleven LAAs and thus three to eleven voting members.¹⁰

In Alaska and Puerto Rico, the State Committees decide how to divide areas into “counties.” In Louisiana, the term county applies to parishes.¹¹

FSA also has designated twenty-seven urban County Committees, which are listed on the FSA County Committee Elections webpage.¹² Although urban farming may look different than rural farming, the same general election rules apply. FSA’s Fact Sheet on Urban County Committees provides more details.¹³

B. Elections for Local Administrative Areas Are Staggered

LAAs within a county or multi-county jurisdiction hold elections on a staggered schedule. Generally, one third of LAAs within a jurisdiction hold an election each year. If the total LAAs do not split evenly into thirds, then yearly elections should be as close to one third of LAAs as possible.¹⁴

Because farmers can only vote in the LAA where they farm, not every farmer is eligible to vote each year. It depends on which LAAs are holding elections.¹⁵

⁷ 7 C.F.R. §§ 7.6(a)(1), 7.12(a) (2024).

⁸ 7 C.F.R. § 7.6(a)(2) (2024).

⁹ 7 C.F.R. § 7.6(a)(1) (2024).

¹⁰ 7 C.F.R. § 7.6(a)(1) (2024).

¹¹ 7 C.F.R. § 7.6(a)(1) (2024).

¹² USDA FARM SERVICE AGENCY, County Committee Elections, County Committees for Urban Agriculture, <https://www.fsa.usda.gov/about-fsa/county-committee-elections>.

¹³ USDA FARM SERVICE AGENCY, Urban County Committee Election Fact Sheet (Aug. 2023), https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_genurbanelecteligibilityfs_2023_web.pdf.

¹⁴ 7 C.F.R. § 7.11(a) & (b) (2024).

¹⁵ See Section IX.A.1, below.

C. State Committees Determine Local Administrative Area Boundaries with Advice from County Committees

County Committees must review the LAA boundaries every year by April 1st, and can propose changes to LAA boundaries and the addition of more LAAs.¹⁶ The FSA State Committee then reviews the recommendations and modifies LAA boundaries or adds LAAs if it believes either is appropriate.

Before any such changes are made, County Committees must first post proposed changes in the county office and locally publicize the changes in the county office newsletter and local media “to the extent practicable.”¹⁷ Committees must “ensure that adequate time is available for comments by eligible voters to be received before the proposed LAA boundaries are considered for approval by the State Committee.”¹⁸

Any modifications to LAAs must be finalized by June 15th of each year. The modifications must be publicized in an FSA newsletter to eligible voters and in local media and publicly posted in the county office.¹⁹

D. Socially Disadvantaged Farmers and Ranchers²⁰ Must Be Fairly Represented on County Committees

County Committee members must be “fairly representative” of the farmers and ranchers within their respective LAAs.²¹ If an FSA State Committee has evidence of possible underrepresentation of socially disadvantaged farmers and ranchers in a certain County Committee, the State Committee must select that county or multi-county jurisdiction for an annual review to “determine whether redrawing the LAA boundaries or increasing the number of LAAs in a given area will assist in ensuring the fair representation of [socially disadvantaged farmers and ranchers].” As noted in Section VI.C above, such boundary changes must be open to public comment.²²

FSA’s Uniform Guidelines also direct FSA headquarters to provide guidelines to County Committees on how to conduct the annual reviews of LAA boundaries and how to determine whether redrawing the LAA boundaries or increasing the number of LAAs in a given area will assist in ensuring the fair representation of socially disadvantaged farmers and ranchers in the area over which the Committee has jurisdiction.²³ The authors of this Guide have not identified any such guidelines at the time of this publication.

¹⁶ Uniform Guidelines, 70 Fed. Reg. at 2840. State Committee members are “selected by the [USDA] Secretary and will serve at the pleasure of the Secretary.” 7 C.F.R. § 7.4 (2024).

¹⁷ Uniform Guidelines, 70 Fed. Reg. at 2840.

¹⁸ Uniform Guidelines, 70 Fed. Reg. at 2840.

¹⁹ Uniform Guidelines, 70 Fed. Reg. at 2840.

²⁰ FSA defines a “socially disadvantaged farmer or rancher” as “an individual or entity who is a member of a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women.” 7 C.F.R. § 7.3 (2024).

²¹ 7 C.F.R. § 7.12(b) (2024).

²² 7 C.F.R. § 7.12(b) (2024).

²³ 7 C.F.R. § 7.12(b) (2024).

E. Committee Positions and Advisory Members

The County Committee members select their own chairperson and vice-chairperson.²⁴ The Committee also must select a secretary from the county office staff.²⁵ As noted below in Section XVI.B, the State Committee may also appoint socially disadvantaged farmers and ranchers as non-voting advisory members, who can observe and advise on the Committee's proceedings.

F. Term Limits

Members are elected for terms of three years. Each member may not serve more than three consecutive terms. After three terms, a member must not seek election for at least one year. After that, the person may seek election to the County Committee again or be appointed.²⁶

A member will be considered to have served a term if that member served for a period of one and one-half years, or greater, of that term.²⁷ This happens where a Committee member resigns or is removed and a new member takes their place part-way through a term.²⁸

²⁴ 7 C.F.R. § 7.12(d) (2024).

²⁵ 7 C.F.R. § 7.12(c) (2024).

²⁶ 7 C.F.R. § 7.18(b)(10) (2024).

²⁷ Uniform Guidelines, 70 Fed. Reg. at 2841.

²⁸ 7 C.F.R. §§ 7.11(c), 7.14 (2024).

VII. Required Election Outreach and Announcements

Under the Uniform Guidelines, FSA must give notice of election dates and deadlines and conduct certain types of outreach related to County Committee elections. The following subsections describe the specifics.

A. Typical Election Schedule

Below is a typical election schedule based on the Uniform Guidelines and the most recent 2024 election cycle.²⁹ Please see Section VII.B for a discussion of the individual requirements for deadlines and notice.

- **June 15th** – FSA (1) finalizes Local Administrative Area (LAA) boundaries and gives public notice, (2) finalizes updated lists of eligible voters for the LAAs holding elections, and (3) mails out nomination forms to all eligible voters.
- **Mid-June** – Nomination period opens and runs for six weeks.
- **Early August** – Deadline for nominations.
- **Early November** – Ballots mailed to eligible voters at least four weeks before voting deadline. Public notice is given for election day at least 30 calendar days in advance.
- **December, First Monday** – Election day; Deadline for submitting ballots in-person or by mail.
- **Early December** – Ten calendar days' public notice given for date, time, and location of public unsealing and counting of ballots.
- **Mid-December** – Ballots unsealed and counted.
- **January 1st** – Newly elected members take office.

B. Election Deadlines and Required Notice

1. June 15th Deadline for Local Administrative Area Boundaries, Updated Lists of Eligible Voters, and Mailing Out Nominations

June 15th is the deadline for three things every year:

1. LAA boundaries must be finalized and publicly shared.
2. Updated lists of eligible voters for the LAAs holding elections must be made available.
3. Nomination forms must be mailed out to every eligible voter.

²⁹ USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 1, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

2. Six-Week Nomination Period

The nomination period must run for six weeks and must end at least ninety days before the election day.³⁰ The nomination period typically opens on or around June 15th.³¹

3. 30 Days' Notice of Election

At least thirty calendar days before an election, County Committees must give notice to the public of how, when, and where eligible voters may vote.³² The methods of required notice are discussed below in Section VII.C.

4. Mailing Out Ballots Four Weeks Before Election

The State FSA office must mail out ballots to all eligible voters from a central location at least four weeks before the election day.³³ Presumably, the State FSA office acquires the updated lists of eligible voters from County Committees, but the rules are silent on this.

5. Election Day

Election day is the first Monday of December every year, unless announced otherwise.³⁴

6. Ten Days' Public Notice of Ballot Counting

The County Committee must give ten calendar days' public notice of the date, time, and place of ballot counting. The notice must state that any person may observe the opening and counting of ballots.³⁵

C. County Offices Must Develop Outreach Plans for County Committee Elections

Every year, each FSA county office must develop an outreach plan that provides specific steps the office will take during the year to increase participation of farmers—socially disadvantaged farmers and ranchers in particular.³⁶ The county office must work with the FSA State office to develop the outreach plan.³⁷

As part of the outreach plan, FSA State and county offices must prepare a list of group contacts with whom they will work on their outreach efforts.³⁸ Such group contacts should include, as appropriate, land grant colleges, historically Black colleges and universities, Hispanic-serving institutions, tribal colleges, American Indian tribal organizations,

³⁰ Uniform Guidelines, 70 Fed. Reg. at 2841; 7 C.F.R § 7.8(a) (2024).

³¹ Uniform Guidelines, 70 Fed. Reg. at 2841.

³² Uniform Guidelines, 70 Fed. Reg. at 2841; 7 C.F.R. § 7.10(c) (2024).

³³ Uniform Guidelines, 70 Fed. Reg. at 2841.

³⁴ Uniform Guidelines, 70 Fed. Reg. at 2841.

³⁵ 7 C.F.R. § 7.10(d) & (e) (2024).

³⁶ Uniform Guidelines, 70 Fed. Reg. 2839; 7 C.F.R. § 7.23(b)(2) (2024).

³⁷ Uniform Guidelines, 70 Fed. Reg. at 2839.

³⁸ Uniform Guidelines, 70 Fed. Reg. at 2840.

community-based organizations, civic or charitable organizations, faith-based organizations, groups representing minorities and women, groups specifically representing the interests of socially disadvantaged farmers and ranchers, and similar groups and individuals in the community.

FSA State and county offices will develop partnerships with or otherwise work with all group contacts on their outreach efforts.³⁹ This includes providing the group contacts with election materials—including fact sheets, postures, brochures, and nomination forms—on a timely basis.

D. Election Information Must Be Communicated to All Eligible Voters in Relevant Languages

FSA county offices must ensure that election information and deadlines are widely communicated, including the use of traditional and non-traditional media outlets.⁴⁰ Media outlets should include television, radio, public service announcements, newsletters of organizations representing socially disadvantaged farmers, and other publications directed at socially disadvantaged groups.

All written election materials must also be available in the county office, prominently displayed and disseminated in the local area, and provided to all group contacts.⁴¹ FSA must ensure that all election communications are available in other relevant languages, not just English, and in alternative formats, such as braille, large print, and audio, when appropriate.⁴²

E. FSA Must Publicly Solicit Nominations

FSA must publicly solicit nominations for the County Committee.⁴³ As noted above, FSA is required to directly mail the current nomination form to every eligible voter no later than June 15th every year.⁴⁴ The nomination form may arrive as part of a larger packet or newsletter from the State Committee or County Committee.

County offices must also provide a copy of the nomination form upon request.⁴⁵ The FSA County Committee Election website has a link for the current version of the form.⁴⁶

³⁹ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴⁰ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴¹ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴² Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴³ 7 C.F.R. § 7.8(a) (2024).

⁴⁴ Uniform Guidelines, 70 Fed. Reg. at 2841.

⁴⁵ Uniform Guidelines, 70 Fed. Reg. at 2841.

⁴⁶ USDA FARM SERVICE AGENCY, County Committee Elections, <https://www.fsa.usda.gov/about-fsa/county-committee-elections> (last accessed Nov. 4, 2024). To view a copy of the most recent nomination form, see USDA FARM SERVICE AGENCY, Nomination Form for County FSA Committee Election (FSA-669A) (Apr. 18, 2024), <https://www.fsa.usda.gov/sites/default/files/documents/elections.pdf>.

F. County Offices Must Work with Community Groups to Actively Recruit Socially Disadvantaged Candidates

County offices must actively locate and recruit eligible socially disadvantaged candidates as potential nominees for the County Committee elections using any reasonable means necessary.⁴⁷ FSA must work with leaders within the socially disadvantaged farmer and rancher community to identify and solicit eligible nominees. FSA should encourage eligible community leaders to become candidates.

G. FSA Must Post Election Communication Materials on its Website

County Committee election communications materials (nomination forms, fact sheets, posters, etc.) must be posted on FSA's website.⁴⁸ As noted elsewhere, at the time of this publication, the website for FSA County Committee elections is located at: <https://www.fsa.usda.gov/about-fsa/county-committee-elections>.

H. FSA County Offices Must Make Election Instructions Publicly Available

The FSA Deputy Administrator for Field Operations must issue election instructions binding the conduct of County Committee elections. Each county office must make these instructions publicly available.⁴⁹

At the time of publication, the authors are not aware of publicly available election instructions going beyond the Uniform Guidelines for Conducting Farm Service Agency County Committee Elections, 70 Fed. Reg. 2837, 2839 (2005).

I. County Committee Elections Must Be Conducted Independent of Any Other Local, State, or Federal Elections

County committee elections must not be associated with, or held in conjunction with, any other election or referendum conducted for any other purpose.⁵⁰

⁴⁷ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴⁸ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁴⁹ 7 C.F.R. § 7.7(b) (2024).

⁵⁰ 7 C.F.R. § 7.10(b) (2024).

VIII. Preparation and Disclosure of Lists of Eligible Voters

As noted in Section VII.B, by June 15th every year, each FSA county office must prepare an updated list of eligible voters for each of the jurisdiction's Local Administrative Areas (LAAs) holding an election that year. County offices must maintain an updated list of eligible voters throughout the nomination and election period.⁵¹

A list of eligible voters' names must be made publicly available.⁵²

A list of eligible voters' names **and** addresses must be provided to election candidates upon request.⁵³

If a farmer or rancher is on the eligible voter list for an LAA holding an election, the farmer or rancher should receive a ballot in the mail in November of the election year.⁵⁴

⁵¹ 7 C.F.R. § 7.5(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2840.

⁵² 7 C.F.R. § 7.5(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2840.

⁵³ 7 C.F.R. § 7.5(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2840.

⁵⁴ USDA FARM SERVICE AGENCY, County Committee (COC): Frequently Asked Questions for Stakeholders (June 2023) at 3, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_stakeholder_faqs_2023_web.pdf.

IX. Who Can Vote in County Committee Elections

In order to vote in an FSA County Committee election, a farmer or rancher must meet certain eligibility requirements as follows.

A. General Voter Eligibility Requirements

The following requirements must be met for a farmer to be eligible to vote in a County Committee election.

1. Be of Legal Voting Age, with One Exception

A farmer must be of legal voting age—at least eighteen years old—in order to vote in a County Committee election.⁵⁵ However, a farmer below the legal voting age may nonetheless vote if they are “in charge of the supervision and conduct of the farming operations on an entire farm.”⁵⁶

2. Farm or Ranch in the Local Administrative Area

A farmer can only vote in the Local Administrative Area (LAA) where they farm or ranch. If a farmer farms in multiple LAAs within a single county or multi-county jurisdiction, the farmer can only vote in one of those LAAs and must choose.⁵⁷

Farmers can find out which LAA they are located in by using FSA’s locator tool on its website at:

<https://usdaonline.maps.arcgis.com/apps/instant/lookup/index.html?appid=coa64eda87824ce68fe36b5ad622d6ab>.

3. Participate in OR Cooperate with an FSA Program in the County

The farmer or rancher must meet one of the following two criteria.

a. *Participated in a USDA Program in the County*

Within one year of the election date, the farmer participated in a USDA program that was administered within the county or multiple counties under the jurisdiction of the County Committee.⁵⁸

Alternatively, a farmer may “cooperate” by enrolling their farm with FSA, as described in the next subsection.

⁵⁵ 7 C.F.R. § 7.5(b) (2024).

⁵⁶ 7 C.F.R. § 7.5(b) (2024). The regulations do not explain what it means to supervise or conduct operations on an “entire farm.”

⁵⁷ 7 C.F.R. § 7.5(g) (2024);

⁵⁸ 7 C.F.R. § 7.5(b)(1) (2024). Under FSA regulations, to “participate” means “to receive assistance, services, or benefits directly from USDA or from USDA indirectly through another governmental agency.” 7 C.F.R. § 7.3 (2024).

b. Cooperates with the FSA County Office—Meaning They Have Enrolled Their Farm with FSA

By no later than the final date to return election ballots, the farmer “cooperates” with an FSA program, as evidenced in the FSA county office’s records.⁵⁹ FSA defines “cooperate” as “enroll[ing] a farming operation or agricultural property with a county office.”⁶⁰ Generally, getting an FSA Farm Number for a farm and providing requested farm information is how one enrolls.⁶¹

FSA’s Fact Sheet explains that a cooperating farmer includes a farmer who has “provided information about their farming or ranching operation(s) but may not have applied [for] or received FSA program benefits.”⁶²

B. Spouses Are Eligible If Residing in a Community Property State

If a state has “community property” laws governing marriages or civil unions, the spouse of a farmer or rancher who meets the participation or cooperation requirements outlined above is also eligible to vote in a County Committee election.⁶³

C. Authorized Representative of a Legal Entity

If an eligible voter is a legal entity, a duly authorized representative of such entity may vote on behalf of that entity.⁶⁴

D. Eligibility for Members of Partnerships and Joint Ventures

A farmer or rancher that is a member of a general partnership or joint venture is eligible to vote if the farming entity participates or cooperates in FSA programs in the county and the farmer is either of legal voting age or in charge of the entire farm.⁶⁵ Only FSA’s 2023 Election Fact Sheet states this. Presumably, it is an FSA interpretation of their rules:

⁵⁹ 7 C.F.R. § 7.5(b)(2) (2024).

⁶⁰ 7 C.F.R. § 7.3 (2024).

⁶¹ U.S. DEP’T OF AGRIC., Get Started at Your USDA Service Center, <https://www.farmers.gov/working-with-us/USDA-service-centers> (last accessed on Nov. 20, 2024) (noting that registering for a farm number enables farmer “to elect FSA officials to help prioritize programs in your county”).

⁶² USDA FARM SERVICE AGENCY, County Committee Election Fact Sheet (June 2023) at 2, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

⁶³ 7 C.F.R. § 7.5(c) (2024). Generally, in a community property state, most assets acquired during marriage are considered communal (shared) property of the spouses and split equally in case of divorce, with certain exceptions. As of 2023, the following eleven states and territories had community property laws: Arizona, California, Guam, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, and Wisconsin. See, for example, IRS, INTERNAL REVENUE MANUALS, PART 25, CHAPTER 18, SECTION 1.2.3 (May 3, 2023), available at: https://www.irs.gov/irm/part25/irm_25-018-001. The IRS manual notes that Alaska, Oklahoma, Tennessee, and South Dakota have elective community property laws, which may also make spouses eligible to vote. You should contact FSA to confirm in these four states.

⁶⁴ 7 C.F.R. § 7.5(d) (2024).

⁶⁵ USDA FARM SERVICE AGENCY, County Committee Election Fact Sheet (June 2023) at 2, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

namely that members of partnerships and joint ventures are deemed to be participating or cooperating because the entity is doing so.

E. Eligibility for Members of Tribes that Own or Have a Trust Interest in Agricultural Land

“Tribal agricultural landowners” who are at least eighteen years old are eligible to vote in County Committee elections. For purposes of this rule, a tribal agricultural landowner includes all members of an American Indian tribe that either directly owns agricultural land or has rights to agricultural land via a trust arrangement with the U.S. government (in other words, the U.S. government holds the land in trust for the tribe).⁶⁶ Tribal members do not need to personally produce a crop on the tribal agricultural land to be eligible.⁶⁷

F. Determining Voter Eligibility

Any person may contact a county office, either in person or in writing, to ask whether they are on the eligible voters list and review a publicly available copy.⁶⁸

G. Challenging an Ineligibility Determination

If a farmer or rancher is not included on the eligible voters list for their LAA and they believe they meet the eligibility requirements, they may file a written challenge with their County Committee.⁶⁹ The County Committee must provide a response within fifteen calendar days.⁷⁰ If the Committee denies the challenge, the person can appeal the denial to the State Committee.

In addition, each County Committee is required to provide a report to the State Committee of any farmer or rancher the County Committee has found to be ineligible.⁷¹ The State Committee then has the authority to overturn an ineligibility determination, and to direct the County Committee to add that farmer or rancher to the list of eligible voters. This may happen even if the farmer or rancher did not specifically challenge their determination as ineligible.

⁶⁶ USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 3, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

⁶⁷ FSA says that tribal members who qualify as tribal agricultural owners should contact their local USDA Service Center in order to register to vote in a County Committee election. *See* USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 3, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

⁶⁸ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁶⁹ 7 C.F.R. § 7.5(f) (2024); Uniform Guidelines, 70 Fed. Reg. at 2840.

⁷⁰ Uniform Guidelines, 70 Fed. Reg. at 2840.

⁷¹ Uniform Guidelines, 70 Fed. Reg. at 2840.

X. Who Can Run for a County Committee Seat

In general, only farmers and ranchers who reside in the Local Administrative Area (LAA) and participate or enroll in FSA programs may run for a County Committee seat in that LAA election. The following subsections describe the specific rules.

A. Must Reside in the County or Multi-County Jurisdiction

Farmers or ranchers who wish to run as nominees must reside in the LAA under either of the two circumstances below.

Farmers can find out which LAA they reside in by using FSA's locator tool on its website at:

<https://usdaonline.maps.arcgis.com/apps/instant/lookup/index.html?appid=coa64eda87824ce68fe36b5ad622d6ab>.

1. Single County Jurisdiction—Eligible in Local Administrative Area Where They Reside

If the farmer or rancher resides in a single county jurisdiction, they are eligible to be a nominee in the LAA where they reside.⁷²

2. Multi-County Jurisdiction—Eligible in Local Administrative Area Where Records Are Administered

If a farmer or rancher resides in a multi-county jurisdiction, or if a LAA or county boundary runs through the farmer's property, they are only eligible to be a nominee in the jurisdiction and LAA where their records are administered.⁷³

B. Must Participate in OR Cooperate with FSA Programs

Similar to the voter eligibility requirements, eligibility for nomination in a County Committee election requires that the farmer or rancher meet one of the following two criteria.

1. Participated in a USDA Program at Any Point in Past

At any point in the past, the farmer participated in a USDA program that was administered within an area under the jurisdiction of the County Committee.⁷⁴

⁷² 7 C.F.R. § 7.8(c) (2024).

⁷³ 7 C.F.R. §§ 7.8(c), 7.18(b)(2) (2024). For eligibility as a nominee in an urban area, *see* USDA FARM SERVICE AGENCY, Urban County Committee Election Fact Sheet (Aug. 2023) at 2, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_genurbanelecteligibilityfs_2023_web.pdf.

⁷⁴ 7 C.F.R. § 7.8(d)(1) (2024). Under FSA regulations, to “participate” means “to receive assistance, services, or benefits directly from USDA or from USDA indirectly through another governmental agency.” 7 C.F.R. § 7.3 (2024).

Alternatively, a farmer may “cooperate” by enrolling their farm with FSA, as described in the next subsection.

2. Cooperates with FSA—Meaning They Have Enrolled Their Farm with the FSA

By the deadline to submit nominations, the farmer “cooperates” with an FSA program, as evidenced in the FSA county office’s records.⁷⁵ FSA defines “cooperate” as “enroll[ing] a farming operation or agricultural property with a county office.”⁷⁶ Generally, getting an FSA Farm Number for a farm and providing requested farm information is how one enrolls.⁷⁷

FSA’s Fact Sheet explains that a cooperating farmer includes a farmer who has “provided information about their farming or ranching operation(s) but may not have applied [for] or received FSA program benefits.”⁷⁸

C. Implied Requirement—Must Be a U.S. Citizen or Legal Resident

To reside in the United States and participate in or enroll your farming operation in a USDA program, you generally need to be a U.S. citizen or a U.S. resident with a recognized immigration status.⁷⁹ There may be certain exceptions in certain programs that are beyond the scope of this Guide.

FSA’s Frequently Asked Questions on County Committee Elections states that a nominee must be a U.S. citizen.⁸⁰ However, the text of FSA’s official rules only requires that a person “reside” in an LAA and have participated in or currently cooperate in an FSA program in an area under the County Committee’s jurisdiction.

D. Disqualifying Circumstances

An otherwise-eligible nominee cannot run for a County Committee seat if they fall into any of the following categories.⁸¹

⁷⁵ 7 C.F.R. § 7.5(b)(2) (2024).

⁷⁶ 7 C.F.R. § 7.3 (2024).

⁷⁷ U.S. DEP’T OF AGRIC., Get Started at Your USDA Service Center, <https://www.farmers.gov/working-with-us/USDA-service-centers> (last accessed on Nov. 20, 2024) (noting that registering for a farm number enables farmer “to elect FSA officials to help prioritize programs in your county”).

⁷⁸ USDA FARM SERVICE AGENCY, County Committee Election Fact Sheet (June 2023) at 2, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

⁷⁹ See, for example, USDA FARM SERVICE AGENCY, FSA HANDBOOK: DIRECT LOAN MAKING (3-FLP), page 4-4, para. 64 (2nd revision, 2024).

⁸⁰ USDA FARM SERVICE AGENCY, County Committee (COC): Frequently Asked Questions for Stakeholders (June 2023) at 3, available at: https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_stakeholder_faqs_2023_web.pdf.

⁸¹ 7 C.F.R. § 7.18(b) (2024).

1. Participation in “Prohibited Political Activities”

If a farmer or rancher participates in prohibited political activities, as specified by FSA, they are ineligible to run or be elected as a County Committee member.⁸² County Committee members should consult with FSA before engaging in political activities.

2. Dishonorable Discharge from Military Service or Removal from Public Office

If a farmer or rancher has been dishonorably discharged from any branch of the armed services, or removed for cause from any public office, the farmer or rancher is not eligible to be a member of a County Committee.⁸³

The State Committee or the FSA Deputy Administrator for Field Operations has the authority to waive this disqualification rule.⁸⁴

3. Prior Felony or Other Conviction

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher has been convicted of fraud, larceny, embezzlement, or a felony offense.⁸⁵

The State Committee or the FSA Deputy Administrator for Field Operations has the authority to waive this disqualification rule.

4. Removal from Certain FSA County Office Positions

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher has been removed from the position of a County Committee member, alternate to a county office, or county office employee for a variety of reasons. Such reasons include: failure to perform the duties of the office; committing, attempting, or conspiring to commit fraud; incompetence; impeding the effectiveness of any program administered in the county; refusal to carry out or failure to comply with the USDA's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy; or for violation of official instructions.⁸⁶

The State Committee or the FSA Deputy Administrator for Field Operations has the authority to waive this disqualification rule.

5. Disqualification from Future FSA County Office Service

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher previously served as a County Committee member, alternate to any county

⁸² 7 C.F.R. § 7.18(b)(3) (2024).

⁸³ 7 C.F.R. § 7.18(b)(4) (2024).

⁸⁴ 7 C.F.R. § 7.18(b)(4) (2024).

⁸⁵ 7 C.F.R. § 7.18(b)(4) (2024).

⁸⁶ 7 C.F.R. § 7.18(b)(5) (2024).

office, or county employee, and has since been disqualified by the State Committee for future service as a County Committee member.⁸⁷

The State Committee or the FSA Deputy Administrator for Field Operations has the authority to waive this disqualification rule.

6. Employee of USDA

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher will be an employee of the United States Department of Agriculture during their County Committee term.⁸⁸ They can resign from USDA employment before assuming office.

7. Holds Another Office within FSA

Similar to No. 6, above, a farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher will also hold any of the following positions within FSA: (1) the secretary to the county committee; (2) a member of the State Committee; or (3) a county executive director or any other county office employee.⁸⁹ They can resign from such employment before assuming office.

8. Sales Agent or Employee of USDA's Risk Management Agency

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher is a sales agent or employee of the Risk Management Agency, or their affiliates, during the term of office.⁹⁰ They can resign from such employment before assuming office.

9. Current County Committee Member with One Year or More Remaining in Current Term

A farmer or rancher is not eligible to be a member of a County Committee if the farmer or rancher is already serving as a County Committee member with at least one year remaining in their current term of office. In other words, you cannot run for a Committee seat if you're already a member of a County Committee and your term is not expiring the year of the election.⁹¹

⁸⁷ 7 C.F.R. § 7.18(b)(6) (2024). A State Committee can disqualify a farmer or rancher from future service as a County Committee member if the farmer or rancher previously did any of the following: failed to perform the duties of such office or employment; committed, attempted, or conspired to commit fraud; impeded the effectiveness of any program administered in the county; in the course of their official duties, refused to carry out or failed to comply with the USDA's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy; or violated official instructions.

⁸⁸ 7 C.F.R. § 7.18(b)(7) (2024).

⁸⁹ 7 C.F.R. § 7.20(a) (2024).

⁹⁰ 7 C.F.R. § 7.18(b)(8) (2024).

⁹¹ 7 C.F.R. § 7.18(b)(9) (2024). There is no question that this disqualification applies within a single county or multi-county jurisdiction. A plain reading of the text also suggests that it applies even if a person holds a County Committee seat in another county or multi-county jurisdiction. However, the authors cannot say conclusively how FSA would interpret this rule.

10. Served Three Consecutive Terms as County Committee Member

A farmer or rancher is not eligible to be a member of a County Committee if—immediately prior to the current election—the farmer or rancher has served three consecutive terms as an elected or appointed County Committee member.⁹² A member will be considered to have served a term if that member served for a period of one and one-half years, or greater, of that term.⁹³

After a break in service of at least one year, a member who has previously served three terms may run for re-election or be re-appointed.⁹⁴

⁹² Uniform Guidelines, 70 Fed. Reg. at 2838, 2841; 7 C.F.R. § 7.18(b)(10) (2024).

⁹³ Uniform Guidelines, 70 Fed. Reg. at 2841.

⁹⁴ 7 C.F.R. § 7.18(b)(10) (2024).

XI. How to Become Nominated for Election

The following subsections describe the nomination process for a County Committee election.

A. Nominate Yourself or Another

Farmers and ranchers can nominate themselves, and eligible voters can nominate other farmers and ranchers.⁹⁵

B. Nomination by a Community Group Representing Socially Disadvantaged Farmers

Organizations representing socially disadvantaged farmers and ranchers may nominate any eligible candidate.⁹⁶ FSA State and county offices should solicit such nominations.

C. Both Nominee and Person Nominating Must Sign the Form

A nominee must sign the nomination form to certify their willingness to serve.⁹⁷ If a farmer is not self-nominating, then the person nominating must also sign the form.⁹⁸

D. Submitting the Nomination Form by Deadline

If hand-delivered, nomination forms must be delivered to the FSA county office on or before the nomination deadline.⁹⁹ If mailed to the county office, nomination forms must be postmarked on or before the deadline.¹⁰⁰

As discussed above in Section VII.B.2, the nomination period runs for six weeks after the official opening date.¹⁰¹

E. If No Nominees, FSA Must Appoint at Least Two

In the event that there are no nominee submissions, the following nomination process will occur.¹⁰² First, FSA notifies the USDA Secretary, who may nominate up to two eligible candidates. Second, if the Secretary declines to nominate anyone or nominates only one person, then the State Committee may nominate up to two candidates. Finally, after this process, if there are still less than two nominees, the County Committee must ensure there

⁹⁵ 7 C.F.R. § 7.8(f) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

⁹⁶ 7 C.F.R. § 7.8(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841. The definition of “socially disadvantaged farmer or rancher” is provided above in footnote 20 and at 7 C.F.R § 7.3 (2024).

⁹⁷ 7 C.F.R. § 7.8(f) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

⁹⁸ USDA FARM SERVICE AGENCY, Nomination Form for County FSA Committee Election (FSA-669A) (Apr. 18, 2024), <https://www.fsa.usda.gov/sites/default/files/documents/elections.pdf>.

⁹⁹ 7 C.F.R. § 7.8(a) (2024).

¹⁰⁰ USDA FARM SERVICE AGENCY, Nomination Form for County FSA Committee Election (FSA-669A) (Apr. 18, 2024), <https://www.fsa.usda.gov/sites/default/files/documents/elections.pdf>.

¹⁰¹ 7 C.F.R. § 7.8(a) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁰² Uniform Guidelines, 70 Fed. Reg. at 2841.

are at least two nominees. When doing so, the County Committee must include at least one person who represents the interests of socially disadvantaged farmers and ranchers.¹⁰³

F. USDA Secretary May Nominate an Eligible Socially Disadvantaged Farmer or Rancher

Regardless of the number of nominees, the USDA Secretary may nominate any eligible socially disadvantaged farmer or rancher.¹⁰⁴

¹⁰³ 7 C.F.R. § 7.9(c) (2024). The definition of “socially disadvantaged farmers and ranchers” is provided above in footnote 20 and at 7 C.F.R § 7.3 (2024).

¹⁰⁴ Uniform Guidelines, 70 Fed. Reg. at 2841. The definition of “socially disadvantaged farmer or rancher” is provided above in footnote 20 and at 7 C.F.R § 7.3 (2024).

XII. How to Get a Ballot and Vote

The subsections below describe the process for obtaining a ballot and casting a vote in a County Committee election.

A. Ballots Mailed Four Weeks Prior to Election

FSA must mail ballots to all eligible voters no less than four weeks prior to the date of the election.¹⁰⁵ Ballots are printed and mailed to eligible voters from a central location.

B. Anyone Can Request a Ballot

FSA must provide a ballot to anyone requesting one.¹⁰⁶ Voter eligibility is determined at the time of ballot counting, not at the time that someone requests or submits a ballot.¹⁰⁷

C. One Person, One Vote per County or Multi-County Jurisdiction

Each eligible voter may only cast one ballot per county or multi-county jurisdiction. If the eligible voter has farmland interests in multiple LAAs in a single county or multi-county jurisdiction, the farmer can only cast a ballot in one of those LAAs. If farmer has land interests in multiple jurisdictions, they may vote in each county or multi-county jurisdiction.¹⁰⁸

D. Completing a Ballot

Ballots will contain directions for completion. Generally, the person voting should indicate which nominee they are voting for, or write in an eligible candidate's name on the ballot. The voter should place the ballot in an FSA-provided envelope and then seal and sign the envelope.

E. Write-Ins Accepted

Voters may write in any eligible nominee's name.¹⁰⁹ A write-in candidate can serve as a voting member or an alternate (see Section XIII.D.3 below) if they receive adequate votes. A write-in candidate that wins must attest to their willingness to serve prior to being certified as member or alternate member.¹¹⁰

¹⁰⁵ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁰⁶ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁰⁷ Uniform Guidelines, 70 Fed. Reg. at 2839, 2841.

¹⁰⁸ 7 C.F.R. § 7.5(g) (2024); USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 1,

https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

¹⁰⁹ 7 C.F.R. § 7.11(f) (2024); Uniform Guidelines, 70 Fed. Reg. at 2839, 2841.

¹¹⁰ Uniform Guidelines, 70 Fed. Reg. at 2841.

F. No Voting by Proxy

Voting by proxy is not allowed. Eligible voters must personally complete and sign a ballot.¹¹¹

G. Where to Return Ballots

In general, ballots should be returned to the farmer's local FSA County Office via hand delivery or mail. There is one exception to that rule, as described in Subsection 2 below.

1. Default Location—Ballots Returned to the FSA County Office

The default location for submitting completed ballots is the farmer's local FSA county office, via either hand delivery or mail.¹¹²

2. Nominee May Request that FSA State Office Collect Ballots

A nominee may request that ballots be collected at the FSA State office.¹¹³ The USDA Secretary may also independently determine that this is necessary. In either situation, voters should mail ballots to the FSA State office as directed in the ballot instructions.

H. Deadline for Submitting Ballots—by Election Day

The voting deadline is the election day, which is the first Monday of December each year.¹¹⁴

For hand delivering a ballot, the ballot must be delivered on or before the election day.¹¹⁵ For mailing ballots, voters must postmark the envelope on or before the election day.

I. Ballots Kept Secret

FSA must keep all submitted ballots in a sealed ballot box until they are publicly counted, whether collected at the State or county office.¹¹⁶

Every voter's ballot is secret. Ballots should not be counted until all ballots of eligible voters are mixed together—without any voter identifying information—at the time of ballot counting.¹¹⁷

¹¹¹ 7 C.F.R. § 7.5(g) (2024).

¹¹² Uniform Guidelines, 70 Fed. Reg. at 2841.

¹¹³ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹¹⁴ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹¹⁵ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹¹⁶ Uniform Guidelines, 70 Fed. Reg. at 2841; 7 C.F.R. § 7.30(b) (2024).

¹¹⁷ Uniform Guidelines, 70 Fed. Reg. at 2839, 2841. The Uniform Guidelines explain that prior to mixing the sealed ballots together to be counted, the signatures on the return envelopes will be checked against the voter eligibility list to determine whether the ballot should be counted.

XIII. Who Counts the Ballots and Declares a Winner and Alternates

The following subsections describe how County Committee election ballots are counted and who becomes members or alternates.

A. Date, Time, and Location of Ballot Counting

Ballots must state the date, time, and location that votes will be publicly counted.¹¹⁸ The county office also must give ten calendar days' advance notice to the public of the date, time, and location of the vote counting.¹¹⁹

As noted in Section VII.A, ballot counting typically occurs in mid-December so that Committee members can take office on January 1st.

B. Ballot Counting Must Be Open and Accessible to Public

Ballot opening and counting must be fully open and accessible to the public for observing.¹²⁰

C. FSA County Offices Unseal and Count Ballots

Regardless of whether the FSA State or county office collects the ballot envelopes in a sealed ballot box, it is the FSA county office that unseals the ballot box and counts the ballots at the noticed time and location.¹²¹

The seal on the ballot box must not be broken prior to the public ballot counting. At that time, the counting officials must confirm that the signature on each envelope matches with an eligible voter. If so, the ballot is mixed with all other eligible ballots, and then they are all counted.

D. Winners, Alternates, and Tie-Breaking

Once ballots are counted, County Committee members are selected according to the following rules.

1. Nominee with Most Votes Wins and Becomes Member

The nominee with the most votes in a Local Administrative Area (LAA) wins the election and becomes the County Committee member for that LAA.¹²²

2. Alternates

The candidate receiving the second most votes is the first alternate, and the candidate receiving the third most votes is the second alternate.¹²³ In the case of temporary absence, resignation, disqualification, removal, or death of a member, an alternate

¹¹⁸ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹¹⁹ 7 C.F.R. § 7.10(d) (2024).

¹²⁰ Uniform Guidelines, 70 Fed. Reg. at 2841; 7 C.F.R. § 7.10(e) (2024).

¹²¹ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹²² 7 C.F.R. § 7.11(c) (2024).

¹²³ 7 C.F.R. § 7.11(c) (2024).

serves as a full voting member in order of their priority. The procedures for doing so are located at 7 C.F.R. § 7.14 (2024).

A lack of alternates in a regular election does not invalidate the election or require a special election to elect alternates.¹²⁴

3. Tie-Breaking

If there is a tie vote, then it is “settled by lot in a manner that is open to the public.”¹²⁵ One method for determining a winner “by lot” is drawing names from a hat or bowl.¹²⁶

E. Retention of Ballots for One Year

After counting the ballots, FSA county officials must place the ballots in sealed containers and keep them for one year unless otherwise determined by the FSA Deputy Administrator for Field Operations.¹²⁷

¹²⁴ 7 C.F.R. § 7.11(g) (2024).

¹²⁵ 7 C.F.R. § 7.13 (2024). While “lot” is not defined in the regulations or Uniform Guidelines, “Lot” in this context means “an object used as a counter in determining a question by chance.” Lot, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/lot> (last accessed Nov. 5, 2024).

¹²⁶ For an example of how a tie vote can be settled through drawing a name from a hat, see Adam Gabbat, *How to settle Virginia's election tie? By drawing names from a bowl (or a hat)*, THE GUARDIAN (Dec. 21, 2017, 12:49 PM EST), <https://www.theguardian.com/us-news/2017/dec/21/virginia-election-tie-winner-bowl-hat>.

¹²⁷ 7 C.F.R. § 7.30(b) (2024).

XIV. Challenging and Voiding Elections

The following subsections describe the processes of challenging and voiding elections. In this context, “voiding” means canceling the results of an election and then holding a new election.

A. Challenging an Election

Any nominee has the right to challenge the results of a County Committee election.¹²⁸ If a nominee wishes to challenge an election result, they may do so in writing, in person, or both.¹²⁹ The challenge must be conveyed orally or in writing to the County Committee within fifteen calendar days after the results of the election are posted.¹³⁰

The County Committee will provide a decision on the challenge to the challenging nominee within seven calendar days.¹³¹ If denied, the nominee can appeal to the State Committee within fifteen calendar days after they receive notice of the decision.¹³²

B. Voiding Elections in Response to Challenge or Error

A County or State Committee may void an election if a nominee successfully challenges an election.¹³³

A State Committee may also independently void an election for one of three reasons. First, a State Committee may void an election if there was an error.¹³⁴ Second, a State Committee may void an election it was not “held substantially in accordance with official instructions.”¹³⁵ Third, a State Committee may void an election if the number of eligible voters who casted ballots is “so small” that the election results are not representative of the views of a substantial number of eligible voters.¹³⁶

¹²⁸ 7 C.F.R. § 7.15(b) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹²⁹ 7 C.F.R. § 7.15(b) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³⁰ 7 C.F.R. § 7.15(b) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³¹ 7 C.F.R. § 7.15(c) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³² 7 C.F.R. § 7.15(d) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³³ 7 C.F.R. § 7.15(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³⁴ 7 C.F.R. § 7.15(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³⁵ 7 C.F.R. § 7.7(c) (2024).

¹³⁶ 7 C.F.R. § 7.7(c) (2024). The regulations do not provide any additional detail as to how this determination should be made or what constitutes a “substantial number” of eligible voters.

XV. Special Elections

If a County or State Committee declares an election void, a special election must be held by the county office.¹³⁷ The FSA State office must closely monitor the special election. A special election must be held according to the processes for a regular election, but with different dates.

A special election may also be declared to fill a vacancy on the County Committee when no alternates are available.¹³⁸ Alternatively, the State Committee may select an eligible person to serve out the remainder of the term for that vacant position.¹³⁹

¹³⁷ 7 C.F.R. § 7.15(e) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹³⁸ 7 C.F.R. § 7.14(b) (2024).

¹³⁹ 7 C.F.R. § 7.14(c) (2024).

XVI. Appointment of Socially Disadvantaged Farmers and Ranchers¹⁴⁰ to County Committees

USDA has the power to appoint socially disadvantaged farmers and ranchers as voting or advisory members on County Committees. The following subsections describe that power.

A. The USDA Secretary May Appoint Socially Disadvantaged Farmers and Ranchers as Voting Members

If the USDA Secretary determines that a significant population of socially disadvantaged farmers and ranchers exists in the county committee jurisdiction and that no member is elected from that socially disadvantaged population, the Secretary may appoint one eligible socially disadvantaged farmer or rancher as a new, additional voting member.¹⁴¹ Such appointees do not replace any elected members.

The Secretary may solicit nominations from socially disadvantaged farmers and ranchers and community groups that advocate on their behalf.¹⁴²

B. The State Committee May Appoint Socially Disadvantaged Farmers and Ranchers as Advisory Members

FSA State Committees may also appoint socially disadvantaged farmers as non-voting advisors to ensure that such farmers are fairly represented on a County Committee.¹⁴³ Anyone interested in serving as a County Committee advisor may submit their request in writing to the local FSA county office. Usually, FSA State Committees only appoint advisors who are recommended by County Committees or community-based organizations.¹⁴⁴

¹⁴⁰ As noted above in footnote 20, FSA defines a “socially disadvantaged farmer or rancher” as an individual or entity who is a member of a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups consist of: American Indians or Alaskan Natives, Asians, Blacks or African Americans, Native Hawaiians or other Pacific Islanders, Hispanics, and women. 7 C.F.R. § 7.3 (2024).

¹⁴¹ 7 C.F.R. § 7.17(b) (2024).

¹⁴² USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 4, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

¹⁴³ USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 4, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf. FSA appears to be using the term “underserved” interchangeably with “socially disadvantaged” in this context. The authors note that in other USDA contexts the term “underserved” is a broader term that includes not only socially disadvantaged farmers, but also beginning, limited resource, and veteran farmers.

¹⁴⁴ USDA FARM SERVICE AGENCY, FSA County Committee Election Fact Sheet (June 2023) at 4, https://www.fsa.usda.gov/sites/default/files/documents/fsa_coc_general_factsheet_2023_web.pdf.

XVII. Oversight, Reporting, and Accountability

Several guidelines exist to ensure that County Committee elections are carried out according to election rules and policies. The following subsections describe those guidelines.

A. Oversight of Election Communications

The FSA national office must provide specific written guidance to State and county offices on County Committee election outreach and communication efforts.¹⁴⁵ The national office also must develop partnerships with national organizations to assist in outreach efforts and “work closely” with the Office of the Assistant Secretary for Civil Rights in developing and implementing outreach policy and activities related to County Committee elections.

FSA State offices are responsible for ensuring that county offices are “taking all appropriate outreach and communication efforts.”¹⁴⁶ Such oversight should include follow-up visits to county offices.

B. Compliance Monitoring Process

FSA must use a “comprehensive monitoring process” to ensure compliance with the Uniform Guidelines and FSA regulations and directives on the County Committee election process. This monitoring should include “spot checks” on selected counties.¹⁴⁷ The authors are not aware of the details of such a process at the time of this publication.

C. Outreach Reporting Required Before Elections

Thirty days before the end of the nomination period, every county office must submit a report on their outreach efforts to the FSA Deputy Administrator for Field Operations.¹⁴⁸

D. Reporting of Election Results

Within twenty days after the election date, every County Committee must submit an election report on the results of its election to the FSA State and national offices.¹⁴⁹ At a minimum, the report must include:

1. The number of eligible voters in the Local Administrative Areas conducting elections;
2. The number of ballots cast by eligible voters (including the percentage of eligible voters that cast ballots);
3. The number of ballots disqualified in the election;
4. The ratio of total ballots disqualified to total ballots received;

¹⁴⁵ Uniform Guidelines, 70 Fed. Reg. at 2840.

¹⁴⁶ Uniform Guidelines, 70 Fed. Reg. at 2840.

¹⁴⁷ Uniform Guidelines, 70 Fed. Reg. at 2842.

¹⁴⁸ Uniform Guidelines, 70 Fed. Reg. at 2839.

¹⁴⁹ 7 C.F.R. § 7.16(a) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

5. The number of nominees for each seat up for election;
6. The race, ethnicity, and gender of each nominee; and
7. The final election results (including the number of ballots received by each nominee).¹⁵⁰

E. Reporting on Outreach Efforts and Compliance with Election Rules and Guidelines

Within ninety days of the election date, every County Committee must submit what FSA calls an “election reform report” to the FSA State and national offices.¹⁵¹ This report must include a detailed description of the County Committee’s outreach efforts as well as the Committee’s efforts to comply with the Uniform Guidelines and FSA regulations and directives on County Committee elections.

F. Compiling Election Results at FSA Headquarters

After each election, the FSA national office must compile the county election reports (Subsection D above) into a national election report to the USDA Secretary.¹⁵² FSA must provide this national election report to anyone requesting it. FSA also must post the national election report on its website.

The national election report must include election data on representation of socially disadvantaged farmers and ranchers on each County Committee.¹⁵³

At the time of this publication, national election reports from 2002 to 2021 are posted on FSA’s County Committee Elections webpage: <https://www.fsa.usda.gov/about-fsa/county-committee-elections>.

G. Review of Election Reports by FSA National Office

After reviewing the county election reports and the county election reform reports (see Subsections D and E, above), the FSA national office must provide feedback and guidance to FSA State and county offices.¹⁵⁴ This should include feedback and guidance on both the election process and outreach efforts.

The FSA national office must also prepare and submit an annual report to the USDA Secretary on election reform efforts, including recommendations on further improvements in the County Committee election process.¹⁵⁵ The report must include analysis of data on representation of socially disadvantaged farmers and ranchers.

¹⁵⁰ 7 C.F.R. § 7.16(b) (2024); Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁵¹ Uniform Guidelines, 70 Fed. Reg. at 2841-42.

¹⁵² Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁵³ Uniform Guidelines, 70 Fed. Reg. at 2841.

¹⁵⁴ Uniform Guidelines, 70 Fed. Reg. at 2841-42.

¹⁵⁵ Uniform Guidelines, 70 Fed. Reg. at 2842.

H. Future County Committee Election Reform Efforts

The Uniform Guidelines require USDA to consider additional efforts that would help ensure fair representation of socially disadvantaged farmers and ranchers in County Committee elections.¹⁵⁶ The Guidelines provide examples of what such efforts could entail, including compliance reviews of selected counties by USDA civil rights officers, consideration of at-large seats or cumulative voting for certain County Committees, and further centralization of the election process.

¹⁵⁶ Uniform Guidelines, 70 Fed. Reg. at 2842; 7 C.F.R. § 7.17(a) (2024).