GUIDELINES FOR VOTER ROLL MAINTENANCE

1.1 What is voter roll maintenance?

Voter roll maintenance is the process of purging ineligible individuals from the voter roll, amending inaccurate records, or adding names of voters who are eligible to vote and have properly registered to vote. Amending inaccurate records may include changing a voter's name after marriage, updating new address information or assigning new polling locations after a redistricting plan has been adopted and pre-cleared by the Department of Justice ("DOJ"). A properly maintained voter roll contains all of the names of eligible voters who have registered to vote in your county, together with their correct birth date and address information. A properly maintained voter roll does not contain the name of any voter who is ineligible to vote in your county. Voter roll maintenance is a continuous process; it is not a project that ends.

1.2 What is purging?

Purging is the process of removing the names of ineligible voters from your county's voter roll.

1.3 What is the responsibility of the Election Commissioners concerning voter roll maintenance?

Election commissioners are required to meet on a regular basis at the office of the Circuit Clerk to maintain the voter roll. Miss. Code Ann. Section 23-15-153.

Election Commissioners should use all legitimate sources of information to maintain the voter roll. They act as a group, through their minutes, which should be filed with the Circuit Clerk of the county. No individual commissioner may act upon his own initiative to effect a change in the voting status of any voter. However, individual commissioners may act to fulfill ministerial tasks associated with voter roll maintenance. Furthermore, the entire election commission is responsible for the maintenance of the entire

voter roll of the county. The duty and authority of each individual commissioner to act does not end at the boundaries of his or her own district.

Election Commissioners are required to meet on the first Tuesday after the second Monday in January every year, on the first Tuesday in the month immediately preceding the first primary election for congressmen in the years when congressmen are elected, on the first Monday in the month immediately preceding the first primary election for state, state district, legislative, county and county district offices in the years in which such offices are elected; and on the second Monday of September in years in which there is not a regularly scheduled general election in November. Miss. Code Ann. Section 23-15-153.

Election Commissioners may meet more often than this schedule, as prescribed by Mississippi statute to conduct business.

Election Commissioners are also responsible for hearing and resolving disputes concerning the denial of voter registration by a Circuit Clerk. If the dispute is resolved in favor of the applicant, the individual is placed on the voter roll by the election commission. This is the only instance in which the commission may place a name on the voter roll, this authority primarily vested in the Circuit Clerk/ Registrar.

1.4 What is the responsibility of the Circuit Clerk in voter roll maintenance?

The Circuit Clerk is the Registrar of voters in his or her county. The Registrar enters the names of voters onto the voter roll when those individuals properly complete and submit a voter registration application, either in person at the Registrar's office or by mail.

The Circuit Clerk is required to attend the regularly scheduled meetings of the election commission. The Circuit Clerk is also required to furnish the registration books and pollbooks to the commissioners to fulfill their responsibilities. Now that the voter roll is maintained in a centralized database, i.e., the Statewide Election Management System ("SEMS"), the

Circuit Clerk is required to provide to election commissioners all necessary passwords and access rights to SEMS.

The Circuit Clerk must give all assistance that he or she is capable of giving to the election commissioners to assist each in the revision of the voter roll, and voter roll maintenance.

1.5 What are the various voter registration statuses?

PENDING STATUS: An application which is not signed or is missing required identification information may be held in a pending status while the voter is contacted for additional information. Individuals may remain in pending status for twenty-five (25) days; however, after 25 days, the voter must be either rejected or made active, dependent upon the outcome of the investigation undertaken by the Registrar. The name of a pending voter will not appear on the pollbook printed from SEMS.

ACTIVE STATUS: A voter in active status may vote a regular ballot in every election. The name of all active voters will appear on the pollbook printed from SEMS. A voter in active status remains in active status indefinitely, until action is taken by the appropriate election commission.

INACTIVE STATUS: A voter in inactive status may vote only by affidavit ballot, and that ballot should be counted if the voter affirms that he remains living at the same address, or an address in the same precinct. The name of an inactive voter will not appear on the pollbook printed from SEMS. A voter in inactive status may be restored to active status by voting or by appearing to vote in an election. Conversely, a voter in inactive status may be purged from the voter roll if he or she does not vote in the two (2) federal elections immediately following the sending of a confirmation card by the election commission.

PURGED STATUS: A voter in purged status may vote by affidavit ballot but that ballot should not be counted. The name of a purged voter will

not appear on the pollbook printed from SEMS. A voter that has been properly purged may not be restored to active status by voting or appearing to vote in an election. However, a purged voter may re-register to vote.

1.6 What are the acceptable reasons for purging a voter from the voter roll?

Voters may be purged from the voter roll for 5 reasons:

1) A written request by the voter to be removed from the voter roll,
2) Conviction of a disenfranchising crime within the State of Mississippi,
3) Adjudication by a Court of incompetence,
4) Death, and
5) Moving his or her residence outside of the county or the State.

A VOTER MAY NOT BE PURGED FROM THE VOTER ROLL BASED SOLELY UPON INACTIVITY, OR HAVING FAILED TO VOTE.

1.7 What is the process for purging a voter from the roll?

A. Voter Initiated Request.

If a voter unequivocally requests by a signed writing to be removed from the voter roll, nothing further is necessary to remove that voter from the rolls. This request must be in writing, signed by the voter.

Once a commission has received an unequivocal request to be removed from the voter roll, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that point, the purging process is complete for that individual, and a new voter registration must be completed by the individual in order for him or her to be able to vote.

The National Voter Registration Act of 1993 ("NVRA") places no restriction upon when a voter may be purged from the voter roll based upon a voter initiated request.

B. Conviction of a Disenfranchising Crime.

If a voter is convicted of a disenfranchising crime, he or she must be purged from the voter roll. Not all crimes are disenfranchising crimes. Presently, the Attorney General has opined that there are twenty-two (22) disenfranchising crimes. A voter is disenfranchised only for a Mississippi state-court conviction of any one of these 22 crimes. A conviction of any one of these 22 crimes in another state, or in the federal courts, does not disenfranchise a voter.

The Circuit Clerk of every county is required to maintain a roll of individuals convicted of disenfranchising crimes in his or her respective county. The Circuit Clerk is authorized to . . .

It is recommended that you obtain for your files a copy of the judgment of conviction for every voter purged by reason of a disenfranchising crime. However, crime records imported quarterly to SEMS from the Administrative Office of Courts ("AOC") provide sufficient information upon which to purge a voter convicted of a disenfranchising crime.

If a voter is determined to have been convicted of a disenfranchising crime, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that point, the purging process is complete for that individual, and a new voter registration must be completed by the individual in order for him or her to be able to vote.

The NVRA places no restriction upon when a voter may be purged from the voter roll based upon conviction of a disenfranchising crime.

NOTE: There are three (3) means by which an individual may be restored of his or her voting rights following a conviction of a disenfranchising

crime: (1) the Legislature may vote to restore his or her voting rights, (2) the Governor may issue a full pardon, or (3) the Governor may issue an executive order which restores his or her voting rights.

C. Adjudication of Incompetence.

If an individual is incapable of handling his or her own affairs, an action in Chancery Court may be filed to declare (or adjudicate) that person incompetent. An examination of the Chancery Court docket may reveal legal actions filed to determine, and which do determine, incompetence. At the conclusion of the legal case, an Order may be filed by the Chancery Court Judge, which makes a factual determination as to the individual's competence. If the Chancery Court Judge enters an Order which adjudicates the individual as incompetent, a copy of this Order should be retained in your files as support for a decision to purge that individual from the voter roll. If you are unable to obtain a copy of the Court's Order, please note the file number of the Chancery Court case for future reference.

If a voter is determined to be incompetent by a Court Order, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that point, the purging process is complete for that individual, and a new voter registration must be completed by the individual in order for him or her to be able to vote. Any new voter registration application submitted by the individual should be supported by a subsequent Court Order determining the individual to be competent.

The NVRA places no restriction upon when a voter may be purged from the voter roll based upon a Court's declaration of incompetence.

D. Death.

Several reliable sources of information are available to determine whether a voter has died. In addition to the availability of death certificate files imported monthly to SEMS from the Mississippi Department of Health,

you may also utilize obituaries from a newspaper, records of estate matters filed in the Chancery Court, and any other legitimate source of information. It is important to keep a copy of all documentation relied upon by the commission to support a decision to purge a voter based upon death. However, the death certificate files imported to SEMS from the Mississippi Department of Heath provide sufficient information upon which to purge a voter.

If a voter has died, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that point, the purging process is complete for that individual.

The National Voter Registration Act ("NVRA") places no restriction upon when a voter may be purged from the voter roll based upon a voter's death.

E. Moving from the County or State.

Mississippi law requires that purging based upon a voter's change in residence is done in accordance with the National Voter Registration Act of 1993. A voter may be purged from the voter roll based upon a change in residence in only two (2) ways: (1) written confirmation by the voter of a change of residence, or (2) the confirmation card process.

1. Written Confirmation.

If the voter confirms ***in writing*** that he or she has moved to a residence outside of the county, he or she may be purged immediately from the voter roll. A common means by which you may receive notification in writing that a voter has changed residence is by virtue of the same voter's registration to vote in another county, or even perhaps, another state.

If you receive confirmation in writing that a voter has moved from your county, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that

point, the purging process is complete for that individual, and a new voter registration must be completed by the individual in order for him or her to be able to vote.

The NVRA places no restriction upon when a voter may be purged from the voter roll based upon written confirmation of a voter's change of residence.

2. Confirmation Card Process.

In the absence of written confirmation of a change of residence from the voter, the confirmation card process provides the only means by which to purge a voter from the voter roll based upon a voter's change of residence to a new address outside of the county or the State.

Election Commissioners may become aware of a voter's change of residence through many different sources of information. In addition to the import of NCOA files to SEMS from the United States Post Office, a deed may be filed with the Chancery Clerk of your county; a homestead exemption may be changed; a jury summons may be returned as undeliverable; or other mail may be returned to the Circuit Clerk. Many trustworthy sources exist and may be utilized by the election commission to trigger the confirmation card process. It is important to remember to document the particular source of information which triggered the confirmation card process.

A confirmation card is a postage pre-paid notice that is sent to the mailing address associated with the voter's registration. The confirmation card is sent by forwardable mail, and should include a pre-addressed return card. This return card allows the voter to confirm in writing that he or she has not changed his or her residence; has moved residence inside of the county; or has moved residence outside of the county.

To begin the confirmation card process, a motion should be made at a regular meeting to place that individual in an "inactive" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in an "inactive" status. At that point, the purging process has begun for

that individual, but is not complete. As an inactive voter, this individual is not obligated to complete a new voter registration application to vote. Instead, an inactive voter may vote by affidavit ballot at an election or contact his or her local election official, i.e., election commissioner(s), Registrar, to be restored to active status.

- If a voter returns a confirmation card indicating that his or her residence has not changed, no further action should be taken.
- If a voter returns a confirmation card indicating that his or her residence has moved within the same county, the address information should be corrected in SEMS, and the voter sent a new voter registration card, with proper precinct or polling place location.
- If a voter returns a confirmation card indicating that his or her residence has moved outside the county, the voter may be immediately purged from the voter roll because the confirmation card provides "written confirmation" of the voter's change of residence.

If a voter does not return a confirmation card, this voter may not be purged from the voter roll, but remains in an inactive status for two (2) federal elections occurring subsequent to the sending of the confirmation card. If the voter has neither voted by affidavit ballot in either of these 2 federal elections, nor contacted an election official within that same time period, only then may the voter be purged from the voter roll. After the second federal election, a motion should be made at a regular meeting to place that individual in a "purged" status. Upon a proper second and an affirmative vote of a majority of the quorum, the voter must be placed in a "purged" status. At that point, the purging process is complete for that individual, and a new voter registration must be completed by the individual in order for him or her to be able to vote.

The NVRA requires that you complete all programs to remove systematically the names of ineligible voters no later than ninety (90) days before an election. Thus, no voter may be purged based upon the

confirmation card process within ninety (90) days of an election. However, voters may be purged, as stated above, based upon a written request by the voter for removal from the voter roll, a conviction of a disenfranchising crime, declaration of incompetence by Court Order, death, or written confirmation of the voter of a change of residence outside of the county.

1.8 What can an election commissioner do by him or herself to maintain the voter roll?

Individual election commissioners may gather documentation or information to present to the commission that may support a decision of the commission to change the status of a voter. Individual commissioners may create and maintain files of that documentation and information. Individual commissioners may also engage in the ministerial task of processing information in SEMS to change the voting status of any voter, based upon the affirmative vote of a majority of a quorum of the entire commission. Lastly, individual commissioners may prepare and mail confirmation cards to voters, based upon the affirmative vote of a majority of a quorum of the entire commission.

Individual commissioners may not change the status of a voter unless the entire commission has considered and agreed upon the change by an affirmative vote of a majority of a quorum of the entire commission, as evidenced by the minutes of the meetings of the full commission.

1.9 Is there a recommended practice to maintain voter rolls?

The Office of the Secretary of State does not have the statutory authority to engage in the actual maintenance of the voter roll. However, our office is statutorily obligated to provide training to all election commissioners. In doing so, our office provides the following recommendation as guidance to you, subject to any independent legal advice you may receive.

During the time between official meetings of the election commission, individual commissioners should engage in ministerial tasks to complete

action directed at the previous meeting, such as changing the status of individual voters or sending confirmation cards, as agreed upon by the full commission by an affirmative vote by a majority of the quorum.

Also, individual commissions should be researching, reviewing and examining all legitimate sources of information in preparation for the next meeting of the commission. Through these sources of information, individual commissioners should document the names of any voters who should be considered for a change in status at the next meeting, and the reasons for the potential status change.

At the next meeting, each commissioner should present to the full commission a list of voters for consideration, together with the reason for the suggested status change and all supporting documentation. Motions are appropriate to accept, amend or reject the lists presented by the individual commissioners. If necessary, though, individual names of voters may be considered separately by the full commission.

The actions taken by the full commission should be recorded in the minutes and responsibility for completing the agreed-upon actions designating to individual commissioners. The actions taken by the commission should be made by motion, a second and thereafter, a vote of the quorum present at the meeting. Actions of the commission should be memorialized by the minutes of the meeting.

1.10 Conclusion.

Election commissions and individual election commissioners must be careful to maintain the voter roll in compliance with the Mississippi Election Code and the National Voter Registration Act of 1993. These legal requirements compel the removal of ineligible voters; however, the purging of ineligible voters must be done in accordance with the Mississippi Election Code and the NVRA. It is imperative that you avoid the wrongful removal of a voter's name from the voter roll. However, election commissioners are charged with the sole statutory responsibility of removing the names of ineligible voters. Please always remember, in instructing your poll workers,

that in the event an individual presents to vote and his or her name is not found on the pollbook, he or she may ALWAYS vote by an affidavit ballot.