County Executive Committee Training 2016

Mississippi Attorney General's Office

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Presidential Primary

- Presidential preference primary is held on the second Tuesday in March of each year in which a President of the U.S. is elected.
- Each political party which cast for its candidates in the previous presidential election for President and Vice President more than 20% of the total vote in the state may conduct a presidential preference primary.
- MCA Section 23-15-1081

Presidential and Congressional Primary

- In a year when the Presidential Primary is held, the congressional primary is held on the same day with a runoff 3 weeks after if necessary.
- MCA Section 23-15-1083
- The Congressional Primary is otherwise held on the first Tuesday in June.
- MCA 23-15-1031

Notice of party's intent to hold Presidential Preference Primary

- A State Party's Executive Committee must notify the Secretary of State if the party intends to hold a primary prior to December 1 in the preceding year
- The Secretary of State then issues a proclamation setting the date of the presidential and congressional and/or senate primary.
- MCA Section 23-15-1085

Presidential Primary Ballot

- The Presidential preference primary ballot shall contain the names of candidates "generally recognized throughout the United States or Mississippi" as a candidate for the nomination of President of the United States.
- The Secretary of State announces and distributes the list of candidates to be placed on ballot prior to December 15 in the year preceding the election. After announcement, the Secretary of State may add names but not delete unless a candidate withdraws or dies. MCA Section 23-15-1089

Candidate Petitions

- Other candidates for the presidential preference primary may qualify by filing a petition with the appropriate state executive committee after January 1 and before January 15.
- MCA Section 23-15-1093

Presidential Electors

- Slate of presidential electors is chosen at each party's state convention.
- MCA Section 23-15-771
- Mississippi has 6 electoral votes.
- Presidential and Vice-Presidential votes are actually cast for the electors. MCA 23-15-781

Presidential Electors

- Each candidate in the general election will submit affidavits from 6 prospective presidential electors. The ballot states "Presidential Electors For:"
- If their candidate wins, they travel to Jackson and cast their electoral votes for President and Vice-President.
- Their ballots are sent to the Congress, where they are counted.

Absentee Voters

- Receipt time of Absentee Ballots is expanded until closing of polls for President and Vice-President. MCA 23-15-731.
- Voters in your county who move outside of the county within 30 days of Presidential Preference Primary or the November 6 General Election can "come back" and vote in person or vote absentee for President/VP. You may need to print Presidential-Only ballots for them.

Other Election Matters

Duties of County Executive Committee

- Print ballots, appoint poll workers, train poll workers, deliver ballots and ballot boxes to polls, canvass and certify election results
- In an election year with local county races, the committee also reviews qualifications of party candidates and places names of those qualified on the ballot.

Agreement with County Election Commission

- MCA Section 23-15-266
- A county executive committee may enter into a written agreement with the county circuit clerk and county election commission to allow the clerk and commission to perform certain election duties on behalf of the executive committee.

Agreement with County Election Commission

- Duties which may be performed by the county election commission include: training poll workers, appointing poll workers, distributing ballot boxes and ballots, having ballots printed, and receiving and canvassing election returns.
- Miss. Code Ann. Sections: 23-15-239; 23-15-265; 23-15-267; 23-15-333, 23-15-335; 23-15-597

Voter ID

- Voters voting in person on election day or absentee in a circuit clerk's office are required to show photo ID before he or she may vote.
- If the voter does not have an ID, he/she may vote by affidavit ballot. The ballot may be processed if the voter presents a valid form of ID within 5 days to circuit clerk.
- MCA 23-15-563

Voter ID

- A voter who has a religious objection to being photographed is exempt from requirement.
- He/she must file an affidavit in the circuit clerk's office within 5 days of election affirming the exemption.
- MCA Section 23-15-563

Voter ID

- The intentional failure of an election official to require a voter to present ID is considered corrupt conduct under MCA Section 97-13-19
- MCA Section 23-15-563

Poll managers

- Three poll managers are appointed for each voting precinct. One is designated as the "bailiff."
- The bailiff must "keep the peace", prevent interference with the election, and insure unobstructed access to the polls for voters.
- MCA Section 23-15-241

30 Foot Rule

- A space 30 feet in every direction from the polls, or the room in which the election is held, shall be kept open and clear of all persons except the election officers and poll watchers.
- The bailiff enforces.
- MCA Sections 23-15-245; 577

150 Foot Rule

- It is unlawful for any candidate or his representative to post or distribute campaign literature within 150 feet of any entrance of the building wherein any election is being held.
- MCA Section 23-15-895

Selected Attorney General's Opinions on Elections Issues

Voter ID

Miss. Code Ann. Section 23-15-563 (5) states the intentional failure of an election official to require a voter to present identification as required by this section shall be considered corrupt conduct under Section 97-13-19. The penalty for one convicted of corrupt conduct under Section 97-13-19 is imprisonment in the penitentiary for a term not exceeding two years.

Voter ID cont'd

- Section 23-15-269 provides for a fine and penalties upon conviction of a an election official for willfully refusing or knowingly failing to perform any duty required of him by the election laws. (Hosemann, February 24, 2014).

Poll watchers/30 Foot Rule

- Section 23-15-245 requires the election bailiff to keep the prescribed space of thirty (30) feet in every direction from the polls, or the room in which the election is held, "open and clear of all persons" except election officials and two (2) challengers (poll watchers).
- Poll watchers only permitted in race in involving candidates, not issues.
- MS AG Op., Teel (March 6, 1992).

150 Foot Rule/Absentee voting

- Can campaign literature be posted within 150 feet of the entrance to a circuit clerk's office where absentee voting is taking place?
- The posting or distribution of campaign literature inside the courthouse (or other building wherein the circuit clerk's office is located) and within 150 feet of any entrance thereto during the absentee balloting period, is prohibited by Section 23-15-895.
- MS AG Op., Griffin (July 18, 2003).

Pollworkers

- MS AG Op., McDaniel (March 12, 2012)
- A poll worker who, in his official capacity, shows partiality in the conduct of an election is guilty of a crime and, upon conviction, shall be imprisoned in the penitentiary for a term not exceeding two years.

Party Executive Committees

- It is an inherent conflict of interest for members of a party executive committee to serve as poll workers in an election that their committee is conducting, therefore it is prohibited.
- MS AG Op. Brunini, (December 7, 2007).

Curbside Voting

- "Curbside Voting" has been practiced in Mississippi at least since 1959. The procedure is in compliance with a 1959 opinion, and would have the effect of furthering the stated purpose of the Federal Voting Accessibility for the Elderly and Handicapped.
- Curbside voting procedures are now recognized in state law. MCA Section 23-15-541.

Party Executive Committees

- Miss. Code Ann. Section 23-15-263 states that a county executive committee member shall be automatically disqualified to serve on the committee and considered to have resigned therefrom upon his qualification as a candidate for any elective office. A member of a county party executive committee should resign from the committee prior to qualifying as a candidate for any office that would disqualify him from serving on the committee. (Barton, October 3, 2014).

Party Executive Committees

- One who has a felony conviction of forgery in a court of the State of Mississippi and has not received a full pardon is not eligible to serve on a political party executive committee. Section 23-15-1054(3) specifically prohibits a convicted felon from serving on a county party executive committee. (Martinson, June 23, 2014).

Party Executive Committees

- May the chairperson of a party executive committee receive reimbursement from the county for attending elections training seminars?
- No. However, the chairperson of the committee may receive reimbursement from the executive committee of their respective political party pursuant to MCA 23-15-299(6).
- MS AG Op., Robinson (March 14, 2008).

Party Executive Committees

- If a person is a member of a county party executive committee, can he also serve as a county election commissioner?
- No.
- "The offices of party executive committee member and county election commissioner are incompatible since the election commission passes on certifications and other actions of the party executive committees."
- MS AG Op., Craig (February 28, 1984).

Party Executive Committees (felons)

- What are the legal implications for a convicted felon wishing to serve or one who is currently serving on a municipal, county or state executive committee?
- Section 23-15-1054(3) specifically prohibits a convicted felon from serving on a county party executive committee.

Party Executive Committees (felons) cont'd

- We have opined that since committees are statutorily created, they are generally viewed as quasi- governmental entities.
- They are statutorily required to conduct primary.
- Membership on committees constitutes serving in a position of public trust and subject to the provisions of Section 44 of the Mississippi Constitution.
- MS AG Op., Martinson (June 22, 2014)

Party Executive Committee

- If a municipal party executive committee does not exist, who conducts the municipal primary?
- A county executive committee may serve as the temporary municipal executive committee and exercise all duties of the municipal executive committee. A new municipal executive committee shall be selected before the next municipal election.
- MCA 23-15-313; MS AG Op., Barton (April 4, 2013)

Thank you.

- Opinions available on our web site at : www.ago.state.ms.us