MUNICIPAL ELECTIONS

Improving elections and our communities

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Municipal Election Handbook

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1.1 Who is in Charge?

Primary Elections

Municipal Party Executive Committees are responsible for conducting all Primary Elections. Municipal Election Commissions have no authority to conduct Primary Elections for the parties. (Miss. Code Ann. §23-15-263 (1972))

Each Executive Committee shall have as many members as there are elected officers of the municipality. Members of the Executive Committee of each political party are elected in the Primary Election – their names are on the party primary ballot. Candidates for Executive Committee must complete a candidate qualifying form and submit it to the Municipal Clerk by the qualifying deadline for candidates for municipal elected offices. Vacancies on the Executive Committee are filled by the remaining Committee members. (Miss. Code Ann. §23-15-171 (1972))

A political party in any municipality which does not have a party Executive Committee may establish a temporary Committee to conduct a primary election and to serve until a permanent Committee is elected in the primary. The following steps are spelled out in Miss. Code Ann. §§23-15-313 and 315 (1972):

1. Five (5) or more residents of the municipality who are members of the political party desiring to establish a municipal executive committee conduct a primary shall petition the Chairman of the County Executive Committee of the party.

2. The County Chairman shall call a "mass meeting" of the voters of that political party who reside in the municipality. The meeting should be held at a convenient time and place within the municipality designated in the call.

3. For three (3) weeks preceding the date set for the meeting, the Chairman of the County Executive Committee must publish a copy of his/her call in some newspaper published in the municipality. If no newspaper is published in the municipality, then the Chairman of the County Executive Committee should publish a copy of his/her call in some newspaper having general circulation in the municipality and post notices of the meeting in three (3) public places in the municipality, one (1) of which shall be city hall or be the regular location where the municipal governing authority meets to conduct business not less than three (3) weeks before the date of the meeting.

4. At the "mass meeting," the party members shall select a temporary Municipal Executive Committee to serve until the next Primary Election when the permanent Executive Committee will be elected.

General and Special Elections

Municipal Election Commissioners are responsible for conducting all general and special elections. The number of Commissioners that a municipality should have is based on its population. Municipalities with less than twenty-thousand (20,000) residents based upon the last federal decennial census should appoint three (3) Commissioners; municipalities with more than twenty-thousand (20,000) but fewer than one hundred thousand (100,000) residents should appoint five (5) Commissioners; and municipalities with one hundred thousand (100,000) residents or more should appoint have seven (7) Commissioners. (Miss. Code Ann. §23-15-221 (1972))

Written Agreements and "Safety Net" Provisions

Municipal Party Executive Committees may enter into written agreements with Municipal Election Commissions or Municipal Clerks to perform certain specified duties in a Primary Election where the political party with which such municipal executive committee is affiliated (a) has cast for its candidate for Governor in the last 2 gubernatorial elections 10.0% of the total vote cast for governor; or (b) has cast for its candidate for Governor in 3 of the last 5 gubernatorial elections 25.0% of the total vote cast for Governor. The six major areas concerning primaries that may be performed by Election Commissions or Municipal Clerks following the timely signing of such agreements are:

1) Appointing of Poll Managers;
2) Training of Poll Managers;
3) Distributing ballot boxes;
4) Printing ballots;
5) Distributing ballots to Poll Managers; and
6) Canvassing and certifying the election.

Miss. Code Ann. §§23-15-239(2), 23-15-265(2), 23-15-266; 23-15-267(4), 23-15-333(4), 23-15-335(2), and 23-15-597(2) (1972).

Agreements between an election commission and a party executive committee may contain provisions whereby the executive committee agrees to compensate the election commissioners. Robertson, Oct. 12, 2001, A. G. Opinion 01-0638.

The Municipal Clerk shall have the authority to contact the chairman and secretary of the Election Integrity Assurance Committee of the appropriate state executive committee if a Municipal Executive Committee fails to timely perform the duties required of it by Miss. Code Ann. §§23-15-239, 23-15-265, 23-15-267, 23-15-333,23-15- 335, and 23-15-597 (1972).

1.2 Voter Roll Maintenance and Purging

One of the most important duties of Election Commissions is maintaining accurate voter rolls and pollbooks. Voter roll maintenance is the duty of the Election Commission and shall be completed in accordance with the schedule set forth in Miss. Code Ann. § 23-15-153 (1972).

Voter roll maintenance, sometimes referred to as "purging" is addressed by Miss. Code Ann. § 23-15-153. The code specifically states that names of persons who have died, who are erroneously listed on the books, or those who have been disqualified as electors for any cause shall be removed from the municipal voter rolls and pollbooks. Voters can be removed from the voter rolls for five reasons: (1) a voter may ask to be removed from the voter rolls; (2) a voter may be convicted of a disenfranchising crime in the State of Mississippi; (3) a voter may be declared incompetent by a court; (4) death; and (5) if a voter moves outside the territorial limits of the voting jurisdiction.

It is important to note that purging based on a change of residence must be conducted in accordance with the National Voter Registration Act of 1993 (NVRA), 42 USC § 1973gg-6. If the Election Commission can obtain a written confirmation from a voter that he has changed residence, that voter may be immediately purged from the voter rolls. If there is no written confirmation, the Election Commission must mail a confirmation card to that voter. If the voter does not respond to the confirmation card, he can be placed on the inactive voter list and required to vote by affidavit ballot. If two federal general elections have passed since the confirmation card was sent, and he did not appear to vote, that voter can be purged from the voter rolls.

Lastly, municipalities should maintain a working relationship with their County Election Commissions. This will facilitate the exchange of pertinent voter information which may assist in maintaining accurate voter rolls.

1.3 Dates of Elections

The dates of Primary and General Elections for code charter municipalities are specified in Miss. Code Ann. §§23-15-171 and 23-15-173 (1972). Currently, municipal primaries are held on the first Tuesday in May, and run-offs, if necessary, are held the third Tuesday in May. General municipal elections are conducted on the first Tuesday after the first Monday in June in 2013 and every four (4) years thereafter.

If a political party has a Municipal Executive Committee and candidates qualify to run in the party primary, the Primary Election(s) must be conducted on the above date(s) unless a special or private charter provides otherwise.

All municipalities must conduct the General Election on the above date unless a special or private charter provides otherwise. If there is but one person who has qualified to be a candidate for anoffice in the general election, the name of such person must be placed on the ballot. However, if there is but only one person qualified to be a candidate

for each office on the general election ballot, the general election need not be held, and the municipal election commission may declare each candidate elected without opposition. § 23-15-361(6), Miss. Code Ann. (1972).

1.4 Qualifying Procedures for Candidates

Party Candidates in Primary Elections

In order for a person to be a candidate for his/her party's nomination in a municipal primary election, he/she must:

1. Pay a filing fee of ten dollars ($10.00) to the Municipal Clerk by 5:00 p.m., at least sixty days prior to the first primary election. (Miss. Code Ann. §23-15-309(1) (1972))

2. Submit to the Municipal Clerk a written Statement of Intent containing the name and address of the candidate the party with which the candidate is affiliated, and the office the candidate is seeking. (Miss. Code Ann. §23-15-309(2) (1972))

The Municipal Clerk must give the candidate a receipt for payment of the filing fee and keep an itemized account showing the date and time of the payment, the name of the person from whom the payment was received, the party with which the candidate is affiliated, and the office the candidate is seeking. (Miss. Code Ann. § 23-15-309(3)(1972)). For auditing purposes, the Clerk should request that candidates pay the filing fee by check made out to the appropriate Municipal Executive Committee, instead of accepting cash.

The Municipal Clerk must forward the Statement of Intent and the filing fee to the Secretary of the proper Executive Committee.

Independent Candidates in General Elections

In order for a person to be an independent candidate in a municipal general election, he/she must file a petition with the Municipal Clerk by 5:00 p.m. on the same day by which candidates for nomination in the municipal primary elections are required to pay the fee – at least 60 days prior to the first primary election.

The petition must be signed by at least fifty (50) qualified voters of a municipality or ward, if the municipality or ward has a population of one thousand (1000) residents or more. The petition must be signed by at least fifteen (15) qualified voters of a municipality or ward, if the municipality or ward has a population of fewer than one thousand (1000) residents. (Miss. Code Ann. §23-15-361 (1972))

1.5 Additional Requirements of Candidates

In addition to complying with the requirements outlined above, candidates have certain other requirements that must be met after they have formally qualified.

Statement of Economic Interest

Candidates for municipal office must complete and file with the State Ethics Commission a Statement of Economic Interest within fifteen (15) days of becoming a candidate for public office.

Incumbent public officials must file such a statement before May 1st of each year.

The forms and instructions should be available in the Municipal Clerk's office, or may be obtained directly from the State Ethics Commission (601-359-1285).

Campaign Finance Disclosure

Candidates for municipal office must file Campaign Finance Disclosure Reports with the Municipal Clerk.

The reports must identify by name, mailing address, occupation, and employer every person or business entity that contributes in excess of two hundred dollars ($200.00) in support of the candidate for office. The reports also must identify those individuals or business entities to whom campaign expenditures are made in support of the candidate in excess of two hundred dollars ($200.00).

The two hundred dollar ($200.00) amount is cumulative. Once the total amount of **all contributions from any one source** or **expenditure to a single individual or business** exceeds $200.00, such contributions or expenditures become reportable. (Miss. Code Ann. §23-15-807 (1972))

Reporting Schedule for Candidates Running in Both the Primary and General Elections

Actual calendar reporting dates can be found on the Secretary of State's Campaign Finance reporting forms, in the annual Campaign Finance Disclosure booklet, or the Elections Calendar.

Pre-Primary Report: All primary candidates required to file.

Pre-Run-off Report: Run-off candidates only required to file.

Pre-Election Report: All candidates required to file

Forty-Eight (48) Hour Report: These reports shall be submitted to the Municipal Clerk within forty-eight (48) hours of the receipt of a reportable contribution that occurs within the time frame after the tenth (10th) day, but more than forty-eight (48) hours before 12:01 a.m., on the day of the election. (Miss. Code Ann. §§23-15-805 and 807 (1972))

NOTE: If a candidate is eliminated in the first primary and does not file a termination report, he/she must file all periodic reports until a termination report is filed.

Termination Report: This is the final report that terminates a candidate's obligation to make any further reports. This report can be filed only when the candidate states that he/she will no longer receive contributions or make expenditures, and that he/she has no outstanding debts or obligations as a candidate. Any of the pre-election reports may be designated as the termination report if the candidate truthfully can make the required statement at the time. If no termination report is filed, the candidate will be legally required to file a report on January 31st of each year until a termination report is filed. (Miss. Code Ann. § 23-15-807 (1972)).

Candidates should obtain campaign finance disclosure reporting forms from their Municipal Clerk. The Secretary of State's Office provides campaign finance reporting forms to the Municipal Clerk.

Reporting Schedule for Candidates Running in the General Election Only

Pre-Election Report: All general candidates required to file.

Termination Report: This is the final report that terminates a candidate's obligation to make any further reports. This report can be filed only when the candidate states that he/she will no longer receive contributions or make expenditures, and that he/she has no outstanding debts or obligations as a candidate. Any of the pre-election reports may be designated as the termination report if the candidate truthfully can make the required statement at the time. If no termination report is filed, the candidate will be legally required to file a report on January 31st of each year until a termination report is filed.

Candidates should obtain campaign finance disclosure reporting forms from their Municipal Clerk. The Secretary of State's Office provides campaign finance reporting forms to the Municipal Clerk.

1.6 Preparation of the Ballot

Ruling on Candidate Qualifications

1. *Party Candidates in Primary Elections.*

After the candidate-qualifying deadline, the Executive Committee must meet and review the qualifications of all candidates who file a Statement of Intent and pay the required filing fee. In the case of each candidate, the Committee must make the following determinations:

A. The candidate is a qualified voter and resident of the county and municipality (and ward if the office sought is elected from a ward).

B. The candidate meets all other qualifications to hold the office he/she is seeking or presents absolute proof that he/she will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he/she could be elected to office.

C. The candidate has not been convicted in a Mississippi state court of bribery, perjury or other infamous crime, being a crime punishable by confinement in the state penitentiary (including all felonies); or convicted in a federal court of a felony or convicted in the court of any other state of offense which is a felony under the laws of the state of Mississippi (other than manslaughter or any violation of the Internal Revenue Code or other tax law violations, unless such offense also involved misuse or abuse of his/her office or money coming into his/her hands by virtue of his/her office) after December 8, 1992. (Section 44, as amended, Miss. Constitution of 1890)

If the Committee finds that the candidate is not a qualified voter, does not meet the qualifications to hold office, or has been convicted as described above without being pardoned, then the name of that candidate shall not be placed on the ballot.

If there is only one qualified candidate for a particular office, the Committee must declare that candidate to be the party's nominee. (Miss. Code Ann. §23-15-309 (1972))

2. Party Nominees and Independent Candidates in General Elections.

The Election Commission is responsible for determining the qualifications of party nominees and independent candidates, and preparing the ballot for a General Election in the same manner as the Executive Committee determines the qualifications of candidates and prepares the ballot in Primary Elections. (Miss. Code Ann. §§23-15-309, 23-15-361 (1972))

Printing the Ballot

1. Primary Elections

A. Order of Candidates' Names: Each Executive Committee is responsible for Primary Elections. The ballots must contain the names of all qualified

candidates for each office in alphabetical order. (Miss. Code Ann. §23-15-333(1) (1972))

B. Write-In Provisions for Primary Elections: On ballots for Primary Elections, there must be one (1) blank space under the title of each office. In the event of the death of any candidate whose name should have been printed on the ballot, the name of a candidate substituted in the place of the deceased candidate may be written in such blank space by the voter. (Miss. Code Ann. §23-15-333 (1972))

2. General and Special Elections

A. Order of Candidate's Names: Each Municipal Election Commission is required to designate one (1) Commissioner to be responsible for having the ballots printed for General and Special Elections. (Miss. Code Ann. §23-15-361 (1972)) The order in which the titles of various offices shall be printed, the arrangement of the names of candidates, and the size, print, and quality of paper of the official ballot is left to the discretion of the Commissioner designated to have the ballots printed. (Miss. Code Ann. §23-15-367 (1972))

B. Write-In Provisions for General and Special Elections: On ballots for General and Special Elections, there must be one (1) blank space under the title of each office. In the event of the death, resignation, withdrawal, or removal of any candidate whose name should have been printed on the official ballot, the name of the candidate substituted in the place of such candidate may be written in such blank by the voter. (Miss. Code Ann. §23-15-365 (1972))

3. Candidate Withdrawals

A candidate nominated for office may omit his name from the ballot by written request made at least ten (10) days prior to the election. However, a candidate cannot withdraw after the ballot has been printed. (Miss. Code Ann. §23-15-363 (1972))

Preparing Absentee Ballots

State law requires that absentee ballots be prepared and printed as soon as the qualification of candidates has passed or forty-five (45) days prior to the election, whichever is later. Absenteee voter ballots shall be printed on tinted paper of a tint different from that of the regular official ballot, but in all other respects, be identical to the regular official ballot. (Miss. Code Ann. §23-15-649 (1972))

1.7 Absentee Balloting

Who is Eligible?

The following categories of registered voters are eligible to cast an absentee ballot in Mississippi elections:

1. Members of the Armed Forces, spouses or dependents of such members;

2. Members of the Merchant Marine or the American Red Cross, spouses or dependents of such members;

3. Disabled war veterans who are patients in any hospital, spouses or dependents of such veterans;

4. Civilians attached to any branch of the Armed Forces, Merchant Marine, or American Red Cross and serving outside the United States, spouses or dependents of such civilians;

5. Persons temporarily residing outside the territorial limits of the United States and the District of Columbia;

6. Students, teachers, or administrators whose employment or studies necessitate their absence from their counties of voting residence, spouses or dependents who maintain a common domicile outside the county of voting residence with such students, teachers, or administrators;

7. Persons who will be outside their counties of residence on election day;

8. Persons temporarily or permanently physically disabled;

9. Persons sixty-five (65) years of age or older;

10. Parents, spouses, or dependents of persons having a temporary or permanent physical disability who are hospitalized outside their counties of residence or more than fifty (50) miles away from their residences if the parents, spouses, or dependents will be with such persons on Election Day;

11. Members of the Mississippi Congressional delegation, spouses or dependents of such members;

12. Persons required to be at work on election day during the times at which the polls will be open. (Miss. Code Ann. §§23-15-627 and 713 (1972))

Procedure for Absentee Balloting

1. *Application for Absentee Ballots; Summary Requirements.*

   A. Absentee ballot applications shall be furnished by the Municipal Clerk to a person upon the oral or written request of the elector who seeks to vote by absentee ballot;

   B. The registrar may accept requests for absentee ballots by telephone. § 23-15-657, Miss. Code Ann. (1972).

   C. The following absent voters may use a properly executed federal postcard application to request a ballot, to register to vote, or to do both simultaneously:

      - Any member of the U. S. Armed Forces, components or divisions thereof, his/her spouse and dependents;
      - Any member of the Merchant Marine and the American Red Cross, his/her spouse and/or dependents;
      - Any disabled war veteran who is a patient in any hospital and who is a citizen of Mississippi, his/her spouse and dependents;
      - Any civilian attached to and serving outside of the U. S. with any branch of the Armed Forces, or with the Merchant Marine or American Red Cross, who is a citizen of Mississippi, his/her spouse and dependents;
      - Any citizen of Mississippi temporarily residing outside the territorial limits of the U. S. and the District of Columbia;
      - Any citizen of Mississippi enrolled as a student at the U. S. Military Academy. § 23-15-677, Miss. Code Ann. (1972).

   D. The parent, child, spouse, sibling, legal guardian, those empowered with a power of attorney for the elector's affairs, or agent of the elector may orally request an application on behalf of the elector;

   E. An absentee ballot application must have the seal of the registrar affixed to it and be initialed by the registrar or deputy registrar in order to be utilized to obtain an absentee ballot;

   F. A reproduction of an absentee ballot application shall not be valid unless it is a reproduction provided by the office of the registrar of the jurisdiction in which the election is being held and which contains the original seal and initials of the registrar or deputy registrar;

   G. Third parties procuring applications for others must sign the application and print on the application his or her name and address and the name of the elector for whom the application is being requested in the place provided for on the application for that purpose.

H. If the third party acquiring an application for another cannot read or write, then the registrar shall write the information on the printed form; however, the third party is obligated to place his mark on the form after it has been completed by the registrar.

I. The application for an absentee ballot of a person who is permanently physically disabled shall be accompanied by a statement signed by such person's physician, or nurse practitioner, which statement must show that the person signing the statement is a licensed, practicing medical doctor or nurse practitioner and must indicate that the person applying for the absentee ballot is permanently physically disabled to such a degree that it is difficult for him/her to vote in person. § 23-15-629(1), Miss. Code Ann. (1972).

J. An application accompanied by the statement described herein at subparagraph G. entitles a permanently physically disabled person to automatically receive an absentee ballot by mail for all elections on a continuing basis without need for reapplication. This entitlement pertains only to those persons permanently disabled. § 23-15-629(2), Miss. Code Ann. (1972).

K. Applications must be notarized ("sworn to and subscribed") by an official authorized to administer oaths for absentee balloting. Applications of person temporarily or permanently disabled need not be notarized or signed by an official authorized to administer oaths for absentee balloting. The signature of the applicant, however, must be witnessed by a person 18 years of age or older, who does not have to be a registered voter.

2. Voting in the Municipal Clerk's Office.

All eligible absentee voters may cast their ballots in the Municipal Clerk's office by completing the appropriate application form in the Municipal Clerk's office. §§ 23-15-717, 23-15-719, Miss. Code Ann. (1972).

Any eligible absentee voter is entitled to request and to receive assistance in the marking of his/her ballot. Any person may assist the absentee voter, excluding, however, the voter's employer, agent of the voter's employer or an officer or agent of the voter's union.

Any person who provides assistance is required to sign and complete the "Certificate of Person Providing Voter Assistance" form on the back of the envelope used by an absentee voter.

3. Voting by Mail.

Eligible absentee voters may apply for an absentee ballot by mailing the appropriate application to the Municipal Clerk if they are unable to come to the Municipal Clerk's office to vote because they are:

A. Temporarily residing outside the county;

B. Temporarily or permanently physically disabled;

C. Sixty-five (65) years of age or older; or,

D. The parents, spouses, or dependents of temporarily or permanently physically disabled persons who are hospitalized outside of their counties of residence or more than fifty (50) miles away from their residences if the parents, spouses, or dependents will be with such persons on election day.

Any eligible absentee voter who is blind, temporarily or permanently physically disable or cannot read or write is entitled to request and to receive assistance in the marking of his/her ballot. Any person may assist the absentee voter, excluding, however, the voter's employer, agent of the voter's employer or an officer or agent of the voter's union.

Any person who provides assistance is required to sign and complete the "Certificate of Person Providing Voter Assistance" form on the back of the envelope used by an absentee voter.

A candidate whose name appears on the ballot cannot be an attesting witness for an absentee ballot.

Military and Overseas Voters

Military and overseas voters frequently use the Federal Post Card Application (FPCA) to request absentee ballots. § 23-15-677, Miss. Code Ann. (1972).

FPCA may be received by electronic facsimile (fax) and electronic mail (e-mail). Likewise, absentee ballots and balloting materials may be sent, and voted absentee ballots and completed Federal Write-In-Absentee Ballots may be received by fax and e-mail. If the voter does not indicate a preference, delivery of the absentee ballot and balloting materials shall be made by mail. No other faxing of absentee ballot applications or absentee ballots is permissible. (Miss. Code Ann. §23-15-699 (1972))

Military personnel and overseas voters who request an absentee ballot but do not receive the absentee ballot in time for it to be returned in time to be counted may use the Federal Write-in Absentee Ballot (FWAB), which may be used for general, special, primary and run-off elections for local, state, and federal offices. (Miss. Code Ann. §23-15-692 (1972), 42 USCS 1973 ff-2)

For military and overseas voters, one application for an absentee ballot shall serve as a request for an absentee ballot for The next federal general election, including all primary elections associated with the election; and all state and county primary and general elections that occur after receipt of the application through the date of the next federal general election. (Miss. Code Ann. §23-15-687 (1972))

When a primary, general, or special election may be followed by a run-off, the Municipal Clerk shall send to the requesting military or overseas absentee voter both ballots and both return envelopes for both elections at the same time. The ballot for the second election shall be identical to the ballot for the first election except that it shall be printed on a different tint of paper and shall be styled or labeled to show which ballot is for the first primary and which ballot is for the second primary. If the voter casts a vote for a candidate on the second election ballot that is no longer a candidate in the second election, then the vote for that particular office in the second election is disregarded. (Miss. Code Ann. §23-15-683 (1972))

When Absentee Ballots May Be Cast

1. *First Primary Election*

   A. Voting in the Municipal Clerk's office – The first day for voting absentee ballots in the Municipal Clerk's office is the forty-fifth (45th) calendar day before the election. The deadline for casting such ballots is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days. If the voter appears before the Municipal Clerk, and the ballot has not yet been printed forty-five (45) days before the election, the Municipal Clerk shall mail the absentee ballot to the voter. (Miss. Code Ann. §§23-15-637, 23-15-715(a) (1972))

   B. Voting by Mail – Absentee ballots to be voted by mail must be available forty-five (45) days prior to the election. The deadline for receipt of absentee ballots mailed to the Municipal Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. §23-15-721 (1972))

2. *Second Primary Election*

   A. Voting in the Municipal Clerk's office – Second primary absentee ballots to be voted in the Municipal Clerk's office should be available as soon as possible after the first primary. The deadline for casting such ballots is 12:00 p.m. (noon) on Saturday immediately preceding elections held on the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days. (Miss. Code Ann. §§23-15-637, 23-15-715(a) (1972))

B. Voting by Mail – Absentee ballots to be voted by mail should be available for the second primary as soon as possible following the first primary. It is the position of the Secretary of State's Office that it is permissible to use the first primary ballot for second primary absentee balloting **provided** the names of the candidates who were eliminated are blackened out. The deadline for receipt of absentee ballots mailed to the Municipal Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. §23-15-721 (1972))

3. General Election

A. Voting in the Municipal Clerk's office – The first day for voting general election absentee ballots in the Municipal Clerk's office is the forty-fifth (45th) day before the general election. The deadline for casting absentee ballots in the Municipal Clerk's office is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days. If the voter appears before the Municipal Clerk and the ballot has not yet been printed forty-five (45) days before the election, the Municipal Clerk shall mail the absentee ballot to the voter.

B. Voting by Mail – Absentee ballots to be voted by mail must be available forty-five (45) days prior to the election. The deadline for receipt of absentee ballots mailed to the Municipal Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. §23-15-721 (1972))

Hand Delivery of Absentee Ballots Prohibited

Unless an absentee ballot is being properly voted in the Municipal Clerk's office, it must be mailed by the Municipal Clerk to the voter and the voter must return the voted absentee ballot by mail to the Municipal Clerk. (Miss. Code Ann. §23-15-735 (1972))

1.8 Poll Managers

"Poll Managers" are sometimes referred to as "Poll Workers." The Mississippi Code only uses the term "Poll Manager(s)," which will be used in this handbook.

Number of Poll Managers to Appoint

The chart below provides a breakdown based on the number of registered voters per precinct:

Registered Voters in a Precinct	Minimum Number of Poll Managers per Precinct	Maximum Number of Optional Poll Managers per Precinct	Maximum Number of Poll Managers per Precinct
0-500	3	3	6
501-1500	3	6	9
1501-2500	3	9	12
2501-3500	3	12	15
3501-4500	3	15	18
4501-5500	3	18	21

(Miss. Code Ann. §§23-15-231 and 235 (1972))

A minimum of three (3) qualified electors shall be appointed by the commissioners as managers of the election for each precinct. Additional Poll Managers may be appointed as set out in the chart above, in accordance with Miss. Code Ann. § 23-15-235. If there is only one (1) election precinct in a municipality, three (3) Municipal Party Executive Committee Members themselves shall act as Managers for the Primary Election(s). In such a municipality, three (3) Municipal Election Commissioners shall act as Managers for a General or Special Election. (Miss. Code Ann. §23-15-231 (1972))

Qualifications of Poll Managers

Anyone appointed as a Poll Manager must be a registered voter of the municipality in which he/she is to serve. Poll Managers should be, but are not required to be registered voters of the precinct in which they are to serve. (Miss. Code Ann. §23-15-231 (1972))

When to Make Appointments of Poll Managers

Poll Managers must be appointed far enough in advance of the election so that training can be provided no less than five (5) calendar days prior to the election. (Miss. Code Ann. §§23-15-231 and 239 (1972))

Party Affiliation of Poll Managers for General and Special Elections

Poll Managers of General or Special Elections cannot all be of the same political party if suitable persons of different political parties can be found in the municipality. (Miss. Code Ann. §23-15-231 (1972))

Compensation of Poll Managers

Poll Managers are entitled to seventy-five dollars ($75.00) for each election. The governing authorities of a municipality may, in their discretion, pay poll managers an additional amount of compensation not to exceed twenty-five dollars ($25.00) per election. The “receiving manager” or other person who shall carry to the place of voting the official ballots, ballot boxes, pollbooks and other necessities, shall be paid an

additional $10.00 for each voting precinct for so doing. Likewise, the "returning manager" or other person who shall act as returning officer shall be paid an additional $10.00 for each voting precinct for that service. (Miss. Code Ann. §§23-15-227 abd -229 (1972))

Training of Poll Managers

The appropriate election officials (the Executive Committee for primary elections and the Election Commission for other elections), in conjunction with the Municipal Clerk, are responsible for conducting training sessions to instruct managers as to their duties in the proper administration of the election and the operation of the polling place no fewer than five (5) days prior to the election. (Miss. Code Ann. §23-15-239 (1972))

No Poll Manager may serve in any election unless he/she has received such training. Emergency appointments pursuant to Miss. Code Ann. §23-15-231 (1972), however, can be made.

Miss. Code Ann. §23-15-239 (1972) requires that "alternate" Poll Managers be trained and that these alternate Poll Managers be utilized in the event a Poll Manager is unable to serve for any reason.

Who Appoints Poll Managers?

1. *Primary Elections*

The Executive Committee appoints the Poll Managers and designates one of the Managers to be the Bailiff and one of the Managers to be the Receiving and Returning Manager. (Miss. Code Ann. §§23-15-231 and 251 (1972))

2. *General and Special Elections*

The Election Commission appoints the Poll Managers and designates one of the Managers to be the Bailiff and one of the Managers to be the Receiving and Returning Manager. (Miss. Code Ann. §§23-15-231 and 251 (1972))

In elections in which hand-counted and scanner-counted paper ballots are used, the Managers of the election designate a Manager to be the Initialing Manager and another precinct manager to be the Alternate Initialing Manager. These designations are made upon the opening of the polls and not before.

The Manager designated by the Executive Committee or the Election Commission as the Receiving and Returning Manager **cannot** serve also as the Initialing Manager or the Alternate Initialing Manager. However, the Bailiff **may** act also as the Initialing Manager or the Alternate Initialing Manager. (Miss. Code Ann. §23-15-541 (1972))

1.9 Duties and Responsibilities of Poll Managers at the Polling Place

Manager-Bailiff

The Manager-Bailiff has a number of specific statutory duties and responsibilities that must be carried out to ensure a lawful, peaceful, and orderly election. In addition to his other duties, as set forth herein, the manager designated an election bailiff shall be present during the election to keep the peace and to protect the voting place, and to prevent improper intrusion upon the voting place or interference with the election: The duties include the following:

1. To see that a space of thirty (30) feet in every direction from the polls or the room in which the election is held is kept open and clear of all persons except: (a) election officers, (b) voters waiting to cast their ballots, (c) candidates or one representative of each candidate, and (d) two challengers selected by each political party to detect and challenge illegal voters (at General and Special Elections only). (Miss. Code Ann. §23-15-245 (1972))

   Election officials must assign each candidate or candidate's authorized representative a suitable position from which he/she may carefully inspect the manner in which the election is being held. A candidate or a candidate's authorized representative must be allowed to challenge the qualification of any person offering to vote. (Miss. Code Ann. §23-15-577 (1972))

   The Manager-Bailiff must ensure that no candidate or candidate's authorized representative moves about the polling place, greets voters or in any way tries to influence any voter or interfere with the orderly election process.

2. To see that no one distributes or posts campaign literature within one hundred and fifty (150) feet of any entrance to the building in which an election is being held. (Miss. Code Ann. §23-15-895 (1972))

3. To arrest all persons creating any disturbance in and about the polling place. (Miss. Code Ann. §23-15-241 (1972))

4. To enable all qualified voters who have not voted and who want to vote, to have unobstructed access to the polls for the purpose of voting when others are not voting. (Miss. Code Ann. §23-15-241 (1972))

5. To call upon anyone present at the polling place for assistance and, if necessary, the Sheriff or other local law enforcement officials for assistance in enforcing the law. (Miss. Code Ann. §23-15-245 (1972))

Initialing Manager (Paper and Scanner Ballots Only)

After a voter has signed his/her name in the receipt book or on the voter list, but not before, the Initialing Manager must do the following:

1. Write the Initialing Manager's initials on the back of the official blank ballot so that the initials may be seen after the ballot has been marked and folded.

2. Give the initialed blank ballot to the voter.

3. After the voter has marked his/her ballot, verify that the Initialing Manager's genuine initials are on the back of the ballot before it is placed in the ballot box. (Miss. Code Ann. §23-15-541 (1972))

Alternate Initialing Manager (Paper and Scanner Ballots Only)

In the absence of the Initialing Manager, the Alternate Initialing Manager shall perform the duties specified above. (Miss. Code Ann. §23-15-541 (1972))

Receiving and Returning Manager

The Receiving and Returning Manager must perform the tasks listed below:

1. On the day before the election, obtain from the Municipal Clerk or the Election Commissioners the box(es) for his/her precinct containing the ballots and all other necessary materials – including the pollbooks, the blank tally sheets, the blank forms to be used in making returns, the cards of instruction, stationery, and supplies;

2. Receive from the election commissioners, and distribute the official ballots to the electors of his/her district in accordance with statute, § 23-15-251, Miss. Code Ann. (1972));

3. To carry to the voting place/ precinct, on the day previous to the election, the ballot box, the pollbook, the blank tally sheets, the blank forms to be used in making returns, the other necessary stationery and supplies and the official printed ballots (§ 23-15-251, Miss. Code Ann.(1972));

4. Return all used and unused ballots and other materials to the Municipal Clerk's office on the day next following the election. (Miss. Code Ann. §23-15-251 (1972)).

After the polls are closed on election day, the boxes are returned to the counting center (usually at City Hall) to be counted in counties which use punch-cards or scanner (OMR) equipment.

1.10 The Voting Process

When a voter appears, the following procedure should be followed:

1. A Poll Manager checks to see that the voter's name appears in the pollbooks.

2. If a voter's name is found on the pollbook, the Poll Manager checks to see on the pollbook or on other official documentation if the voter is required to provide voter identification. If a voter registered to vote by mail did not submit a copy of the required identification with the application and is voting in an election for the first time, that voter must submit one of the following forms of identification, vote by affidavit ballot, and complete an affidavit ballot envelope.

   - *Accepted Forms of Identification for Unverified Voters:*
     - A current and valid photo identification (e.g., driver's license);
     - A current utility bill with the voter's name and address;
     - A current bank statement with the voter's name and address;
     - A current government check with voter's name and address;
     - A current paycheck or stub with voter's name and address; or,
     - Any other government document with the voter's name and address.

   Poll Managers are encouraged to follow the checklist in **Appendix 1.D.** for all persons voting by affidavit ballot.

3. The Initialing Manager writes his/her initials on the back of the blank ballot where the initials may be seen after the ballot has been marked and folded; the ballot is then given to the voter.

4. The voter goes immediately into one of the voting compartments and marks his/her ballot.

   With ink or indelible pencil, the voter must mark a cross (X) or a check (√) opposite the name of the candidate of his/her choice for each office to be filled. A ballot may be marked with any combination of (X) or (√). (§ 23-15-551, Miss. Code Ann. (1972)).

   Before leaving the voting compartment, the voter must fold his/her ballot without displaying the markings but so that the words "Official Ballot," the name of the voting precinct, and the date of the election are visible to the Initialing Manager. (§ 23-15-551, Miss. Code Ann. (1972)).

   A voter must not be allowed to occupy a voting compartment already occupied by another voter. A voter must not occupy a voting compartment

longer than five (5) minutes if other voters are waiting, or longer than ten (10) minutes if no other voters are waiting. (§ 23-15-435, Miss. Code Ann. (1972).

5. The voter casts his/her ballot by returning it to the Initialing Manager.

6. The Initialing Manager checks to see that the ballot bears the genuine initials of the Initialing Manager and deposits the ballot in the box. (§ 23-15-541, Miss. Ann. (1972)).

7. One of the Poll Managers writes the word "Voted" opposite the name of the voter in the appropriate column in the pollbook. (Miss. Code Ann. §§23-15-541 (1972))

1.11 Voter Assistance (See Also Appendix 1.A)

Inside the Polling Place

Before receiving assistance in marking his/her ballot, the voter must first make a request for assistance to the Managers of the election. The Managers are vested with the authority to make the determination of the truth or falsity of the reason claimed by any voter for assistance, whether occasioned by blindness, physical disability or illiteracy. *O'Neal v. Simpson*, 350 So2d 998, 1009 (1977); AG Opinion, McCaleb, August 26, 1981.

Any voter who declares to the Managers that he/she requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by any person of the voter's choice other than the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union. (Miss. Code Ann. §23-15-549 (1972))

It is the position of the Secretary of State's Office that a voter's declaration should be honored unless it clearly appears to the Managers that the declaration is untrue.

Curbside Voting

A physically disabled voter who does not vote by absentee ballot and who drives, or is driven, to the polling place, but is unable to enter the structure where voting is taking place may be provided assistance in voting if the Managers, in exercising sound discretion, determine that the voter is physically disabled and at the polling place. (AG Opinion, Breland, May 22, 1987; AG Opinion, Ruble Griffin, July 1, 1959)

This practice is in accord with the spirit of the "Voting Accessibility for the Elderly and Handicapped Act," 42 USC 1973ee et seq., which is applicable to all federal elections.

1.12 Challenges (See Also Appendix 1.B)

Who Can Challenge?

The following persons are authorized challengers and shall be allowed to challenge the qualifications of any person offering to vote:

1. Any candidate whose name is on the ballot in the precinct in which the challenge is made.

2. Any authorized representative of a candidate whose name is on the ballot in the precinct in which the challenge is made.

3. An official poll watcher of a political party for the precinct in which the challenge is made (not applicable for party primary elections);

4. Any qualified voter for the precinct in which the challenge is made; or

5. Any Poll Manager, clerk or poll worker of the polling place in which the person whose qualifications are challenged is offering to vote. (§ 23-15-571, Miss. Code Ann. (1972)).

Bases for Challenge

A person offering to vote may be challenged on the following grounds:

1. The person is not a registered voter in the precinct;

2. The person is not the registered voter under whose name he/she has applied to vote;

3. The person has already voted in the election;

4. The person is not a resident in the precinct where he/she is registered;

5. The person has illegally registered to vote;

6. The person has removed his/her ballot from the polling place; or

7. The person is otherwise disqualified by law. (Miss. Code Ann. §23-15-571 (1972))

Ruling on Challenge

A challenge of a vote shall be considered and acted upon by the Managers of the precinct, and all votes challenged at the polls are to be received when voted.

There are three (3) possible rulings on a challenge:

1. *Challenge determined to be frivolous.*

If a majority of the Managers believe a challenge to a voter is frivolous or not made in good faith, they may disregard the challenge and accept the offered vote as though it had not been challenged. (Miss. Code Ann. §23-15-579 (1972))

2. *Challenge unanimously determined to be well-taken.*

If, in the unanimous opinion of the Managers, it clearly appears either by the admissions or statements of the person challenged or from official documentary evidence that a challenge is well taken, the vote shall be rejected entirely and shall not be counted.

Such ballots shall be marked on the back "REJECTED," and the name of the voter also shall be written on the back. The rejected ballots shall be placed in a separate strong envelope, sealed and returned in the ballot box. (Miss. Code Ann. §23-15-579 (1972))

3. *Challenge not unanimously determined to be well-taken.*

If the Managers cannot unanimously agree that a challenge is well taken, or if the Managers are not convinced that a challenge is frivolous or not made in good faith, then the ballot must be marked "CHALLENGED" and placed in one or more strong envelopes.

When all the unchallenged votes have been counted, tallied, and totaled, the challenged votes must then be counted, tallied, and totaled, and a separate return shall be made of the challenged votes. (Miss. Code Ann. §23-15-579 (1972)) Where voting machines are used, paper ballots must be available for the purpose of "Rejected" and "Challenged" ballots.

1.13 Affidavit Ballots (See Also Appendix 1.D)

If any person declared that he is a registered voter in the precinct in which he offers to vote and that he is eligible to vote in the election, but his name does not appear on the pollbook(s), or that he is not able to cast a regular election day ballot under any provision of state or federal law but is otherwise qualified to vote, or that he has been illegally denied registration, a poll manager must notify the person that he may cast an affidavit ballot at the election.

The voted paper ballot shall be handed to one of the Poll Managers, who shall enclose it in an envelope with the written affidavit of the person casting the ballot. Normally, the affidavit is printed and written on the envelope itself. The Poll Manager

shall seal the envelope and if he/she has not already done so, shall mark plainly upon it the name of the person offering to vote.

After the individual has cast an affidavit ballot, the Poll Manager shall provide information on a toll-free access system and written information on how to use this system for affidavit voters to learn the outcome of their ballot. Poll Managers are encouraged to follow the checklist in Appendix 1.D for all persons voting by affidavit ballot.

The election officials – the Executive Committee for primaries and the Election Commissioners for general and special elections – must examine the records when canvassing the returns and allow the affidavit ballot to be counted, or not counted, as shall appear to be legal. (Miss. Code Ann. §23-15-573 (1972))

1.14 Prohibitions Against Campaigning at the Polls

General Prohibition

It is unlawful for any candidate for elective office or any representative of a candidate, or for any proponent or opponent of any constitutional amendment, local issue or other measure printed on the ballot, to post or distribute cards, posters or other campaign literature within one hundred and fifty (150) feet of any entrance to a building in which an election is being conducted. It is also unlawful for a candidate or his/her authorized representative to appear at any polling place while armed or uniformed, nor shall he/she display any badge or credentials except as may be issued by the Poll Managers of the precinct. (Miss. Code Ann. §23-15-895 (1972))

This prohibition is applicable to inside of a courthouse or any other building in which the registrar's office is located, and within one hundred fifty (150) feet of any entrance thereto during the 45 day absentee balloting period. AG Opinion, Griffin, July 18, 2003.

Wearing T-Shirts

It is the position of the Secretary of State that the wearing of a T-shirt with a candidate's name and/or picture on it within one hundred and fifty (150) feet of any entrance to a building in which an election is being conducted constitutes the posting of campaign literature and is prohibited. Such T-shirts must be covered or removed before a voter comes within one hundred and fifty (150) feet of any entrance to a building in which an election is being conducted. (Miss. Code Ann. §23-15-895 (1972))

Use of Sample Ballots

It is the position of the Secretary of State that it is permissible for an individual voter to bring a sample ballot into the polling place for the voter's own use as a reminder of the candidate(s) for whom he/she intends to vote. A voter, however, cannot be

permitted to use the sample ballot as campaign literature in attempting to influence other voters within the polling place.

1.15 Counting the Votes

Absentee Ballots (*See also*, Appendix 1.E)

At the close of the polls, the Election Manager of each voting precinct shall take the envelopes containing the absentee ballots and announce the name, address, and precinct of each. The Managers shall carefully examine the absentee ballot envelope and absentee ballot application to ensure that the vote is valid. In making this determination, the election manager(s) should,

1. Compare the voter's signature on the application with the voter's signature on the back of the ballot envelope;

2. Ensure that the voter's signature on the back of the ballot envelope is across the flap of the envelope (mandatory for the ballot to be counted); and

3. Ensure that all absentee ballots and applications that require notarization are in fact notarized. (See Section 1.7 of this Handbook for notarization requirements.)

If the Election Managers find that the applicant is a registered and qualified voter, and that he/she did not appear in person to vote and voted at the election, the envelope shall be opened and the ballot shall be placed in the ballot box, without its being unfolded or examined , with the other ballots before counting any ballots. (Miss. Code Ann. §23-15-639 (1972)) Poll Managers are encouraged to follow the checklist in Appendix E when examining absentee ballots at the close of the polls.

If a deficiency is found in one or more of the requirements for a valid absentee ballot, the vote shall not be allowed. Without opening the envelope, the Election Managers shall mark across its face "REJECTED," and the reason for rejection, placing the same in a separate envelope marked "REJECTED ABSENTEE BALLOTS". (Miss. Code Ann. §23-15-641 (1972))

Paper Ballots

When the polls have been closed, the Managers of each voting precinct shall publicly open the boxes and immediately proceed to count the ballots. The Managers must read aloud the names of the persons voted for, and those names shall be taken down and called by the designated Managers.

During the counting of the ballots, all the proceedings must be in fair and full view of the voting public. However, there must not be unnecessary interference, delay, or encroachment upon the good order of the duties and proceedings of the Managers of the election.

Candidates or their duly authorized representatives shall have the right to reasonably view and inspect ballots as they are taken from the box and counted, and to reasonably view and inspect tally sheets, papers, and other documents used in the election. (Miss. Code Ann. §23-15-581 (1972))

Electronic Voting Equipment

The governing authorities of any municipality are empowered, in their discretion, to purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballot in any election or primary. (§ 23-15-463, Miss. Code Ann. (1972)). If such a decision is made to change the means by which a vote is cast or votes are counted, this change must be approved or precleared by the U. S. Department of Justice pursuant to Section 5 of the Voting Rights Act of 1965 before such change may be put into use in an election.

Scanner (Optical Mark Reader or OMR) Ballots

As soon as the polls have been closed, the ballots must be sealed against further voting. The managers shall prepare a report in duplicate of the number of voters who have voted, as indicated by the poll list, and shall place this report in the ballot box, which shall be sealed with a paper seal signed by the managers so that no additional ballots may be deposited or removed from the ballot box. The Returning Manager must deliver the ballot box to the counting center. (Miss. Code Ann. §§23-15-517, 519 (1972))

All proceedings at the counting center shall be under the direction of the officials in charge of the election – the Executive Committee for Primary Elections and the Election Commission for General and Special Elections. All proceedings at the counting center shall be conducted under the observations of the public. No persons, however, except those authorized for the purpose, shall touch any ballot. All persons who are engaged in processing and counting the ballots shall be deputized in writing and shall take an oath that they will faithfully perform their assigned duties. (Miss. Code Ann. §23-15-523 (1972))

Prior to the start of the count of the ballots, the officials in charge of the election shall have the OMR tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Candidates, representatives of the political parties, the press, and the general public may witness the test conducted on the OMR tabulating equipment. (Miss. Code Ann. § 23-15-521 (1972))

The test shall be conducted by processing a pre-audited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each measure. The test shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the OMR tabulating equipment to reject such votes. If any error is detected, the cause shall be ascertained and

corrected, and an errorless count shall be made and certified by the officials in charge before the count is started. Upon completion of the test count, the programs, test materials, and ballots shall be sealed and retained in the same manner provided for paper ballots. (Miss. Code Ann. §23-15-521 (1972))

Resolution Board

The officials in charge of the election shall appoint qualified voters to serve as judges on the Resolution Board. An odd number of not less than three (3) members shall be appointed to the resolution board. All ballots that have been rejected by the OMR tabulating equipment and that are damaged or defective, blank, or overvoted will be reviewed by the board.

If any ballot is damaged or defective so that it cannot be properly counted by the OMR tabulating equipment, the ballot will be deposited in an envelope provided for that purpose marked "RESOLUTION BOARD." The officials in charge of the election shall have the judges on the Resolution Board hand-tally any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with that determination.

Ballots that have been rejected by the OMR tabulating equipment for appearing to be blank shall be examined to verify if they are blank or have been marked with a non-detectible marking device. If it is determined that the ballot is marked with a non-detectible device, the Resolution Board may mark over the voter's mark with a detectible marking device.

All ballots that are rejected by the OMR tabulating equipment and that contain overvotes shall be inspected by the Resolution Board. On those ballots upon which an overvote appears, and voter intent cannot be determined by inspection of the Resolution Board, the officials in charge of the election may use the OMR tabulating equipment in determining the vote in the races which are unaffected by the overvote. At the direction of the officials in charge of the election, all other ballots which are overvoted shall be counted manually, and voter intent shall be determined in accordance with § 23-15-523 (5)(6)(7), Miss. Code Ann. (1972).

If for any reasons it becomes impracticable to count all or part of the ballots with the OMR tabulating equipment, the officials in charge may direct that the ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

The returns printed by the OMR tabulating equipment, to which have been added the manually-tallied ballots, shall be duly certified by the officials in charge and shall constitute the official returns of each voting precinct.

Unofficial and incomplete returns may be released during the count. Upon the completion of the counting, the official returns shall be open to the public. (Miss. Code Ann. §23-15-523 (1972))

Municipalities using OMR voting devices, such as the Optech III-P Eagle, may refer to the Official Attorney General's Opinion dated August 31, 1994, attached hereto as Appendix --- .

Electronic Voting Systems

Prior to the start of the count of the ballots, the officials in charge of the election – the Municipal Party Executive Committee for primary elections and the Municipal Election Commission for general and special elections – in conjunction with the Municipal Clerk, shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures.

Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication once in one or more daily or weekly newspapers published in the city where such equipment is used, if a newspaper is published in the city. Otherwise, publication shall occur in a newspaper of general circulation in the city. The test shall be witnessed by the candidates, representatives of political parties, the press, and the public.

The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and for each measure and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes.

If any error is detected, its cause shall be ascertained and corrected, and an errorless test count shall be made and certified to by the officials in charge before the count is started.

The tabulating equipment shall pass the same test at the conclusion of the count and before the election returns are approved as official. Upon completion of the count, the programs, test materials, and ballots shall be sealed and retained as is provided for paper ballots. (Miss. Code Ann. §23-15-481 (1972))

As soon as the polls have been closed, the voting devices must be sealed against further voting, and two Managers must deliver the ballot box to the counting center, receiving a receipt therefor. (Miss. Code Ann. §§23-15-477, 479 (1972))

All proceedings at the counting center shall be under the direction of the election officials and shall be conducted under the observation of the public, but only those persons authorized for the purpose shall touch any ballot, ballot card, or return. All persons engaged in processing and counting the ballots shall be deputized in writing and

shall take an oath that they will faithfully perform their assigned duties. Persons assigned to operate the automatic tabulating equipment shall submit to the election officials' satisfactory evidence of their qualifications to operate the equipment.

If any ballot is damaged or defective so that it cannot be properly counted by the equipment, the ballot shall be deposited in an envelope marked "RESOLUTION BOARD." The election officials shall direct the judges or the resolution board to manually county any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with this determination.

If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officials shall direct that such ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

The returns printed by the automatic tabulating equipment to which have been added the write-in votes, absentee votes, damaged ballots, and any other ballots which have been manually counted, and which have been duly certified by the election officials shall constitute the official returns of the precinct.

Unofficial and incomplete returns may be released during the count. Upon completion of the count, the official returns shall be open to the public. (Miss. Code Ann. §23-15-483 (1972))

Voting Machines

Immediately upon the close of the polls, the Managers shall lock and seal the machines against further voting and shall open the counter compartment in the presence of those persons who may be lawfully present at that time, giving full view of the counters. In the order of the offices as their titles are arranged on the machine, a Manager shall then read and announce in distinct tones the results as shown by the counters and shall then read the votes recorded for each office on the irregular ballots. The Manager shall also, in the same manner, read and announce the votes for each constitutional amendment, proposition, or other question.

As each vote is read aloud, it shall be recorded by the clerks on two Statements of Canvass. When the statements are completed, they shall be compared with the numbers on the counters of the machine. If found to be correct, the Statements of Canvass shall be duly certified and sworn to and shall be filed as the election returns.

Before the doors of the counter compartment of the voting machine shall be closed, any person lawfully present shall be given ample opportunity to compare the announced results with the counters on the machine and for any necessary corrections to be made by the Managers or clerks. (Miss. Code Ann. § 23-15-441 (1972)). When the count is complete, the Managers and clerks shall lock the counter compartment to remain locked

for thirty (30) days or until it must be opened for another election or ordered opened by a court of competent jurisdiction. (Miss. Code Ann. §23-15-443 (1972))

Proclamation of Results and Sealing of the Ballot Box

When the votes have been completely and correctly counted and tallied by the Managers, they shall publicly proclaim the results of the election at their box. The managers shall certify in duplicate a statement of the result, to be signed by the managers and clerks. One of the certificates shall be enclosed in the ballot box, and the other shall be kept by one of the managers, to be inspected at any time by any voter who so requests.

When the count and the tally of the votes have been completed, the Managers shall place all voted ballots, all spoiled ballots, and all unused ballots in the ballot box, as well as the duplicate signed statement of the result,. The voted ballots, the spoiled ballots, and the unused ballots must correspond in total with the duplicate signed statement. If the numbers fail to correspond, that failure must be perfectly accounted for by a written statement by the Managers made under oath, and that sworn statement shall also be enclosed in the ballot box. The tally list and the receipt booklet containing the signed names of the voters who voted must also be enclosed in the ballot box. The number of ballots voted must correspond with the number of names signed in the receipt booklet. Once these contents have been placed in the box, the Managers shall lock and seal the box. (Miss. Code Ann. §23-15-591 (1972)).

1.16 Canvassing and Certifying Returns

Primary Elections

The Municipal Party Executive Committee shall meet on the first or second day after each primary election, shall receive and canvass the returns, declare the results, and announce the names of those candidates to be submitted to the second primary and the names of the nominees for municipal offices. A duplicate of all tabulations by precincts as certified by the precinct Managers shall be filed with the Municipal Clerk, who shall preserve those materials in the Clerk's office. (Miss. Code Ann. §23-15-597 (1972))

General and Special Elections

Immediately upon the closing of the polls, Managers shall count the ballots and ascertain the number of votes cast in each voting precinct for each of the candidates or ballot measures and make a return thereof to the municipal election commissioners. On the day following the election, the Election Commission shall canvass the returns from all voting precincts, and within five (5) days after the election, shall deliver a certificate of election to each person receiving the highest number of votes.

If it appears that any two or more of the candidates receiving the highest number of votes have received an equal number of votes, the election shall be decided by lot, fairly

and publicly drawn by the Election Commission with the aid of two (2) or more qualified electors of the municipality.

Within five (5) days after any election, the Election Commission shall transmit a statement to the Secretary of State certifying the names of the persons elected, the vote totals for each candidate, and vote totals for and against any ballot measures in the municipality. The statements shall contain a certification, signed and dated by a majority of the Election Commissioners, which shall read as follows: "We, the undersigned municipal election commissioners, do hereby certify that this statement contains the official vote for the election reflected therein." The statements shall be transmitted to the Secretary of State on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State.

The persons so certified shall be issued commissions by the Governor. (Miss. Code Ann. §§23-15-611 (1972))

1.17 Security and Accounting of Ballots, Ballot Chain of Custody

Election Commissions in General and Special Elections and Executive Committees in primary elections, as the officials in charge of the election, have the affirmative duty to ensure that all ballots, both voted and unvoted, are kept secure and are carefully accounted for. Poll Managers must also be thoroughly trained in their responsibility to fully account for every ballot.

Ballot Printing

It is the duty of the election authority of the municipality to have ballots printed. The printer of any ballots must provide to the election authority 1) a certificate stating the number of ballots printed for each precinct and 2) a sworn certificate that the official ballots shall be kept secret under penalty of law.

The printer is charged with keeping all ballots completely secure, and once the ballots are received from the printer, the officials in charge of the election who receive the ballots are responsible for the security of the ballots. This applies to all ballots – election day, absentee, emergency ballots – and applies to both Election Commissions and Executive Committees. (Miss. Code Ann. §§23-15-351, 335 (1972); For Absentee Ballots: Miss. Code Ann. §23-15-649 (1972))

Accounting of Ballots for Precinct Distribution

The person designated by the officials in charge of the election to distribute all ballots to individual precincts must get duplicate signed receipts from each precinct's Receiving Manager stating the number of ballots distributed to that Manager. Both the distributor and Receiving Manager sign the duplicate receipts. One receipt goes to the Municipal Clerk; the other is placed in the ballot box after the votes have been counted. (Miss. Code Ann. §§23-15-335 and 591 (1972))

Accounting of Delivered Ballots

The officials in charge of the election shall ensure that the total number of ballots receipted for by the Receiving Managers correspond with the number delivered by the printer to the officials in charge of the election. (Miss. Code Ann. §23-15-335 (1972))

Lost Ballots

If ballots are lost, the election Managers must within one (1) day of the election report the loss to the officials in charge of the election, including all facts connected with the loss and the number of ballots lost. If warranted, the officials in charge of the election shall deliver the report to the grand jury. (Miss. Code Ann. §23-15-373 (1972))

Ballot Accounting at the Close of Polls

Ballots shall be accounted for at the close of the polls in accordance with Miss. Code Ann. §23-15-591 (1972), as discussed in Section 1.15 of this handbook. See also §23-15-479 (punch-card) and §23-15-519 (scanner ballots).

Security of Ballot Boxes

Ballot boxes must be kept securely locked during the time the polls are open. Ballot boxes cannot be opened until the close of the polls. (Miss. Code Ann. §23-15-247 (1972)) After the ballot boxes have been delivered to the courthouse or counting center, the Municipal Clerk shall keep in place on the lock of each ballot box a consecutively numbered metal seal. The seal shall remain on the ballot box lock except when the officials in charge of the election are engaged in public canvass of the election returns, publicly engaged in counting center activities, or the ballot box is otherwise opened as provided by law. (Miss. Code Ann. §23-15-595 (1972))

1.18 Irregularities in a Ballot Box

When a ballot box from a precinct is opened and examined by the Executive Committee, in the case of a primary election, or the Election Commission, in the case of other elections, if it is found that there have been failures in material particulars to comply with the requirements of Section 23-15-591 and Section 23-15-895 (outlined in Sections 1.13 and 1.15 of this handbook) to such an extent that it is impossible to arrive at the will of the voters of the precinct, the entire box may be thrown out, unless it appears with reasonable certainty that the irregularities were not deliberately permitted or engaged in by the managers at that box, or by one of them responsible for the wrong or wrongs, for the purpose of electing or defeating a certain candidate or candidates by manipulating the election or the returns thereof at that box in such manner as to have it thrown out. In such event, the Executive Committee, or the Election Commission, as appropriate, shall conduct a hearing and make a determination in respect to said box as may appear lawfully just, subject to a judicial. In the alternative, the Executive

Committee, the Election Commission, or the court upon review, may order another election to be held at that box, appointing new managers to hold the same.

1.19 Contesting an Election

Examination of Boxes by a Candidate

When the returns for a box, the contents of the ballot box, and the conduct of the election have been canvassed and reviewed by the Executive Committee, in the case of primary elections, and by the Election Commission, in the case of general elections, all the contents required to be placed and sealed in the ballot box by the Managers shall be put back in the box by the Executive Committee or the Election Commission. The ballot box shall be immediately resealed and delivered to the Municipal Clerk who shall keep the ballot box and secure it against any tampering.

At any time within twelve (12) calendar days after the canvass and the examination of the ballot box and its contents by the Executive Committee or the Election Commission, any candidate or his/her authorized representative shall have the right of full examination of the box and its contents. Three (3) days' notice of the candidate's application for examining the ballot box shall be served upon the opposing candidate or candidates or upon any member of their families over the age of eighteen (18) years.

The examination shall be conducted in the presence of the Municipal Clerk or the Clerk's Deputy who shall see that none of the contents of the box are removed from the presence of the Clerk or the Deputy or in any way tampered with. When the examination is completed, the box shall be resealed with all its contents.

If any contest or complaint before a court shall arise over the box, it shall be kept intact and sealed until the court hearing, and another ballot box, if necessary, shall be furnished for the precinct involved. (Miss. Code Ann. §23-15-911 (1972))

Filing Complaint or Contest

1. Primary Elections

If a person wants to contest the election of another person as the nominee of the party for any municipal office, within twenty (20) calendar days after the primary election, the person may file a petition with the Secretary or any other member of the Executive Committee. The petition shall set forth the grounds upon which the primary election is contested. (Miss. Code Ann. § 23-15-921 (1972))

It shall be the duty of the Executive Committee to assemble at the call of the Chair or of any three (3) members of the committee. Notice of the contest shall be served five (5) calendar days before the meeting. After notifying all parties concerned, the Executive Committee shall proceed to investigate the grounds upon which the election is contested. The Executive Committee shall have the power to subpoena witnesses needed in the

investigation. By majority vote of its members present, the Executive Committee shall declare the true results of the primary. (Miss. Code Ann. §§23-15-921, 925 (1972))

If a contest has been filed with the Executive Committee and if the Committee does not meet or act within a reasonable time, or unreasonably delays to fully act upon the contest, or fails to give with reasonable promptness the full relief required by the facts and the law, the person who filed the contest has a right to file a complaint in the Circuit Court of the county in which the irregularities are alleged to have occurred. The complaint must be accompanied by a sworn petition explaining with particularity how the Executive Committee has failed to act in the proper manner. (Miss. Code Ann. §23-15-927 (1972))

The complaint and the petition cannot be filed unless two (2) practicing attorneys certify that each of them has made a full and independent investigation into the facts and law of the matter and that they believe the complaint and the petition should be sustained and the relief asked for should be granted. (Miss. Code Ann. §23-15-927 (1972))

The person filing the complaint and the petition must give a cost bond in the amount of $300, with two or more sufficient sureties promising to pay all costs if the petition is dismissed. The Judge may require an additional bond at any stage of the proceedings. The filing of a petition for judicial review shall automatically supersede and suspend the operation and effect of the order, ruling or judgment of the executive committee appealed from. (Miss. Code Ann. §23-15-927 (1972))

As soon as the complaint, the petition, and the bond are filed, the Circuit Court must immediately notify the Chief Justice of the Supreme Court personally or by registered letter, telegraph, or telephone. The Chief Justice will then designate to hear the contest a Circuit Judge or Chancellor of a district that does not include the county in which the irregularities are alleged to have occurred. It is the duty of the so-designated Judge or Chancellor to proceed with the hearing at the earliest possible date and give proper notice of such date to the person contesting the election and to the appropriate Executive Committee. (Miss. Code Ann. §23-15-929 (1972))

The decision of the so designated Judge or Chancellor may be appealed to the State Supreme Court in accordance with Miss. Code Ann. §23-15-933 (1972).

2. General and Special Elections

A person desiring to contest the election of another person to any municipal office may, within twenty (20) calendar days after the election, file a petition in the office of the Clerk of the Circuit Court of the county. The petition must set forth the grounds upon which the election is contested.

The Circuit Clerk shall issue a summons to the party whose election is contested, returnable to the next term of the court. The summons shall be served as in other cases. At the next term, the Court shall cause an issue to be made up and tried by jury, and the

verdict of the jury shall find the person having the greatest number of legal votes at the election. If the jury shall find against the person elected, the Circuit Clerk shall issue a certificate to that effect.

The person in whose favor the jury finds shall be commissioned by the Governor and shall qualify and enter upon the duties of his/her office. Each party shall be allowed ten (10) preemptory challenges, and new trials shall be granted and costs awarded as in other cases. (Miss. Code Ann. §23-15-951 (1972))

1.20 Miscellaneous Information

Prohibition Against Cross-Over Voting

Voters are not eligible to participate in any party primary election unless they intend to support the party nominations made in the primary in which they intend participation. (Miss. Code Ann. §23-15-575 (1972))

Voters may not vote in the first primary of one party and the second primary of another party. (Attorney General's Opinion to Vincent J. Sherry, April 26, 1978)

"Single-Shot" Voting Permitted

In municipal primaries for Aldermen elected at-large, voters have the option of "single shot" voting. This means that in an at-large election to elect a five (5) member Board of Aldermen, each voter may mark his/her ballot for one (1), two (2), three (3), four (4), or five (5) candidates, and every ballot must be counted, regardless of the number of candidates for whom the ballot is marked. In previous at-large elections for Aldermen, a voter was required to vote for five (5) candidates in order to have the ballot counted.

Formula to Determine Majority in At-Large Primary Elections for Aldermen

In at-large primary elections for municipal Boards of Aldermen, Executive Committees have the responsibility for determining which candidates receive a majority vote.

The number of votes constituting a majority can be determined by performing the following three (3) calculations:

> Calculation #1: Divide the total number of valid votes cast for all candidates for the office of Alderman by the number of offices to be filled (usually 5);
>
> Calculation #2: Divide the result of Calculation #1 by two (2); and
>
> Calculation #3: Add one (1) to the result of Calculation #2.

In an election for a five (5) member board, if five (5) candidates receive a majority vote in the first primary, they are nominated.

If fewer than five (5) candidates receive a majority vote in the first primary, those receiving a majority are nominated, and the remaining nominations must be determined in the second primary. The number of candidates to participate in the second primary is based on how many nominations are not determined in the first primary. For nominees to be determined in the second primary, two (2) candidates for each nomination must participate.

For example, if one (1) nominee is to be determined in the second primary, the two (2) candidates who received the most votes in the first primary without getting a majority would be on the ballot in the second primary. If two (2) nominees are to be determined in the second primary, the four (4) candidates who received the most votes in the first primary without getting a majority would be on the ballot in the second primary, and so on.

If more than five (5) candidates received a majority vote in the first primary, the five (5) candidates who received the most votes would be nominated.

1.21 Municipal Special Election Procedures

General Provisions

Miss. Code Ann. §23-15-857 sets forth the general procedure to fill vacancies in municipal offices.

1. When the unexpired term is less than six (6) months

A vacancy in an elective municipal office, the unexpired term of which does not exceed six (6) months, must be filled by appointment by the municipal governing authorities. The "governing authorities" of a municipality are generally the Board of Aldermen and the Mayor. The Board of Aldermen would make such appointment subject to the Mayor's veto. If the municipality operates under the Mayor-Council, Council-Manager, Commission, or Private Charter form of government, consult the City Attorney to determine who is legally authorized to make such appointments and the manner in which such appointments are to be made. The Municipal Clerk must certify such appointment to the Secretary of State, and the appointee will be commissioned by the Governor.

2. When the unexpired term exceeds six (6) months

If a vacancy occurs in an elective municipal office, the unexpired term of which exceeds six (6) months, the governing authorities must enter an order on the official minutes requiring an election to be held in the municipality to fill the vacancy and fixing a date upon which such election will be held. This order must be entered at the next

regular meeting of the governing authorities after the occurrence of the vacancy or at a special meeting to be held not later than ten (10) days after occurrence of the vacancy. The order must set the election on a date not less than thirty (30) days nor more than forty-five (45) days after the date on which the order is adopted. If the municipality operates under the Mayor-Council, Council-Manager, Commission, or Private Charter form of government, consult the City Attorney for possible variations of this procedure.

Notice of Election

The Municipal Clerk must give notice of the election by an appropriate publication in a newspaper published in the municipality, or if there is no newspaper published in the municipality, the notice must be published in a newspaper which has a general circulation within the municipality. Such notice must be published once a week for three (3) successive weeks preceding the date of such election. The first notice in the newspaper must be published at least thirty (30) days before the date of such election. Notice shall also be given by posting a copy of such notice at three public places in such municipality not less than twenty-one (21) days prior to the date of such election. One such notice must be posted at City Hall.

Justice Department Submission

Section 51.17, Chapter 28, Code of Federal Regulations provides that the conduct of any Special Election is subject to the pre-clearance requirement of Section 5 of the Voting Rights Act of 1965 to the extent that the jurisdiction makes changes in the practices or procedures to be followed. The statute specifically provides that any discretionary setting of the date for a Special Election is subject to the pre-clearance requirement. Since Miss. Code Ann. §23-15-857 (2) (1972) does allow for a certain amount of discretion in setting the date of a Special Election, a submission asking for pre-clearance must be made to the U.S. Department of Justice. Since Miss Code Ann. §23-15-857 (2) (1972) requires that a Special Election to fill a vacancy in municipal elective offices be held not later than forty-five (45) days after the date the order setting the date for the election is entered, it appears that the election would not have to be delayed if pre-clearance is not received prior to election day. Contact the U.S. Department of Justice using their toll-free telephone number: 1-800-253-3931.

Candidate Qualification

Each candidate must qualify by petition filed with the Municipal Clerk at least twenty (20) days before the date of the election. The petition must contain the names of at least fifty (50) qualified municipal electors if the municipality has a population of one thousand (1000) or more residents. If the population of the municipality is less than one thousand (1000) residents, the petition must contain the names of at least fifteen (15) qualified municipal electors. In order to be certain that a petition is legally sufficient, it is suggested that if the population of the ward is one thousand (1000) residents or more, that names of at least fifty (50) qualified municipal electors who are registered in that ward appear on the petition. If the population of the ward is less than one thousand (1000)

residents, the names of at least fifteen (15) qualified municipal electors who are registered in the ward would be sufficient. (Miss. Code Ann. §23-15-857) Copies of acceptable petitions for at-large and ward elections are available at the Secretary of State's Office. (See Attorney General's Opinion dated February 23, 1996)

Miss. Code Ann. §1-3-75 (1972) requires that all petitions presented to the governing authorities of a municipality must be personally signed by each petitioner. For example, if a husband signed his wife's name to a petition, her name could not be lawfully counted.

Qualifying Fee

There is no qualifying fee for candidates in Municipal Special Elections.

Determining Results

The candidate receiving a majority of the votes cast shall be elected. If no candidate receives a majority vote, the names of the two (2) candidates receiving the highest number of votes will be placed on the ballot for a run-off election to be held two (2) weeks after the Special Election, and whoever receives the most votes cast in such run-off shall be elected. If only one (1) person qualifies to run, the election shall be dispensed with and that person must be appointed. If no one qualifies, the election shall be dispensed with and the vacancy must be filled by appointment.

Certificate of Election

The Election Commission must give a Certificate of Election to the person elected. When the certificate has been issued, and the individual elected has acquired the necessary surety bond (if required), he/she may be sworn in and may assume the duties of the office. It is not necessary for the person elected to have a Commission in order to be sworn in and assume his/her duties.

Filing Copy of Order, Copy of Minutes, and Results

The Election Commission must provide the Secretary of State a copy of the order calling the Special Election, a copy of the board meeting minutes, and a statement of the results (the precinct returns). The copy of the order and the statement of the results must be certified by the Municipal Clerk as being true and correct.

Municipal Election Commissioners

Please note that Miss. Code Ann. §23-15-221 (1972) requires the appointment of Election Commissioners and specifies that the governing authorities of municipalities having a population of less than twenty thousand (20,000) residents according to the latest Federal Decennial Census must appoint three (3) Election Commissioners; the governing authorities of municipalities having a population of twenty thousand (20,000) or more residents but less than one hundred thousand (100,000) residents must appoint

five (5) Election Commissioners; and the governing authorities of municipalities having a population of one hundred thousand (100,000) or more residents must appoint seven (7) Election Commissioners.

In order for the Secretary of State's Office to have a current listing of Municipal Election Commissioners, each Municipal Clerk should provide the office with a copy of the order appointing Election Commissioners and the mailing address of each Commissioner, if the order does not include such, to:

Office of the Mississippi Secretary of State
Elections Division
P.O. Box 136
Jackson, MS 39205
Facsimile: 601-359-5019
E-Mail: administrator@sos.state.ms.us

Appendix 1.A – Voter Assistance

Who can receive assistance in the voting booth?

Any voter who says he/she is:

1. Blind; or
2. Physically disabled; or
3. Cannot read or write.

No other reasons are valid.

How does a voter get assistance to the voting booth?

The voter must:

1. Tell the managers he/she needs help to mark ballot;
2. State one of the above reasons as to why help is needed; and
3. Pick someone to help him/her.

The Voter MUST TELL the Managers he/she needs help.

Who can assist a voter in the voting booth?

The voter may have anyone help him/her mark his/her ballot, except:

1. His/her employer or the employer's representative, or
2. A representative of any union of which he/she is a member.

A request for help should be honored unless it obviously appears to be untrue.

References: Miss. Code Ann. §23-15-549; *O'Neal v. Simpson* 350 So 2nd 998.

Appendix 1.B – Challenged Ballots

Poll Managers must act on all challenged ballots. The challenges cannot be "turned over" to Executive Committees, Election Commissions, or anyone else. The following procedures must be followed when a person's ballot is challenged:

Who can challenge a voter?

A challenger must be:

1. A candidate;
2. The candidate's authorized representative;
3. A political party's official poll watcher (not applicable for party primary elections);
4. Any qualified voter from that precinct; or
5. Any Poll Manager in the polling place.

No one else can be a challenger.

For what reasons can a voter be challenged?

A voter can be challenged if:

1. He/she is not a registered voter in the precinct;
2. He/she is not the registered voter under whose name he/she has applied to vote;
3. He/she has already voted in the election;
4. He/she doesn't live in the precinct where he/she is registered;
5. He/she has illegally registered to vote;
6. He/she has taken his/her ballot from the polling place;
7. He/she is otherwise disqualified by law; or
8. He/she has cast an absentee ballot but is ineligible to do so.

There are no other reasons for a challenge.
(Miss. Code Ann. §§23-15-571, 641, 643, 731 (1972))

Appendix 1.B – Continued

If a voter is challenged, the Poll Managers must CONSIDER AND ACT on each challenge in the following manner:

ACTION I: If ALL or a MAJORITY of Poll Managers think the challenge is FRIVOLOUS, DISREGARD the challenge and accept the ballot as though it had not been challenged.

ACTION II: If ALL Poll Managers think the challenge is valid, the ballot is REJECTED in the following manner:

1. Mark "Rejected" on the back of the ballot; and

2. Write the name of the voter on the back;

3. At the close of the polls, place all such ballots in a strong envelope labeled "Rejected Ballots;"

4. Seal the envelope and return it in the ballot box.

ACTION III: If the Poll Managers CANNOT UNANIMOUSLY AGREE that the challenge is VALID, but a MAJORITY believes that the challenge is VALID, the ballot is counted separately from the unchallenged ballots after:

1. "Challenged" is marked on the ballot;

2. The ballot is placed in a separate strong envelope labeled "Challenged Ballots;"

3. At the close of the polls AND after all the unchallenged ballots have been counted, tallied, and totaled, the challenged ballots are separately counted, tallied and totaled, with a separate return made of the challenged ballots.

Appendix 1.C – Keys to a Good Election

Source: Mississippi Secretary of State's Office

1. Purge your pollbooks (see our *NVRA Purging Guidelines Manual*).

2. Appoint capable people to work at the polls.

3. Train Poll Managers well.

4. Ensure that every candidate's name is on the ballot and spelled correctly. Check ballot arrangement. Choose printers carefully. Review proofs.

5. Ensure that paper ballots and affidavit envelopes are available at each polling place.

6. Ensure that the Bailiff enforces the one-hundred-and-fifty- (150) foot and thirty- (30) foot rules.

7. Ensure that Poll Managers understand rules on voter assistance.

8. Ensure that Poll Managers understand rules on poll watchers.

9. Ensure that Poll Managers know how to handle challenges.

10. Ensure that the polls open and close on time.

11. Ensure that ballot boxes are properly sealed and locked when they are being transported.

12. Ensure that ballots are counted in public.

13. Ensure that absentee ballots are properly reviewed by Poll Managers.

14. Ensure that the Election Commission reviews and acts on each affidavit ballot.

15. Ensure that the "inactive list" is available so that voters whose names have been purged for not voting may vote.

16. Inspect each machine visually after it is set up.

17. Certify the results of an election in a timely manner.

Appendix 1.D – Poll Manager's Affidavit Ballot Checklist

1. ____ A person states that he is a registered voter and that he is eligible to vote in an election at that particular polling place, but his name does not appear upon the pollbook.

2. ____ The Poll Managers must then determine if the voter should be voting at another polling place. This is done by referring to a master list of all municipal voters, or by contacting the Municipal Clerk, Election Commissioner, or Executive Committee, and by simply asking where the voter resides.

3. ____ If the voter resides in another precinct, tell the voter he/she must go to that precinct's polling place because if the voter casts a ballot in a precinct where he does not reside, the entire ballot must be rejected by the Election Commissioners or Executive Committee.

4. ____ If the Poll Managers determine that that the voter is in the correct polling place but his name does not appear upon the pollbook, the poll manager shall notify the person that he may vote by affidavit ballot. The voter must sign a separate sign-in sheet (receipt book). Do not have the voter sign the same receipt book that all non-affidavit ballot voters sign. Instead, provide a separate sign-in sheet for this purpose, labeled "Affidavit Voters."

5. ____ The voter and Poll Manager complete the appropriate sections of the affidavit ballot envelope as follows:
    a. ____ The Poll Manager checks the type of election, the name of the county/municipality, the reason for using an affidavit ballot, and prints the name of the precinct and date.
    b. ____ The voter provides as much of the requested identifying information as possible (date of birth, social security number, address, etc.).
    c. ____ The voter checks the appropriate box under Affidavit of Voter.
    d. ____ If the voter has moved within the county where he/she is registered to vote, then the physical address of the current residence is provided, along with the name of the county/municipality.
    e. ____ The voter signs the envelope.
    f. ____ The Poll Manager signs the envelope.

6. ____ The Poll Manager provides the blank ballot to the voter.

7. ____ The voter is provided a suitable place where he/she can mark the ballot in secret.

8. ____ The voted ballot is folded by the voter and handed to the Poll Manager who places it in the affidavit ballot envelope and seals the envelope.

9. ____ The sealed affidavit ballot envelope is then placed in the ballot box.

Appendix 1.D – Continued

10. ____ After the individual has cast an affidavit ballot, the Poll Manager shall provide information on a toll-free access system and written information on how to use this system for affidavit voters to learn the outcome of their ballot.

Appendix 1.E – Poll Manager's Absentee Ballot Checklist

1. ____ After the polls close, take envelopes containing absentee ballots from the box.

2. ____ Announce the name, address, and precinct as shown on each absentee ballot envelope.

3. ____ Check for the registrar's seal and initials on the application. If the seal or initials are not present, the ballot cannot be counted but shall be marked "REJECTED" with the reason for rejection and placed in a "REJECTED ABSENTEE BALLOT" envelope.

4. ____ Make sure the signatures on the absentee ballot envelope are across the flap of the envelope. If the signatures are not across the flap, the ballot cannot be counted but shall be marked "REJECTED" with the reason for rejection and placed in a "REJECTED ABSENTEE BALLOT" envelope.

5. ____ Compare the voter's signature on the application with the voter's signature on the back of the ballot envelope. If the signatures are clearly not the same, the ballot cannot be counted but shall be marked "REJECTED" with the reason for rejection and placed in a "REJECTED ABSENTEE BALLOT" envelope.

6. ____ Check the pollbook to see if the absentee voter may have voted in person. If the absentee voter did vote in person, the absentee ballot cannot be counted but shall be marked "REJECTED" with the reason for rejection and placed in a "REJECTED ABSENTEE BALLOT" envelope.

7. ____ Give anyone present the opportunity to challenge any absentee ballot in the same manner and for the same reasons that any other vote may be challenged, and take action on any written challenge to absentee ballots.

8. ____ If everything is in order, open the envelope and remove the ballot WITHOUT EXAMINING IT and deposit it in the ballot box with the other ballots *before* counting any ballots.

9. ____ Enter the voter's name in the receipt book and mark "VOTED" by the voter's name in the pollbook as if the voter had been present and voted in person.