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# County Election Handbook

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	<u>PAGE</u>
<b>Conducting the Elections .....</b>	<b>4</b>
Primary Elections .....	4
Written Agreements and “Safety Net” Provisions.....	4
General and Special Elections.....	4
 <b>Voter Roll Maintenance and Purging.....</b>	 <b>4</b>
 <b>Qualifying Procedures for Candidates .....</b>	 <b>5</b>
Party Candidates in Primary Elections .....	5
Independent Candidates in General Elections .....	6
Special Election Candidates, School Board Members, and Election Commissioners .....	6
Non-Partisan Judicial Elections .....	6
 <b>Additional Requirements of Candidates .....</b>	 <b>6</b>
Statement of Economic Interest .....	6
Campaign Finance Disclosure Reports .....	7
 <b>Preparing the Ballot .....</b>	 <b>7</b>
Ruling on Candidate Qualifications .....	7
1. Party Candidates in Primary Elections .....	7
2. Party Nominees and Independent Candidates in General Elections .....	8
Printing the Ballot .....	9
1. Primary Elections .....	9
2. General and Special Elections .....	9
Absentee Ballots .....	10
 <b>Absentee Balloting .....</b>	 <b>10</b>
Who is Eligible? .....	10
Procedure for Absentee Balloting .....	11
1. Requirements Set by the Legislature .....	11
2. Voting with Assistance.....	11
3. Voting in the Circuit Clerk’s Office .....	12
4. Voting by Mail .....	12
Military and Overseas Voters .....	13
When Absentee Ballots May Be Cast .....	13
1. First Primary Election .....	13
2. Second Primary Election .....	14
3. General Election .....	14
Hand Delivery of Absentee Ballots Prohibited .....	14
 <b>Poll Managers .....</b>	 <b>15</b>
Qualifications .....	15
Number of Poll Managers to Appoint (chart) .....	15
When to Make Appointments .....	15
Party Affiliation .....	15

Compensation .....	15
Training .....	16
Who Appoints Poll Managers? .....	16
1. Primary Elections .....	16
2. General and Special Elections .....	16
<b>Duties and Responsibilities of Poll Managers at the Polling Place .....</b>	<b>16</b>
Bailiff .....	17
Initialing Manager (paper and scanner ballots only) .....	17
Alternate Initialing Manager (paper and scanner ballots only) .....	18
Receiving and Returning Manager .....	18
<b>The Voting Process .....</b>	<b>19</b>
<b>Voter Assistance .....</b>	<b>20</b>
Inside the Polling Place .....	20
Curbside Voting .....	20
<b>Challenges .....</b>	<b>20</b>
Who Can Challenge? .....	21
Bases for Challenge .....	21
Ruling on Challenge .....	21
1. Challenge Determined to be Frivolous .....	21
2. Challenge Not Unanimously Determined to be Well Taken .....	21
3. Challenge Unanimously Determined to be Well Taken .....	22
<b>Affidavit/Provisional Ballots.....</b>	<b>22</b>
<b>Prohibition Against Campaigning at the Polls .....</b>	<b>23</b>
General Prohibition .....	23
Wearing T-Shirts .....	23
Use of Sample Ballots .....	23
<b>Counting the Votes .....</b>	<b>23</b>
Absentee Ballots .....	23
Paper Ballots .....	25
Scanner (Optical Mark Reader or OMR) Ballots .....	25
Resolution Board .....	26
<b>Proclamation of Results and Sealing the Ballot Box .....</b>	<b>27</b>
<b>Canvassing and Certifying Returns .....</b>	<b>27</b>
Primary Elections .....	27
General and Special Elections .....	28

<b>Security and Accounting of Ballots, Ballot Chain of Custody .....</b>	<b>28</b>
Ballot Printing .....	28
Accounting of Ballots for Precinct Distribution .....	28
Accounting of Delivered Ballots .....	28
Lost Ballots .....	29
Ballot Accounting at the Close of Polls .....	29
Security of Ballot Boxes .....	29
 <b>Presidential Elections .....</b>	 <b>29</b>
 <b>Irregularities in a Ballot Box .....</b>	 <b>30</b>
 <b>Contesting an Election .....</b>	 <b>30</b>
Examination of Boxes by a Candidate .....	30
Filing Complaint or Contest .....	31
1. Primary Elections .....	31
2. General and Special Elections .....	32
 <b>Appendix A   Voter Assistance .....</b>	 <b>33</b>
 <b>Appendix B   Challenged Ballots .....</b>	 <b>34</b>
 <b>Appendix C   Qualifying for County Election Commissioner.....</b>	 <b>36</b>
<b>Qualifying for County School Board .....</b>	<b>36</b>
  <b>Appendix D   Selected Election Responsibilities – County Elections .....</b>	  <b>38</b>
 <b>Appendix E   Keys to a Good Election .....</b>	 <b>40</b>

## **Conducting the Elections**

### **Primary Elections**

County Party Executive Committees are responsible for conducting all primary elections. County Election Commissions may assist in specific circumstances. Miss. Code Ann. §§ 23-15-263 and 23-15-265.

### **Written Agreements and “Safety Net” provisions**

During the 2001 Legislative Session, Senate Bill 2523 and House Bill 1220 were passed enabling County Party Executive Committees to enter into written agreements with County Election Commissions or Circuit Clerks to perform certain specified duties in a primary election. The six (6) major duties concerning primaries that may be performed by County Election Commissions or Circuit Clerks following the timely signing of such agreements are (Miss. Code Ann. § 23-15-266):

- 1) Appointing of Poll Managers, (Miss. Code Ann. § 23-15-265)
- 2) Training of Poll Managers, (Miss. Code Ann. § 23-15-239)
- 3) Distributing ballot boxes, (Miss. Code Ann. § 23-15-267)
- 4) Printing of ballots, (Miss. Code Ann. § 23-15-333)
- 5) Distributing ballots to Poll Managers, and (Miss. Code Ann. § 23-15-335)
- 6) Canvassing and certifying the election. (Miss. Code Ann. § 23-15-597)

### **General and Special Elections**

There are five (5) County Election Commissioners in each county, one elected from each supervisor’s district in the general election during each presidential election year. (Miss. Code Ann. § 23-15-213)

County Election Commissioners are responsible for conducting all general and special elections. The **only exception** to conducting a general election is if there is only one (1) person duly qualified for *each and every office* on the general election ballot, then the election for all offices on the general election ballot shall be dispensed with, and the appropriate election commission shall declare each candidate elected without opposition if the candidate meets all requirements and qualifications to hold the office as determined by the election commission and filed all required campaign finance disclosure reports. (Miss. Code Ann. § 23-15-359(9))

## **Voter Roll Maintenance and Purging**

One of the most important duties of Election Commissions is maintaining accurate voter rolls and pollbooks. Voter roll maintenance, sometimes called “purging,” requires the names of voters be removed from the county voter rolls and pollbooks if it is determined the voter has died, moved out of the county, been convicted of a

disenfranchising crime, or been declared mentally incompetent by a court of law. Voter roll maintenance also means that the Election Commission maintains an accurate residence address for voters within the county. Voter roll maintenance is an ongoing duty of the Election Commission and should be performed throughout the year, subject to the maximum number of days for which they are allowed to be compensated. Miss. Code Ann. § 23-15-153 provides certain days upon which the Election Commission must meet to purge the rolls.

Removal of the names of voters from the voter rolls due to change of residence must be performed in accordance with the voter roll maintenance procedures contained in the National Voter Registration Act (NVRA) (42 U.S.C. 1973 gg). The NVRA establishes the general principle that before purging on the basis of the voter's change of residence, the Election Commission must secure or attempt to secure written confirmation from the voter that he/she has in fact moved to a new address. This means the Election Commission must mail a "Voter Confirmation Card" to the voter in question. The voter is asked to mail the attached postage paid card back to the Election Commission confirming that he/she has moved. If the voter fails to complete and return the card, the voter's name is placed on an inactive voter list. If the voter does not contact the Election Commission or vote in the county during a period of two federal general elections after mailing of the confirmation card, then the voter's name may be purged. See Section Eight of the NVRA for complete purging requirements based on a voter's change of address.

A change in recent federal legislation has ended the Federal Examiners Program under the Voting Rights Act of 1965. Under the Federal Examiners Program, written authorization was needed to remove an individual registered by federal examiners from the roll. Due to this change in federal law, Mississippi no longer requires approval from the Office of Personnel Management (OPM) to remove federally registered voters from the voter roll. Federally registered voters are now given the same status as all other registered voters in Mississippi.

## **Qualifying Procedures for Candidates**

### **Party Candidates in Primary Elections**

In order for a person to be a candidate for their party's nomination in a county primary election, one must:

1. Pay a filing fee to the Circuit Clerk no later than 5:00 p.m. on March 1<sup>st</sup> before the primary election or on the date of the qualifying deadline, provided by statute of office, whichever is earlier, but not before January 1<sup>st</sup> of the year in which the election for the office is held. (Miss. Code Ann. § 23-15-299)
2. Submit to the Circuit Clerk, along with the filing fee, a written Statement of Intent containing the name and address of the candidate, the name of the party with which the candidate is affiliated, and the name of the office the candidate is

seeking. A Statement of Intent is available from the Secretary of State's Office. (Miss. Code Ann. § 23-15-299)

The Circuit 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 receipt of the payment, the name of the person from whom the payment was received, the party with which the candidate is affiliated, and the name of the office the candidate is seeking. For auditing purposes, the Clerk should request that candidates pay the filing fee by check made out to the appropriate County Party Executive Committee, instead of accepting cash. (Miss. Code Ann. § 23-15-299(5))

The Circuit Clerk must forward the Statement of Intent and the filing fee to the secretary of the proper County Party Executive Committee within two (2) business days. (Miss. Code Ann. § 23-15-299(2))

### **Independent Candidates in General Elections**

To qualify as an independent candidate in a county general election, one must file a petition with the Circuit Clerk no later than 5:00 p.m. on March 1<sup>st</sup> before any primary elections, but not before January 1<sup>st</sup> – the same date by which candidates in county primary elections must qualify.

The petition of a candidate for countywide office must be signed by at least fifty (50) qualified voters of the county. The petition of a candidate for county district office must be signed by at least fifteen (15) qualified voters of the district (except the County Election Commission and School Board). (Miss. Code Ann. § 23-15-359)

### **Special Election Candidates, School Board Members, and Election Commissioners**

Different qualifying rules apply for Election Commissioners, School Board Members, and special election candidates. For more information on the qualifying procedures for election commissioners and school board members, see Appendix C.

### **Nonpartisan Judicial Elections**

For more information on nonpartisan judicial elections, including information on qualifying, refer to Miss. Code Ann. § 23-15-974 et. seq.

### **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 county 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. (Miss. Code Ann. § 25-4-25(c)) Incumbent public officials must file such a statement before May 1<sup>st</sup> of each year.

The forms and instructions for the Statement of Economic Interest should be available in the Circuit Clerk's Office, or they may be obtained directly from the State Ethics Commission by calling (601)359-1285.

### **Campaign Finance Disclosure Reports**

Candidates for all county offices must file **Campaign Finance Disclosure Reports** with the Circuit Clerk of that county. The Circuit Clerk shall forward copies of all reports to the Office of the Secretary of State. The reports must identify by name, mailing address, occupation, and employer of every person or business entity that makes a campaign contribution in excess of two hundred dollars (\$200). The reports also must identify those individuals or business entities to whom campaign expenditures in excess of two hundred dollars (\$200) are made. The total dollar amount of all expenditures and contributions also must be reported, as well as the total of all cash on hand. (Miss. Code Ann. § 23-15-805)

The two hundred dollars (\$200) amount is cumulative. Once the total amount of **all contributions from any one source** or **expenditure to a single individual or business** exceeds two hundred dollars (\$200), such contributions or expenditures become reportable. (Miss. Code Ann. § 23-15-807)

If a candidate is eliminated in the first primary, he/she is required to continue filing periodic and annual reports until a termination is filed.

The **Termination Report** is the final report that terminates a candidate's obligation to make any further reports. This report can be filed only when the candidate will no longer accept contributions or make expenditures and 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 can truthfully make the required statement at that time. If no Termination Report is filed, the candidate will be required to file a report on January 31<sup>st</sup> of each year until a Termination Report is filed. The Secretary of State's Office provides these reporting forms to the Circuit Clerks. Candidates may obtain campaign finance disclosure reporting forms from their Circuit Clerks or directly from the Secretary of State's Office or website at [www.sos.ms.gov](http://www.sos.ms.gov). Contact the Secretary of State's Office (800) 829-6786 for a more detailed explanation of campaign finance reporting requirements.

## **Preparing the Ballot**

### **Ruling on Candidate Qualifications**

#### *1. Party Candidates in Primary Elections.*



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

- A. The candidate is a qualified voter and resident of the county (or county district if the office sought is elected from a county district).
- 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 any felony, convicted in a federal court of a felony, or convicted in the court of any other state of any felony that is a felony in Mississippi (other than manslaughter or IRS 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. (§ 44, 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. § 23-15-299 and § 44, Miss. Constitution of 1890)

## 2. *Party nominees and independent candidates in general elections.*

The County Election Commission is responsible for ruling on the qualifications of party nominees and independent candidates and preparing the ballot for a general election in the same manner as County Party Executive Committees rule on qualifications of candidate and prepare the ballot in party primary elections. (Miss. Code Ann. § 23-15-359 and *Powe v. Forrest County Election Commission*, 249 Miss. 757, 163 S.2d 656 (1964))

The County Election Commission shall make determinations that:

- A. The candidate is a qualified voter and resident of the county (and county district if the office sought is elected from a county district).
- 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 any felony; or convicted in a federal court of a felony or convicted in the court of any other state of any felony that is a felony in Mississippi (other than manslaughter or IRS 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. (Miss. Const. of 1890, Article 4 §44).

If the Commission 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.

## **Printing the Ballot**

### *1. Primary Elections*

- A. Order of Candidates' Names – Each County Party Executive Committee is responsible for having ballots printed for primary elections. The ballots must contain the names of all duly qualified candidates in alphabetical order by last name. (Miss. Code Ann. § 23-15-333)
- B. Write-In Provisions for Primary Elections – On ballots for primary elections, there must be one (1) blank space under each office. In the event of the death of any candidate, each voter may choose to write in the name of another individual and mark the ballot for the person whose name is written. (Miss. Code Ann. § 23-15-333)
- C. Unopposed Candidates Appearing on the Ballot- Unopposed candidates do not have to appear on the ballot. (Attorney General's Opinion, May 18, 2007)

### *2. General and Special Elections*

- A. Order of Candidates' Names – The Chairman of the County Election Commission is responsible for having the ballots printed for general and special elections. (Miss. Code Ann. §§23-15-213, -351) The arrangement of the names of the candidates, and the order in which the titles of the various offices shall be printed, 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, but the arrangement need not be uniform. (Miss. Code Ann. § 23-15-367)
- B. Write-In Provisions for General and Special Elections – On ballots for general and special elections, there must be one (1) blank space under each office. In the event of the death or removal of any candidate, each voter may choose to write in the name of another individual and mark his/her ballot for that person. A candidate cannot withdraw (or resign) after the printing of the ballot. (Miss. Code Ann. § 23-15-363)

C. Unopposed Candidates Appearing on the Ballot- Unopposed candidates do not have to appear on the ballot. (Attorney General's Opinion, May 18, 2007)

### **Absentee Ballots**

State law requires that absentee ballots be prepared forty-five (45) days prior to the election. (Miss. Code Ann. §§ 23-15- 333(1); 23-15-649)

Absentee ballots shall be printed on tinted paper of a tint different from that of the official ballot. (Miss. Code Ann. § 23-15-679)

### **Absentee Balloting**

#### **Who Is Eligible?**

The following categories of registered voters are eligible to cast absentee ballots in Mississippi elections (Miss. Code Ann. §§ 23-15-627; 23-15-713):

1. Members of the Armed Forces or their spouses and/or dependents.
2. Members of the Merchant Marines or the American Red Cross, or their spouses and/or dependents.
3. Disabled war veterans who are patients in any hospital, or their spouses and/or dependents.
4. Civilians attached to any branch of the Armed Forces, the Merchant Marines, or the American Red Cross and serving outside the United States, or their spouses and/or dependents.
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 county of voting residence, or their dependent or spouse who maintains a common domicile outside the county of voting residence.
7. Persons who will be outside their county of residence on election day.
8. Persons required to be at work on election day during the times at which the polls will be open.
9. Persons temporarily or permanently physically disabled.

10. Persons sixty-five (65) years of age or older.
11. Parents, spouses, or dependents of persons having a temporary or permanent physical disability who are hospitalized outside their county of residence or more than fifty (50) miles away from their residence if the parents, spouses, and/or dependents will be with such persons on election day.
12. Members of the Mississippi Congressional delegation, or their spouses and/or dependents.

### **Procedure for Absentee Balloting**

1. *Miss. Code Ann. § 23-15-625 et. seq. contains several requirements for absentee voting. These requirements include:*
  - A. Absentee ballot applications shall be furnished by the Circuit Clerk to a person upon an oral or written request of the elector who seeks to vote by absentee ballot;
  - B. 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;
  - C. 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;
  - D. 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;
  - E. Third parties procuring applications for others must complete and sign a new section of the applications designated "Certificate of Delivery" on each application the third parties are procuring, identifying themselves and the voters for whom they are acquiring the applications;
  - F. If the third party person acquiring an application for a voter cannot read or write, the Circuit Clerk or deputy clerk must complete the form "Request for Absentee Ballot Application by Third Person."
2. *Voting Absentee with Assistance*
  - A. Any voter who is blind, temporarily or permanently physically disabled, or cannot read or write, is entitled to request and receive assistance in the marking of his/her ballot. The voter may have the assistance of anyone except

his/her employer, an agent of the voter's employer, or an officer or agent of the voter's union.

- B. Any person who provides assistance is required to sign and complete the "Certificate of Person Providing Voter Assistance" on the absentee ballot envelope disclosing the date and time assistance was provided and family relationship to the voter (if any).
- C. A candidate whose name appears on the ballot cannot be an attesting witness for an absentee ballot.

### 3. *Voting Absentee in the Circuit Clerk's Office*

All eligible absentee voters may cast their ballots in the Circuit Clerk's office by completing the appropriate application form in the Circuit Clerk's office.

### 4. *Voting Absentee by Mail*

Eligible absentee voters may apply for an absentee ballot by mailing the appropriate application to the Circuit Clerk if they are not able to go to the Circuit 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, and/or dependents will be with such persons on election day.

Applications must be notarized or sworn and subscribed to by another official authorized to witness absentee balloting. However, applications of the temporarily or permanently disabled are not required to be notarized, but must be witnessed and signed by a person eighteen (18) years of age or older. This person does NOT have to be a registered voter.

With their application for an absentee ballot, permanently physically disabled voters shall file a statement signed by their physician or licensed nurse practitioner showing that the person signing the statement is a licensed, practicing medical doctor or nurse practitioner and that the person applying for the absentee ballot is permanently physically disabled to such a degree that it is difficult for him to vote in person. This statement entitles such voters to receive automatically an absentee ballot for all elections on a continuing basis without the necessity for re-application. This does NOT apply to the temporarily physically disabled. (Miss. Code Ann. § 23-15-629)

## **Military and Overseas Voters**

Military and overseas voters frequently use the Federal Post Card Application (FPCA) to request absentee ballots. The FPCA may be used to request absentee ballots, to register to vote, or to register to vote and request absentee ballots simultaneously. (Miss. Code Ann. § 23-15-699)

For military personnel and overseas voters, both FPCAs requesting absentee ballots and the absentee ballots themselves may be transmitted by fax machines. No other faxing of absentee ballot applications or absentee ballots is permissible. (Miss. Code Ann. § 23-15-699)

Any citizen covered under the Uniformed and Overseas Citizens Absentee Voting Act who has been issued a Department of Defense ID can request an absentee ballot application and vote using email. They can send their application and ballot to the Secretary of State's office at [uocava@sos.state.ms.us](mailto:uocava@sos.state.ms.us) or directly to their clerk's office for processing. Active duty military personnel serving outside of the state may also receive and submit absentee ballot applications and ballots by email.

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; 42 USCS 1973 ff-2)

For military and overseas voters, one application for absentee ballots shall serve as a request for an absentee ballot for each election held with the calendar year for which the voter is eligible to vote. (Miss. Code Ann. § 23-15-687)

When a primary, general, or special election may be followed by a run-off, the registrar shall send to the requesting military or overseas absentee voter both ballots and 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 election and which ballot is for the second election. If the voter casts a vote for a candidate on the second election ballot that is no longer a candidate in the second election (e.g., didn't make the run-off), then the vote for that particular office in the second election is disregarded. (Miss. Code Ann. § 23-15-683)

## **When Absentee Ballots May Be Cast**

### *1. First Primary Election*

- A. Voting Absentee in the Circuit Clerk's office – The first day for voting absentee ballots in the Circuit Clerk's office is the forty-fifth (45<sup>th</sup>) 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 Tuesday. If the voter appears before the Circuit Clerk and the ballot has not yet been printed forty-five (45) days before the election, the Circuit Clerk shall mail the absentee ballot to the voter. (Miss. Code Ann. § 23-15-715(a))
  - B. Voting Absentee 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 Circuit Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-721)
2. *Second Primary Election*
- A. Voting Absentee in the Circuit Clerk's Office – Second primary absentee ballots to be voted in the Circuit 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 Tuesday. (Miss. Code Ann. § 23-15-715(a))
  - B. Voting Absentee 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 blacked out. The deadline for receipt of absentee ballots mailed to the Circuit Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-719)
3. *General Election*
- A. Voting Absentee in the Circuit Clerk's Office – The first day for voting general election absentee ballots in the Circuit Clerk's office is the forty-fifth (45<sup>th</sup>) day before the general election. The deadline for casting absentee ballots in the Circuit Clerk's office is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on Tuesday. If the voter appears before the Circuit Clerk and the ballot has not yet been printed forty-five (45) days before the election, the Circuit Clerk shall mail the absentee ballot to the voter. Miss. Code Ann. § 23-15-715 (a)
  - B. Voting Absentee by Mail – Absentee ballots to be voted by mail must be available forty-five (45) days prior to the election where possible. The deadline for receipt of absentee ballots mailed to the Circuit Clerk is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-715 (b))

**Hand Delivery of Absentee Ballots Prohibited**

It is illegal to hand deliver absentee ballots in Mississippi. Unless an absentee ballot is being properly voted in the Circuit Clerk’s Office, it must be mailed by the Circuit Clerk to the voter and the voter must return the voted absentee ballot by mail to the Circuit Clerk. (Miss. Code Ann. § 23-15-719)

## **Poll Managers**

### **Qualifications of Poll Managers**

Anyone appointed as a Poll Manager must be a registered voter of the county 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)

### **Number of Poll Managers to Appoint**

A minimum of three (3) persons to be designated Poll Managers must be appointed for each precinct. Additional Poll Managers may be appointed as set out in the chart below. “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.

Registered Voters in a Precinct	Minimum Number of Poll Managers	Number of Optional Poll Managers	Maximum Number of Poll Managers
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)

### **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 for them not fewer than five (5) calendar days prior to the election. (Miss. Code Ann. § 23-15-239)

### **Party Affiliation of Poll Managers for General and Special Elections**

The managers of general or special elections cannot all be of the same political party if suitable persons of different political parties can be found. (Miss. Code Ann. § 23-15-231)



## **Compensation of Poll Managers**

Poll Managers are paid seventy-five dollars (\$75) for an election. After approval by the County Board of Supervisors, Poll Managers may receive additional payment of up to fifty dollars (\$50) per election. A Manager who is designated to be the Receiving and Returning Manager is entitled to an additional ten dollars (\$10) for carrying the ballot boxes to the polling place and another ten dollars (\$10) for returning the boxes after the election, for each voting precinct. (Miss. Code Ann. § 23-15-227)

## **Training Poll Managers**

The appropriate election officials (the Party Executive Committee for primary elections and the County Election Commission for other elections), in conjunction with the Circuit Clerk, are responsible for conducting training sessions, not fewer than five (5) days before the election, to instruct the Poll Managers as to their duties in the proper administration of the election and the operation of the polling place.

The Board of Supervisors may, in their discretion, compensate poll managers who attend poll manager training sessions a maximum of \$12.00 per hour. The minimum rate remains the federal hourly wage. The maximum number of hours poll managers may be compensated for attending such training sessions is eight (8) hours, regardless of the actual amount of time that they attend the training sessions. (Miss. Code Ann. § 23-15-239)

No Poll Manager may serve in any election unless he/she has received such instructions. However, emergency appointments pursuant to Miss. Code Ann. § 23-15-231, can be made.

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

## **Who Appoints Poll Managers?**

### *1. Primary Elections*

The County Party 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; 23-15-251)

### *2. General and Special Elections*

The County 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; 23-15-251)

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 to

be the Alternate Initialing Manager. These designations are made on the morning of the election and not before.

The Manager designated by the County Party 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)

## **Duties and Responsibilities of Poll Managers at the Polling Place**

### **Bailiff**

The Bailiff has a number of specific statutory duties and responsibilities that must be carried out to ensure a lawful, peaceful, and orderly 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 where the election is held is kept clear of all persons except: (a) election officials, (b) voters waiting to cast their ballots, (c) candidates or one authorized representative of each candidate, and (d) two (2) challengers selected by each political party (at general and special elections only). (Miss. Code Ann. §§ 23-15-245 and 23-15-577)
  - 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 representative must be allowed to challenge the qualification of any person offering to vote. (Miss. Code Ann. § 23-15-577)
  - The Bailiff must ensure that the candidate or candidate's representative does not move about the polling place greeting voters, in any way tries to influence any voter, nor 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 where an election is being held. (Miss. Code Ann. § 23-15-895)
3. To arrest all persons creating any disturbance in and about the polling place. (Miss. Code Ann. § 23-15-241)
4. To see that registered voters who have not voted and who want to vote have unobstructed access to the polls. (Miss. Code Ann. § 23-15-241)
5. To call upon anyone present at the polling place to assist the Bailiff in

seeing that the laws pertaining to the polling place are enforced. (Miss. Code Ann. § 23-15-245) If necessary, the Bailiff should contact local law enforcement officials for assistance in enforcing the law.

### **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 things:

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)

### **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)

### **Receiving and Returning Manager**

The Manager designated by the appointing election officials as the Receiving and Returning Manager must perform the following tasks:

1. On the day before the election, obtain from the Circuit 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. Ensure that the box(es) and the contents are not tampered with prior to the opening of the polls.
3. Deliver the ballot box(es) and the contents to the appropriate polling place at least thirty (30) minutes prior to 7:00 a.m. on Election day. (Miss. Code Ann. § 23-15-251)
4. Return all used and unused ballots and other materials to the Circuit Clerk's office no later than the day following the election. (Miss. Code Ann. § 23-15-251)

After the polls are closed on Election Day, the boxes are returned to the Election Central (usually at the Courthouse/City Hall).

## **The Voting Process (Paper)**

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 the voter is an **unverified first time mail-in registrant** after January 1, 2003, the voter may be required to show an acceptable form of identification. An acceptable form of identification must be shown to the Poll Manager to cast a regular Election Day ballot, or complete an affidavit ballot envelope and vote by affidavit ballot.
  - *Accepted Forms of Identification for Unverified Voters:*
    - A current and valid photo identification (i.e., drivers license);
    - A current utility bill with the voter's name and address;
    - A bank statement with the voter's name and address;
    - A government check with voter's name and address;
    - A paycheck with voter's name and address; or,
    - Any other government document that shows voter's name and address.
3. If the voter's name is found in the pollbooks (and shows identification, if required to do so) the voter signs his/her name in a receipt book or on a voter list;
4. 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;
5. 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. The former statutory provision which required that either (X) or (√) be used throughout an entire ballot has been deleted and now a ballot can be marked with any combination of (X) or (√).

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.

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. (Miss. Code Ann. § 23-15-551)

6. The voter casts his/her ballot by returning it to the Initialing Manager;
7. The Initialing Manager checks to see that the ballot bears the genuine initials of the Initialing Manager and deposits the ballot in the box;
8. 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; 23-15-545)

## **Voter Assistance (See Also Appendix 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, and the Managers must be satisfied that the voter is either blind, physically disabled, or illiterate and needs assistance in marking his/her ballot. (*O’Neal v. Simpson*, 50 So2d 998, 1009 [1977])

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)

*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 the actual voting is taking place may be provided necessary assistance in voting if the Managers, in exercising sound discretion, determine that the voter is actually at the polling place. (Attorney General’s Opinion, July 1, 1959, *Biennial Report*, p. 23; Miss. Code Ann. § 23-15-541)

## **Challenges (See Also Appendix B)**

### **Who Can Challenge?**

The following persons are authorized challengers and shall be allowed to challenge the qualifications of any person attempting to vote: (Miss. Code Ann. § 23-15-571)

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. Any authorized representative of a political party for the precinct in which the challenge is made;
  4. Any qualified voter for the precinct in which the challenge is made;
  5. Any Poll Manager of the polling place where the person whose qualifications are challenged is attempting to vote.

### **Bases for Challenge**

A person attempting to vote may be challenged on the following grounds: (Miss. Code Ann. §§ 23-15-579; 23-15-643; 23-15-571)

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.
7. The person is otherwise disqualified by law.
8. The person has cast an absentee ballot but is ineligible to do so.

### **Ruling on Challenge**

The challenge of any authorized challenger shall be considered and acted upon by the Managers of the precinct, and all votes challenged at the polls are to be received. (Miss. Code Ann. § 23-15-579)

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

1. *Challenge determined to be frivolous.*

If the Poll Managers believe the challenge is FRIVOLOUS, DISREGARD the challenge and accept the offered vote as though it had not been challenged by allowing the voter to vote a regular Election Day ballot.

2. *Challenge not unanimously determined to be well taken.*

If a Voter is challenged and the Poll Managers cannot reach a unanimous decision, a paper ballot shall be supplied to the voter. The ballot is counted separately from the unchallenged ballots as follows:

- a. “Challenged” is marked on the ballot; and
- b. The ballot is placed in a separate envelope labeled “Challenged Ballots;” and finally
- c. 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.

3. *Challenge unanimously determined to be well taken.*

If, in the UNANIMOUS opinion of the Poll Managers the challenge is valid or well taken, the ballot is REJECTED in the following manner:

- a. Mark “Rejected” on the back of the ballot; and
- b. Write the name of the voter on the back, and place it in a strong envelope marked rejected; then
- c. Seal the envelope and return it in the ballot box.

### **Affidavit/Provisional Ballots**

A person whose name does not appear on the pollbooks shall not be permitted to vote a regular ballot in an election. If, however, the name of any person attempting to vote does not appear on the pollbooks, and the person makes affidavit in writing before one of the Managers of the precinct that the person is entitled to vote or that he/she has been illegally denied registration, the person may vote an affidavit (provisional) ballot.

The voted paper ballot shall be handed to one of the 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 Manager shall seal the envelope and if he/she has not already done so, shall mark plainly upon it the name of the person attempting to vote. The Poll Manager gives the voter written instructions on how to ascertain if their vote counted, and if not why not by contacting the Circuit Clerk’s Office or Election Commission.

The election officials – the County Party Executive Committee for primaries and the County Election Commissioners for general and special elections – must examine the

records when canvassing the returns and allow the affidavit (provisional) ballot to be counted, or not counted, as shall appear to be legal. (Miss. Code Ann. § 23-15-573)

## **Prohibitions Against Campaigning at the Polls**

### **General Prohibition**

It is unlawful for any candidate for elective office or any representative of a candidate 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 armed or uniformed or to display any badge or credentials except as may be issued by the Managers of the precinct. (Miss. Code Ann. § 23-15-895)

### **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)

### **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.

## **Counting the Votes**

### **Absentee Ballots**

**In elections in which direct recording electronic voting systems (DRE) are utilized, the examination and counting of absentee ballots shall be conducted as follows (Miss. Code Ann. §23-15-639(2):**

1. At the close of the regular balloting and at the close of the polls, the election managers of each voting precinct shall first take the envelopes containing the absentee ballots of such electors from the box, and the name, address and precinct inscribed on each envelope shall be announced by the election managers.



2. The signature on the application shall then be compared with the signature on the back of the envelope. If it corresponds and the affidavit, if one is required, is sufficient and the election managers find that the applicant is a registered and qualified voter or otherwise qualified to vote, and that has not appeared in person and voted at the election, the unopened envelope shall be marked "ACCEPTED" and the election managers shall enter the voter's name in the receipt book provided for that purpose and mark "VOTED" in the pollbook or poll list as if the voter had been present and voted in person.
3. All absentee ballot envelopes shall then be placed in the secure ballot transfer case and delivered to the officials in charge of conducting the election at the central tabulation point of the county. The official in charge of the election shall open the envelopes marked "ACCEPTED" and remove the ballot from the envelope.
4. Having observed the ballot to be regular as far as can be observed from its official endorsement, the absentee ballot shall be processed through the central optical scanner. The scanned totals shall then be combined with the direct recording electronic voting system totals for the unofficial vote count.

**In elections in which direct recording electronic voting systems (DRE) are not utilized, the examination and counting of absentee ballots shall be conducted as follows (Miss. Code Ann. §23-15-639(1):**

1. At the close of the regular balloting and at the close of the polls, the election managers of each voting precinct shall first take the envelopes containing the absentee ballots of such electors from the box, and the name, address and precinct inscribed on each envelope shall be announced by the election managers;
2. The signature of the application shall then be compared with the signature on the back of the envelope. If it corresponds and the affidavit, if one is required, is sufficient and the election managers find that the applicant is a registered and qualified voter or otherwise qualified to vote, and that he has not appeared in person and voted at the election, the envelope shall then be opened and the ballot removed from the envelope, without its being unfolded, or permitted to be unfolded or examined.
3. Having observed and found the ballot to be regular as can be observed from its official endorsement, the election managers shall deposit in the ballot box with the other ballots before counting any ballots and enter the voter's name in the receipt book provided for that purpose and mark "VOTED" in the pollbook or poll list as if he had been present and voted in person. If voting machines are used, all absentee ballots shall be placed in the ballot box before any ballots are counted, and the election managers in each precinct shall immediately count such absentee ballots and add them to the votes cast in the voting machine or device.

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 Managers shall mark across its face “REJECTED,” and the reason for rejection. The ballots marked “REJECTED” shall be placed in a separate envelope in the secure ballot transfer case and delivered to the officials in charge of conducting the election at the central tabulation point of the county. (Miss. Code Ann. § 23-15-641)

### **Paper Ballots**

When the polls have been closed, the Managers 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)

### **Scanner (Optical Mark Reader or OMR) Ballots**

As soon as the polls have been closed, counties utilizing DRE systems shall seal ALL ballots against further voting, and the Returning Manager must deliver the ballot box to the Election central/counting center (Miss. Code Ann. §§ 23-15-517; 23-15-519). Counties utilizing precinct scanners shall process ballots, except Affidavit (provisional) ballots to receive an unofficial election return before going to Election Central.

All proceedings at the counting center shall be under the direction of the officials in charge of the election – the County Party 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, 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)

Prior to the start of the counting 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 political

parties, the press, and the general public may witness the test conducted on the OMR tabulating equipment.

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 of it shall be ascertained and corrected; before the count is started, an errorless test count shall be made and certified to by the officials in charge. 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)

### **Resolution Board**

The officials in charge of the election shall appoint qualified voters to serve as judges on the Resolution Board. **Members of the Resolution Board shall be required to attend the training described in Miss. Code Ann. § 23-15-239.** 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 Resolution 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 “Damaged Ballots.” The officials in charge of the election shall have the judges on the Resolution Board hand-tally any damaged or defective ballots.

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-detectable marking device. If it is determined the ballot is marked with a non-detectable device, the Resolution Board may mark over the voter’s mark with a detectable 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 following the provisions governing the counting of paper ballots.

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)

Municipalities using precinct counter OMR voting devices, such as the Optech III-P Eagle, should also refer to the Official Attorney General's Opinion dated August 31, 1994 Official Attorney General's Opinion. The opinion is available from the Secretary of State's Office or the Attorney General's Office.

### **Proclamation of Results and Sealing of the Ballot Box (Paper)**

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 with their signatures a statement of the results and shall enclose one of the certificates in the ballot box.

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. The voted ballots, the spoiled ballots, and the unused ballots must correspond in total with the number of ballots originally accepted by the Receiving and Returning Manager. Failure of the two numbers to correspond must be perfectly accounted for by a written statement by the Managers made under oath and enclosed in the ballot box.

The tally list and the receipt book 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 book.

When all the materials have been placed in the ballot box, it must be locked and sealed by the Managers of the precinct. (Miss. Code Ann. § 23-15-591)

### **Canvassing and Certifying Returns**

#### **Primary Elections**

The County Party Executive Committee shall meet in 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 county and county district offices. A duplicate of all tabulations by precincts as certified by the precinct Managers shall be filed with the Circuit Clerk, who shall preserve those materials in his/her office. (Miss. Code Ann. § 23-15-597)

## **General and Special Elections**

On the day following the general or special election, the Election Commission shall canvass the returns from all voting precincts, and within ten (10) days after the election, shall deliver a certificate to each person receiving the highest number of votes.

If it appears that any two (2) 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 voters of the county.

Within ten (10) days after any election, the Election Commission shall certify to the Secretary of State the names of the persons selected, and those persons shall be issued commissions by the Governor. (Miss. Code Ann. §§ 23-15-601; 23-15-603)

The Election Commission should proceed expeditiously but very deliberately and carefully with its certification, because the Commission does not have the authority to reassemble and alter or amend the original certification of the results of the election. Any error that may have been made in the original canvass of the returns can be corrected only by a court of competent jurisdiction. (Attorney General's Opinion to Lawrence, Mann, December 6, 1988)

## **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**

The printer of any ballots must provide to the officials in charge of the election a certificate stating the number of ballots printed for each precinct and a sworn certificate that the official ballots shall be kept secret. Once the officials in charge of the election receive the ballots from the printer, they are responsible for its security. 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; 23-15-333; 23-15-649)

### **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 Circuit Clerk;

the other is placed in the ballot box after the votes have been counted. (Miss. Code Ann. §§ 23-15-335; 23-15-591)

### **Accounting of Delivered Ballots**

The officials in charge of the election shall ensure that the total number of ballots received 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)

### **Lost Ballots**

If ballots are lost, the Managers must report the loss to the officials in charge of the election within one (1) day 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)

### **Ballot Accounting at the Close of the Polls**

Ballots shall be accounted for at the close of the polls in accordance with Miss. Code Ann. § 23-15-591. See also Miss. Code Ann. § 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 Circuit 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)

## **Presidential Elections**

There are several special procedures applicable only to presidential elections, including:

1. Absentee ballots received by the registrar after 5:00 p.m. the day before a presidential election (primary or general) but on or before 7:00 p.m. the day of the election shall be counted, but only for the office of President and Vice-President of the United States. (Miss. Code Ann. § 23-15-731)
2. Voters registered to vote in Mississippi who move out of their counties or out of the state within thirty (30) days of a presidential election are entitled to vote for the office of President and Vice-President of the United States, either by absentee ballot or in person, in the county and precinct in which they formerly resided. (42 U.S.C.A § 1973aa-1)

## **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 there have been failures in material particulars to comply with the requirements outlined in sections on “Affidavit/Provisional Balloting” and “Counting the Vote” 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.

If the irregularities were not deliberately permitted or engaged in by the Managers, the Executive Committee or the Election Commission (as appropriate) shall conduct a hearing and make a determination about the box as may appear lawfully just, subject to judicial review.

The Executive Committee, the Election Commission, or the court, upon review, may, however, order another election to be held at the precinct, appointing new Poll Managers to hold the new election. (Miss. Code Ann. § 23-15-593)

## **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 Circuit 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 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 Circuit Clerk or the Clerk’s Deputy who shall ensure 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)

## **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 county or county district 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.

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 allegations of fraud. 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; 23-15-925)

If a contest has been filed with the Executive Committee and the Committee does not meet or act within a reasonable time, or does not act in accordance with 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 fraudulent irregularities are alleged to have occurred. The complaint must be accompanied by a sworn petition explaining how the Executive Committee has failed to act in the proper manner. (Miss. Code Ann. § 23-15-927)

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)

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. 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 which 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)



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.

## *2. General and Special Elections*

A person desiring to contest the election of another person to any county or county district 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)

Contests of state legislative elections are handled in accordance with Miss. Code Ann. § 23-15-955.

## **Appendix 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.

### **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.

### **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 the voter is a member.

**References:** Miss. Code Ann. § 23-15-549; *O'Neal v. Simpson* 350 So 2<sup>nd</sup> 998 (1977).

## **Appendix 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 pollwatcher;
3. A political party’s authorized pollwatcher (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 the voter:

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

## **Appendix B – Continued**

### **Challenged Ballot**

**ACTION I:** If the Poll Managers believe the challenge is FRIVOLOUS, DISREGARD the challenge and accept the offered vote as through it had not been challenged by allowing the voter to vote a regular Election Day ballot.

**ACTION II:** If a Voter is challenged and the Poll Managers cannot reach a unanimous decision, a paper ballot shall be supplied to the voter. The ballot is counted separately from the unchallenged ballots as follows:

- a “Challenged” is marked on the ballot; and
- b The ballot is placed in a separate envelope labeled “Challenged Ballots;” and finally
- c 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.

**ACTION III:** If in the UNANIMOUS opinion of the Poll Managers the challenge is valid or well taken, the ballot is REJECTED in the following manner:

- a Mark “Rejected” on the back of the ballot; and
- b Write the name of the voter on the back, and place it in a strong envelope marked rejected; then
- c Seal the envelope and return it in the ballot box.

**Reference:** Miss. Code Ann. §§ 23-15-579; 23-15-571)

## **Appendix C**

### **Election Commissioners**

Candidates for county election commissioner shall qualify by filing with the chancery clerk of his or her county a petition personally signed by not less than fifty (50) qualified electors of the supervisor's district in which the candidate resides. The petition must be filed by 5:00 p.m. not less than sixty (60) days before the election. (Miss. Code Ann. § 23-15-213)

Candidates for county election commissioner are required to comply with all campaign finance reporting requirements.

### **Electing County School Board Members**

Counties that have established single-member districts different from Supervisors' Districts in accordance with Miss. Code Ann. § 37-5-1 must elect their board members in accordance with the schedule that is established by the creation of such single-member districts. The schedule is set forth in Miss. Code Ann. § 37-5-7(2). In addition, some elections for county school board members may be affected by a court order. For information concerning a particular county school board affected by redistricting or litigation, contact the office of the county Superintendent of Education.

#### **Date of Election**

The General Election is **the first Tuesday after the first Monday in November**. The candidate who receives the highest number of votes shall be declared elected – there is no run-off. (Miss. Code Ann. § 37-5-9)

#### **Qualifying Period**

Individuals may not qualify earlier than ninety (90) days and not later than sixty (60) days before the General Election. (Miss. Code Ann. § 37-5-9)

#### **Qualifications**

A candidate must be a qualified voter and a resident in the Supervisor District in which he/she is a candidate, and must possess a high school diploma or its equivalent. (Miss. Code Ann. § 37-5-1)

#### **Term of Office**

The term of office is six (6) years. (Miss. Code Ann. § 37-5-7)

#### **Qualifying Procedure**

A candidate must file a petition with the Election Commission. The petition must be signed by at least fifty (50) qualified voters of the Supervisor District in which the candidate is running, and the signatures must be certified by the Circuit Clerk. If there are fewer than one hundred (100) qualified voters in a Supervisor District, a candidate's petition has to be signed by only twenty percent (20%) of those voters. A petition cannot be signed by a qualified voter who lives in a municipal separate school district or a special municipal separate school district. Each page of the petition must have the same heading on it. (Miss. Code Ann. § 37-5-9)

### **Report of Campaign Finances**

Each candidate for County School Board Member must file with the Circuit Clerk a report of campaign finances. The report must list each contribution and each expenditure in excess of \$200 (or contributions from one person which total more than \$200 or expenditures to one vendor which total more than \$200). After filing the pre-election report, the candidate must file either a Termination Report or continue filing annual reports in accordance with the law. (Miss. Code Ann. §§ 23-15-801 through 815)

If a candidate receives a contribution of more than \$200 after the tenth (10<sup>th</sup>) day, but more than forty-eight (48) hours before 12:01 a.m. on the day of the election, the candidate must fully disclose the contribution by filing a "Forty-Eight Hour Report" with the appropriate office designated in Miss. Code Ann. § 23-15-805 within forty-eight (48) hours of the contribution.

The notification shall be in writing, and may be transmitted by overnight mail, courier service, or other reliable means, including electronic facsimile (FAX), but the candidate or candidate's committee shall ensure that the notification shall in fact be received in the appropriate office within forty-eight (48) hours of the contribution.

### **Statement of Economic Interest**

Within fifteen (15) days of becoming a candidate, each candidate must file with the Mississippi Ethics Commission a "Statement of Economic Interest," which can be mailed to Post Office Box 22746, Jackson, MS 39205, or delivered in person to Room 103, Burroughs Building, 146 East Amite Street, Jackson. (Miss. Code Ann. §§ 25-4-25 through 29)

## **Appendix D – Selected Election Responsibilities-County Elections**

### **Election Commissioners**

1. Know the offices being voted on.
2. Purge and revise pollbooks before elections: primary, general, special. **No systematic purging should take place within 90 days of an election.** (Miss. Code Ann. § 23-15-153)
3. Qualify and certify candidacy.
4. Set up ballot and orders ballots (duty of Chairperson) – absentee and official. (Miss. Code Ann. § 23-15-351)
5. Order supplies. (Miss. Code Ann. § 23-15-351)
6. Hire Poll Managers. (Miss. Code Ann. §23-15-231) Avoid hiring candidate’s family members.
7. Conduct Poll Managers training. (Miss. Code Ann. § 23-15-239)
8. Order pollbooks from Circuit Clerk. (Miss. Code Ann. § 23-15-161)
9. Prepare the ballot boxes – general and special elections. (Miss. Code Ann. § 23-15-251)
10. Distribute boxes – sign receipt when picked up. (Miss. Code Ann. § 23-15-247)
11. Visit polls, carry extra supplies.
12. Receive boxes on election night – set up procedure ahead of time. (Miss. Code Ann. § 23-15-247)
13. Secure boxes on election night. (Miss. Code Ann. § 23-15-601)
14. Complete recapitulation sheets. (Miss. Code Ann. § 23-15-601)
15. Certify the election and announce winner(s). (Miss. Code Ann. § 23-15-601)
16. Notify the Secretary of State’s Office in writing of the results within ten (10) days. (Miss. Code Ann. § 23-15-603)
17. Submit Poll Managers’ payroll. (Miss. Code Ann. § 23-15-261)
18. Plan and hold a Run-Off Election after the General Election, if necessary, for Election Commissioners and School Board Trustees (County School Board Member elections require only a plurality).
19. Clean up boxes, restore supplies.
20. Sit with the judge in any election contests. (Miss. Code Ann. § 23-15-931)

### **Circuit Clerk**

1. Register voters.
2. Distribute absentee ballots forty-five (45) days prior to election, if by mail; also forty-five (45) days prior if voting in the Circuit Clerk’s office.
3. Serve as custodian for voting machines/devices and ballot boxes.
4. Be responsible for ballot box storage.
5. Secure ballot boxes between elections or in case of election contests.
6. Place absentee ballots in ballot boxes.
7. Assist election officials in preparing pollbook – include only the names of persons registered thirty (30) days prior to the election.

## **Appendix D – Continued**

### **Supervisors**

1. Pay Election Commissioners per diem, including six (6) days annually for training. (Miss. Code Ann. § 23-15-211)
2. Secure polling locations/places and submit changes to the U.S. Justice Department. (Miss. Code Ann. § 23-15-259)
3. Pay expenses of county elections. (Miss. Code Ann. § 23-15-259)
4. Perform duties of Election Commissioners if they fail to serve. (Miss. Code Ann. § 23-15-215)



## **Appendix E – Keys to a Good Election**

Source: Mississippi Secretary of State's Office

1. Purge your pollbooks.
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 pollwatchers.
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. Inspect each machine visually after it is set up.
16. Certify the results of an election in a timely manner.