

2015  
COUNTY  
ELECTIONS  
HANDBOOK



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*Secretary of State*

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## **Conducting the Elections**

### **Primary Elections**

County Party Executive Committees are responsible for conducting all primary elections. County Election Commissions may assist in specific circumstances if the County Executive Party enters into a written contract with the Election Commission to perform certain duties. (Miss. Code Ann. §§ 23-15-263; 23-15-265; 23-15-266)

### **Written Agreements**

County Party Executive Committees may enter into written agreements with County Election Commissions and/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)

If the County Party Executive Committee elects to enter into a contract with the County Election Commission and/or Circuit Clerk, the contract must be signed by the Chairman of the County Executive Committee and Chairman of the Election Commission and/or Circuit Clerk. The County Executive Committee shall notify the State Executive Committee and the Secretary of State's Office of the existence of the agreement.

## **Qualifying Procedures for Candidates**

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

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 for the office, whichever is earlier, but not before January 1<sup>st</sup> of the year in which the election for the office is held. If the qualifying deadline provided by statute falls on a Saturday, Sunday or a legal holiday, then the assessments required by the statute shall be due by 5:00 p.m. on the last business day immediately preceding the qualifying deadline. (Miss. Code Ann. § 23-15-299; Attorney General's Opinion:

Turner, October 17, 2014)

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 and on the Secretary of State's website. (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))

### **Additional Requirements of Candidates**

In addition to complying with the requirements outlined above, candidates must meet certain other requirements after they have 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. Incumbent public officials must file such statement before May 1<sup>st</sup> of each year. (Miss. Code Ann. §§ 25-4-25(a) &(c) and 25-4-29(b))

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 or at [www.ethics.state.ms.us](http://www.ethics.state.ms.us).

#### **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 making a campaign contribution in excess of two hundred dollars (\$200). The reports also must identify those individuals or business entities to which 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 and 23-15-807)

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 withdraws or is eliminated in the first primary or subsequent election, he/she is required to continue filing periodic and annual reports until a termination report is filed. (Miss. Code Ann. § 23-15-807)

A **Termination Report** is a final report, terminating 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 **Pre-Election Report** may be designated as a 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 an **Annual Report** on or before 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, or view the **2015 Campaign Finance Guide** available on the Secretary of State's website.

## **Preparing the Ballot**

### **Ruling on Candidate Qualifications**

After the candidate-qualifying deadline, the County Party Executive Committee must meet to review the qualifications of all candidates who file a Statement of Intent and pay the required 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). **Exception:** Candidates running for Justice Court Judge are not required to be residents of the district from which they seek election, but must be residents only of the county.
- b. The candidate meets all other qualifications to hold the office sought or presents absolute proof he/she will, subject to no contingencies, on or before the date of the election at which he/she could be elected to office.
- c. The candidate has never been convicted of bribery, perjury or any other felony in in a Mississippi state court; convicted of a felony in a federal court or of any crime in the court of another state which is a felony in Mississippi (excluding a conviction of manslaughter or violation of the IRC or other tax law(s), unless such offense also involved the 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 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 committee must provide the candidate notice and an opportunity to be heard. If the Committee still finds the candidate does not meet the qualifications to hold office, 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)

### **Printing the Ballot**

For primary elections containing races for state, state district, legislative, or multicounty offices, the State Party Executive Committees will provide the Secretary of State's Office with the lists of qualified candidates for these offices, and the Secretary of State's Office will use the lists to build the statewide primary election ballots in the Statewide Elections Management System (SEMS). The Secretary of State's Office will provide the counties with the ballot through SEMS, and the counties will be responsible for adding the county and county district races for their respective counties. The Party Executive Committee should work with the County Circuit Clerk to ensure all qualified party candidates are added to the ballot.

- 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) The County Party Executive Committee works with the County Circuit Clerk and/or County Election Commission to add the names of all county and county district candidates for their respective party to the ballot created in SEMS.
- 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: Allen, May 18, 2007)
- d. Ballot Approval – The County Party Executive Committee must approve the final ballot before the official ballot can be sent for printing and the database created for the voting machines. The Executive Committee is also responsible for approving the audio version(s) of the ballot.

## **Absentee Ballots**

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

Absentee ballots shall be printed on 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; 23-15-673; 23-15-713):

1. Members of the United States Armed Forces, their spouses and/or dependents,
2. Members of the Merchant Marine or the American Red Cross, their spouses and/or dependents,
3. Disabled war veterans who are patients in any hospital, their spouses and/or dependents,
4. Civilians attached to any branch of the Armed Forces, the Merchant Marine, or American Red Cross, their spouses and/or dependents,
5. Any trained or certified emergency response provider who is deployed on Election Day during any state of emergency declared by the President of the United States or any Governor of any U.S. State,
6. Citizens temporarily residing outside the territorial limits of the United States and the District of Columbia,
7. Students, teachers, or administrators whose employment or studies necessitate their absence from their county of voting residence, their dependents or spouses who maintain a common domicile outside the county of voting residence,
8. Persons who will be outside their county of residence on Election Day,
9. Persons required to be at work on Election Day during the times which the polls will be open,



10. Persons temporarily or permanently physically disabled,
11. Persons sixty-five (65) years of age or older,
12. 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, and
13. Members of the Mississippi Congressional delegation, their spouses and/or dependents.

### **Procedure for Absentee Balloting**

1. Miss. Code Ann. § 23-15-625, *et seq.* contains several requirements for absentee voting.
  - 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, and the applications shall be available at least sixty (60) days prior to the election.
  - 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 the bottom section of the applications designated "Certificate of Delivery," identifying themselves and the voters for whom they are acquiring the applications.
  - f. If the third party acquiring an application for a voter cannot read or write, the Circuit Clerk or deputy clerk must complete the "Request for Absentee Ballot Application by Third Person."
2. Voting Absentee with Assistance (Miss. Code Ann. § 23-15-631(f))

- a. Any voter who is blind, temporarily or permanently physically disabled, or unable to 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).

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

An eligible voter may obtain and vote by absentee ballot in the Circuit Clerk's office by first completing an application. Voters who cast absentee ballots in the Circuit Clerks' Offices must present an acceptable form of photo ID.

### 4. Voting Absentee by Mail

Eligible voters may obtain and vote by absentee ballot by mail. Voters eligible to receive and return absentee ballot applications and absentee ballots by mail are those:

- a. Temporarily residing outside the county of their residence;
- b. Temporarily or permanently physically disabled;
- c. Sixty-five (65) years of age or older; or,
- d. 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 and ballot envelopes must be notarized or sworn and subscribed to by another official authorized to administer oaths, such as a notary public. A candidate whose name appears on the ballot cannot be an attesting witness. Applications and ballot envelopes of the temporarily or permanently disabled are not required to be attested to by an official authorized to administer oaths, but must be witnessed and signed by a person at least eighteen (18) years of age. This witness does NOT to be a registered voter. (Miss. Code Ann. § 23-15-631)

The absentee ballot application of a person who is permanently physically disabled may be accompanied by a stated signed by the voter's physician, or nurse practitioner, which statement must show the person signing the statement is a licensed, practicing medical doctor or nurse

practitioner and must indicate that the voter applying for an absentee ballot is permanently disabled to such a degree it is difficult for him/her to vote in person. An absentee ballot application accompanied by such a statement entitles the permanently disabled voter to automatically receive an absentee ballot for all election without the need for reapplication. (Miss. Code Ann. § 23-15-629)

This section does NOT apply to temporarily disabled voters, who must submit an absentee ballot application prior to each election in order to receive an absentee ballot by mail.

### **Military and Overseas Voters**

#### ***Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)***

UOCAVA voters include the following:

1. Members of the United States Armed Forces, enlisted or commissioned;
2. Members of the Merchant Marine or the American Red Cross;
3. Disabled war veterans who are patients in any hospital;
4. Civilians attached to and serving outside of the United States with any branch of the Armed Forces, Merchant Marine, or American Red Cross;
5. Any trained or certified emergency response provider who is deployed on Election Day during any state of emergency declared by the President of the United States or any Governor of any U.S. State;
6. Citizens temporarily residing outside the territorial limits of the United States and the District of Columbia;
7. Students at a United States Military Academy; and
8. The spouse and dependents of any UOCAVA voter listed in (1), (2), (3), (4) and (5), but only if the spouse and/or dependents are also absent from their county of residence on the date of the election and are qualified to vote in Mississippi.

Military and overseas voters may use the Federal Post Card Application (FPCA) to request absentee ballots, to register to vote, or to register to vote and request absentee ballots simultaneously. (Miss. Code Ann. § 23-15-699) One application (or FPCA) submitted by a UOCAVA voter shall serve as a request for an absentee ballot for each election held within the calendar year. (Miss. Code Ann. § 23-15-687) All requests terminate by law on Dec. 31<sup>st</sup>.

UOCAVA voters may receive and return their FPCAs by email, fax or mail. Likewise, UOCAVA voters may receive and return their absentee ballots by email, fax or mail. (Miss. Code Ann. § 23-15-699)

UOCAVA voters who request an absentee ballot but do not receive the ballot in time for it to be returned by the applicable deadline (7:00 p.m., Election Day) may use the Federal Write-in Absentee Ballot (FWAB). The FWAB may be used to vote in general, special, primary and run-off elections for local, state and federal offices. (Miss. Code Ann. § 23-15-692; 42 U.S.C. § 1973 ff-2)

When a primary, general, or special election may be followed by a runoff election, the registrar shall send to the requesting UOCAVA voter both absentee ballots and return envelopes for both elections at the same time. In federal elections, the ballot for the second election shall list the same candidates as the ballot for the first election except it shall permit the voter to rank candidates in the order of his/her preference and be printed on a different tint of paper or styled to clearly show which ballot is for the first election and which ballot is for the second election. In the event a runoff election is held, the UOCAVA voter's runoff election ballot shall be counted in accordance with the order in which the voter has ranked the candidates. The candidate ranked "1" by the voter will be counted if that candidate is included in the runoff election. If the candidate ranked "1" by the voter is not included in the runoff election, the candidate ranked "2" by the voter will be counted if that candidate is included in the runoff election, and so forth.

In all elections other than federal elections, the ballot for the second election shall list the same candidates as the ballot for the first election but may not permit the voter to rank candidates in the order of his/her preference. Runoff election ballots shall be printed on a different tint of paper and/or styled to clearly 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 absentee voting in the Circuit Clerk's office is the forty-fifth (45<sup>th</sup>) calendar day before the election. The deadline for casting in-person absentee 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 is not yet available 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 must be available forty-five (45) days prior to the election. Absentee ballots returned by mail must be received by the Circuit Clerk's Office no later than 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-721)
- c. Voting Absentee under UOCAVA – Absentee ballots must be transmitted to a

UOCAVA voter who has requested his/her ballot at least forty-five (45) days prior to an election, forty-five (45) days prior to the election. Absentee ballots returned by UOCAVA voters must be received by the Circuit Clerk's Office no later than 7:00 p.m. on the day of the election. (Miss. Code Ann. § 23-15-699)

## 2. Second Primary Election

- a. Voting Absentee in the Circuit Clerk's Office – Second primary election absentee ballots should be available as soon as possible after the first primary election. The deadline for casting an absentee ballot in the Circuit Clerk's Office is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on Tuesday. (Miss. Code Ann. § 23-15-715(a))
- b. Voting Absentee by Mail – Second primary election absentee ballots should be available as soon as possible after the first primary election. It is permissible to use the first primary election ballot for the second primary election **provided** the names of the candidates who were eliminated are stricken. Absentee ballots returned by mail must be received by the Circuit Clerk's Office no later than 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-719)
- c. Voting Absentee under UOCAVA – The absentee ballot for the first primary and the absentee ballot for the second primary are to be provided simultaneously to a UOCAVA voter. Both ballots may be returned simultaneously or each must be received by the Circuit Clerk's Office no later than 7:00 p.m. on the day of the election. (Miss. Code Ann. § 23-15-699)

## Hand Delivery of Absentee Ballots Prohibited

It is illegal to hand deliver absentee ballots in Mississippi. Absentee ballots must be cast in person in the Circuit Clerk's Office, by mail by eligible voters or by email and fax by UOCAVA voters. (Miss. Code Ann. § 23-15-719)

## Poll Managers

### Qualifications of Poll Managers

Poll Managers must be registered voters of the county in which they serve. Poll Managers should be, but are not required to be, registered voters of the precinct in which they serve. (Miss. Code Ann. § 23-15-231)

Poll Managers cannot be related by blood or marriage within the third degree to any member of the appointing body, i.e., election commission, circuit clerk, or county executive committee. However, a Poll Manager who previously served as a Poll Manager in the election immediately preceding the election at issue is exempt from this prohibition under the Nepotism Statute. (AG Op., *Miller* (June 17, 2010); Miss. Code Ann. § 25-1-53). Poll

Managers cannot be the spouse, child or parent of any candidate on the ballot since such a situation may lead to suspicion among the public about the impartiality of the election, which should be avoided. (Mississippi Ethics Commission: Advisory Op. 07-062-E and 04-094-E). It would also create an inherent conflict of interest for any election official (Poll Manager, Election Commissioner, County Party Executive Committee member) to campaign for any candidate whose name will be on the ballot in an election in which he/she will serve.

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

A minimum of three (3) Poll Managers must be appointed for each precinct. (Miss. Code Ann. §§ 23-15-231, 23-15-265) Up to an additional three (3) Poll Managers may be appointed for the first five hundred (500) registered voters in each voting precinct, in the discretion of the officials in charge of the primary election. (Miss. Code Ann. §§ 23-15-235, 23-15-265) For each one thousand (1,000) registered voters, or fraction thereof in each voting precinct above the first five hundred (500), the officials in charge of the primary election may appoint additional Poll Managers as set out in the chart below.

The term “Poll Manager” is sometimes used interchangeably with the term “Poll Worker.”

<b>Registered Voters in a Precinct</b>	<b>Minimum Number of Poll Managers</b>	<b>Number of Optional Poll Managers</b>	<b>Maximum Number of Poll Managers</b>
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

### **Appointments of Poll Managers**

The County Executive Committee must meet at least two (2) weeks before the primary election to appoint Poll Managers, all of whom may be members of the same political party. (Miss. Code Ann. 23-15-265)

### **Compensation of Poll Managers**

Poll Managers are paid seventy-five dollars (\$75) for each election. The County Board of Supervisors, in their discretion, may pay Poll Managers an additional amount not to exceed fifty dollars (\$50) per election. The Poll Manager who is designated to be the Receiving and Returning Manager is entitled to an additional ten dollars (\$10) for taking the ballot boxes to the polling place and another ten dollars (\$10) for returning the boxes after the election. If a person performs the duties described in this subsection by use of his/her own private motor vehicle, he/she shall receive for each mile actually and necessarily traveled in excess of ten (10) miles, the mileage reimbursement rate allowable to federal employees. (Miss. Code Ann. § 23-15-227)

## **Training Poll Managers**

The Party Executive Committee, 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 primary election and the operation of the polling place.

The Board of Supervisors, in its discretion, may compensate poll managers who attend training 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 training is sixteen (16) hours. (Miss. Code Ann. § 23-15-239(3))

No Poll Manager may serve in any election unless he/she has received such instructions within the twelve (12) months immediately preceding the election. However, emergency appointments may be made pursuant to Miss. Code Ann. § 23-15-231. (Miss. Code Ann. § 23-15-239(1); 23-15-231)

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

## **Who Appoints Poll Managers?**

In a Primary Election, the County Party Executive Committee appoints the Poll Managers, assigns each manger to a precinct, and designates one manager as the Bailiff and one manager as the Receiving and Returning Manager. There is no statutory prohibition against a Poll Manager serving a dual role if the Poll Manager is independently appointed to act as a Poll Manager in more than one primary election being conducted in the same polling place on the same date. (Miss. Code Ann. §§ 23-15-231; 23-15-251; Attorney General's Opinion: Martin, May 29, 1992)

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

**All Poll Managers should report to the polling place by 6:00 a.m. on Election Day.**

Poll Managers ensure the election is conducted fairly and agreeably to law; and they are the judges of the qualifications of electors. They resolve any challenges to voters and are responsible for processing absentee ballots along with the additional duties listed below. (Miss. Code Ann. § 23-15-233)

Poll Managers are primarily responsible for:

1. Safeguarding all election materials;
2. Ensuring only qualified voters are permitted to vote and each qualified voter is permitted to vote only once;
3. Verifying acceptable photo identification is presented by each voter;

4. Distributing ballots and/or Voter Access Cards; and
5. Ensuring all votes are cast in secret.

Poll Managers are also responsible for the following:

1. Verifying each voter's name in the pollbook and writing "VOTED" in the appropriate space;
2. Having the voter sign the receipt book;
3. Providing voter information;
4. Deciding challenges to voters;
5. Providing voter instruction;
6. Completing reporting requirements at the end of the election; and
7. Processing absentee ballots and ruling on absentee voter challenges, if any.

### **Receiving and Returning Manager**

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

1. On the day before the election, obtain from the officials in charge of the election the box(es) for his/her polling place containing the ballots and all other necessary materials, including the pollbooks, blank tally sheets, blank forms to be used in making returns, cards of instruction, stationery, and supplies. (Miss. Code Ann. § 23-15-251)
2. Sign two copies of *Form 710.2 - Receiving and Returning Manager Receipt Form* (or the locally designated form) stating the number of ballots, memory cards, and other related supplies distributed to the precinct. An election official signs the forms. One receipt is maintained by the Circuit Clerk and the other is placed in the ballot box after the polls have been closed. (Miss. Code Ann. §§ 23-15-335, 23-15-591)
3. Ensure the box(es) and the contents are not tampered with prior to the opening of the polls by verifying the original seal shown by its number on *Form 710.2 - Receiving and Returning Manager Receipt Form* is still in place and exhibits no signs of tampering.
4. Open the box(es) and distribute the materials to each table.
5. Reseal the box(es).
6. After the polls are closed on Election Day, close the machines and process the paper ballots. All used and unused ballots, tabulation forms, reports and other materials must be sealed in the boxes and returned to Election Central. (Miss. Code Ann. § 23-15-531.10)



### **Initialing Manager (Paper Ballots Only)**

The Initialing Manager is responsible for placing his/her initials in the appropriate area of each official blank ballot at the polling place. The Initialing Manager and the Receiving/Returning Manager cannot be the same person.

After a voter has signed his/her name in the receipt book, the Initialing Manager must write his/her initials, in red ink, where appropriate on the official blank ballot so the initials may be seen after the ballot has been marked by the voter; and give the initialed blank ballot to the voter.

After the voter has marked the ballot, a poll manager shall verify the initials of the Initialing Manager on the ballot before it is placed in the ballot box or the precinct scanner. (Miss. Code Ann. § 23-15-541)

### **Alternate Initialing Manager (Paper Ballots Only)**

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

### **Bailiff**

The Bailiff must carry out a number of specific statutory duties and responsibilities to ensure a lawful, peaceful and orderly election. If a Bailiff is not designated by the Executive Committee or fails to serve on Election Day, the poll managers must select a Bailiff to serve at the precinct.

The Bailiff is appointed by:

- The Party Executive Committee in primary elections,
- The Election Commission in general and special elections, or
- If a Bailiff is not designated or fails to serve on Election Day, the poll managers must select a Bailiff to serve at the precinct.

The Bailiff may also act as the Initialing Manager or the Alternate Initialing Manager.

### **Duties of the Bailiff**

1. Open polls promptly at 7:00 a.m.
2. Keep order.
3. Verify photo identification fairly depicts the voter, but only if a poll manager already has determined the photo on the presented identification does not fairly depict the voter,
4. Verify the voter's name on the presented photo identification is substantially similar to the voter's name as it appears on the pollbook, but only if a poll manager already has

determined the name on the presented identification is not substantially similar to the pollbook,

5. Line up voters waiting to vote. If someone is waiting to vote, the voter may occupy a voting booth for only five (5) minutes. If no one is waiting to vote, the voter may remain in the voting booth no longer than ten (10) minutes. (Miss. Code Ann. § 23-15-435)
6. Assist in ensuring voters do not leave the precinct with a Voter Access Card.
7. Prevent campaigning and/or the distribution of campaign materials within one hundred fifty (150) feet of any entrance to the polling place, except, however, when campaigning and/or the distribution of campaign materials are taking place on private property which may be located within 150 feet of the entrance to the polling place;
8. Stand at the end of the line of voters at 7:00 p.m. and announce the close of polls, allowing those voters already in line at 7:00 p.m. to vote;
9. Check written credentials of poll watchers (Miss. Code Ann. § 23-15-245) and monitor poll watchers by using the following guidelines:
  - a) Each candidate on the ballot has the right to have one (1) poll watcher present at the polling place to carefully observe the election and challenge the qualifications of voters.
  - b) A candidate representative must have written credentials from the candidate and identification documentation.
  - c) Each political party, in general and special elections, has the right to have two (2) poll watchers present at the polling place, if the political party has a candidate on the ballot.
  - d) A political party representative, in general or special elections only, must have written credentials from the state/county party chairperson.
  - e) A candidate or his/her poll watcher may challenge the qualifications of any person offering to vote, including absentee voters. His/her challenge must be considered and acted upon by the poll managers at the time the challenge is made.
  - f) Poll watchers are not allowed to campaign or attempt to influence or persuade voters.
  - g) A candidate or his/her poll watcher shall be provided a suitable location from which he/she may be able to see and hear the conduct of the election.
  - h) Poll watchers may be present at the public counting of the ballots, including the processing of absentee ballots and affidavit ballots.
  - i) Poll watchers may not:
    - o Move about the polling place greeting voters,
    - o Influence voters,
    - o Interrupt the election process, or
    - o Distribute or display campaign material within one hundred fifty (150) feet of any entrance to the polling place.

## **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. If you are unable to locate the voter's name in the pollbook, ask if the voter has had a name change or address change:
  - a. Check under maiden name or married names(s);
  - b. Check for hyphenated names;
  - c. Check for a misspelling or unusual spelling of the voter's name;
  - d. Check to see if the voter was listed under his/her first name instead of his/her last name;
  - e. Find out when and where the voter registered to vote
2. Verify the voter is in the correct precinct. Poll Managers should make every effort to ensure the voter is in the correct precinct, including calling the office of the Circuit Clerk or the Election Commission to verify the voter's polling place.
3. Ask voter to present an acceptable form of photo identification. (See section *VOTER PHOTO IDENTIFICATION REQUIREMENTS and Appendix A*)
4. Verify the picture on the presented photo identification fairly depicts the voter.
5. Verify the name on the presented photo identification is substantially similar to the voter's name as it appears on the pollbook.
6. Write "VOTED" in the pollbook beside the voter's name and in the column with the election date in the header. (Miss. Code Ann. § 23-15-545)
7. If the voter's name is found in the pollbook and shows acceptable identification, the voter signs his/her name in a receipt book or on a voter list.
8. 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;
9. 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. The precinct may also utilize a “privacy sleeve” to ensure the integrity of the ballot.

- 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)
10. The voter casts his/her ballot by returning it to a Poll Manager;
  11. The Poll Manager checks to see that the ballot bears the genuine initials of the Initialing Manager and deposits the ballot in the box;
  12. Affidavit Ballot. A voter must vote by an affidavit ballot if:
    - a. the voter’s name is not in the pollbook,
    - b. the voter is unable to present acceptable photo identification,
    - c. the picture on the presented photo identification does not fairly depict the voter, or
    - d. the name on the presented photo identification is not substantially similar to the voter’s name as it appears on the pollbook.

## **The Voting Process (DRE)**

When a voter appears:

1. Check for the voter’s name in the pollbooks. If the Poll Manager is unable to locate the voter’s name in the pollbook, the voter should be asked if there has been a name or address change. If not, the manager should:
  - a. Check under maiden name or married name(s);
  - b. Check for hyphenated names;
  - c. Check for a misspelling or unusual spelling of the voter’s name;
  - d. Check to see if the voter was listed under his/her first name instead of his/her last name; or
  - e. Find out when and where the voter registered to vote.
2. Verify the voter is in the correct precinct. Poll managers should make every effort to ensure the voter is in the correct precinct, including calling the office of the Circuit Clerk or the Election Commission to verify the voter’s polling place.
3. Ask voter to present an acceptable form of photo identification. (See Section *VOTER PHOTO IDENTIFICATION REQUIREMENTS and Appendix A* )
4. Verify the picture on the presented photo identification fairly depicts the voter.
5. Verify the name on the presented photo identification is substantially similar to the voter’s name as it appears on the pollbook.

6. Write “VOTED” in the pollbook beside the voter’s name and in the column with the election date in the header. (Miss. Code Ann. § 23-15-545)
7. The voter signs his/her name in the receipt book and is given a Voter Access Card. The voter casts his/her ballot on the TSX voting machine, and after casting his/her ballot, the voter returns the Voter Access Card. (Miss. Code Ann. § 23-15-541)
8. **Voter Information.** After signing the receipt book and receiving the Voter Access Card, a voter may be shown how to operate and cast the ballot on the machine with visual aids and verbal instructions by a poll manager.
9. **Voter Assistance.** A voter who affirmatively states to the poll managers that he/she requires assistance to vote because of:
  - blindness
  - disability, or
  - the inability to read or writemay be given assistance by a person of the voter’s choice other than the voter’s employer, an agent of the employer, or an officer or agent of the voter’s union. The person providing assistance must not persuade or influence the voter. (Miss. Code Ann. § 23-15-549)
10. **Voter Instruction.** If a voter asks for further instruction after he/she begins voting on the machine, two (2) poll managers shall give him/her further instruction on the use of the voting machine. After giving such instruction, the poll managers assisting the voter must leave before the voter casts his/her vote. The voter must be able to cast his/her vote in secret. After casting his/her ballot, the voter leaves the polling place. (Miss. Code Ann. §§ 23-15-551; 23-15-437)
11. **Ballot Cancellation.** If a voter leaves the voting booth without having pressed the appropriate button on the unit or location on the screen to cast his/ her ballot and cannot be located to return to the booth to complete the voting process, a poll manager shall allow the ballot to time-out and automatically cancel (2.5 minutes). Notation of this action shall be documented on the TSX Event Log Form 740.2. (Miss. Code Ann. § 23-15-531.9) **This code section is only applicable to DRE units.** Section 23-15-435, Miss. Code Ann., which states no voter may re-enter the voting compartment after leaving, is **not applicable to the DRE units.**
12. **Affidavit Ballot.** A voter must vote by an affidavit ballot if:
  - a. the voter’s name is not in the pollbook,
  - b. the voter is unable to present acceptable photo identification,
  - c. the picture on the presented photo identification does not fairly depict the voter, or
  - d. the name on the presented photo identification is not substantially similar to the voter’s name as it appears on the pollbook,

## **Voter Photo Identification Requirements (See Also Appendix A)**

Beginning with the primary election on June 3, 2014, all voters must present an acceptable form of photo identification before casting his/ her ballot in person in the polls on an election day or in the Circuit Clerk's Office during absentee voting.

Acceptable Photo Identification means a current and valid:

- Driver's license;
- Photo ID card issued by any branch, department, agency, or entity of the State of Mississippi;
- United States passport,
- Employee photo identification card issued by any branch, department, agency, or entity of the United States government;
- License to carry a pistol or revolver, containing a photo of the voter;
- Tribal photo identification card;
- United States military photo identification card;
- Student photo identification card, issued by any accredited college, university or community or junior college in the State of Mississippi;
- Mississippi Voter Identification Card; and
- Any photo ID issued by any branch, department, agency, or entity of the United States government or any state government, such as a driver's license issued by a state other than Mississippi.

Current means the document has no expiration date or was issued no more than ten years prior to the date the ID is presented at the polling place.

Valid means the document does not appear to be a forgery or fake.

***Voters who cannot present Acceptable Photo ID at the precinct are entitled to vote by an affidavit ballot. No voter is ever denied the right to vote.***

Exemptions to the Photo ID Requirement:

1. A voter who casts an absentee ballot by mail, e-mail or fax is not required to provide or enclose a copy of an acceptable photo ID,
2. A voter who resides in a state-licensed care facility and who votes in person in a precinct located in that same state-licensed care facility is not required to present acceptable photo ID, and
3. A voter who has a religious objection to being photographed is not required to present acceptable photo ID.
  - a. A voter with a religious objection may only vote by an affidavit ballot.
  - b. An affidavit ballot cast by a voter with a religious objection cannot be rejected for this reason IF, within five (5) business days after an election day, the voter signs an Affidavit of Religious Objection in the Circuit Clerk's Office in the voter's county of residence.
  - c. An affidavit ballot cast by a voter with a religious objection cannot be counted IF,

within five (5) business days after an election day, the voter DOES NOT sign an Affidavit of Religious Objection in the Circuit Clerk's Office in the voter's county of residence.

### **HAVA Requirements for First-Time Unverified Mail-in Registrant Voters**

If a voter registered to vote by mail but did not provide a driver's license number or the last four (4) digits of his/her social security number, the voter may be required to present HAVA identification to cast a ballot. If a voter is required to present HAVA identification a "Y" will appear in the "HAVA ID" column in the pollbook.

For all practical purposes, Mississippi's Voter Photo Identification requirement will eliminate the need for a voter to present separate identification to satisfy the HAVA ID requirement.

HAVA Identification includes:

- 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 the voter's name and address;
- A current paycheck with the voter's name and address; or
- Any other government document with the voter's name and address.

If a voter does not have a HAVA form of identification, the voter is entitled to cast an affidavit ballot. The voter is entitled to receive written information to determine whether the affidavit ballot was counted and if not, why. (Miss. Code Ann. § 23-15-573)

### **Voter Assistance (See Also Appendix B)**

#### **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 the voter is either blind, physically disabled, or illiterate and needs assistance in marking his/her ballot. (*O'Neal v. Simpson*, 350 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(2))

Two (2) or more Poll Managers take the pollbook, receipt book, and a ballot or voting device to the vehicle and follow the voting process. After the voter cast his/her ballot in secret, the Poll Managers return the voted ballot to the ballot box. If there are less than three (3) Poll Managers for the respective primary election present in the precinct conducting the election, voting ceases inside the precinct while the curbside voting occurs. Voting inside the precinct resumes once three (3) Poll Managers for that respective primary are present in the precinct with the necessary supplies (pollbook and receipt book). (Miss. Code Ann. § 23-15-541(2))

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

### **Who Can Challenge a Voter?**

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 (not applicable to party primaries);
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. §§ 23-15-643; 23-15-571; 23-15-731)

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.

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

### **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 or who does not present an acceptable form of photo ID 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. If a person’s name appears in the pollbook but does not present an acceptable form of photo, the voter shall be allowed to vote by affidavit 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. 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 affidavit envelope must include: the name of the voter, the voter’s address (current and previous if moved), telephone number (if the voter has one), the signature of the voter, and the signature of one of the Poll Managers. The failure of the Poll Manager to sign the envelope will result in the affidavit being rejected. The Poll Manager gives the voter written instructions on how to contact the Circuit Clerk’s office or the Executive Committee to ascertain if the vote was counted or, if not, why it was not. If the voter voted by affidavit ballot because he/she failed to present an acceptable photo ID, the voter is given instructions to present an acceptable photo ID in the Circuit Clerk’s Office within five (5) business days of the election to have his/her vote considered.

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. Reasons for rejecting an affidavit ballot include but are not limited to: the voter not being a registered voter of the county, failure of the voter and/or Poll Manager to sign the affidavit envelope, and the voter casting a ballot in a precinct in which he/she is not entitled to vote. (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, or 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 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 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 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" with an "AB" 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" with an "AB" 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 public observation. 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 deputed 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 one or more ballots for each office 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 rejected by the OMR tabulating equipment and those damaged or defective, blank, or overvoted will be reviewed by the Resolution Board.

If any ballot is damaged or defective so 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 manually count 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 or create a duplicate ballot.

All ballots rejected by the OMR tabulating equipment and ballots containing 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 to determine the vote in the races 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 reason it becomes impracticable to count all or part of the ballots with the OMR tabulating equipment, the officials in charge may direct the ballots be counted manually, following, as far as practical, 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. (Attorney General Opinion: Watts, August 31, 1994) 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 explained 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**

On Primary Election Night, the Receiving and Returning Manager will bring the ballot box and supply box to Election Central to be received by the Executive Committee. The Executive Committee makes sure all materials which went to the precinct are returned and accounted for, which includes all ballots (both voted and not voted), memory cards, total tapes, and all other necessary supplies and election materials.

At Election Central, results from each precinct are tabulated and printed under the supervision of the Executive Committee. The GEMS report, which is compiled from the voting machine memory cards, is provided to the Executive Committee. This report is considered the “unofficial” results of the election.

The County Party Executive Committee shall meet in the first or second day after each primary election and process affidavit ballots. After all affidavit ballots are processed, the Executive Committee will 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. Within ten (10) calendar days, signed recapitulation reports and certification are delivered to the Secretary of State, State Party Executive Committee, Circuit Clerk, and County Election Commissioners. (Miss. Code Ann. §23-15-597; 23-15-599)

The Executive Committee should proceed expeditiously but deliberately and carefully with its certification, because the Executive Committee does not have the authority to

reassemble and alter or amend the original certification of the results of the election. Any error 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**

The 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 not voted, 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 secure. 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 the total number of ballots receipted for by the Receiving Managers corresponds 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. When the votes have been completely and correctly counted and tallied by the managers, the Managers shall publicly proclaim the results at their box and shall certify a statement of the results. One results report tape is posted in the precinct and one is returned to the ballot box. After the Poll Managers have certified their box, all ballots (voted and non-voted), the results report tape, the receipt book, absentee ballots and applications, and list of absentee voters should be returned to the ballot box, and the ballot box should be sealed to return to the courthouse. 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. § 23-15-247; 23-15-595; Attorney General's Opinion: Emfinger, October 23, 1987)

## **Irregularities in a Ballot Box**

When a ballot box 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) the entire box may be thrown out if there have been failures in material particulars to comply with the requirements outlined in sections "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.

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 certification of the election 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 family member 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 none of the contents of the box are removed from the presence of the Clerk or the Deputy or in any way tampered with. The Attorney General's Office has issued an opinion which states candidates may not copy the contents of the ballot box. 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. Another ballot box, if necessary, shall be furnished for the precinct involved. (Miss. Code Ann. § 23-15-911)

### **Filing Complaint or Contest**

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. (Miss. Code Ann. §§ 23-15-927; 23-15-929).

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.

## **Appendix A – Processing Voters on Election Day with Photo ID**

Every voter who is not exempt from the photo ID requirement and who appears to vote in person by absentee ballot in the Circuit Clerk's Office or in person in the polling place on any Election Day must present acceptable photo identification before he/she may cast his/her ballot.

In the polling place on Election Day, the poll manager(s) must verify:

1. The presented identification is an acceptable photo ID as defined above (p.21).
  - a) If the identification presented by the voter is NOT an acceptable photo ID, the voter is entitled to vote by an affidavit ballot.
  - b) The affidavit ballot of a voter who was unable to present acceptable photo ID cannot be rejected for this reason IF, within five (5) business days after Election Day, the voter presents acceptable photo ID, in person, in the Circuit Clerk's Office in the voter's county of residence.
2. The photograph on the presented identification fairly depicts the voter.
  - a) If the poll manager determines the photo on the presented ID does NOT fairly depict the voter, the poll manager must confer with the Bailiff.
  - b) If the Bailiff determines the photo on the presented ID fairly depicts the voter, the voter shall cast his/her ballot on the voting machine.
  - c) If the Bailiff determines the photo on the presented ID does NOT fairly depict the voter, the voter is entitled to vote by an affidavit ballot.
  - d) The affidavit ballot of a voter who presented photo ID which did not fairly depict the voter cannot be rejected for this reason IF, within five (5) business days after election day, the voter presents an acceptable photo ID which fairly depicts the voter in the Circuit Clerk's Office in the voter's county of residence.
3. The name on the presented photo identification is substantially similar to the voter's name as it appears on the pollbook.
  - a) If the poll manager determines the name on the presented photo ID is NOT substantially similar to the voter's name as it appears on the pollbook, the poll manager must confer with the Bailiff.
  - b) If the Bailiff determines the name on the presented photo ID is substantially similar to the voter's name as it appears on the pollbook, the voter shall cast his/her ballot on the voting machine.

- c) If the Bailiff determines the voter's name on the presented photo ID is NOT substantially similar, the voter is entitled to vote by an affidavit ballot.
- d) The affidavit ballot of a voter who presented photo ID with a name which was NOT substantially similar to the voter's name as it appeared on the pollbook cannot be rejected for this reason IF, within five (5) business days after election day, the voter presents acceptable photo ID with a name substantially similar to the voter's name as it appears in the pollbook in the Circuit Clerk's Office in the voter's county of residence.

A voter's name is *substantially similar* if one or more of the following are present:

1. The voter's name on the presented photo ID is slightly different from the voter's name as it appears on the pollbook.
2. The voter's name on the presented photo ID (or on the pollbook) is a customary variation or abbreviation of the formal name, such as Bill, Will or Billy for William; Rick, Rich or Dick for Richard; or Meg or Peg for Margaret.
3. The voter's name on the presented photo ID includes an initial or middle name which does not appear on the pollbook, or vice versa.
4. A first name, middle name, maiden name or initial of the voter appears in a different order on the presented photo ID than on the pollbook, or vice versa.
5. If the voter's middle or last name on the presented photo ID is different from his/her middle or last name on the pollbook because of marriage or divorce, the name is substantially similar if:
  - a) A part of the name, address OR date of birth on the presented photo ID matches a part of the voter's name, address OR date of birth on the pollbook, and
  - b) The photograph on the presented photo ID fairly depicts the voter.

If the poll manager(s) verify the voter presented an acceptable photo ID which fairly depicts the voter and with a name which is substantially similar to the voter's name as it appears on the pollbook, then the voter casts a regular ballot.

If the poll manager(s) determine the voter did not present an acceptable photo ID, or the picture on the presented photo ID did not fairly depict the voter, or the name on the presented photo ID was not substantially similar to the voter's name as it appears on the pollbook, then the voter must cast an affidavit ballot. These affidavit voters have five (5) business days after Election Day to present an acceptable photo ID which fairly depicts the voter and with a name which is substantially similar to the voter's name as it appears on the pollbook.

## **Appendix B – 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.2d 998 (1977).

## **Appendix C – 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 challenge a voter.*

### **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.

## **Challenged Ballot**

**ACTION I:** 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 cast 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;”
- 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. A separate return is 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;”
- c. Seal the envelope and return it in the ballot box.

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



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

### **Executive Committee:**

1. Know the offices being voted on the ballot.
2. Qualify and certify candidates.
3. Set up ballot and order ballots (work with Circuit Clerk) – absentee and official. (Miss. Code Ann. § 23-15-351)
4. Hire Poll Managers. (Miss. Code Ann. §23-15-231) Avoid hiring candidate's family members and own family members.
5. Conduct Poll Managers training. (Miss. Code Ann. § 23-15-239)
6. Order pollbooks from Circuit Clerk. (Miss. Code Ann. § 23-15-161)
7. Prepare the ballot boxes.(Miss. Code Ann. § 23-15-251)
8. Distribute boxes – sign receipt when picked up. (Miss. Code Ann. § 23-15-247)
9. Visit polls, carry extra supplies.
10. Receive boxes on election night – set up procedure ahead of time. (Miss. Code Ann. § 23-15-247)
11. Secure boxes on election night. (Miss. Code Ann. § 23-15-601)
12. Complete recapitulation sheets. (Miss. Code Ann. § 23-15-601)
13. Certify the election and announce winner(s). (Miss. Code Ann. § 23-15-601)
14. Notify the Secretary of State's Office in writing of the results within ten (10) days. (Miss. Code Ann. § 23-15-603)
15. Submit Poll Managers' payroll to Board of Supervisors. (Miss. Code Ann. § 23-15-261)
16. Plan and hold a Run-Off Election after the Primary Election, if necessary.
17. Clean up boxes, restore supplies.

### **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 F – Keys to a Good Election**

Source: Mississippi Secretary of State's Office

1. Appoint capable people to work at the polls.
2. Train Poll Managers well.
3. Ensure every qualified candidate's name is on the ballot and spelled correctly. Check ballot arrangement. Choose printers carefully. Review proofs.
4. Ensure paper ballots and affidavit envelopes are available at each polling place.
5. Inspect each machine visually after it is set up.
6. Ensure the bailiff enforces the one hundred fifty (150) foot and thirty (30) foot rules.
7. Ensure Poll Managers understand the law on voter assistance.
8. Ensure Poll Managers understand the law on poll watchers.
9. Ensure Poll Managers know how to handle voter challenges.
10. Ensure the polls open and close on time.
11. Ensure ballot boxes are properly sealed and locked when transported.
12. Ensure ballots are processed and counted in public.
13. Ensure absentee ballots are properly processed by Poll Managers.
14. Ensure the Executive Committee or election official in charge of the election, reviews and acts on each affidavit ballot.
15. Certify the results of an election in a timely manner.