

2017
MUNICIPAL
ELECTIONS
HANDBOOK



DELBERT HOSEMAN
Secretary of State

Municipal Election Handbook

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1.1 Who is in Charge?

Primary Elections

Municipal Party Executive Committees are responsible for conducting municipal Primary Elections. Municipal Election Commissions have no authority, absent a written contract, to conduct Municipal Primary Elections for the political parties. (Miss. Code Ann. § 23-15-263)

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

A political party in any municipality which does not have a Municipal Executive Committee may establish a temporary Municipal Executive Committee no later than thirty (30) days prior to the date for which a candidate for municipal office must qualify. A temporary municipal executive committee may be established as follows:

1. Five (5) or more residents of the municipality who are members of the political party desiring to establish a municipal executive committee to conduct a municipal primary election petition the Chair of the County Executive Committee of the party.
2. The County Chair calls a “mass meeting” of the voters of that political party who reside in the municipality. The meeting should be held at a convenient time and place within the municipality designated in the call.
3. For three (3) weeks preceding the date of the meeting, the Chair of the County Executive Committee publishes a copy of the call in a newspaper published at least once per week in the municipality or, if there be no newspaper published in the municipality, in some newspaper having general circulation in the municipality and posts notice of the meeting in three (3) public places in the municipality, one (1) of which is city hall or the regular location where the municipal governing authority meets to conduct business.
4. At the “mass meeting,” the party members select a temporary Municipal Executive Committee to serve until the next Municipal Primary Election when a permanent Municipal Executive Committee may be elected.

If no municipal executive committee is selected or formed before the qualifying deadline preceding a municipal election, the county executive committee may serve as

the temporary municipal executive committee and conduct the municipal primary election. (Miss. Code Ann. §§ 23-15-313, 23-15-315)

General and Special Elections

Municipal Election Commissioners are responsible for conducting general and special municipal elections. Municipal Election Commissioners serve four (4) year terms, contemporaneous with the term of all municipal offices.

The governing authorities of municipalities having less than twenty-thousand (20,000) residents based upon the last federal decennial census must appoint three (3) election commissioners. The governing authorities of municipalities having twenty-thousand (20,000) or more but fewer than one hundred thousand (100,000) residents based upon the last federal decennial census must appoint five (5) election commissioners. The governing authorities of municipalities having one hundred thousand (100,000) residents or more based upon the last federal decennial census must appoint seven (7) election commissioners. (Miss. Code Ann. § 23-15-221)

Written Agreements

Municipal Party Executive Committees may enter into written agreements with Municipal Election Commissions and/or Municipal Clerks to perform certain statutory duties in a Municipal Primary Election if the political party with which such municipal executive committee is affiliated: (a) has cast for its candidate in the last two (2) gubernatorial elections 10% of the total vote cast for Governor; or (b) has cast for its candidate in three (3) of the last five (5) gubernatorial elections 25% of the total vote cast for Governor. (Miss. Code Ann. § 23-15-266)

The six election-related duties which may be performed by a Municipal Election Commission or Municipal Clerk pursuant to an agreement are as follows:

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

If the Municipal Party Executive Committee enters into a contract with the Municipal Election Commission and/or the Municipal Clerk, the contract must be signed by the Chair of the Municipal Executive Committee and Chair of the Election Commission and/or Municipal Clerk. The Municipal Executive Committee must notify the State Executive Committee of the existence of the agreement and must file a copy of the contract with the Secretary of State's Office.

Additionally, the Municipal Clerk has the authority to contact the chair and secretary of the Election Integrity Assurance Committee of the appropriate State Executive Committee if a Municipal Executive Committee fails to timely perform its required duties.

1.2 Voter Roll Maintenance

The **County Election Commission** is responsible for preparing and maintaining the voter rolls for each municipality located within the county and is not entitled to additional compensation unless the county commissioners show they were “actually employed” in preparing the registration books for the municipality over and above their regular purging duties. In performing voter roll maintenance as required by Section 23-15-153(1) through (6), Miss. Code Ann., the entry of any changes into the Statewide Elections Management System by the County Election Commission creates and prepares the registration books for the county and the municipalities located within the county and automatically places each voter in the correct voting district. (AG Op., Malcomb F. Jones, Esq., May 15, 2015)

Municipal Election Commissions should maintain a working relationship and exchange pertinent voter information with their County Election Commissions to ensure effective and accurate maintenance of their municipal voter rolls.

Voter roll maintenance, sometimes called “purging,” is addressed in Miss. Code Ann. § 23-15-153. Voters must be removed from the voter roll based upon (1) a voter initiated request, meaning a written request signed by the voter asking to be removed from the voter roll, (2) conviction of a disenfranchising crime in a Mississippi state court, (3) an adjudication of mental incompetence by a court, (4) death, and (5) removal from the voting jurisdiction, meaning the voter has moved from the city, county and/or state.

1.3 Dates of Elections

Excluding municipalities which may operate under a special or private charter, Municipal Primary Elections are held on the first Tuesday in May; Municipal Primary Runoff Elections are held two weeks thereafter on the third Tuesday in May; and General Municipal Elections are conducted on the first Tuesday after the first Monday in June. (Miss. Code Ann. §§ 23-15-171, 23-15-173)

1.4 Qualifying Procedures for Candidates

Party Candidates in Primary Elections

To qualify as a candidate seeking nomination by a political party in a municipal primary election, a candidate must:

1. File a written Statement of Intent (<http://www.sos.ms.gov/Elections-Voting/Pages/Candidate-Qualifying-Forms.aspx>), and
2. Pay a qualifying fee in the amount of \$10.00 to the Municipal Clerk no later than 5:00 p.m. on the 60th day before the date of the Primary Election (March 3, 2017). (Miss. Code Ann. § 23-15-309)

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

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

Independent Candidates in General Elections

To qualify as an independent candidate in a municipal general election, a candidate must:

1. File a written Statement of Intent (<http://www.sos.ms.gov/Elections-Voting/Pages/Candidate-Qualifying-Forms.aspx>), and
2. File a Petition signed by the required number of qualified voters of the municipality or district/ward with the Municipal Clerk no later than 5:00 p.m. on the 60th day before the date of the Primary Election (March 3, 2017).

If the municipality or ward has a population of one thousand (1,000) residents or more, a qualifying petition must be signed by at least fifty (50) qualified voters of the municipality or ward from which the candidate seeks election. If the municipality or ward has a population of less than one thousand (1,000) residents, the qualifying petition must be signed by at least fifteen (15) qualified voters of the municipality or ward from which the candidate seeks election. (Miss. Code Ann. § 23-15-361)

1.5 Additional Requirements of Candidates

Statement of Economic Interest

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

Incumbent public officials must file the statement on or before May 1st of each year.

The forms and instructions may be available in the Municipal Clerk's office, or may be obtained directly from the Mississippi Ethics Commission's website at www.ethics.state.ms.us.

Mississippi Ethics Commission

Physical Address

660 North Street
Suite 10-C
Jackson, MS 39202
Telephone: (601)359-1285

Mailing Address

P.O. Box 22746
Jackson, MS 39225-2746
Email: info@ethics.state.ms.us
Facsimile: (601)359-1292

Campaign Finance Disclosure

Candidates for municipal office must file all required Campaign Finance Disclosure Reports with the Municipal Clerk in accordance with the applicable reporting schedule. Municipal candidates and political committees receiving contributions or making expenditures in support of or opposition to municipal candidates are encouraged to review Mississippi law regarding campaign finance disclosure reporting requirements, Miss. Code Ann. § 23-15-801, *et seq.* Additional information and reporting forms are available at <http://www.sos.ms.gov/Elections-Voting/Pages/Campaign-Finance-Lobbying.aspx>.

2017 CAMPAIGN FINANCE MUNICIPAL REPORTING SCHEDULE

FOR MUNICIPAL PRIMARY ELECTION CANDIDATES:

Tuesday, April 25, 2017Primary Pre-Election Report
(January 1, 2017 through April 22, 2017)

FOR MUNICIPAL PRIMARY RUNOFF ELECTION CANDIDATES:

Tuesday, May 9, 2017Primary Pre-Runoff Report
(April 23, 2017 through May 6, 2017)

FOR MUNICIPAL GENERAL ELECTION CANDIDATES (INCLUDING BOTH PARTY NOMINEES AND INDEPENDENT CANDIDATES):

Tuesday, May 30, 2017Pre-Election Report
(April 23, 2017 through May 27, 2017, for party nominees;
January 1, 2017 through May 27, 2017, for independent candidates)

* * * * *

FOR ALL 2017 MUNICIPAL CANDIDATES:

Wednesday, January 31, 2018Annual Report
(January 1, 2017 through December, 31, 2017)

1.6 Preparation of the Ballot

Ruling on Candidate Qualifications

1. Party Candidates in Primary Elections.

After the qualifying deadline of March 3, 2017, at least a quorum of the members of the Municipal Executive Committee must meet and review the qualifications of all candidates who timely filed a Statement of Intent and paid the \$10.00 filing fee. In the case of each candidate, the Committee must make the following determinations:

A. The candidate is a qualified, registered voter and resident of the municipality and of the ward if the office sought is elected from a ward,

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

C. The candidate has not been convicted of a felony in a Mississippi state court, or on or after December 8, 1992, has not been convicted of a felony in a federal court, or of a crime in the court of another state which is a felony under the laws of this state, excluding a conviction of manslaughter or any violation of the Internal Revenue Code or other tax law violations, unless such offense also involved misuse or abuse of his/her office or money coming into his/her hands by virtue of his/her office. (Miss. Code Ann. § 23-15-309(4))

If the committee determines the candidate is not a resident and qualified voter, does not meet all qualifications to hold the office, or has been convicted as described above and not pardoned, then the committee shall notify the candidate he/she has not been qualified by the committee. The candidate is to be given written notice mailed to the address provided by the candidate on the qualifying forms, and the opportunity to respond to the committee's determination at a hearing held before the committee for that purpose. The committee shall attempt to contact the candidate by all reasonable means, such as telephone, e-mail or facsimile if the candidate provided such information. If the candidate fails to appear at the hearing or to prove he meets all qualifications to hold the office subject to no contingencies, then the name of the candidate shall not be placed on the ballot.

All qualified candidates' names are placed on the primary election ballot. If, however, there is but only one qualified candidate for a particular office, the Municipal Executive Committee may omit that candidate's name and the entire race from the primary election ballot and declare the unopposed candidate to be the party's nominee. If there is but only one qualified candidate for each office on the primary election ballot, the primary election for all offices on the ballot shall be dispensed with and the Municipal Executive Committee shall declare each unopposed candidate as the party's nominees. (Miss. Code Ann. § 23-15-309)

2. Party Nominees and Independent Candidates in General Elections.

The Election Commission is responsible for determining the qualifications of party nominees and independent candidates in the same manner as the Executive Committee determined the qualifications of primary election candidates, set forth above. All qualified candidates' names are placed on the ballot. If, however, after the qualifying deadline and the holding of any party primary election, there is but only one (1) person duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the municipal election commission shall declare each candidate elected without opposition in the candidates meet all the qualifications to hold the offices as determined by the Municipal Election Commission and if the candidates have filed all required campaign finance disclosure reports. (Miss. Code Ann. § 23-15-361)

Printing the Ballot

1. Primary Elections

- A. Order of Candidates' Names: Each Executive Committee is responsible for proofing and printing the ballot for Primary Elections. The ballots must contain the names of all duly qualified candidates in alphabetical order by last name.
- B. Write-In Provisions for Primary Elections: On ballots for Primary Elections, there must be one (1) blank space under the title of each office. In the event of the death of any candidate whose name should have been printed on the ballot, the name of a candidate substituted in the place of the deceased candidate may be written in the blank space by the voter. (Miss. Code Ann. § 23-15-333)
- C. Minimum Number of Official Ballots: For each primary election in which optical mark reading equipment is used in each municipal precinct/polling place, the number of official scannable ballots which must be printed is a number not less than seventy-five percent (75.0%) of the active registered voters in the municipality. (Miss. Code Ann. § 23-15-513)

2. General and Special Elections

- A. Order of Candidate's Names: Each Municipal Election Commission is required to designate one (1) commissioner to be responsible for causing the printing of the ballots for General and Special Elections. (Miss. Code Ann. § 23-15-361) The order in which the titles of various offices shall be printed, the arrangement of the names of candidates, and the size, print, and quality of paper of the official ballot is left to the discretion of the commissioner designated to have the ballots printed. (Miss. Code Ann. § 23-15-367)
- B. Write-In Provisions for General and Special Elections: On ballots for General and Special Elections, there must be one (1) blank space under the title of each office. In the event of the death, resignation, withdrawal, or removal of any candidate whose name should have been printed on the official ballot, the name of the candidate duly substituted in the place of such candidate may be written in the blank by the voter. (Miss. Code Ann. § 23-15-365)
- C. Minimum Number of Official Ballots: For each general election in which optical mark reading equipment is used in each municipal precinct/polling place, the number of official scannable ballots which must be printed is a number not less than seventy-five percent (75.0%) of the active registered voters in the municipality. (Miss. Code Ann. § 23-15-513)

3. Candidate Withdrawals

An independent candidate and a party candidate may withdraw from the election at any time prior to the printing of the official ballot. A party candidate who has secured the nomination for an office may likewise withdraw from the general election at any time prior to the printing of the official ballot. (Miss. Code Ann. § 23-15-363)

4. Vacancy in Nomination between Primary and General Election

If any person nominated for office in a Primary Election shall die, be removed after his nomination or withdraw or resign from his candidacy for a legitimate nonpolitical reason as defined in Section 23-15-317, Miss. Code Ann., and the vacancy in nomination occurs between the Primary Election and the upcoming General Election, then the Municipal Executive Committee with which the original nominee qualified as a candidate may nominate a substitute nominee for the office.

If the party nominee was unopposed in the up-coming General Election, each political party registered with the State Board of Election Commissioners may nominate a candidate/nominee for the office.

Each respective Municipal Executive Committee must certify the substitute nominee and, within two (2) days after the substitute nomination, formally notify in writing the Secretary of State. The Secretary of State will, in turn, notify the Municipal Election Commission of the name of the substitute nominee.

Preparing Absentee Ballots

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

1.7 Absentee Balloting

Who is Eligible?

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

1. Enlisted or commissioned members of any component of the United States Armed Forces, their spouse and/or dependents;
2. Members of the Merchant Marines or the American Red Cross, their spouses and/or dependent,;

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 Marines, or the American Red Cross and serving outside the United States, their spouses and/or dependents;
5. Trained or certified emergency response providers who are 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. Persons 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 spouses and/or dependents who also maintain a common domicile outside the county of voting residence;
8. Persons who will be outside their counties of residence on Election Day;
9. Persons required to be at work on election day during the times at 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 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; and
13. Members of the Mississippi Congressional delegation, their spouses and/or dependents. (Miss. Code Ann. §§ 23-15-627; 23-15-673; 23-15-713 (1972))

Procedure for Absentee Balloting

1. Summary Requirements.

Mississippi law sets forth the following requirements for absentee voting:

- A. Absentee ballot applications must be furnished by the Municipal Clerk to a person upon the oral or written request of the voter who seeks to vote by absentee ballot, and the applications must be available at least sixty (60) days prior to the election.

- B. The Municipal Clerk may accept requests for absentee ballot applications by telephone.
- C. The parent, child, spouse, sibling, legal guardian, a person empowered with a power of attorney, or agent of the voter designated in writing by the voter may orally request an application on behalf of the elector.
- D. An absentee ballot application must have the seal of the Municipal Clerk and be initialed by the Municipal Clerk or deputy clerk.
- E. A third party requesting an absentee ballot application for another registered voter eligible to cast an absentee ballot must complete and sign the bottom section of the absentee ballot application designated "Certificate of Delivery," providing the third party's name and address and the voter's information for whom he is requesting the application.
- F. If the third party requesting an absentee ballot application for a voter cannot read or write, the Municipal Clerk or deputy clerk shall write the information on the absentee ballot application; however, the third party is obligated to place his/her mark on the application after it has been completed by the Municipal Clerk or deputy clerk.
- G. The absentee ballot application of a person who is permanently physically disabled may be accompanied by a statement signed by a 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 the person requesting an absentee ballot is permanently physically disabled to such an extent it is difficult for him/her to vote in person. (Miss. Code Ann. § 23-15-629(1))
- H. An absentee ballot application accompanied by the statement described above by a physician or nurse practitioner entitles a permanently physically disabled voter to automatically receive an absentee ballot by mail for all elections on a continuing basis without need to complete any other application. (Miss. Code Ann. § 23-15-629(2))
- I. Absentee ballot applications must be acknowledged ("sworn to and subscribed") by an official authorized to administer oaths for absentee balloting, such as a notary public or a court clerk.
- J. Applications of persons temporarily or permanently disabled must be witnessed by a person 18-years of age or older, who does not have to be a registered voter. Applications of persons temporarily or permanently disabled do not need to be acknowledged by official authorized to administer oaths.

- K. A candidate whose name appears on the ballot cannot be an attesting witness for an absentee voter. (Miss. Code Ann. § 23-15-631(e))

2. *Voting in the Municipal Clerk's Office.*

All eligible voters may cast their absentee ballots in the Municipal Clerk's office by completing an absentee ballot application. All eligible voters who cast absentee ballots in the Municipal Clerk's office must present an acceptable form of photo ID before being given an absentee ballot. After completing the absentee ballot application and presenting an acceptable form of photo ID, the voter is issued (given) an absentee ballot to mark in secret. The completed ballot is placed in an absentee ballot envelope, and the envelope is signed by both the voter and Municipal Clerk or deputy clerk across the flap of the envelope after it is sealed. The envelope containing the voted absentee ballot is deposited into a sealed ballot box maintained in the Municipal Clerk's office. (Miss. Code Ann. §§ 23-15-717, 23-15-719)

3. *Voting by Mail.*

Eligible absentee voters may request an absentee ballot by mail by first requesting, receiving and returning an absentee ballot application by mail to the Municipal Clerk. The following registered voters are legally eligible to receive and return an absentee ballot by mail:

- i. Temporarily residing outside the city, meaning the absentee ballot application and absentee ballot will be mailed to an address outside of your city ;
- ii. Temporarily or permanently physically disabled;
- iii. Sixty-five (65) years of age or older; or,
- iv. The parents, spouses, or dependents of temporarily or permanently physically disabled persons who are hospitalized outside of their cities of residence or more than fifty (50) miles away from their residences if the parents, spouses, or dependents will be with such persons on election day. (Miss. Code Ann. § 23-15-715)

Absent ballot applications and absentee ballot envelopes must be acknowledged by an official authorized to administer oaths, such as a notary public or court clerk. The applications and ballot envelopes of those who are temporarily or permanently disabled need not be acknowledge by an official authorized to administer oaths, but must only be witnessed and signed by a person eighteen (18) years of age or older. This person does NOT have to be a registered voter. A candidate whose name appears on the ballot cannot acknowledge or witness the signature of an absentee voter on either an absentee ballot application or ballot envelope. (Miss. Code Ann. § 23-15-631(e))

4. Voter Assistance while Absentee Voting.

Any eligible absentee voter who is blind, temporarily or permanently physically disabled, or cannot read or write is entitled to request and receive assistance in marking his/her absentee ballot. The voter may be given assistance by anyone of the voter's own choosing other than a candidate whose name appears on the ballot, the voter's employer, agent of the voter's employer or an officer or agent of the voter's union. A person who provides assistance is required to sign and complete the "Certificate of Person Providing Voter Assistance" section on the absentee ballot envelope disclosing the date and time assistance was provided and relationship to the voter (if any). The person providing assistance to the voter should not be the person acknowledging and/or witnessing the voter's signature on the absentee ballot envelope. (Miss. Code Ann. § 23-15-631(f))

5. Permanently Disabled List of Absentee Voters

With an absentee ballot application, a permanently physically disabled voter also may send a statement signed by a physician or licensed nurse practitioner stating the physician is a licensed, practicing medical doctor or nurse practitioner and the voter is permanently physically disabled to such an extent it is difficult for him/her to vote in person. This one absentee ballot application accompanied by a physician or nurse practitioner's statement entitles the voters to receive automatically an absentee ballot for all elections on a continuing basis without the need for re-application. This does NOT apply to voters who are temporarily physically disabled. (Miss. Code Ann. § 23-15-629)

Military and Overseas Voters (UOCAVA)

UOCAVA voters, meaning those subject to the Uniformed and Overseas Citizens Absentee Voting Act, include the following categories of voters:

- Any member of the U.S. Armed Forces, components or divisions thereof, and his/her spouse and/or dependents;
- Any member of the Merchant Marine and the American Red Cross, and his/her spouse and/or dependents;
- Any disabled war veteran who is a patient in any hospital and who is a citizen of Mississippi, and his/her spouse and/or dependents;
- Any civilian attached to and serving outside of the U.S. with any branch of the Armed Forces, or with the Merchant Marine or American Red Cross, who is a citizen of Mississippi, and his/her spouse or dependents;
- Any trained or certified emergency response provider who is deployed during the time period authorized by law for absentee voting, on election day, or during any state of emergency declared by the

President of the U.S. or any Governor of any state within the U.S;

- Any U. S. citizen temporarily residing outside the territorial limits of the U.S. and the District of Columbia;
- Any citizen of Mississippi enrolled as a student at a U.S. Military Academy. (Miss. Code Ann. § 23-15-677)

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

For UOCAVA voters, the FPCA requesting an absentee ballot and the absentee ballot may be sent to the voter by mail, e-mail or facsimile (fax), dependent upon the UOCAVA voter’s choice marked on the FPCA. If the UOCAVA voter does not indicate a preference on his/her FPCA, the absentee ballot and balloting materials are sent by regular mail. (Miss. Code Ann. § 23-15-699)

UOCAVA 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. FWABs, like FPCAs, may be submitted by mail, e-mail or fax. (Miss. Code Ann. § 23-15-692)

For UOCAVA voters, one application (FPCA) for an absentee ballot serves as a request for an absentee ballot for each election held within the calendar year for which the voter is eligible to vote. (Miss. Code Ann. § 23-15-687)

When a primary or special election may be followed by a run-off election, the Municipal Clerk must send to the requesting UOCAVA absentee voter two duplicate absentee ballots and two return envelopes for both the first and second (runoff) election at the same time. The ballot for the second election shall be identical to the ballot for the first election except 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 who is no longer a candidate in the second election, then the vote for that particular office in the second election is disregarded. The voter may return both ballots at the same time but separately, or the voter may submit the ballot for the second election at a later date but prior to the second election. (Miss. Code Ann. § 23-15-683)

When Absentee Ballots May Be Cast

1. First Primary Election

- A. Voting in the Municipal Clerk's office – The first day for voting by absentee ballot in the first primary election in the Municipal Clerk's office is forty-five (45) calendar days before the election. The deadline for casting absentee ballots in the Municipal Clerk's Office is 12:00 p.m. (noon) on the Saturday immediately preceding a Tuesday election, the Thursday immediately preceding a Saturday election, or the second day immediately preceding the date of an election held on any other day. If the voter appears before the Municipal Clerk, and the ballot has not yet been printed forty-five (45) days before the election, the Municipal Clerk shall have the voter complete an absentee ballot application and then mail the absentee ballot to the voter. (Miss. Code Ann. § 23-15-715(a))
- B. Voting by Mail – Absentee ballots must be available forty-five (45) days prior to the election. The deadline for the Municipal Clerk's actual receipt of absentee ballots returned by mail is the day preceding the election. (Miss. Code Ann. § 23-15-721)

2. Second Primary (Runoff) Election

- A. Voting in the Municipal Clerk's office – Second primary (runoff) election absentee ballots to be voted in the Municipal Clerk's office should be available as soon as possible after the first primary election. The deadline for casting absentee ballots in the Municipal Clerk's Office is 12:00 p.m. (noon) on the Saturday immediately preceding a Tuesday election, the Thursday immediately preceding a Saturday election, or the second day immediately preceding the date of an election held on any other day. (Miss. Code Ann. § 23-15-715(a))
- B. Voting by Mail – Absentee ballots should be available for the second primary election as soon as possible following the first primary election. The deadline for the Municipal Clerk's actual receipt of absentee ballots returned by mail is 5:00 p.m. on the day preceding the election. (Miss. Code Ann. § 23-15-721)

3. General Election

- A. Voting in the Municipal Clerk's office – The first day for voting by absentee ballot in the general election in the Municipal Clerk's office is forty-five (45) calendar days before the election. The deadline for casting absentee ballots in the Municipal Clerk's Office is 12:00 p.m. (noon) on the Saturday immediately preceding a Tuesday election, the Thursday immediately preceding a Saturday election, or the second day immediately preceding the date of an election held on any other day. If the voter

appears before the Municipal Clerk, and the ballot has not yet been printed forty-five (45) days before the election, the Municipal Clerk shall have the voter complete an absentee ballot application and then mail the absentee ballot to the voter. (Miss. Code Ann. § 23-15-715(a))

- B. Voting by Mail – Absentee ballots must be available forty-five (45) days prior to the election, or as soon as possible. The deadline for the Municipal Clerk’s actual receipt of absentee ballots returned by mail is the day preceding the election. (Miss. Code Ann. § 23-15-721)

Hand Delivery of Absentee Ballots Prohibited

It is illegal to hand deliver absentee ballots in Mississippi. Unless an absentee ballot is voted in the Municipal Clerk’s office, it must be mailed by the Municipal Clerk to the voter and the voter must return the voted absentee ballot by mail to the Municipal Clerk. Remember, only certain categories of Mississippi voters are eligible to receive and return absentee ballots by mail. (Miss. Code Ann. § 23-15-735)

1.8 Poll Managers

“Poll Managers” are sometimes referred to as “poll workers.” The Mississippi Code only uses the term “poll manager,” which will be used in this handbook; however, there is no distinction between a “poll manager” and a “poll worker.”

Number of Poll Managers to Appoint

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

Registered Voters in a Precinct	Minimum Number of Poll Managers	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, 23-15-235)

A minimum of three (3) persons must be appointed by the municipal election commissioners to serve as Poll Managers for each polling place. Additional Poll Managers may be appointed as set out in the chart above. If there is only one (1) polling place in a municipality, three (3) Municipal Party Executive Committee Members shall act as Poll Managers in the Primary Election(s), and the three (3) Municipal Election

Commissioners shall act as Poll Managers for the General or any Special Elections. (Miss. Code Ann. § 23-15-231)

Qualifications of Poll Managers

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

When to Make Appointments of Poll Managers

For General or Special Elections, Poll Managers must be appointed far enough in advance of the election so training may be provided no less than five (5) calendar days prior to the election. For Primary Elections, Poll Managers must be appointed at least two (2) weeks prior to the Primary Election. (Miss. Code Ann. §§ 23-15-231; 23-15-239; 23-15-265)

Party Affiliation of Poll Managers for General and Special Elections

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

Compensation of Poll Managers

Poll Managers are paid a minimum of seventy-five dollars (\$75) for each election. The governing authorities of a municipality may, in their discretion, pay poll managers additional compensation in an amount not to exceed fifty dollars (\$50) per election. A Poll Manager designated as the Receiving and Returning Manager is entitled to an additional ten dollars (\$10) for carrying the boxes to the polling place and another ten dollars (\$10) for returning the boxes after the election. If the Receiving and Returning Manager uses a privately owned motor vehicle, he/she receives for each mile actually and necessarily traveled in excess of ten (10) the federal mileage rate. (Miss. Code Ann. §§ 23-15-227; 23-15-229)

Training of Poll Managers

The officials in charge of the election (the Executive Committee for primary elections and the Election Commission for other elections), in conjunction with the Municipal Clerk, are responsible for conducting training sessions to instruct Poll Managers as to their duties in the proper conduct of the election no less than five (5) calendar days prior to the election. The municipal governing authority, in their discretion, may compensate managers who attend such training sessions. The compensation shall be at a rate of not less than the federal hourly minimum wage, nor more than twelve dollars (\$12.00) per hour, for not more than 16 hours of attendance at training. (Miss. Code Ann. § 23-15-239)

No Poll Manager may serve in any election unless he/she has received training within the twelve (12) months preceding the election.

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. However, emergency appointments may be made pursuant to Miss. Code Ann. § 23-15-231.

Who Appoints Poll Managers?

The Executive Committee in Primary Elections and the Election Commission in General and Special Elections, appoints Poll Managers and designates one as the Bailiff and one as the Receiving and Returning Manager for each polling place. (Miss. Code Ann. §§ 23-15-231, 23-15-251)

On the morning of the election, the Poll Managers in each polling place designate an Initialing Manager and Alternate Initialing Manager from amongst themselves. The poll manager designated as the Receiving and Returning Manager **cannot** serve as the Initialing Manager or the Alternate Initialing Manager. However, the Bailiff **may** also act also as the Initialing Manager or the Alternate Initialing Manager. (Miss. Code Ann. § 23-15-541)

1.9 Duties and Responsibilities of Poll Managers at the Polling Place

Manager-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 ensure a space of thirty (30) feet in every direction from the polls or the room in which the election is held is kept open and clear of all persons except: (a) election officials, (b) voters waiting to cast their ballots, (c) candidates on the ballot or one representative of each candidate on the ballot, and (d) two poll watchers authorized by each political party having a candidate on the ballot in a General or Special Election only. (Miss. Code Ann. §§ 23-15-245, 23-15-577)

The Bailiff must ensure the candidate or candidate’s authorized representative or political party’s authorized poll watcher(s) do not move about the polling place greeting or speaking with voters, do not attempt to influence any voter, and do not interfere with the election process.

2. To ensure no one conducts campaigning activity within one hundred fifty (150) feet of any entrance to the building in which an election is being held,

which activity includes, but is not limited to, the distribution or posting of campaign literature and the greeting of or speaking with voters. (Miss. Code Ann. § 23-15-895)

3. To remove from the poll place all persons creating any disturbance in and about the polling place. (Miss. Code Ann. § 23-15-241)
4. To ensure all qualified voters have unobstructed access to the polls for the purpose of voting when others are not voting. (Miss. Code Ann. § 23-15-241)
5. To call upon anyone present at the polling place for assistance and, if necessary, the Sheriff or other local law enforcement officials for assistance, in enforcing the law. (Miss. Code Ann. § 23-15-245)
6. To verify presented photo ID fairly depicts the voter, but only if a poll manager already has determined the presented photo ID does not fairly depict the voter.
7. To verify the voter's name on the presented photo ID is substantially similar to the voter's name as it appears on the poll book, but only if a poll manager already has determined the name on the presented photo ID is not substantially similar to the voter's name as it appear on the poll book.

Initialing Manager

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

1. Write the Initialing Manager's initials on the back of the official blank ballot so 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 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

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 Receiving and Returning Manager must perform the tasks listed below:

1. On the day before the election, obtain from the Municipal Clerk or the Election Commission the box(es) for his/her precinct containing the ballots and all other necessary materials, including the poll book, receipt books, absentee ballots, paper ballots, the blank tally sheets, the blank forms to be used in making returns, the cards of instruction, stationery, and supplies.
2. Ensure the box(es) and the contents are not tampered with prior to the opening of the polls by verifying the original seal on the ballot box.
3. Deliver the ballot box(es) and the contents to the appropriate polling place by 6:00 a.m. on Election Day. (Miss. Code Ann. § 23-15-477)
4. Return the ballot box(es) sealed and secured with all contents therein and other materials to the Municipal Clerk's office on election night. (Miss. Code Ann. § 23-15-251)

1.10 The Voting Process

Paper Ballots

When a voter appears, the following procedure is followed:

1. A Poll Manager checks if the voter's name appears in the poll book. If the voter's name is unable to be located in the poll book, 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; and
 - 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 Municipal Clerk, Circuit Clerk or the Election Commission to verify the voter's correct polling place associated with the voter's current residence.
3. Ask the voter to present an acceptable form of photo ID. (See section on *VOTER PHOTO IDENTIFICATION REQUIREMENTS* and *Appendix A*)
4. Verify the picture on the presented photo ID fairly depicts the voter.
5. Verify the name on the presented photo ID is substantially similar to the voter's name as it appears on the poll book.

6. Write “VOTED” in the poll book beside the voter’s name and in the column with the election date in the header.
7. The voter signs his/her name in the receipt book/voter sign-in sheet.
8. The Initialing (or Alternate Initialing) Manager writes his/her initials on the back of a blank paper 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 fill in the oval or mark a cross (X) or a check (✓) opposite the name of the candidate of his/her choice for each office to be filled.
 - 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 ensure the ballot bears the genuine initials of the Initialing (or Alternate 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 poll book,
 - b) the voter is unable to present an acceptable form of photo ID,
 - c) the picture on the presented photo ID does not fairly depict the voter, or
 - d) the name on the presented photo ID is not substantially similar to the voter’s name as it appears on the poll book.

Direct Recording Equipment (DRE) – Voting Machines

When a voter appears, the following procedure is followed:

1. Check for the voter's name in the poll books. If you are unable to locate the voter's name in the poll book, ask if the voter has had a name change or address change:
 - 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; and
 - 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 Municipal Clerk, Circuit Clerk or the Election Commission to verify the voter's correct polling place associated with the voter's current residence.
3. Ask voter to present an acceptable form of photo identification. (See Section on *VOTER PHOTO IDENTIFICATION REQUIREMENTS and Appendix A*)
4. Verify the picture on the presented photo ID fairly depicts the voter.
5. Verify the name on the presented photo ID is substantially similar to the voter's name as it appears on the poll book.
6. Write "VOTED" in the poll book beside the voter's name and in the column with the election date in the header.
7. The voter signs his/her name in the receipt book/voter sign-in sheet.
8. The voter 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)
9. 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.
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 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 poll book,
- b) the voter is unable to present an acceptable form of photo ID,
- c) the picture on the presented photo ID does not fairly depict the voter, or
- d) the name on the presented photo ID is not substantially similar to the voter's name as it appears on the poll book.

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

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 Municipal 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 photo 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 the 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 election day, the voter signs an Affidavit of Religious Objection in the Municipal Clerk's Office in the voter's city 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 Municipal Clerk's Office in the voter's city of residence.

1.11 Voter Assistance (See Also Appendix 1.A)

Inside the Polling Place

Before receiving assistance in marking his/her ballot, the voter must first make a request for assistance to the Poll Managers and state a statutory reason why he/she requires assistance. To receive assistance in the marking of his/her ballot, a voter must be blind, physically disabled or unable to read or write.

Any voter who declares to the Poll Managers 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)

Curbside Voting

A physically disabled voter who drives, or is driven, to the polling place, but is unable to enter the polling place may vote curbside if the Poll Managers, in exercising sound discretion, determine the voter is physically unable to enter the polling place.

Two (2) Poll Managers take the poll book, receipt book, and a ballot or voting device to the vehicle and follow the voting process. After the voter casts his/her ballot in secret, the Poll Managers return the voted ballot to the ballot box. If, while a voter is voting by curbside, there are less than three (3) Poll Managers present in the polling place, voting must stop inside the polling place until the Poll Managers conducting the curbside voting

return inside so there are at least three (3) Poll Managers present within the polling place to conduct the election at all times. (Miss. Code Ann. § 23-15-541(2))

1.12 Challenges (See Also Appendix 1.B)

Who Can Challenge?

The following persons are authorized challengers and are able to challenge the qualifications of any person attempting to vote:

1. Any candidate whose name is on the ballot in the precinct in which the challenge is made,
2. Any authorized representative of a candidate whose name is on the ballot in the precinct in which the challenge is made,
3. A political party's official poll watcher (not applicable for party primary elections),
4. Any qualified voter of the precinct in which the challenge is made, and
5. Any Poll Manager of the polling place in which the challenge is made. (Miss. Code Ann. § 23-15-571)

Election officials must assign each authorized poll watcher a suitable place within the precinct at which he/she may reasonably observe the election process.

Bases for Challenge

A person attempting to vote may be challenged on the grounds listed below:

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 has cast an absentee ballot but is ineligible to do so.

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

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 must be considered and acted upon by the Poll Managers of the precinct at the time the challenge is made.

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

1. Challenge unanimously determined to be frivolous.

If the Poll Managers unanimously determine 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.

2. Challenge NOT unanimously determined to be well taken.

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

- a. “Challenged” is marked on the back of the ballot;
- b. The ballot is placed in a separate envelope labeled “Challenged Ballots;”
- c. The envelope is sealed and deposited into the sealed ballot box, and
- d. At the close of the polling place, the challenged ballots are separately counted, tallied and totaled, with a separate return made of challenged ballot.

3. Challenge unanimously determined to be well taken.

If the Poll Managers unanimously determine 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. The name of the voter is written on the back of the ballot; and the ballot is placed in a strong envelope labeled “Rejected Ballots; and
- c. The envelope is sealed and deposited into the sealed ballot box.

1.13 Affidavit Ballots (See also, Appendix 1.D)

A voter:

- Whose name does not appear on the poll book, or
- Who does not present an acceptable form of photo ID, or
- Who presents an acceptable form of photo ID but the voter's name on the photo ID is not substantially similar to the voter's name as it appears on the poll book, or
- Who presents an acceptable form of photo ID but the picture on the photo ID does not fairly depict the voter,

may only cast an affidavit (provisional) ballot.

An affidavit ballot is a regular election day, paper ballot which is placed into an Affidavit Ballot Envelope. The affidavit ballot envelope must be completed by the voter and must include: the voter's name, address (current and previous, if moved), telephone number, and signature. A Poll Manager must also sign the affidavit ballot envelope. The failure of the Poll Manager or the voter to sign the envelope must result in the rejection of the affidavit ballot.

Once the voter and Poll Manager have completed the affidavit ballot envelope, the affidavit voter signs a separate receipt book maintained solely for affidavit voters. The voter is issued a paper ballot, initialed by the Initialing or Alternate Initialing Manager. The voted paper ballot is placed into the completed Affidavit Ballot Envelope and immediately deposited into the sealed ballot box by the voter.

The affidavit voter must be provided with written instructions on how to ascertain whether his/her vote was counted, and if not, why by contacting the Municipal Clerk's Office or Municipal Election Commission. If the voter cast an affidavit ballot because he/she failed to present an acceptable photo ID, the voter must be provided with written instructions on how to ensure his/her vote will be counted by presenting an acceptable form of photo ID in the Municipal Clerk's Office within five (5) business days of the election.

The election officials – the Party Executive Committee in Primary Elections and the Election Commission in General and Special Elections – must examine the voter roll and any other record when canvassing the returns so as to allow the affidavit (provisional) ballots 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 municipality, failure of the voter and/or Poll Manager to sign the affidavit ballot envelope, or the voter casting a ballot in a precinct in which he/she is not entitled to vote. (Miss. Code Ann. § 23-15-573)

1.14 Prohibitions Against Campaigning at the Polls

General Prohibition

It is unlawful for any candidate for elective office or any representative of a candidate, or for any proponent or opponent of any constitutional amendment, local issue or other measure printed on the ballot, to post or distribute cards, posters, or other campaign literature within one hundred 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 in uniform, nor shall he/she display any badge or credentials. (Miss. Code Ann. § 23-15-895)

This prohibition is applicable to inside of City Hall or any other building in which the Municipal Clerk's office is located and within one hundred fifty (150) feet of any entrance thereto during the 45 day absentee voting period.

Wearing T-Shirts

The wearing of a T-shirt with a candidate's name and/or picture 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 may come 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 permissible for an individual voter to bring a sample ballot into the polling place for the voter's own use as a reminder of the candidate(s) for whom he/she intends to vote. A voter, however, cannot be permitted to use the sample ballot as campaign literature in attempting to influence other voters within the polling place.

1.15 Counting the Votes

Absentee Ballots (See Also Appendix 1.E)

At the close of the polls, the Poll Manager of each voting precinct shall take the envelopes containing the absentee ballots and announce the name, address, and precinct of each. The Poll Managers shall carefully examine the absentee ballot envelope and absentee ballot application to ensure each is valid and properly executed. This process includes:

1. Ensuring each absentee ballot envelope has a corresponding absentee ballot application;

2. Ensuring the absentee ballot application contains the original seal of the Municipal Clerk's Office;
3. Ensuring the absentee ballot application contains the original initials of the Municipal Clerk or deputy clerk;
4. Ensuring the absentee ballot application is signed by the voter;
5. Ensuring the absentee ballot application is signed by either the Municipal Clerk or deputy clerk, or by someone authorized to administer oaths, such as a notary public, who is acknowledging the voter's signature; unless, the voter cast an absentee ballot because he/she is temporarily or permanently disabled, then a witness signature only;
6. Comparing the voter's signature on the absentee ballot application with the voter's signature on the absentee ballot envelope;
7. Ensuring the absentee ballot envelope is signed across the flap by the voter; and
8. Ensuring the absentee ballot envelope is signed across the flap by the Municipal Clerk or deputy clerk or by someone authorized to administer oaths, such as a notary public, who is acknowledging the voter's signature; unless, the voter cast an absentee ballot because he/she is temporarily or permanently disabled, then a witness signature across the flap.

If the Poll Managers find the applicant is a registered and qualified voter of that precinct, and he/she did not appear in person and vote at the polling place on Election Day, the envelope is marked as "ACCEPTED."

If a central scanner at Election Central/City Hall/Courthouse is NOT used in the election, meaning only paper ballots, precinct scanners or TSX/DRE voting machines are used in the election, the "ACCEPTED" absentee ballot envelopes are opened, the absentee ballots removed from the envelopes and the absentee ballots are placed in the ballot box with the other paper ballots before counting any paper ballots. (Miss. Code Ann. § 23-15-639)

If a central scanner at Election Central/City Hall/Courthouse IS used in the election, the "ACCEPTED" absentee ballot envelopes are bundled together and placed in a separate strong envelope marked "ACCEPTED ABSENTEE BALLOTS." The absentee ballot envelopes are NOT opened, but remain sealed. The separate "ACCEPTED ABSENTEE BALLOTS" envelope is placed in the ballot box with all election materials to be returned to Election Central. With the use of a central scanner at Election Central, the officials charged with the conduct of the election will open the ACCEPTED absentee ballot envelopes, remove the absentee ballots and scan through the central scanner to count.

If a deficiency is found in one or more of the above-listed requirements, the Poll Managers mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope, and place it in a separate strong envelope marked “REJECTED ABSENTEE BALLOTS.” The absentee ballot envelopes marked “REJECTED” are NOT opened, but remain sealed. The separate “REJECTED ABSENTEE BALLOTS” strong envelope is placed in the ballot box with all election materials to be returned to Election Central. (Miss. Code Ann. § 23-15-641)

Poll Managers are encouraged to follow the checklist in Appendix 1.E when examining absentee ballots at the close of the polls.

Paper Ballots

When the polls have been closed, the Poll Managers publicly open the ballot boxes and immediately proceed to count the ballots. The Poll Managers must ensure each paper ballot bears the initials of the Initialing or Alternate Initialing Manager. A ballot which does not bear the initials of the Initialing or Alternate Initialing Manager should not be counted. Failure of the Initialing or Alternate Initialing Manager to initial a ballot renders such ballot illegal.

In counting paper ballots, the poll managers read aloud the names of the persons voted for, and those names shall be taken down and tallied. All Poll Managers, and not just one manager, are required to count ballots.

During the counting of the ballots, all proceedings must be in fair and full view of the voting public without unnecessary interference, delay, or encroachment upon the good order of the duties and proceedings of the Poll Managers and other officers of the election.

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

Optical Mark Tabulating Equipment (“OMR”)

The governing authorities of any municipality are authorized and empowered, in their discretion, to purchase or rent optical mark reading equipment which meets the requirements of Mississippi statute (Miss. Code Ann. § 23-15-507), and may use such equipment in all or a part of the precincts within its boundaries. (Miss. Code Ann. § 23-15-505)

Testing the OMR Tabulating Equipment

Prior to the start of the counting of scannable ballots, the election officials charged with the conduct of the election must cause the OMR tabulating equipment to be tested to ascertain it will accurately count the votes cast for all offices and on all measures.

Representatives of the political parties, candidates, press and the general public may witness the testing of the OMR tabulating equipment. (Miss. Code Ann. § 23-15-521)

The test is conducted by processing a group of “mock voted” ballots so marked as to record a predetermined number of valid votes for each candidate and on each measure; and for each office, one or more “test” ballots must have votes in excess of the number allowed by law to test the ability of the OMR tabulating equipment to reject such ballots. If any error is detected, the cause must be determined and corrected and an errorless test must be made and certified before the count is started. On completion of each test, the program, test materials and “test” ballots are sealed and retained. (Miss. Code Ann. § 23-15-521)

Scannable Ballots: Using Precinct Scanners

When the polls have been closed and the absentee ballots have been marked ACCEPTED or REJECTED, and all accepted absentee ballots having been removed from their envelopes and counted by the OMR tabulating equipment, all voted ballots must be sealed in the ballot box. The Receiving and Returning Manager must deliver the sealed ballot box to the counting center. The Poll Managers must prepare a report in duplicate of the number of voters who have voted, as indicated by the poll book and receipt book, including the separate receipt book for affidavit voters, and place this report in the ballot box, which must be sealed so no additional ballots may be deposited or removed from the ballot box. (Miss. Code Ann. §§ 23-15-517, 23-15-519)

Scannable Ballots: Using a Central Scanner

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

Resolution Board

The officials in charge of the election shall appoint qualified voters to serve as judges on the Resolution Board, who are required to attend and complete poll manager training. An odd number of not less than three (3) members shall be appointed. Judges of the Resolution Board cannot include Municipal Election Commissioners; candidates and parents, siblings or children of candidates; members of the Municipal Executive Committee, in a Primary Election; and members of the Municipal Executive Committee in a General Election unless all political parties who have a candidate on the ballot are appointed.

All ballots rejected by the OMR tabulating equipment will be reviewed by the Resolution Board. If any ballot is damaged or defective or otherwise rejected by the OMR tabulating equipment, the ballot is deposited in an envelope marked for the “RESOLUTION BOARD.” The judges on the Resolution Board shall endeavor to determine the intent of the voter, and, if able, record the vote consistent with that determination.

If the Resolution Board can determine the intent of the voter from the ballot, the judges prepare a duplicate ballot, identical to the voter’s marked ballot, to replace the damaged or defective ballot. A duplicate ballot is prepared by the Resolution Board by marking a new ballot with the voter’s choices as determined by his/her intent and thereafter scanning the duplicate ballot through the OMR tabulation equipment. The voter’s original ballot is marked by the Resolution Board as “Original #1” and the copy prepared by the Resolution Board is marked as “Duplicate #1.” The Board prepares subsequent original and duplicate ballots in the same manner with sequential numbering.

If the voter’s intent cannot be determined by the Resolution Board, the officials in charge of the election may use the voting machine to count the votes in the remaining races which are unaffected.

Ballots rejected by the OMR tabulating equipment for appearing to be blank shall be examined by the Resolution Board to verify if they are blank or have been marked with a non-detectible marking device. If it is determined the ballot is marked with a non-detectible device, the Resolution Board prepares a duplicate ballot of the voter’s original ballot in accordance with the process discussed above and then scans the ballot through the OMR tabulating equipment.

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

If for any reasons it becomes impracticable to count all or part of the ballots with the OMR tabulating equipment, the officials in charge of the election may direct the ballots be counted manually, following 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 count, the official returns are open to the public. (Miss. Code Ann. § 23-15-523)

Direct Recording Electronic Voting Equipment (DRE)

The governing authorities of any municipality are authorized and empowered, in their discretion, to purchase or rent direct recording electronic voting equipment which meets the requirements of Mississippi statute (Miss. Code Ann. § 23-15-531.1), and may use such system in all or a part of the precincts within its boundaries.

Testing the DRE Units

On or before the third day preceding any election, except runoff elections, the officials in charge of the election must cause each DRE unit to be tested to ascertain it will correctly count the votes cast for all offices and on all questions.

On or before the third day preceding any runoff election, the official in charge of the election must cause a number of DRE units at random to be tested to ascertain each will correctly count the votes cast for all offices and on all questions. If the total number of DRE units in the municipality is thirty (30) or less, all DRE units shall be tested. If the total number of DRE units in the municipality is more than thirty (30) but less than one hundred (100), then at least one-half (1/2) of the DRE units shall be tested. If the total number of DRE units in the municipality is more than one hundred (100), then at least fifteen percent (15.0%) of the DRE units shall be tested.

All memory cards to be used shall be tested. Public notice of the time and place of the test shall be made at least five (5) days prior thereto. Representatives of candidates, political parties, news media and the public are permitted to observe the tests. (Miss. Code Ann. § 23-15-531.4)

Demonstration on the use of the DRE

The officials in charge of the election shall place on public exhibition and demonstrate the use of the DRE units throughout the municipality during the month preceding each primary and general election. (Miss. Code Ann. § 23-15-531.7)

Counting Votes and Determining Results with DRE Voting Equipment

In elections in which DRE voting equipment is used, the paper ballots (excluding affidavit ballots) are counted at the precinct by the poll managers. All persons who perform any duties at the precinct shall be deputized by the officials in charge of the election and only persons so deputized shall touch any ballot, container, paper or machine utilized in the conduct of the count or be permitted in the immediate area designed for officers deputized to conduct the count.

All proceedings at the precincts are to be open to the view of the public, but no person except one employed and designated for the purpose by the officials in charge of the election shall touch any ballot, any DRE unit or the tabulating equipment.

After the polls have closed and all voting in the precinct has stopped, the poll managers shut down the DRE units and obtain the machine totals as follows:

(a) The poll managers print two (2) result total tapes from each DRE unit and verify the number of ballots cast as recorded on the tapes matches the public count number as displayed on the DRE unit; and

(b) The poll managers then eject the memory card, if applicable, from each DRE unit.

Upon completion of shutting down each DRE unit and printing the result total tapes, the poll managers sign the result total tapes and post one from each DRE unit to the wall of the precinct. Poll managers complete and sign a precinct ballot accounting form, which is placed into the ballot box.

The poll managers collect and retain the zero tapes and result total tapes for each DRE unit and place the tapes with the memory card, if any, for each unit and enclose all such items in one (1) envelope or communication pack which is sealed and initialed by the poll manager so it cannot be opened without breaking the seal. The Receiving and Returning Manager delivers the envelope or communication pack to Election Central. (Miss. Code Ann. § 23-15-531.10)

1.16 Proclamation of Results and Sealing of the Ballot Box

When the votes have been completely and correctly counted and tallied by the Managers, they shall publicly proclaim the results of the election at their box. The Managers shall certify in duplicate a statement of the results, to be signed by the Managers. One of the certificates shall be enclosed in the ballot box, and the other shall be posted in the polling place to be inspected at any time by the public.

When the count and the tally of the votes have been completed, the Managers shall place all voted ballots, all spoiled ballots, and all unused ballots in the ballot box, as well as a duplicate signed statement of the results. 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. If the numbers fail to correspond, the failure must be perfectly accounted for by a written statement by the Managers made under oath, and that sworn statement shall also be enclosed in the ballot box.

The tally list and the receipt booklet containing the signed names of the voters who voted must also be enclosed in the ballot box. The number of ballots voted must correspond with the number of names signed in the receipt 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 (1972))

1.17 Canvassing and Certifying Returns

Primary Elections

The Municipal Party Executive Committee shall meet on the first or second day after each primary election, shall receive and canvass the returns, declare the results, and announce the names of those candidates to be submitted to the second primary and the names of the nominees for municipal offices within five (5) business days of the election, or as soon as practicable thereafter. A duplicate of all tabulations by precincts as certified by the Executive Committee shall be filed with the Municipal Clerk, who shall preserve those materials in his/her office. A duplicate shall also be transmitted to the Secretary of State's on the official recapitulation form as created by the Secretary of State's Office, and may be sent by mail, electronic mail (email) or fax. (Miss. Code Ann. § 23-15-597)

General and Special Elections

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

If it appears any two (2) or more of the candidates 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 municipality.

Within five (5) business days after any election or as soon as practicable thereafter, the Election Commission shall transmit a statement to the Secretary of State certifying the names of the persons elected, the vote totals for each candidate, and vote totals for and against each ballot measure in the municipality. The statement shall contain a certification, signed and dated by a majority of the Election Commissioners, which shall read as follows: "We, the undersigned municipal election commissioners, do hereby certify that this statement contains the official vote for the election reflected therein." The statements are transmitted to the Secretary of State's Office on the official recapitulation form as created by the Secretary of State's Office, and it may be sent by mail, email or fax.

The candidates certified as elected shall be issued commissions by the Governor. (Miss. Code Ann. §§ 23-15-601, 23-15-603, 23-15-611)

1.18 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 all ballots, both voted and unvoted, are kept secure and are carefully accounted for. Poll Managers must also be thoroughly trained in their responsibility to fully account for every ballot.

Ballot Printing

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

The printer is charged with keeping all ballots completely secure, and once the ballots are received from the printer, the officials in charge of the election who receive the ballots are responsible for the security of the ballots. This applies to all paper ballots – Election Day, absentee, affidavit, curbside, emergency– and applies to Election Commissions, Executive Committees and the Municipal Clerk. (Miss. Code Ann. §§ 23-15-351, 23-15-335, 23-15-649)

Accounting of Ballots for Precinct Distribution

The Receiving and Returning Manager from each precinct must sign duplicate receipts acknowledging the total number of ballots provided to that manager for that precinct and provide the same to the election official(s) charged with the distribution of the ballots, who must likewise sign the same receipt. One receipt is retained by the Municipal Clerk, while the other is placed in the ballot box. (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 and Returning 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 Poll Managers must within one (1) day of the election report the loss to the officials in charge of the election, including all facts connected with the loss and the number of ballots lost. If warranted, the officials in charge of the election shall deliver the report to the grand jury. (Miss. Code Ann. § 23-15-373)

Ballot Accounting at the Close of Polls

Ballots are accounted for at the close of the polls in accordance with Miss. Code Ann. § 23-15-591 and as discussed in Section 1.15 of this handbook.

Security of Ballot Boxes

Ballot boxes must be kept secure and sealed during the time the polls are open. Ballot boxes cannot be opened until the close of the polls. (Miss. Code Ann. § 23-15-247) After the ballot boxes have been delivered to Election Central (City Hall/Courthouse), the Municipal Clerk shall keep in place on each ballot box a consecutively numbered seal. The seal shall remain on the ballot box except when the officials in charge of the election are engaged in the 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)

1.19 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 a general or special election, and it is found there have been failures in material particulars to comply with the requirements of Miss. Code Ann. § 23-15-591 and § 23-15-895 (outlined in Sections 1.13 and 1.15 of this handbook) to such an extent it is impossible to arrive at the will of the voters at the precinct, the votes from the entire box may be disregarded and thus not counted, unless it appears with reasonable certainty the irregularities were not deliberately permitted or engaged in by the poll managers at that box for purposes of electing or defeating a certain candidate(s) by manipulating the election or the returns thereof at that box. In such event, the Executive Committee or the Election Commission, as appropriate, shall conduct a hearing and make a determination with respect to that ballot box, subject to judicial review. (Miss. Code Ann. § 23-15-593)

1.20 Contesting an Election

Examination of Ballot Boxes by a Candidate

When the election returns have been canvassed and results certified by the Executive Committee, in primary elections, and by the Election Commission, in general and special elections, all the contents are returned to the ballot boxes, immediately resealed and delivered to the Municipal Clerk, who shall keep the ballot boxes and secure all against any tampering.

At any time within twelve (12) calendar days after the certification of the election by the Executive Committee or the Election Commission, any candidate OR his/her authorized representative has the right to examine the ballot box(es) and their contents. Three (3) days' advance written notice of a candidate's request to the Municipal Clerk to

examine the ballot box(es) must be provided to the opposing candidate(s) or to any member of the candidate's family over the age of eighteen (18) years.

The examination is conducted in the presence of the Municipal Clerk or deputy municipal clerk, who ensures none of the contents of the box(es) are removed or in any way tampered with. The ballot box contents are not to be copied on a copy machine or photographed by camera or cell phone. (Attorney General's Opinion: Body, June 13, 1997)

Once a candidate begins a ballot box examination, he/she must continue from day to day until the examination is completed. There is no authority for a candidate to request and receive multiple ballot box examinations. Once the candidate finishes the ballot box examination, all material shall be returned to the ballot box, and the box(es) shall be resealed with all contents. (Attorney General's Opinion: Neal, September 26, 2003)

If any contest or complaint before a court shall arise over a ballot box, the box and its contents shall be kept intact and sealed until the court hearing, and another ballot box, if necessary, shall be furnished for the precinct for another election, if necessary. (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 municipal office, within twenty (20) calendar days after the primary election, the person may file a petition with the Secretary or any other member of the Executive Committee. The petition shall set forth the grounds upon which the primary election is contested. (Miss. Code Ann. § 23-15-921)

It shall be the duty of the Executive Committee to assemble at the call of the Chair or of any three (3) members of the committee. Notice of the contest shall be served five (5) calendar days before the meeting. After notifying all parties concerned, the Executive Committee shall proceed to investigate the grounds upon which the election is contested. The Executive Committee shall have the power to subpoena witnesses needed in the investigation. By majority vote of its members present, the Executive Committee shall declare the true results of the primary. (Miss. Code Ann. § 23-15-925)

If a contest has been filed with the Executive Committee and if 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 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 each of them has made a full and independent investigation into the facts and law of the matter and they believe the complaint and the petition should be sustained and the relief requested granted. (Miss. Code Ann. § 23-15-927)

The person filing the complaint and the petition must secure 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, petition, and bond are filed, the Circuit Clerk shall immediately notify the Chief Justice of the Supreme Court who shall then designate and notify a circuit judge or a retired judge of senior status to hear and determine the contest.

2. General and Special Elections

A person desiring to contest the election of another person elected to a municipal office may, within twenty (20) calendar days after the election, file a petition in the office of the Clerk of the Circuit Court of the county. The petition must set forth the grounds upon which the election is contested. When such a petition is filed, the Circuit Clerk shall immediately notify the Chief Justice of the Supreme Court who shall then designate and notify a circuit judge or retired judge of senior status to hear and determine the contest. (Miss. Code Ann. § 23-15-951)

1.21 Miscellaneous Information

Prohibition against Cross-Over Voting

Voters may not vote in the first primary of one party and the second primary of another party preceding the same general election. Any person so convicted shall be guilty of a misdemeanor and be imprisoned in the county jail not more than six (6) months, or be fined not more than Five Hundred Dollars (\$500.00), or both. (Miss. Code Ann. § 97-13-35)

“Single-Shot” Voting Permitted

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

Formula to Determine Majority in At-Large Elections for Aldermen

In at-large primary elections for municipal Boards of Aldermen, election officials have the responsibility to determine which candidates received a majority vote.

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

Calculation #1: Divide the total number of valid votes cast for all candidates for the office of Alderman by the number of offices to be filled (usually 5);

Calculation #2: Divide the result of Calculation #1 by two (2); and

Calculation #3: Add one (1) to the result of Calculation #2.

In an election for a five (5) aldermen at large, if five (5) candidates receive a majority vote in the first primary election, all have won and are the party's nominees for office, who move forward to the general election.

If fewer than five (5) candidates receive a majority vote in the first primary, those who receive a majority vote have won and are the party's nominees for office, who move forward to the general election. The remaining nominations must be determined in a second primary (runoff) election. The number of candidates who participate in the second primary election is based on how many nominations were not determined in the first primary election. At least two (2) candidates for each nomination must participate in the primary runoff election.

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

If more than five (5) candidates received a majority vote in the first primary, the five (5) candidates who received the most votes are the party's nominees.

1.22 Municipal Special Election Procedures

General Provisions

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

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

A vacancy in an elective municipal office, the unexpired term of which does not exceed six (6) months, must be filled by appointment by the municipal governing authorities. Consult the City Attorney to determine who is legally authorized to make such appointments and the manner in which such appointments are to be made. The Municipal Clerk must certify the appointment to the Secretary of State, and the appointee will be commissioned by the Governor.

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

If a vacancy occurs in an elective municipal office, the unexpired term of which exceeds six (6) months, the governing authorities must enter an order on the official minutes requiring an election to be held in the municipality to fill the vacancy and fixing a date upon which such election will be held. This order must be entered at the next regular meeting of the governing authorities after the occurrence of the vacancy or at a special meeting to be held not later than ten (10) business days after occurrence of the vacancy. The order must set the election on a date not less than thirty (30) days nor more than forty-five (45) days after the date on which the order is adopted. If the municipality operates under the Mayor-Council, Council-Manager, Commission, or Special Charter form of government, consult the City Attorney for possible variations of this procedure.

Notice of Election

The Municipal Clerk must give notice of the election by an appropriate publication in a newspaper published in the municipality, or if there is no newspaper published in the municipality, the notice must be published in a newspaper which has a general circulation within the municipality. Such notice must be published once a week for three (3) successive weeks preceding the date of the election. One (1) notice must be posted at City Hall. The first notice in the newspaper must be published at least thirty (30) days before the date of such election.

Candidate Qualification

Each candidate must qualify by petition filed with the Municipal Clerk at least twenty (20) days before the date of the special election. The petition must contain the names of at least fifty (50) qualified municipal voters if the municipality or ward has a population of one thousand (1,000) or more residents. If the population of the municipality or ward has a population of less than one thousand (1,000) residents, the petition must contain the signatures of at least fifteen (15) qualified municipal voters. Candidates' Statements of Intent and petitions for special municipal elections are available on the Secretary of State's website. (Miss. Code Ann. § 23-15-857)

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

Qualifying Fee

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

Determining Results

The candidate receiving a majority of the votes cast shall be elected. If no candidate receives a majority vote, the names of the two (2) candidates receiving the highest number of votes will be placed on the ballot for a run-off election to be held two (2) weeks after the Special Election, and whoever receives the most votes cast in such run-off shall be elected. If only one (1) person qualifies to run, the election shall be dispensed with and that person must be appointed. If no one qualifies, the election shall be dispensed with and the vacancy filled by appointment. (Miss. Code Ann. § 23-15-857)

Certificate of Election

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

Filing Copy of Order, Copy of Minutes, and Results

The Election Commission and/or Municipal Clerk must provide the Secretary of State a copy of the order calling the Special Election, a copy of the board meeting minutes, and the official recapitulation form signed by a majority of the election commission (the total vote count by ward). The copy of the order must be certified by the Municipal Clerk as true and correct.

Appendix 1.A – Voter Assistance

Who can receive assistance in the voting booth?

Any voter who affirmatively states he/she is:

1. Blind;
2. Physically disabled; or
3. Unable to read or write.

No other reasons are valid.

How does a voter get assistance to the voting booth?

The voter must:

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

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

Who can assist a voter in the voting booth?

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

1. The voter's employer or the employer's representative, or
2. A representative of any union of which the voter is a member.

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

Reference: Miss. Code Ann. § 23-15-549

Appendix 1.B – Challenged Ballots

Poll Managers must act immediately 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. A candidate’s authorized representative/poll watcher;
3. A political party’s authorized poll watcher (not applicable for party primary elections);
4. Any qualified voter from that precinct; or
5. Any poll manager in the polling place.

No one else can be a challenger.

For what reasons can a voter be challenged?

A voter can be challenged if:

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

There are no other reasons for a challenge.

Appendix 1.B – Continued

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

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

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

1. Mark “Rejected” on the back of the ballot;
2. Write the name of the voter on the back;
3. At the close of the polls, place all such ballots in a strong envelope labeled “Rejected Ballots;” and
4. Seal the envelope and return it in the ballot box.

ACTION III: If the Poll Managers CANNOT UNANIMOUSLY AGREE whether the challenge is frivolous or valid, the ballot is counted separately from the unchallenged ballots after:

1. “Challenged” is marked on the ballot;
2. The ballot is placed in a separate strong envelope labeled “Challenged Ballots;” and
3. At the close of the polls AND after all the unchallenged ballots have been counted, tallied, and totaled, the challenged ballots are separately counted, tallied and totaled, with a separate return made of the challenged ballots.

References: Miss. Code Ann. §§ 23-15-571, 23-15-579

Appendix 1.C – Keys to a Good Election

1. Appoint capable people to work at the polls.
2. Train poll managers well.
3. Ensure every 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. Ensure the Bailiff enforces the one-hundred-fifty (150) foot and thirty (30) foot rules.
6. Ensure poll managers understand the rules on voter assistance.
7. Ensure poll managers understand the rules regarding poll watchers.
8. Ensure poll managers know how to handle challenges.
9. Ensure the polls open and close on time.
10. Ensure ballot boxes are properly sealed and locked when they are being transported.
11. Ensure hand-count paper ballots are counted in public.
12. Ensure absentee ballots are properly reviewed by poll managers.
13. Ensure the Election Commission reviews and acts on each affidavit ballot.
14. Ensure the "Master Voter List" is available so voters who have been marked "inactive" may be directed to the correct polling place. .
15. Inspect each machine after it is set up.
16. Certify the results of an election in a timely manner.

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

Voter’s Name not in the Poll book

- ___ 1. Voter appears at the polling place and his/her name is not on the poll book,
- ___ 2. Determine if the voter should be voting at another polling place. This is done by referring to a master list of all voters, by contacting the Circuit /Municipal Clerk, or by asking the voter for his/her home address. ***Remember, a voter must vote in the polling place of his/her residence.***
- ___ 3. If the voter’s home address places him/her in another polling place, tell the voter he/she must go to that polling place to cast his/her ballot. ***If a voter casts an affidavit ballot in the wrong polling place, the ballot will be rejected and will not be counted.***
- ___ 4. If you verify the voter is in the correct polling place yet his/her name is not in the poll book, the voter is entitled to vote by an affidavit ballot.
- ___ 5. The voter signs a separate sign-in sheet (affidavit voter receipt book).
- ___ 6. The voter and poll manager complete the appropriate sections of both sides of the **white** affidavit ballot envelope as follows:
 - a) ___ The poll manager checks the type of election, the name of the county/municipality, the reason for using an affidavit ballot, and prints the name of the precinct and date.
 - b) ___ The voter provides as much of the requested identifying information as possible (i.e., date of birth, social security number, old and new residence and mailing addresses.).
 - c) ___ The voter checks the appropriate box under “Affidavit of Voter.”
 - d) ___ The voter signs the envelope.
 - e) ___ The poll manager signs the envelope. ***Do Not Forget to Sign!***
- ___ 7. The poll manager provides a blank paper ballot to the voter.
- ___ 8. The voter is provided a suitable place where he/she can mark the ballot in secret.
- ___ 9. The voted ballot is folded by the voter and handed to the poll manager who places it in the affidavit ballot envelope and seals the envelope.
- ___ 10. The sealed affidavit ballot envelope is placed in the sealed ballot box.

- ___ 11. Provide all affidavit voters with written information on how to ascertain whether their affidavit ballots were counted and, if not counted, why.

No Photo ID

- ___ 1. Voter appears at the polling place and you locate the voter's name in the poll book.
- ___ 2. Ask the voter to present an acceptable form of photo identification.
If the voter is unable to present an acceptable photo ID, advise the voter he/she is entitled to vote by an affidavit ballot.
- ___ 3. If the voter presents an acceptable photo ID, verify the picture on the presented ID fairly depicts (i.e., looks like) the voter.
- a) ___ If the poll manager determines the picture on the presented ID does not fairly depict the voter, the poll manager must confer with the Bailiff.
 - b) ___ If the Bailiff determines the picture on the presented ID does fairly depict the voter, the voter casts a regular Election Day ballot.
 - c) ___ If the Bailiff also determines the picture on the presented ID does not fairly depict the voter, advise the voter he/she is entitled to vote by an affidavit ballot.
- ___ 4. If the voter presents an acceptable photo ID, with a picture which fairly depicts the voter, verify the name on the presented ID is substantially similar to the voter's name on the poll book.
- a) ___ If the poll manager determines the name on the presented ID is not substantially similar to the voter's name on the poll book, the poll manager must confer with the Bailiff.
 - b) ___ If the Bailiff determines the name on the presented ID is substantially similar to the voter's name on the poll book, the voter casts a regular Election Day ballot.
 - c) ___ If the Bailiff also determines the name on the presented ID is not substantially similar to the voter's name on the poll book, advise the voter he/she is entitled to vote by an affidavit ballot.
- ___ 5. The voter signs a separate sign-in sheet (affidavit voter receipt book).
- ___ 6. The voter and poll manager complete the appropriate sections of both sides of the **yellow** affidavit ballot envelope as follows:
- a) ___ The poll manager checks the type of election, the name of the county/municipality, the reason for using an affidavit ballot, and prints the name of the precinct and date.

- b) ____The voter provides as much of the requested identifying information as possible (i.e., date of birth, social security number, old and new residence and mailing addresses.).
 - c) ____The voter checks the appropriate box under “Affidavit of Voter.”
 - d) ____The voter signs the envelope.
 - e) ____The poll manager signs the envelope. ***Do Not Forget to Sign!***
- ____7. The poll manager provides a blank paper ballot to the voter.
- ____8. The voter is provided a suitable place where he/she can mark the ballot in secret.
- ____9. The voted ballot is folded by the voter and handed to the poll manager who places it in the affidavit ballot envelope and seals the envelope.
- ____10. The sealed affidavit ballot envelope is placed in the sealed ballot box.
- ____11. Provide all affidavit voters with written information on how to ascertain whether their affidavit ballots were counted and, if not counted, why.

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

- ___1. After the polls close, remove the absentee ballot applications and corresponding absentee ballot envelopes containing the absentee ballots from the sealed ballot box/bag.
- ___2. Announce the name, address, and precinct as shown on each absentee ballot envelope.
- ___3. Check for the original clerk’s seal and initials on the absentee ballot application.
 - If the seal or initials are not present, mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.
 - ***EXCEPTION: Military and overseas voters (“UOCAVA”) may use the Federal Post Card Application to request an absentee ballot. The FPCA is available on-line and is not issued by the Municipal Clerk’s Office. The FPCA will not contain the original seal or initials of the Municipal Clerk. A military or overseas absentee ballot must not be rejected for this reason.***
- ___4. Ensure the application is signed by the voter.
 - If the application is not signed by the voter, mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.
 - ***EXCEPTION: Military and overseas voters (“UOCAVA”) may use the Federal Post Card Application to request an absentee ballot. The FPCA may contain a copy of the voter’s signature or only the typewritten name of the voter on the signature line (i.e., an electronic signature). A military or overseas absentee ballot must not be rejected for this reason.***
- ___5. Ensure the application is acknowledged or witnessed as required by statute.
 - a) For voters who vote by absentee ballot in the Municipal Clerk’s Office, the clerk or deputy clerk will complete the acknowledgement on the application. The acknowledgement is located near the bottom of the application and begins with the words “SWORN TO AND SUBSCRIBED BEFORE ME.”
 - b) For voters who are temporarily or permanently disabled, a witness signs the certificate at the bottom of the application. The witness certificate is located below the acknowledgement and begins with the words “I HEREBY CERTIFY.”

- c) The Federal Post Card Application, used by military and overseas voters (UOCAVA) to request an absentee ballot, does not require an acknowledgement or witness signature.
- d) Excluding military and overseas voters (no acknowledgement or witness signature required) and voters who are voting by absentee ballot because of a temporary or permanent disability (witness signature only), all applications must be acknowledged by “an individual authorized to administer oaths,” such as the Municipal Clerk or a notary public.
 - If the application is not acknowledged or signed by a witness (for absent voters who are temporarily or permanently disabled), mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.

___6. Ensure the ballot envelope is signed by the voter and witness across the flap of the envelope.

- If the ballot envelope is not signed by the voter and witness across the flap of the envelope, mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.
- ***EXCEPTION: The envelope of an absentee ballot returned by a UOCAVA voter by e-mail or fax will not be signed by the voter. These ballots are received by the Municipal Clerk’s Office, placed in an envelope by the Municipal Clerk or deputy and marked to indicate the ballot is that of a military or overseas voter. A military or overseas absentee ballot must not be rejected for this reason.***

___7. Compare the voter’s signature on the absentee ballot application to the voter’s signature across the flap of the ballot envelope.

- If the signatures are clearly different, mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.

___8. Check the poll book to see if the absentee voter voted in person in the polling place on Election Day.

- If the absentee voter voted in person in the precinct and “VOTED” is written next to the voter’s name in the poll book, mark the absentee ballot envelope “REJECTED,” write the reason for the rejection on the envelope and place in a “Rejected Absentee Ballot” envelope.

___9. Provide the poll watchers the opportunity to challenge every absentee ballot in the same manner and for the same reasons that any other voter may be challenged, and take action.

___10. If everything is in order, mark the UNOPENED absentee ballot envelope “ACCEPTED.”

- a. If you are using a central scanner at Election Central/Courthouse, do not open any absentee ballot envelopes. Bundle and place all “ACCEPTED” absentee ballot envelopes in a separate strong envelope and return all absentee ballot materials to the ballot box/bag. Make certain the ballot box/bag is sealed prior to transport.

If you are using paper ballots and hand counting, open each absentee ballot envelope marked “ACCEPTED,” remove the ballots and deposit all into the ballot box/bag with all other voted ballots.

Enter the voter’s name in the receipt book and mark “VOTED” with an “AB” by the voter’s name in the poll book.

Reference: Miss. Code Ann. §§ 23-15-639