

2021 MUNICIPAL ELECTION OFFICIAL TRAINING

> Office of the Attorney General Official Opinions







While we do not find any specific requirement that minutes be kept in bound volumes, we are of the opinion that official minutes should be in bound form." If they are not maintained in bound form, they must be kept in a form which

preserves such records completely and ensures the public ready access. MS AG Op., *Robinson* (March 14, 2008)

The minutes of the commission should be available as a public record in the office of the Municipal Clerk.

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Electronic Minutes

A municipality may forego the use of physical minute books and store all minutes electronically; provided, however, all requirements of Miss. Code Ann. \S 21-15-11, et seq., inclusive of the signing and seal requirements of \S 21-15-3, are satisfied and the minutes are publicly available for review and inspection. MS AG Op., *Smith* (July 31, 2020)

To ensure the public's free access to municipal meeting minutes which may be electronically stored and maintained, the municipal clerk's office must be equipped with a public-access computer terminal. MS AG Ops. Barber (December 7, 2018) and McKenzie (October 30, 2015)

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Lynn Fitch

Executive Committee Member - Convicted of a Felony

Section 44(1), Mississippi Constitution of 1890, [n]o person shall be eligible to a seat in either House of the Legislature, or to any office of profit or trust, who shall have been convicted of bribery, perjury, or other infamous crime;

<u>Miss. Code Ann. § 23-15-115(1)</u>, [n]o person shall serve on any temporary municipal executive committee, municipal executive committee, temporary county executive committee, county executive committee or state executive committee if the person has been convicted of any criminal violation of the Mississippi Election Code, has been convicted of an election crime in this state or any other state, has been convicted of any felony in this state or any other state, has been convicted of an election crime under federal law, has been removed from public office pursuant to Section 25-5-1, or who has resigned from office as part of a plea agreement.





<u>Lynn Fitch</u>

Executive Committee Member - Seeking Elected Office

> Any elected official may serve on either a county or municipal party executive committee.

- > An elected municipal official serving on a municipal executive committee, upon qualification as a candidate for re-election or election to another municipal office is, by operation of law, automatically removed from said municipal executive committee.
- An elected municipal official serving on a county executive committee, upon qualification as a candidate for re-election or election to another municipal office, may continue to serve on said county executive committee.
- ➤ An elected county or state official serving on a municipal executive committee, upon qualification as a candidate for a municipal office is, by operation of law, automatically removed from said municipal executive committee. MS AG Op., Walker (August 15, 1990)

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Lynn Fitch

Notice of Municipal Executive Committee

It is the responsibility of each political party to determine if it wishes to conduct a municipal primary election in advance of the qualifying deadline. If a party decides to conduct such primary, *it is the party's obligation to inform the municipal clerk of that decision in writing* for potential candidates to know what options are available to them in seeking municipal elective office. MS AG Op., *Ashford* (April 22, 2013)

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Lynn Fitch

Sufficiency of Qualifying Petition

If an independent candidate for alderman files a candidate petition with the wrong election date or which does not specify the ward in which he is running, may the names on the petition pages on which such deficiencies appear be counted towards the number of signatures required by law to qualify for office?

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Sufficiency of Qualifying Petition

According to the facts as presented, the candidate petition does not include the candidate's name on any of the petition pages. Based upon the Court's rationale in *Smith* and earlier Attorney General Opinions, signatures on petition pages which do not contain the candidate's name may not be counted toward the number of signatures required under applicable Mississippi law. Thus, a candidate's name must appear on every page of the petition containing signatures in order for those signatures to be counted. MS AG Op., *Wolfe* (July 13, 2012).





Qualifying Petitions

Generally, the unverified petition itself is all that must be filed before the statutory deadline. If the petition is later determined to be sufficient and the candidate meets all other requirements, he would be entitled to have his name placed on the appropriate ballot

In response to the second question, the circuit clerk, acting personally or through a deputy, is the appropriate official to check a candidate's petition to determine the correct number of qualified electors who have personally signed said petition unless otherwise provided by statute since the circuit clerk as the county registrar is the custodian of the registration books and pollbooks. *See, Miss. Code Ann. §* 23-15-135. MS AG Op., *Sautermeister* (August 9, 1989)

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Signatures on Qualifying Petitions

On or prior to the qualifying deadline, Mr. Pace filed with the City Clerk of Canton his Petition to qualify as a candidate in the upcoming election for the office of Alderman, Ward 3. Mr. Pace's petition purported to contain 50 signatures of persons who lived in Ward 3; however, while validating the names of the qualified voters Mr. Pace's petitions, the Municipal Election Commission discovered that 17 of the names uvere not qualified voters residing in Ward 3. Based upon these findings, the Municipal Election Commission rejected the Petition of Mr. Pace and informed Mr. Pace by letter that he would not be certified as a candidate for the office of Alderman for Ward 3 in the upcoming elections.

At a subsequent hearing, Mr. Pace filed with the City Clerk the signatures of 20 additional persons he alleged were duly qualified electors residing in Ward 3.



Lynn Filch

Signatures on Qualifying Petitions

No. When a petition is filed with the municipal clerk, the requisite number of qualified electors' names must be upon the petition on the cutoff filing date, and no additional names may be added to supply a numerical deficiency subsequent to the filing deadline. MS AG Op., *Smith-Vaniz* (May 7, 1981)

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Petition Signatures

While the municipal clerk certifies the number of signatures of qualified electors on a candidate's petition, the municipal election commission must make the final adjudication of the sufficiency of a candidate's petition subject to judicial review. Therefore, the election commission is not bound by the registrar's certification and may consider whether one or more individuals who signed the petition are, in fact, qualified electors of the municipality.

Municipal election commissions make decisions on whether or not to disqualify certain signatures on independent candidates' petitions. Such decisions must be based on factual determinations relating to the validity of such signatures and cannot be arbitrary and capricious. *Edwards v. Wallace*, 143 So.3d 557 (Miss. 2014). MS AG Op., *Herring* (March 31, 2017)

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Lynn Fitch attorney general

Qualifying Candidates - Felony Conviction

Section 44 of the Mississippi Constitution addresses the ineligibility of persons to hold office due to felony convictions. Generally, persons convicted of felonies in this state are ineligible to hold public office. Pursuant to an amendment which took effect on December 8, 1992, persons convicted of felonies in other states which are also felonies in the state of Mississippi are disqualified from holding office as are persons convicted of felonies in federal courts.

In addition to receiving a pardon, this office has recognized that expungement of a felony conviction as well as non-adjudication of a guilty plea will restore an individual's ability to run for public office. MS AG Op., *Bassi* (April 22, 2013)

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While there is no specific statutory prohibition against "liking" or commenting on a candidate's Facebook page, there is an admonition from the Mississippi State Supreme Court that election commissioners must remain neutral and impartial. "Liking" or commenting on a candidate's Facebook page indicates a preference for a particular candidate and is neither neutral nor impartial and must be avoided to protect the integrity of the election process. MS AG Op., Glaskox (June 21, 2019)



Impartiality of Election Officials

Perhaps more so than is the case with any other public official, the integrity of the office of Election Commissioner must be totally beyond compromise or even perception of the possibility of compromise. The legislature has enacted that election commissioners shall totally remove themselves from any taint or hint of suspicion of partnership. . . [When a person] assumes the office of Elections Commissioner, he becomes obligated to stay out of any other electoral endeavor for the term of his office, period. If this seems harsh, it is certainly less so than the adverse impact upon the public interest if our people come to doubt the integrity of the system. *Meeks v. Tallahatchie County*, 513 So. 2d 563, 570 (Miss. 1987)









