

Procedural Audits of Mississippi Elections



Mississippi Secretary of State's Office

Elections Division

P.O. Box 136

Jackson, MS 39205

601-576-2550

Elections Hotline: 800-829-6786

www.sos.ms.gov

Procedural audits of Mississippi Elections

Pursuant to House Bill 1310, signed April 19, 2023, the Mississippi Secretary of State is authorized to audit election procedures of the 2023, 2024, 2026, and 2027 general elections. The audit is designed to avoid excessive interference with the general duties and responsibilities of the Secretary of State, county registrars and election commissioners.

The Secretary of State will ultimately audit all eighty-two (82) counties by randomly selecting counties from each congressional district during the 2023, 2024, 2026, and 2027 general elections, and randomly selecting no more than twenty-five percent (25%) or no more than five (5) precincts, whichever is less in each county. Race, geographical locations or voting trends of each county or precinct will not be considered in the selection process.

While the Secretary of State is authorized to audit the election procedures of the 2023 election, House Bill 1310 does not go into effect until January 1, 2024, and the Secretary of State's Office is not authorized to audit any election procedures until that time. Due to the fact the Secretary of State's Office cannot begin auditing procedures until January 1, 2024, and in order to avoid excessive interference with duties of the county circuit clerks and election commissioners, who will be preparing for and conducting the 2024 Presidential Preference Primary in January 2024, the Secretary of State will randomly select one (1) county in each congressional district¹ for the audit of the 2023 general election. While the law will not be in effect at the time of the publishing of this guide, the Secretary of State's Office will randomly select the counties to be audited ninety (90) days before the time that the audits can begin, which is October 3, 2023.

No audit shall occur if the election is challenged as provided in Miss.Code Ann. §§23-15-927, 23-15-951, or 23-15-955. Furthermore, an audit shall not commence until after a ballot box examination has occurred and the period to contest an election has expired. If a runoff election occurs, the audit will occur after the runoff election.

If during the course of the audit, the Secretary of State discovers an issue that could affect the outcome of an election or cause voters to be disenfranchised, then the

¹ Some counties are split between congressional districts. For selection purposes, a county will only be considered to be a part of the congressional district in which a majority of the geographical area of the county lay. This will prevent those counties that lay in multiple congressional districts from having a higher chance of being selected than counties that are in only one congressional district.

Secretary of State, in partnership with the local county election officials, shall develop an action plan to correct those issues.

The Secretary of State shall compile a report of the procedural audits conducted and shall submit the report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, and Chairmen of the Senate and House Election Committees within one hundred twenty (120) days after the audited election. Before submitting the report, the Secretary of State will allow the local election officials to review the report and provide comments that will be submitted along with the report. The report will list the counties alphabetically with any major finding which may affect the outcome of the election and whether any voters were disenfranchised, then list major or minor findings, along with recommend changes to the Secretary of State and county practices, including training of local election officials.

This audit manual, and any amendments thereto, will lay out the statutory requirements for each of the audited areas along with the information, documentation, and procedures that will be followed by the Secretary of State's staff ("audit team"). This manual will also provide what information the audit team will be seeking to identify when reviewing the information and documentation of the general elections..

Conducting The Audit

Section 23-15-615 identifies four areas subject to the audit:

1. Procedures for testing of optical mark ("OMR") equipment before counting ballots, including the ballots used for testing of OMR equipment, as required by Miss. Code Ann. Section §23-15-521.
2. Ballot accounting reports, seal logs, poll books, and receipt books as required to be kept by Miss. Code Ann. §23-15-519;
3. Absentee ballots, absentee ballot applications, and absentee ballot envelopes, along with the list provided to the resolution board, to ensure appropriate processing and counting of absentee ballots as required by Miss. Code Ann. §§ 23-15-631, et seq.;
4. Affidavit ballots and affidavit ballot envelopes, including affidavit ballot receipt book, to ensure compliance with appropriate processing and counting of affidavit ballots as required by Miss. Code Ann. §23-15-573.

This manual outlines the general procedures applicable to each of these four areas and the data points that will be evaluated in the audit.

1. Procedures for testing of OMR equipment before counting ballots, including the ballots used for testing of OMR equipment, as required by Section 23-15-521.

STATUTORY REQUIREMENTS

Before an election, the election commissioners, or their designees, shall have the OMR equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Representatives of the political parties, candidates, the press, and the general public may witness the test conducted on the OMR equipment. The test is conducted by processing a pre-audited group of ballots marked as to record a predetermined number of votes for each candidate and each measure and includes for each office on or more ballots that have votes in excess of the number allowed by law in order to test the ability of the OMR equipment to reject such votes. If any error is detected, the cause of the error shall be ascertained, and an errorless county shall be made and certified to the officials in charge of the election before the count is started. On completion of the count, the programs, test materials and ballots shall be sealed and retained as provided for paper ballots.²

INFORMATION, DOCUMENTATION, AND AUDIT PROCEDURES FOR TESTING OF OPTICAL MARK READING (OMR) EQUIPMENT

The audit team will review the following information and documentation:

1. A copy of the notice provided to the public regarding testing to take place.
2. Copy of the zero tapes printed from tested equipment.
3. The pre-audited group of ballots used in the testing of the OMR ballot.
4. Copy of the results tapes printed from tested equipment.

The audit of the testing of OMR equipment for the 2023 will be conducted in the following manner:

1. The audit team will compare the test deck with the results tapes generated from the voting equipment during the testing process to verify that the equipment probably tabulated ballots in the test deck.
2. If an error is present, the audit team will determine whether a fix was documented and whether there was a subsequent errorless test.
 - a. The audit team will evaluate the records associated with the error to determine the root cause of the error, such as if a ballot was inadvertently not scanned.
3. The audit team will evaluate the records of any fix for the error and records of the post-fix-test to ensure that the test was properly corrected.

² Miss. Code Ann. § 23-15-521.

4. The foregoing steps may include evaluating any additional test decks prepared and voted to test the correction of errors. If any additional test decks were prepared, the audit teams will compare additional test decks to the tapes from the voting equipment during further testing to determine whether any errors were rectified.

2. Procedures for auditing of ballot accounting reports, seal logs, poll books, and receipt books as required to be kept by Section 23-15-519.

STATUTORY REQUIREMENTS

When any person entitled to vote shall appear to vote, the poll manager shall locate the name of the voter in the poll book, identify the voter using acceptable photo identification as required by Section 23-15-563, and then allow the voter to sign his or her name in the receipt book. Alternatively, a voter's signature may be electronically captured by an electronic poll book and a printed version for the signature of the voter may be generated after the closing of the polls to be placed in the ballot box.³ After the voter has signed the receipt book, the initialing poll manager or the alternate initialing manager shall initial the back of an official blank ballot, and at such place that the initials may be seen after the ballot has been marked and folded. After initialing the ballot, it is delivered to the voter so they may cast their ballot.⁴

A person shall not take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot, another may be obtained but no voter shall exceed three spoiled ballots and receive another. If a voter spoils a ballot, "SPOILED" shall be written across the face of the ballot and each ballot shall be deposited into the sealed ballot box. When the polls have closed upon the casting of the last ballot or 7:00 p.m., whichever is later, and the poll managers break the seal on the ballot box to begin closing procedures, those ballots marked as "SPOILED" shall be bundled together and placed in a separate envelope provided for spoiled ballots. The envelope containing all spoiled ballots shall be sealed in the ballot box once the poll managers have completed the closing procedure and returned the materials to officials in charge of the election.⁵

When the last qualified voter, who was standing in line at the polling place at 7:00 p.m., has cast a ballot, or 7:00 p.m., whichever is later, the poll manager shall proclaim that the polls are closed and publicly break the seal and open the ballot box to immediately proceed to count the ballots, at the same time reading aloud the names of the person

³ Miss. Code Ann. § 23-15-547; *see also* 1 Miss. Admin. Code Pt. 10, Chapter 9.

⁴ Miss. Code Ann. § 23-15-541(1).

⁵ Miss. Code Ann. § 23-15-553.

voted for, which shall be taken down.⁶ During the holding of the election and the counting of the ballots, the whole proceedings shall be in fair and full view of the voting public, candidate, duly authorized representatives and other authorized poll watchers, without unnecessary interference, delay, or encroachment upon the duties and proceedings of the poll managers and other officers of the election. There shall be no unnecessary delay and no adjournment except as provided by law.⁷

When the votes have been completely and correctly counted and tallied by the poll managers, they shall publicly proclaim the results of the election at their box and shall certify in duplicate a statement of the result, the certificate to be signed by the poll managers, one of the certificates to be enclosed in the ballot box, and the other to be delivered and to be kept on one of the poll managers and to be inspected at any time by any voter who so requests.⁸ When the count of the votes has been completed, the poll managers shall lock and seal the ballot box, having first placed therein all voted ballots, all spoiled ballots, and all unused ballots. There shall also be enclosed one of the duplicate receipts given by the poll manager who received the blank ballots received for that box. The total ballots voted, the spoiled ballots, and the unused ballots must correspond in total with the duplicate receipt. If the totals do not match, the failure must be accounted for by a written statement, under oath of the poll managers, which statement must be enclosed in the ballot box. There shall also be enclosed in the box the tally list, the receipt book containing the signed names of the voters who voted; and the number of ballots voted must correspond with the number of names signed in the receipt book.⁹

The poll managers shall prepare a ballot accounting report that documents the number of voters who have voted, as indicated by the receipt book and the number of ballots used in the election. The poll managers shall place the report in the ballot box, with the seal logs, receipt books, absentee ballots, affidavit ballots, challenged ballots, curbside ballots, emergency ballots, spoiled ballots and unused ballots, which thereupon shall be sealed with a tamper-evident seal, so that no additional ballots may be deposited or removed from the ballot box. The poll managers and the officials in charge of the election, shall keep a seal log to document each time a tamper-evident seal for a ballot-box is opened or changed. The seal log shall require the name of the person who opened the seal, the old seal number, the new seal number, the date the seal was opened and the purpose of the opening of the seal. The receiving and returning poll manager shall deliver the ballot box to the counting center or other designated place

⁶ In modern elections using OMR equipment, this is reading of the results tapes printed from the voting equipment at the close of the polls.

⁷ Miss Code Ann. § 23-15-281.

⁸ In modern elections utilized voting equipment, this is a reading aloud of the results tape printed from the voting equipment at the close of the polls.

⁹ Miss. Code Ann. § 23-15-591

and receive a signed, numbered receipt therefor. The poll books and other records and supplies shall be returned as directed by the officials in charge of the election.¹⁰

The box containing the ballots and other records shall, immediately after the ballots have been counted, be delivered by one of the poll managers to the clerk of the circuit court of the county and the clerk shall, in the presence of the poll manager making delivery of the box, place upon the lock of such box a tamper-evident seal.¹¹

When the ballot box is opened and examined, and it is found that there have been failures in material particulars to comply with the requirements of Section 23-15-591 and Section 23-15-895 to such an extent that it is impossible to arrive at the will of the voters at such precinct, the entire box may be thrown out unless it be made to appear with reasonable certainty that the irregularities were not deliberately permitted or engaged in by the poll managers at that box, or by one of them responsible for the wrong or wrongs, for the purpose of electing or defeating certain candidate or candidates by manipulating the election or the returns.¹²

INFORMATION, DOCUMENTATION AND PROCEDURES FOR AUDIT OF BALLOT ACCOUNTING REPORTS, SEAL LOGS, POLL BOOKS, AND RECEIPT BOOKS

The audit team will review the following information and documentation:

1. Ballot accounting reports
2. Poll books
3. Seal logs
4. Receipt books
5. Receipt for delivery of the ballot box

The audit team will evaluate the following:

1. A verification that all required materials were returned from the precinct.
2. Reconciliation of number of voters and ballots
 - a. Determine whether the records from the precinct reflect any discrepancies between the number of voters who checked in to vote at the precinct and the number of ballots cast at the precinct.
 - b. Determine whether discrepancies can be explained by the precinct records.
 - c. Determine whether the discrepancies are of such a magnitude that they could affect the results of the election.
3. Seal verification
 - a. Review the seal log to determine when seals were placed, when they were placed, and for what purpose they were placed.

¹⁰ Miss. Code Ann. § 23-15-519.

¹¹ Miss. Code Ann. §23-15-595.

¹² Miss. Code Ann. § 23-15-593.

- b. Determine whether any seals were broken outside the normal course of administering the election and the reason for breaking the seal outside the normal administering of the election.
4. Ballot box receipt
 - a. Determine whether receipt for the delivery of the ballot box to the counting center or other designated place was generated.

3. Procedures for auditing of absentee ballots, absentee ballot applications, and absentee ballot envelopes, along with the list provided to the resolution board, to ensure appropriate processing and counting of absentee ballots.

STATUTORY REQUIREMENTS

Absentee (in person)

Identification

Each person who appears to vote at the registrar's office shall be required to present a current and valid photo identification before such person shall be allowed to vote.¹³

Eligibility

Qualified electors in the following categories are eligible to absentee vote in person:¹⁴

- Any qualified elector who is a bona fide student, teacher or administrator at any college, university, junior college, high, junior high, or elementary grade school whose studies or employment at such institution necessitates his or her absence from the county of his or her voting residence on the date of any primary, general or special election, or the spouse and dependents of that student, teacher or administrator if such spouse or dependent(s) maintain a common domicile, outside of the county of his or her voting residence, with such student, teacher or administrator.
- Any qualified elector who is required to be away from his or her place of residence on any election day due to his or her employment as an employee of a member of the Mississippi congressional delegation and the spouse and dependents of such

¹³ Miss. Code Ann. § 23-15-563; see also 1 Miss. Admin. Code Pt. 16 Chapter 4, Rule 4.1.

¹⁴ Miss. Code Ann. § 23-15-713.

person if he or she shall be residing with such absentee voter away from the county of the spouse's voting residence.

- Any qualified elector who is away from his or her county of residence on election day for any reason.
- Any person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others.
- The parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside of his or her county of residence or more than fifty (50) miles distant from his or her residence, if the parent, spouse or dependent will be with such person on election day.
- Any person who is sixty-five (65) years of age or older.
- Any member of the Mississippi congressional delegation absent from Mississippi on election day, and the spouse and dependents of such member of the congressional delegation.
- Any qualified elector who will be unable to vote in person because he or she is required to be at work on election day during the times at which the polls will be open.

Application Procedure

Starting forty-five (45) days before an election, any elector desiring an absentee ballot shall appear in person before the registrar of the county in which he or she resides and execute and file an application for an absentee ballot.¹⁵ If ballots have not been printed by that point yet, the elector can file the application and the ballot shall be mailed as soon as it is printed.¹⁶ The elector may request an absentee ballot application and vote in person at the office of the registrar in the county in which he or she resides.¹⁷

Absentee ballot applications must have the seal of the circuit or municipal clerk, depending on the type of the election, and reproductions shall not be valid unless provided by the circuit clerk.¹⁸

¹⁵ Miss. Code Ann. § 23-15-715(a).

¹⁶ Miss. Code Ann. § 23-15-715(a).

¹⁷ Miss. Code Ann. § 23-15-627.

¹⁸ Miss. Code Ann. § 23-15-627; 23-15-717

Ballot Procedure

All absentee electors casting their ballot in person shall mark their ballot in the office of the circuit clerk. The voter shall place their envelope in an absentee ballot envelope, which will be completed in accordance with law, and deposited into a sealed ballot box.

Absentee (by mail)

Identification

Persons who vote absentee by mail are not required to submit an acceptable form of photo identification along with their absentee ballot.¹⁹

Eligibility

Qualified electors in the following categories are eligible to vote absentee by mail:²⁰

- Any person who is temporarily residing outside of their county of residence, and the ballot must be mailed to an address outside the county.
- Any person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others.
- The parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside of his or her county of residence or more than fifty (50) miles distant from his or her residence, if the parent, spouse or dependent will be with such person on election day.
- Any person who is sixty-five (65) years of age or older.

Application Procedure

Within forty-five (45) days before an election, qualified electors who are eligible to vote absentee by mail may apply for an absentee ballot by requesting an absentee application for the circuit clerk's office and returning the same.

Applications for persons residing out of the county must be sworn and subscribed to before an official authorized.

An application for absentee ballot by a person who is permanently disabled shall be accompanied by a statement signed by the person's physician or nurse practitioner indicating the applicant is permanently physically disabled to such a degree it is difficult for him or her to vote in person. This application entitles a voter to automatically receive an absentee ballot for all elections without reapplication. The registrar must keep a list of these voters and provide the list to the election commissioners, who examine the list and remove persons who are no longer qualified electors of the county. The list is

¹⁹ Miss. Code Ann. § 23-15-715.

²⁰ Miss. Code Ann. § 23-15-713; 23-15-715.

returned to the registrar no later than forty-five (45) days before an election. The ballot must be mailed to qualified electors no later than forty (40) days before the election.²¹

Ballot Procedure

An elector must mark the ballot in view or sight of the attesting witness, fill out and sign the elector's certificate and have the attesting witness sign the attesting witness certificate across the back of the flap. The ballot must be postmarked on or before election day and received no more than five (5) business days after the election.²²

Absentee (UOCAVA)

Identification

An absentee elector, as defined by Miss. Code Ann. § 23-15-673, who casts his or her absentee ballot by mail, facsimile device (FAX) or electronic mail delivery (e-mail), pursuant to Miss. Code Ann. § 23-15-699 is exempt from photo identification requirements.²³

Eligibility

Qualified electors in the following categories are eligible to vote absentee by UOCAVA if they are outside of their county or residence:²⁴

- Enlisted/commissioned members of US Army, US Navy, US Air Force, US Marines, armed services of Mississippi, or;
- Merchant Marine/American Red Cross, or;
- Disabled war veteran in any hospital, or;
- Civilian attached to and serving outside of the US with any branch of the Armed Forces, Merchant Marine, or American Red Cross, or;
- Emergency response provider deployed during a state of emergency declared by the President of the United States or a Governor of any state, or;
- Citizen temporarily residing outside of the territorial limits of the US and the District of Columbia, or;
- Citizen enrolled as a student in one of the Armed Forces academies, or;
- The spouse or dependents of any absentee voter listed above if they are also absent from their county of residence.

Application Procedure

Voters may use a duly executed federal postcard application (FPCA) to request a ballot or register to vote, or to do both simultaneously. An absentee voter who registers to vote

²¹ Miss. Code Ann. § 23-15-629.

²² Miss. Code Ann. § 23-15-631; §23-15-721.

²³ Miss. Code Ann. § 23-15-7(8); Miss. Code Ann. §23-15-699.

²⁴ Miss. Code Ann. § 23-15-673.

utilizing FPCA or FWAB (Federal Write In Absentee Ballot) may vote in an election if the voter was registered to vote ten (10) or more days prior to the date of the election.²⁵

Within forty-five (45) days prior to any election upon application first made to the registrar of the county the voter shall be sent an absentee voter ballot of the county of which he is a citizen and resident.²⁶

The registrar shall keep all applications for absentee ballots and shall, within twenty-four (24) hours (if possible) send to the absentee voter the proper affidavit and proper ballot or ballots applicable. Such information shall be processed through the Statewide Election Management System.²⁷ Miss. Code Ann. §23-15-687(1).

Certain absentee voters in this subcategory of absentee electors may sign an absentee ballot application by electronic signature. Miss. Code Ann. §23-15-687(6). The code provides the electors in §23-15-673(1) may sign their applications electronically. The spouse and dependent(s) of any absentee voter entitled to voter under the Armed Services Absentee Voting Law are listed in Miss. Code Ann. §23-15-673(2).

Voters may use a FWAB in general, special, primary and runoff elections for local state, and federal offices. Receipt of an executed FWAB shall be considered an absentee ballot request.²⁸

Ballot Procedure

Absentee voters may receive ballots and balloting materials by mail, fax, or email. If the voter does not indicate a preference, delivery of balloting materials shall be sent by mail.²⁹

Once the registrar receives a voter's absentee ballot, he shall place the ballot in an absentee ballot envelope designated for absentee ballots pursuant to the Armed Services Absentee Voting Law and fill out the required information on the envelope. The registrar shall notate on the envelope that the ballot was received under this section and a signature across the flap of the envelope is not required.³⁰

Absentee ballots returned by mail by a military/overseas voter, must be received by the registrar by the deadline for receipt of absentee ballots provided in Miss. Code Ann. 23-15-637 (no more than five (5) business days after the election).³¹

²⁵ Miss. Code Ann. §23-15-677; 1 Miss. Admin. Code Pt. 10, Chap. 4, Rule 4.2.

²⁶ Miss. Code Ann. §23-15-685; 1 Miss. Admin. Code Pt. 10, Chap. 4, Rule 4.2(F).

²⁷ Miss. Code Ann. §23-15-687(1).

²⁸ Miss. Code Ann. §23-15-692.

²⁹ Miss. Code Ann. §23-15-699.

³⁰ Miss. Code Ann. §23-15-699(4).

³¹ Miss. Code Ann. §23-15-699(6).

Affidavits by absentee electors in the Armed Forces may be executed before a commissioned officer, warrant officer, or noncommissioned officer no lower than sergeant or any person authorized to administer oaths.³²

Receipt and Processing of Absentee Ballots

Absentee ballots voted in person shall be cast and deposited in a sealed box no later than noon on the Saturday preceding elections held on a Tuesday, Thursday preceding elections on a Saturday, or the second day immediately preceding the date of elections held on other days.³³

When an absentee voter casts an absentee ballot in person at the registrar's office, the ballot is deposited by the voter into a secure ballot box, the absentee voter may not cast a regular ballot on election day for the same election. In the process of providing an absentee ballot, the registrar will use either SEMS to document the request, issuance, and receipt of the ballot, or mark directly on the poll book to indicate the absentee voter has voted absentee by printing "VOTED AB" in the poll book beside the voter's name in the election Date/Write Voted column.³⁴

Absentee ballots and applications must be postmarked on or before the date of the election and received no more than five (5) business days after the election.³⁵

When a registrar mails an absentee ballot to an absentee voter, SEMS will be used to document the request and issuance of the ballot. In the process of providing an absentee ballot, the registrar will use SEMS to produce poll books, or mark directly on the poll book, to indicate the absentee voter has been mailed an absentee ballot or an absentee ballot has been received by the registrar by printing "VOTED AB" in the poll book beside the voter's name in the election Date/Write Voted column. 1 Miss. Admin. Code Pt. 17, Chap. 2, Rule 2.3. All absentee ballots timely cast and received by mail are deposited in a secured and sealed box in a designated location in the registrar's office. Ballots are not to be taken to precincts on election day.³⁶

Examination and Counting of Absentee Ballots

At a time determined by officials in charge of the election, but not before the opening of the polls, the Resolution Board, established under Miss. Code Ann. §23-15-523, shall meet to process absentee ballots.³⁷

Public notice of the meeting of the Resolution Board must be posted at least five (5) business days prior to the election at the county courthouse, at the meeting place of the election commission, if different than the courthouse, and on the wall of each polling

³² Miss. Code Ann. §23-15-631.

³³ Miss. Code Ann. §23-15-637(1)(b).

³⁴ 1 Miss. Admin. Code Pt 17, Chap. 2, Rule 2.3.

³⁵ Miss. Code Ann. §23-15-637.

³⁶ Miss. Code Ann. §23-15-637(2)-(3).

³⁷ Miss. Code Ann. §23-15-639.

place as a precinct sign on Election Day, and any other place deemed appropriate by the officials in charge of the election. All meetings of the Resolution Board shall be open to the public.³⁸

Examination and processing of absentee ballots may begin at the opening of the polls.³⁹ The Resolution Board shall first break the seal on the ballot box containing the absentee ballot envelopes and absentee ballot applications and remove the applications and envelopes containing the ballots from the ballot box.⁴⁰

The Resolution Board shall:⁴¹

- Announce the name, address, and precinct as shown on each absentee ballot application.
- Check for the original seal of the Circuit Clerk and original initials of the Circuit Clerk or deputy circuit clerk on the absentee application.
- Ensure the absentee ballot envelope is signed by the voter as required by law.
- Ensure the absentee ballot application is acknowledged or witnessed as required by law.
- Ensure the absentee envelope is signed by the voter across the flap of the envelope.
- Ensure the absentee ballot envelope is acknowledged or witnessed as required by law, and the witness signed across the flap of the envelope.
- Check the BP-001 report to ensure the absentee voter is still a qualified elector of the county and precinct associated with the absentee ballot.
- Provide the poll watchers the opportunity to challenge every absentee ballot in the same manner and for the same reasons any other voter may be challenged.
- If everything is in order, mark the unopened absentee ballot envelope “ACCEPTED.”
- Mark whether the ballot was “Accepted” or “Rejected” on the BP-001 provided by the officials in charge of the election.

If one of the requirements for absentee ballot applications or absentee ballot envelopes is not met, the Resolution Board must mark the absentee ballot envelope “rejected” and write the reason for rejection on the envelope.

After marking all absentee ballots as “accepted” or “rejected”, the Resolution Board shall sort the absentee ballots into groupings of “accepted” and “rejected”.⁴² The accepted ballots may be opened by the Resolution Board and deposited into a sealed ballot box, without unfolding or viewing the ballot.⁴³ The rejected ballots shall be bundled together and placed in a separate envelope marked for rejected ballots to be

³⁸ 1 Miss. Admin. Code Pt 17, Chap. 3, Rule 3.1.

³⁹ Miss. Code Ann. § 23-15-639.

⁴⁰ Miss. Code Ann. § 23-15-639; 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(b)

⁴¹ 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(c)(1-12)

⁴² 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(d)

⁴³ 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(d)(2)

returned to the ballot box, in which they will be sealed.⁴⁴ The accepted absentee envelopes and applications shall be retained in a sealed and secure ballot box to preserve the records of the election.⁴⁵

After the close of the polls, the Resolution Board will open the ballot box containing the accepted absentee ballots, record the seal number, and count the votes:

1. In an election in which an optical mark reading (OMR) scanner or digital scanner is used, the Resolution Board shall immediately begin processing the accepted ballots through the central scanner.
2. In elections in which a central scanner is not utilized, the Resolution Board shall immediately begin hand-counting all accepted absentee ballots.⁴⁶

The totals shall then be combined with the precinct tabulation totals for the unofficial voter count.⁴⁷

The resolution board may recess as necessary and resume meeting as necessary at any time during the canvass of the election prior to the certifications of the election by the officials in charge of the election, which may included returning after five (5) business days to mark any absentee ballots returned by mail during the allowable time as “accepted” or “rejected.” The Resolution Board should announce the time, date, and location when the meeting shall resume at the recess of the previous meeting.⁴⁸

Signature Mismatch and Cure

When a voter’s absentee ballot is rejected due to the signatures between the absentee ballot application and absentee ballot envelope not corresponding, the officials in charge of the election must notify the voter within one (1) business day of the rejection that the ballot has been tentatively rejected and the reason for the rejection. The notice must inform the voter that if the voter does not cure the signature mismatch by noon on the 10th calendar day post-election, the ballot will not be counted. Notice must be provided by telephone, if possible, and followed by email or fax to transmit the notice and an Absentee Cure form. If email or fax is not available to transmit notice and the cure form, it shall be mailed to the voter by first-class mail.⁴⁹

The voter may cure the signature deficiency by completing the Absentee Cure Form. If the voter timely returns the form and information provided verifies the voter’s identify,

⁴⁴ 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(d)(1)

⁴⁵ 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(d)(2)

⁴⁶ Miss. Code Ann. §§ 23-15-639(1)(c); 23-15-645; 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(e)

⁴⁷ Miss. Code Ann. §§ 23-15-639(1)(c); 23-15-645; 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(f)

⁴⁸ 1 Miss. Code Admin. Pt. 17, Chapter 3, Rule 3.2(g).

⁴⁹ 1 Miss. Code Admin. Pt. 17, Chapter 4, Rule 4.1.

the ballot shall be counted. The cure form may be delivered by email, fax, mail, commercial carrier, or in-person by the voter, or a person listed on the form.⁵⁰

Records Retention

For federal and presidential general, special or primary elections, packages of protested, void and wholly blank ballots, voted ballots, open packages of unused ballots, sealed packages of unused ballots, and all absentee ballots and ballot envelopes shall be preserved for twenty-two (22) months after the date of any such general, special, or primary election.⁵¹

For all other statewide, county or municipal elections, the same records shall be retained for four (4) months, and may then be destroyed provided a certificate articulating the election district identifying the data and numbers of such ballots is filed with the balance of ballots described for the remainder of the twenty-two (22) month retention period.⁵²

Late Ballots

Absentee ballots received by mail after the applicable cutoff period shall be kept safely and unopened. When received, they shall be marked with day and hour of receipt on the envelope. These shall be kept unopened for the preservation and then, without being opened, be destroyed in like manner as the used ballots of the election.⁵³

INFORMATION, DOCUMENTATION & PROCEDURES FOR AUDIT OF ABSENTEE BALLOTS

The audit team will review the following information and documentation:

1. Absentee ballot envelopes
2. Seal Logs
3. BP-001 utilized by the Resolution Board
4. Absentee cure forms, if any
5. Absentee list from Statewide Election Management System
5. Result tapes from voting equipment used in the tabulation of absentee ballots

The audit team will evaluate the following:

1. Verify public notice of the meeting of the Resolution Board was posted

⁵⁰ 1 Miss. Code Admin. Pt. 17, Chapter 4, Rule 4.2.

⁵¹ Miss. Code Ann. 23-15-645(3)

⁵² Miss. Code Ann. § 23-15-645(3)

⁵³ Miss. Code Ann. § 23-15-647.

2. Review seal logs and verify ballots were properly secured prior to processing and documentation of seals applied/removed and number of ballots was properly maintained

3. Review BP-01 report to determine if total number of accepted ballots corresponds to the result tapes printed from the voting equipment utilized in counting the absentee ballots

4. Absentee ballots cure

a. Verify voters whose absentee ballot was rejected due to a signature deficiency received a notice of this deficiency and had an opportunity to cure.

b. Verify that voters whose ballot was accepted after cure submitted the Absentee Cure Form properly filled out by noon on the 10th calendar day post-election.

c. Review the signatures on the absentee ballot application and absentee ballot envelope of those voters who had their absentee ballot rejected due to a signature mismatch.

5. If discrepancies in the above exist, a review of the accepted and rejected envelopes to discover the cause of any such discrepancies.

4. Procedures for auditing of affidavit ballots and affidavit ballot envelopes, including affidavit ballot receipt book to ensure compliance with appropriate processing and counting of affidavit ballots

STATUTORY REQUIREMENTS

If any person declares that he or she is a registered voter in the jurisdiction in which he or she offers to vote and that he or she is eligible to vote in the election, but his or her name does not appear upon the poll books, or that he or she is not able to cast a regular election day ballot under a provision of state or federal law, but is otherwise qualified to vote, or that he or she has been illegally denied registration, or that he or she is unable to present an acceptable form of photo identification:

1. A poll manager shall notify the person that he or she may cast an affidavit ballot at the election.
2. The person shall be permitted to cast an affidavit ballot at the polling place upon execution of a written affidavit before one (1) of the poll managers stating that the individual:

- a. Believes he or she is a registered voter in the jurisdiction in which he or she desires to vote and is eligible to vote in the election; or
 - b. Is not able to cast a regular elections day ballot under a provision of state or federal law but is otherwise qualified to vote; or
 - c. Believes that he or she has been illegally denied registration; or
 - d. Is unable to present an acceptable form of photo identification.
3. The poll manager shall allow the individual to mark a paper ballot properly endorsed by the initialing poll manager or alternate initialing poll manager in accordance with Section 23-15-541, which shall be delivered by him or her to the proper election official who shall enclose it in an affidavit ballot envelope, with the written and signed affidavit of the voter affixed to the envelope, seal the envelope and mark plainly upon it the name of the person offering to vote.⁵⁴

In addition to those voters who must cast an affidavit ballot by reason of an inability to present an acceptable form of photo ID, voters whose names do not appear on the poll book for any reason; those who have moved to a different residence address within the same county but did not timely update their registration information; and those who have cast an absentee ballot and have "VOTE AB" next to their name must cast an affidavit ballot.

If the affidavit voter is casting an affidavit ballot because the voter is unable to present an acceptable form of photo identification and the voter's name appears in the poll book, then the poll manager shall write "NO ID" across from the voter's name and in the appropriate column in the poll book.⁵⁵

Any person who votes in any election as a result of the federal or state court order or other order extending the time established by law for closing the polls on election day, may only vote by affidavit ballot. Any affidavit ballot cast under this subsection shall be separated and kept apart from other affidavit ballots cast by voters not affected by the order.⁵⁶

Affidavit ballots are official Election Day paper ballots which are placed into specific pre-printed Affidavit Ballot envelopes. Each polling place is provided with official blank Election Day paper ballots for this purpose.

The Secretary of State shall, by rule duly adopted, establish a uniform affidavit ballot envelope that shall be used in all elections in this state. The Secretary of State shall print and distribute a sufficient number of affidavit ballot envelopes to the registrar

⁵⁴ Miss. Code Ann. §23-15-573(1)

⁵⁵ Miss. Code Ann. §23-15-573(3)(b)

⁵⁶ Miss. Code Ann. §23-15-573(8)

envelopes to municipal and county executive committees for use in primary elections and to municipal and county election commissioners for use in all other elections.⁵⁷

The affidavit ballot envelopes shall include:

1. The complete name of the voter;
2. A present and previous physical and mailing address of the voter;
3. Telephone numbers where the voter may be contacted;
4. A statement that the affiant believes he or she is registered to vote in the jurisdiction in which he or she offers to vote;
5. The signature of the affiant; and
6. The signature of the poll manager at the polling place at which the affiant offers to vote.⁵⁸

The failure of the voter or the Poll Manager to sign the affidavit envelope will result in rejection of the affidavit ballot.⁵⁹

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. Miss. Code Ann. 23-15-573(3)(a). 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.⁶⁰

When a person is offered the opportunity to vote by affidavit ballot, he or she shall be provided with written information that informs the person how to ascertain whether his or her affidavit ballot was counted and, if the vote was not counted, the reasons the vote was not counted.⁶¹

Affidavit Voting Process for Unverified Voters who Cast Absentee Ballots

If any person who presents to vote by an absentee ballot declares he or she is an eligible and registered voter in the jurisdiction in which he or she offers to vote by absentee ballot, but

1. His or her name does not appear in the Statewide Elections Management System; or

⁵⁷ Miss. Code Ann. §23-15-573(6)

⁵⁸ Miss. Code Ann. §23-15-573(2)

⁵⁹ Miss. Code Ann. §23-15-573(2)(e)(f)

⁶⁰ Miss. Code Ann. §23-15-573(3)(c)

⁶¹ Miss. Code Ann. §23-15-573(4)

2. His or her name is not related to the correct residence address in the Statewide Elections Management System by reason of failure to timely update the voter's registration information;
3. He or she is flagged in the Statewide Elections Management System as a HAVA unverified first time voter and is unable to present the required identification, or
4. Is unable to present an acceptable form of photo identification in accordance with Mississippi's voter photo identification law,

the Circuit Clerk's Office shall permit the voter to cast an affidavit absentee ballot.⁶² The absentee voter shall be permitted to cast an absentee ballot in accordance with Sections 23-15-621, et seq., Miss. Code Ann., including the completion of the absentee ballot application, sealed in an absentee ballot application envelope, voting of the paper absentee ballot and sealing of the same in a signed absentee ballot envelope, all as required by Mississippi Law.⁶³

The absentee voter shall also be required to execute the written affidavit of an affidavit ballot envelope and the Circuit Clerk or deputy clerk must also sign the affidavit ballot envelope.⁶⁴

An affidavit ballot of a voter who was unable to present an acceptable form of photo identification shall not be rejected for this reason if the voter does either of the following:

- Returns to the circuit clerk's office, or to the municipal clerk's office for municipal elections, within five (5) business days after the date of the election and presents an acceptable form of photo identification;
- Returns to the circuit clerk's office within five (5) business days after the date of the election to obtain the Mississippi Voter Identification Card, or in municipal election, returns to the municipal clerk's office within five (5) business days after the date of the election to present his or her Mississippi Voter Identification Card or Temporary Mississippi Voter Identification Card; or
- Returns to the circuit clerk's office, or to the municipal clerk's office for municipal elections, within five (5) business days after the date of the election to execute a separate Affidavit of Religious Objection.⁶⁵

The affidavit ballot of those voters who fail to do so must be rejected by the elections officials; the affidavit ballot of those voters who do return to the Circuit Clerk's Office

⁶² 1 Miss. Admin. Code Pt. 10, Chapter 5, Rule 5.3

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Miss. Code Ann. §23-15-573(3)(d)

within five (5) business days of the Election may not have their affidavit ballot rejected on the basis of Photo ID.

The officials in charge of the election shall process all affidavit ballots by using the Statewide Elections Management System. The officials in charge of the election shall account for all affidavit ballots cast in each election, categorizing the affidavit ballots cast by reason and recording the total number of affidavit ballots counted and not counted in each category in the Statewide Elections Management System.⁶⁶

In canvassing the returns of the elections, the executive committee in primary elections, or the election commissioners in other elections, shall examine the records and allow the ballot to be counted, or not counted as it appears legal.⁶⁷ Reasons for not counting an affidavit ballot include, but are not limited to, the voter not being registered to vote in the county, failure of the voter or the poll manager to sign the affidavit ballot envelope, or the voter casting his/her affidavit ballot in a precinct no longer associated with the voter's current residence address. In canvassing the election, the officials in charge of the election shall check the Absentee Ballot Received Report (BP-001 from SEMS) and SEMS to see whether an absentee ballot was received by the registrar, and also check to see whether the Resolution Board accepted the absentee ballot. If the absent voter's absentee ballot has been received within five (5) business days of the election and accepted by the Resolution Board, the officials in charge of the election shall reject the absent voter's affidavit ballot. If the absentee voter's absentee ballot has not been received within five (5) business days after the elections, or was rejected by the Resolution Board, the officials in charge of the election may accept the affidavit ballot if determined to be legal.⁶⁸

INFORMATION, DOCUMENTATION AND PROCEDURES FOR AUDIT OF ABSENTEE BALLOTS

The audit team will review the following information and documentation:

1. Affidavit ballot receipt book
2. Affidavit ballot envelopes

The audit team will evaluate the following:

1. The number of affidavit ballots accepted.
2. The number of affidavit ballots rejected.
3. Verify the number of voters who voted by affidavit at the precincts according to affidavit receipt book is consistent with the total number of affidavit ballots accepted and rejected as recorded by the county.

⁶⁶ Miss. Code Ann. §23-15-573(5)

⁶⁷ Miss. Code Ann. §23-15-573(3)(c)

⁶⁸ 1 Miss. Admin. Code Pt 17, Chapter 2, Rule 2.3(b)

4. Review accepted affidavit ballot envelopes and verify the required signatures and information are present.
5. For voters who voted by affidavit ballot due to having an outstanding ballot by mail:
 - i. Determine whether the voter's absentee ballot or affidavit was counted and whether proper ballot was accepted.
6. For voters who voted by affidavit ballot due to lack of identification or registration issue:
 - i. Determine whether the voter was registered in the precinct for that election or whether the voter presented identification/cured with required documentation.



Mississippi Secretary of State's Office

Elections Division

P.O. Box 136

Jackson, MS 39205

601-576-2550

Elections Hotline: 800-829-6786

www.sos.ms.gov