County Elections Handbook

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I. COUNTY ELECTION OFFICIALS

A. Primary Elections

County Party Executive Committees are responsible for conducting primary elections. County Election Commissions have no authority, absent a written agreement, to conduct primary elections for the political parties. (*Miss. Code Ann. §§ 23-15-263; 23-15-265; 23-15-266*)

Written Agreements

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

The six (6) primary election-related duties, which may be performed by County Election Commissions and/or Circuit Clerks, following the timely signing of an agreement are as follows:

1. Appointing of Poll Managers (*Miss. Code Ann. § 23-15-265*),
2. Training of Poll Managers (*Miss. Code Ann. § 23-15-239*),
3. Distributing ballot boxes (*Miss. Code Ann. § 23-15-267*),
4. Printing of the ballots (*Miss. Code Ann. § 23-15-333*),
5. Distributing 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 County Party Executive Committee elects to enter into an agreement with the County Election Commission and/or Circuit Clerk, the agreement must be signed by the Chair of the County Executive Committee and Chair of the Election Commission and/or Circuit Clerk. The County Executive Committee must notify the State Executive Committee of the existence of the agreement and must forward a copy of the agreement to the Secretary of State's Office.

B. General and Special Elections

County Election Commissions are responsible for conducting general and special elections. There are five (5) County Election Commissioners in each county, one elected from each supervisor's district in the General Election during each presidential election year. (*Miss. Code Ann. § 23-15-213*)

C. Voter Roll Maintenance

One of the most important duties of County Election Commissions is maintaining accurate voter rolls. Voter roll maintenance, which includes the purging of ineligible voters

from the voter roll, requires the names of voters be removed from the county voter rolls if it is determined the voter has died, moved out of the county, been convicted of a disenfranchising crime, been declared mentally incompetent by a court of law, or the voter has requested, by a signed writing, to be removed from the voter roll. Voter roll maintenance also requires the Election Commission to maintain an accurate name, residential address and mailing address for voters within the county, which includes updating voter information when a voter notifies the Election Commission by a signed writing that the voter has moved within the county or changed his or her name, and correcting any errors on the voter roll. Voter roll maintenance is an ongoing duty of the Election Commission and should be performed throughout the year. *Section 23-15-153, Miss. Code Ann.*, provides certain days upon which the Election Commission must meet to conduct voter roll maintenance and the maximum number of days for which they are allowed to be compensated.

Removal of the names of voters from the voter rolls due to a change of residence must be performed in accordance with the National Voter Registration Act ("NVRA") (*52 U.S.C.A 20507*). The NVRA requires that, before purging a voter or updating a voter's registration information based upon a change of residence, the Election Commission obtains or attempts to obtain written confirmation, signed by the voter, that he/she has moved to a new address. This means the Election Commission must mail a "Voter Confirmation Card" to the voter in question. The voter is asked to return the postage pre-paid card by mail to the Election Commission confirming whether he/she has moved to a new address or still remains living at the residence address associated with the voter's registration record. The voter is moved to an inactive status at the time he/she is mailed a confirmation card. If the voter fails to complete and return the card, does not otherwise contact the Election Commission or Circuit Clerk and does not vote in the next two (2) federal general elections after the mailing of the confirmation card, the voter's name is purged from the voter roll. (See Section Eight of the NVRA for complete purging requirements based on a voter's change of address.)

II. <u>CANDIDATE QUALIFYING</u>

Most individuals seeking elected office may choose to qualify as either a political party or independent candidate. A political party candidate participates in the June Primary Election (and possibly the Primary Runoff Election three (3) weeks thereafter), seeking to win a particular political party's nomination for a particular office. The winning candidates in the Primary Elections move forward and participate in the November General Election as the respective political party's nominees for the respective offices. An independent candidate participates only in the November General Election and, for the purposes of the ballot, has no designated political party affiliation.

In Mississippi, candidates for Judicial office (with the exception of candidates for Justice Court Judge), County School Board, Consolidated/Consolidated Line School District Trustee, Municipal Separate School District Trustee and Special Municipal Separate School District Trustee run as non-partisan candidates and only participate in the November General Election, with no designation of a political party affiliation on the ballot or otherwise.

A. Party Candidates in Primary Elections

An individual who chooses to seek election as a partisan candidate and therefore participate in a primary election to seek the nomination of a particular political party must file with the respective party executive committee a "Qualifying Statement of Intent for a Candidate for Party Nomination," together with the applicable qualifying fee, on or before the qualifying deadline, as is explained further below. Qualifying forms for party candidates are available from the respective political party's state office or on the Secretary of State's website: http://www.sos.ms.gov/Elections-Voting/Pages/Candidate-Qualifying-Forms.aspx.

A candidate seeking a county elected office may not qualify with any political party that does not have a duly organized county executive committee, and the Circuit Clerk cannot accept qualifying papers or qualifying fees from a party candidate if the Circuit Clerk does not have the contact information for the County Executive Committee of that political party. (*Miss. Code Ann. § 23-15-299(2)(a)*)

Upon receipt of a qualifying fee, the Circuit Clerk must provide a candidate with a receipt of payment and keep an itemized account showing the date and time of the receipt of payment, the name of the person from whom payment was received, the party with which the candidate has qualified and the office the candidate is seeking. For auditing purposes, it is recommended the Circuit Clerk request candidates to pay the qualifying fee by check made out to the appropriate County Party Executive Committee, instead of accepting cash. (*Miss. Code Ann. § 23-15-299(5)*)

The Circuit Clerk must forward the Statement of Intent and the qualifying fee to the secretary of the respective County Party Executive Committee within two (2) business days after receipt of the same. (*Miss. Code Ann. § 23-15-299(2)(a)*)

B. Independent Candidates in General Elections

An individual who chooses to seek election as an independent candidate must file with the proper office a "Qualifying Statement of Intent for an Independent Candidate," a qualifying petition, which must be signed by a certain number of qualified electors (registered voters) from the state, county or district from which the candidate seeks election and the applicable qualifying fee, on or before the qualifying deadline, as is explained further below. The number of signatures required on the qualifying petition is dependent upon the specific office sought by the candidate. Each candidate must obtain the certification of the signatures from the Circuit Clerk's Office of the county from where the signatures were collected prior to filing his/her qualifying paperwork with the appropriate office.

Qualifying forms for independent candidates are available from the Circuit Clerk's Office or on the Secretary of State's website: http://www.sos.ms.gov/Elections-Voting/Pages/Candidate-Qualifying-Forms.aspx.

Upon receipt of a qualifying fee, the Circuit Clerk must provide a candidate with a receipt of payment and keep an itemized account showing the date and time of the receipt of payment,

the name of the person from whom payment was received, and the office the candidate is seeking. For auditing purposes, it is recommended the Circuit Clerk request candidates to pay the qualifying fee by check made out to the County, instead of accepting cash. (*Miss. Code Ann. § 23-15-299(5)*)

The Circuit Clerk must forward the Statement of Intent and the qualifying fee to the Secretary of the County Election Commission within two (2) business days after receipt of the same. (*Miss. Code Ann. § 23-15-299(2)(b)*)

C. Statement of Economic Interest

Excluding federal office holders, all elected officials, appointed officials and candidates seeking office are required to electronically file a Statement of Economic Interest with the Mississippi Ethics Commission. Candidates for elected office must file within fifteen (15) days of qualifying. Persons appointed to office must file within thirty (30) days of the appointment. Incumbents must file each and every year on or before May 1st.

Additional information may be obtained directly from the Mississippi Ethics Commission:

Mississippi Ethics Commission
660 North Street, Suite 100-C
Post Office Box 22746 (39225-2746)
Jackson, Mississippi 39202
Telephone: (601) 359-1285
Facsimile: (601) 359-1292
info@ethics.state.ms.us; www.ethics.state.ms.us

D. Campaign Finance Reporting Requirements

Excluding candidates for federal office, Mississippi law requires all candidates for elective office to file campaign finance disclosure reports. Under the law, one is a candidate if he/she has filed qualifying papers or has spent or received *over $200 in the aggregate* in furtherance of an election campaign. Following the qualifying deadline, all persons who have filed qualifying papers are candidates under the law, even if they have not received or spent any money whatsoever in furtherance of a campaign.

If a candidate is unopposed, he/she is not required to file any pre-election report, but is required to file all periodic and annual reports in accordance with the applicable schedule dependent upon the particular office sought until a termination report is filed. Likewise, a candidate who withdraws prior to an election or who is eliminated by a first primary election need not file any or additional pre-elections reports but must continue to file all periodic and annual reports subsequent to the candidate's withdrawal or primary loss until a termination report is filed. (*Miss. Code Ann. § 23-15-807*)

Additional information pertaining to campaign finance disclosure reporting requirements is available in the yearly *Candidate Qualifying Guide and Campaign Finance* Guide. Forms necessary for compliance with these laws are available from the Secretary of State's website:

http://www.sos.ms.gov/Elections-Voting/Pages/Campaign-Finance-Lobbying.aspx.

III. DETERMINING CANDIDATE QUALIFICATIONS

A. Party Candidates in Primary Elections

Almost immediately after the qualifying deadline preceding the Primary Election, the County Party Executive Committee must meet and review the qualifications of all candidates who timely filed a Statement of Intent and paid the required filing fee. The Committee must make the following determinations for each candidate as of the date of the qualifying deadline:

1. The candidate is a qualified, registered voter and resident of the county (or county district if the office sought is elected from a county district); excluding, however, candidates for Justice Court Judge who are not required to be residents of the specific district from which they seek election. Candidates for Justice Court Judge must be qualified, registered voters and residents of the county.

2. 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 general at which he/she could be elected to office.

3. 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 violation, unless such offense also involved the misuse or abuse of his/her office or money coming into his/her hands by virtue of his/her office. (§ *44, Miss. Constitution of 1890*)

If the Committee determines the candidate is not a registered voter or a resident of the county, does not meet all qualifications to hold the office, or has been convicted as described above, without being pardoned, then the committee must notify the candidate and provide the candidate an opportunity to be heard. The Committee must mail written notice at least three (3) business days prior to the date of the hearing to the candidate to the address provided on his/her Statement of Intent. If the candidate provided a telephone number, email address or fax number on his/her Statement of Intent, the Committee must likewise attempt to notify the candidate by these means as well. If the candidate fails to appear at the scheduled hearing or is unable to provide absolute proof he/she meets all of the qualifications to hold the office sought, then the name of the candidate cannot be printed on the ballot. (*Miss. Code Ann. § 23-15-299*)

By virtue of a 2017 statutory amendment to Section 23-15-299, Miss. Code Ann., the names of all qualified candidates are printed on the primary election ballot, including the names of all unopposed candidates. However, if there is 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 County Executive Committee shall declare each unopposed candidate as the party's nominees. (*Miss. Code Ann. § 23-15-333*)

B. Party Nominees and Independent Candidates in General Elections

Almost immediately after the qualifying deadline preceding the General Election and/or certification of the Primary Election results, the County Election Commission must meet and review the qualifications of all independent candidates who timely filed a Statement of Intent, Qualifying Petition and paid the required filing fee and of all candidates who won the Primary Elections and move forward as party nominees in the General Election. The Commission must make the following determinations for each candidate as of the date of the qualifying deadline:

1. The candidate is a qualified, registered voter and resident of the county (or county district if the office sought is elected from a county district); excluding, however, candidates for Justice Court Judge who are not required to be residents of the specific district from which they seek election. Candidates for Justice Court Judge must be qualified, registered voters and residents of the county.

2. 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 general at which he/she could be elected to office.

3. 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 violation, unless such offense also involved the misuse or abuse of his/her office or money coming into his/her hands by virtue of his/her office. (*Miss. Const. § 44*)

If the Commission determines the candidate is not a registered voter or a resident of the county, does not meet all qualifications to hold the office, or has been convicted as described above, without being pardoned, then the commission must notify the candidate and provide the candidate an opportunity to be heard. The Commission must mail written notice at least three (3) business days prior to the date of the hearing to the candidate to the address provided on his/her Statement of Intent. If the candidate provided a telephone number, email address or fax number on his/her Statement of Intent, the Commission must likewise attempt to notify the candidate by these means as well. If the candidate fails to appear at the scheduled hearing or is unable to provide absolute proof he/she meets all of the qualifications to hold the office sought, then the name of the candidate cannot be printed on the ballot. (*Miss. Code Ann. § 23-15-359(9)*).

The names of all qualified candidates are printed on the general election ballots, including the names of all unopposed candidates. However, if there is only one qualified candidate *for*

each office on the general election ballot, the election for all offices on the ballot shall be dispensed and the county Election Commission shall declare each candidate elected without opposition, assuming all candidates meet all qualifications to hold the offices sought, as determined by the county Election Commission and all candidates have filed all required campaign finance disclosure reports. (*Miss. Code Ann. § 23-15- 359*)

IV. PREPARING THE BALLOT

A. Primary Elections

For primary elections of federal, state, state district, legislative, or multicounty offices, the State Party Executive Committees provide to the Secretary of State's Office the list of all qualified candidates for these offices, and the Secretary of State's Office publishes the primary election ballot in the Statewide Election Management System ("SEMS"), making the ballots available to County Election Officials through SEMS. The County Election Officials are thereafter responsible for adding any county or county district race(s) to the ballot in SEMS.

1. Ballot Order of Candidates' Names: Each County Party Executive Committee is responsible for ensuring ballots are printed and databases are created for their respective primary elections. The ballots must contain the names of all duly qualified candidates, including unopposed candidates, in alphabetical order by last name. (*Miss. Code Ann. § 23-15-333*)

   The order in which the titles of the various offices listed within each category shall be printed, and the size, print, and quality of paper of the official ballot for county and county district office is left to the discretion of the election official(s) charged with the printing of the ballot. However, the order in which the titles of federal, state, state district, legislative and multi-county offices and the order in which the candidates' names are listed on the ballots published by the Secretary of State's Office in SEMS shall not and cannot be changed by the County Election Officials. (*Miss. Code Ann. § 23-15-367*)

2. Write-In Candidates: In all primary elections, one (1) blank space must be left on each ballot under the title of each office and, in the event of the death, resignation, withdrawal or removal of any candidate whose name is printed on the official ballot, the name of another individual, who is qualified to hold the office, may be written in the blank space by the voter. (Miss. Code Ann. § 23-15-365)

3. Ballot Approval – The County Party Executive Committee is responsible for approving the final ballot before the ballots are printed and the databases are created for the voting machines. The Executive Committee is also responsible for approving the audio version(s) of the ballot, which must be available to ensure compliance with the Americans with Disabilities Act.

B. General and Special Elections

For general and special elections of federal, state, state district, legislative, or multicounty offices (including judicial), the State Board of Election Commissioners provides to the Secretary of State's Office the list of qualified candidates for these offices, and the Secretary of State's Office publishes the general or special election ballot in SEMS, making the ballots available to the County Election Officials. The County Election Officials are thereafter responsible for adding any county or county district race(s) to the ballot in SEMS.

1. Ballot Order of Candidates' Names – The Chairman of the County Election Commission is responsible for ensuring ballots are printed and databases are created for general and special elections. (*Miss. Code Ann. §§ 23-15-213, 23-15-351*) Nominees of the political parties qualified to conduct primary elections as defined in *Section 23-15-291* (i.e., the Democratic and Republican Parties) shall be listed first alphabetically by the candidate's last name, followed by any other party nominees of political parties not qualified to conduct primary elections and independent candidates, listed alphabetically by last name. The ballots must contain the names of all duly qualified candidates, including unopposed candidates.

   The order in which the titles of the various offices listed within each category shall be printed, and the size, print, and quality of paper of the official ballot for county and county district office is left to the discretion of the chair of the Election Commission, and the arrangement need not be uniform. However, the order in which the titles of the federal, state, state district, legislative and multi-county offices and the order in which the candidates' names are listed on the ballots published by the Secretary of State's Office in SEMS shall not and cannot be changed by the County Election Officials. (*Miss. Code Ann. § 23-15-367*)

2. Write-In Provisions for General and Special Elections – In general and special elections, one (1) blank space must be left on each ballot under the title of each office and, in the event of the death, resignation, withdrawal or removal of any candidate whose name shall have been printed on the official ballot, the name of another individual, who is qualified to hold the office, may be written in the blank space by the voter. (*Miss. Code Ann. § 23-15-365*)

3. Ballot Approval – The County Election Commission is responsible for approving the final ballot before the ballots are printed and the databases are created for the voting machines. The Election Commission is also responsible for approving the audio version(s) of the ballot, which must be available to ensure compliance with the Americans with Disabilities Act.

C. Candidate Withdrawals

Any candidate may withdraw from an election at any time prior to the printing of the official ballot and creation of the database for the voting machine. (*Miss. Code Ann.§ 23-15-363*)

D. 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 by *Section 23-15-317, Miss. Code Ann.*, and the vacancy in nomination occurs between the Primary Election and the ensuing General Election, the Executive Committee with which the original nominee qualified as a candidate may nominate a substitute nominee for the office. If the party nominee who created the vacancy was unopposed in the upcoming General Election, each political party registered with the State of Mississippi may nominate a candidate for that particular office.

In the event of death or disqualification of a nominee, the respective Executive Committee must first certify its substitute nominee by ensuring the substitute nominee is qualified to hold the office sought and, within two (2) days, formally notify the Secretary of State in writing of the name of the substitute nominee. The Secretary of State will, in turn, notify the appropriate officials charged with conducting the election for the office wherein the vacancy occurred of the name of the substitute nominee.

In the event of resignation or withdrawal of a nominee based upon a "legitimate nonpolitical reason" as defined by *Section 23-15-317, Miss. Code Ann.*, the nominee must submit his/her reason by sworn affidavit to the state party chair of the nominee's political party and the State Board of Election Commissioners. No substitution of a nominee is authorized unless the State Board of Election Commissioners approves the reason for withdrawal as set forth by the affidavit as constituting a legitimate nonpolitical reason within five (5) days of the date the affidavit was filed with the Board. A nominee who seeks to withdrawal based upon a reason not set forth by *Section 23-15-317, Miss. Code Ann.*, must sustain a strict burden of proof therefor. The State Board of Election Commissioners will immediately notify the respective executive committee of its approval or disapproval of the nominee's affidavit of withdrawal.

V. PREPARING THE VOTING MACHINES

A. Optical Mark Tabulating Equipment (OMR)

The County Boards of Supervisors are authorized and empowered, in their discretion, to purchase or rent optical mark reading equipment which meets the requirements of Mississippi law (*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*)

B. 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*)

C. Direct Recording Electronic Voting Equipment (DRE)

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

D. Testing the DRE Units

On or before the second day preceding any election 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. 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. § 23-15-531.6*)

VI. ABSENTEE VOTING

Absentee ballots must be available in the Circuit Clerk's Office no later than forty-five (45) days prior to an election. (*Miss. Code Ann. §§ 23-15- 333(1), 23-15-649*)

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

A. Who Is Eligible?

The following categories of registered voters, who will be absent from their county of residence or otherwise unable to vote in person on Election Day, are eligible to request, receive and cast absentee ballots:

1. Enlisted or commissioned members of the United States Armed Forces, their spouses and/or dependents, who will be absent from their county of residence on Election Day;

2. Members of the Merchant Marines or the American Red Cross, or their spouses and/or dependents, who will be absent from their county of residence on Election Day;

3. Disabled war veterans who are patients in any hospital, or their spouses and/or dependents, who will be absent from their county of residence on Election Day;

4. Civilians attached to any branch of the Armed Forces, the Merchant Marines, or the American Red Cross and serving outside the United States, or their spouses and/or dependents, who will be absent from their county of residence on Election Day;

5. Trained or certified emergency response providers who is deployed on Election Day during any state of emergency declared by the President of the United States or any Governor of any U.S. State, who will be absent from their county of residence on Election Day;

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, or their dependent or spouse who maintains a common domicile outside the county of voting residence;

8. Persons who will be outside their county of residence on Election Day;

9. Persons required to be at work on Election Day during the times 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 county of residence or more than fifty (50) miles away from their residence if the parents, spouses, and/or dependents will be with such persons on election day; and

13. Members of the Mississippi Congressional delegation, or their spouses and/or dependents, who will be absent from their county of residence on Election Day. (*Miss. Code Ann. §§ 23-15-627; 23-15-673; 23-15-713*)

B. <u>General Requirements</u>

1. The Circuit Clerk's Office shall make absentee ballot applications available at least sixty (60) days prior to each election. In the event a special election is set for a date which makes it impractical or impossible to prepare absentee ballot applications sixty (60) days prior to the election, the Circuit Clerk's Office shall provide applications as soon as practicable. (*Miss. Code Ann. § 23-15-625*)

2. Absentee ballot applications shall be provided to a person upon the oral or written request of the elector who seeks to vote by absentee ballot. (Miss. Code Ann. § 23-15-627)

3. The parent, child, spouse, sibling, legal guardian, those empowered with a power or attorney may orally request an absentee ballot application on behalf of a voter eligible to cast an absentee ballot by mail.

4. A third person requesting an absentee ballot application on behalf of a voter eligible to cast an absentee ballot, shall, in the presence of the Circuit Clerk, sign the application and print his or her name and address, and the name of the elector for whom the application is requested, in the place provided for on the application for that purpose (i.e., the Certificate of Delivery). (*Miss. Code Ann. §§ 23-15-625, 23-15-627*)

5. If a third person requesting an absentee ballot application on behalf of a voter entitled to cast an absentee ballot by mail is unable to write the information required on the Certificate of Delivery, then the Circuit Clerk or a deputy clerk may write the information on the application, with the requesting party placing his or her mark on the application after it has been completed by the Circuit Clerk. (*Miss. Code Ann. § 23-15-625*)

6. The Circuit Clerk may accept requests for absentee ballot applications by telephone from a voter entitled to cast an absentee ballot by mail or from another authorized to request the same on behalf of a voter entitled to cast an absentee ballot by mail. (*Miss. Code Ann. § 23-15-625*)

7. For qualified electors staying in any skilled nursing facility, the voter, a family member of the voter or a person designated in writing by the voter may request an absentee ballot application for a voter living in a skilled nursing facility. A family member means a spouse, parent, grandparent, sibling, adult child, adult grandchild or legal guardian. (*Miss. Code Ann. § 23-15-625*)

8. An absentee ballot application must have the original seal of the Circuit Clerk affixed to it and be initialed by the Circuit Clerk or a deputy clerk in order to be utilized to obtain an absentee ballot. (*Miss. Code Ann. § 23-15-627*)

9. The Circuit Clerk's Office shall keep an accurate list of all voters having cast an absentee ballot and post the same in a conspicuous place in his/her office accessible to the public near the entrance. (*Miss. Code Ann. § 23-15-625*)

10. The Circuit Clerk's Office must process all applications for absentee ballots using SEMS, accounting for all absentee ballots delivered to and received from qualified voters. (*Miss. Code Ann. § 23-15-625*)

C. <u>Voting Absentee in the Circuit Clerk's Office</u>

All eligible absentee voters may cast their ballots in the Circuit Clerk's office of the county of their residence by completing an absentee ballot application. Absentee ballot applications must bear the original seal of the Circuit Clerk and the original initials of the

Circuit Clerk or a deputy clerk. Further, the Circuit Clerk or a deputy clerk must sign the absentee ballot application as an acknowledgement of the voter's signature.

All eligible voters who cast absentee ballots in the Circuit Clerk's office must present an acceptable form of photo ID before being issued 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 private.

The voted absentee ballot is placed in an absentee ballot envelope, sealed and then signed across the flap by the voter and Circuit Clerk or a deputy clerk. The envelope, containing the voted absentee ballot, is deposited into a sealed ballot box maintained in the Circuit Clerk's office. Such ballot box remains sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the election, or the time at which the absentee ballots are separated by polling place specific ballot boxes and distributed to the individual polling places for the election (*Miss. Code Ann. §§ 23-15-627, 23-15-717, 23-15-719*)

D. <u>Voter Assistance while Absentee Voting</u>

An absentee voter who affirmatively states to the Circuit Clerk or a deputy clerk that he/she is blind, physically disabled, or unable to read or write, may receive assistance in the marking his/her absentee ballot. The voter may request and receive assistance from anyone of the voter's own choosing other than:

a) A candidate whose name appears on the ballot,
b) The spouse, parent or child of a candidate whose name appears on the ballot,
c) A poll watcher who may be observing in the polling place,
d) The voter's employer or a representative of the voter's employer, or
e) An officer or agent of the voter's union

However, a candidate whose name appears on the ballot, or the spouse, parent or child of a candidate whose name appears on the ballot, may provide assistance to a voter to whom the voter is related within the first degree. A first degree relative is one's parent, child or sibling.

A person who provides assistance is required to sign and complete the "Certificate of Person Providing Voter Assistance" on the absentee ballot envelope, disclosing the date and time assistance was provided and family relationship to the voter (if any). The person providing assistance to the voter may not be the same person who acknowledges or witnesses the voter's signature on the absentee ballot envelope. (*Miss. Code Ann. § 23-15-631(1)(f)*)

Any person who provides assistance is legally prohibited from persuading or otherwise influencing the voter. (*Miss. Code Ann. § 23-15-549)*

E. Voting Absentee by Mail

Eligible absentee voters may request an absentee ballot by mail by first requesting, receiving and returning a completed absentee ballot application by mail to the Circuit Clerk's office located in the county of their voting residence.

The following registered voters are eligible to receive and return an absentee ballot by mail:

1. Temporarily residing outside the county, meaning the absentee ballot application and absentee ballot will be mailed to an address outside the voter's county of voting residence;

2. Temporarily or permanently physically disabled;

3. Sixty-five (65) years of age or older; or

4. The parents, spouses, or dependents of temporarily or permanently physically disabled persons who are hospitalized outside of their counties of residence or more than fifty (50) miles away from their residences if the parents, spouses, and/or dependents will be with such persons on election day.

Excluding those absent voters who are physically disabled, the voter's signature on the absentee ballot application and across the flap of the absentee ballot envelope must be acknowledged by an individual authorized to administer oaths, such as a notary public or a court clerk.

The signature of an absentee voter who is temporarily or permanently physically disabled on the absentee ballot application and absentee ballot envelope must be witnessed and signed by a person eighteen (18) years of age or older. The witness need not be a registered voter.

A candidate whose name appears on the ballot, or the spouse, parent or child of a candidate whose name appears on the ballot, cannot acknowledge or witness the signature of an absentee voter on either the absentee ballot application or absentee ballot envelope, unless the voter is related within the first degree to the candidate, or the spouse, parent or child of the candidate. (*Miss. Code Ann. § 23-15-631*)

The applications and sealed envelopes, containing the voted absentee ballots, are directly deposited into a sealed ballot box maintained in the Circuit Clerk's office. Such ballot box remains sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the election, or the time at which the absentee ballots are separated by polling place specific ballot boxes and distributed to the individual polling places for the election (*Miss. Code Ann. §§ 23-15-627, 23-15-717, 23-15-719*)

F. **Permanently Disabled List of Absentee Voters**

A permanently physically disabled voter may submit an absentee ballot application together with a statement signed by a physician or licensed nurse practitioner, which states 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, when accompanied by a physician or nurse practitioner's statement, entitles the voter to receive automatically an absentee ballot for all elections on a continuing basis without the need for another application.

The Circuit Clerk's Office must keep an accurate list of the names and addresses of all persons whose applications for absents ballots are accompanied by such statements as described above, and must send absentee ballots to those permanently disabled voters no later than forty (40) days prior to each election.

This statute does not apply to voters who are temporarily physically disabled. (*Miss. Code Ann. § 23-15-629*)

G. **Military and Overseas Voters (Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"))**

UOCAVA voters, meaning those subject to the Uniformed and Overseas Citizens Absentee Voting Act, include the following categories of voters if they are absent from their county of residence and are otherwise qualified to vote in Mississippi:

1. Any member of the U.S. Armed Forces, components or divisions thereof, and his/her spouse and/or dependents;

2. Any member of the Merchant Marine and the American Red Cross, and his/her spouse and/or dependents;

3. 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;

4. 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;

5. 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.;

6. Any U. S. citizen temporarily residing outside the territorial limits of the U.S. and the District of Columbia;

7. Any citizen of Mississippi enrolled as a student at a U.S. Military Academy. (*Miss. Code Ann. §§ 23-15-673, 23-15-677*)

*a. **Federal Post Card Application***

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*) One application (FPCA) for an absentee ballot serves as a request for an absentee ballot for each and every election held within that calendar year for which the UOCAVA voter is eligible to vote. (*Miss. Code Ann. § 23-15-687*)

The FPCA and the absentee ballot may be provided to the absent voter by mail, e-mail or facsimile (fax), dependent upon the UOCAVA voter's choice as marked on the FPCA. If the UOCAVA voter does not indicate a preference on his/her FPCA, the absentee ballot and balloting materials are provided by regular mail. (*Miss. Code Ann. § 23-15-699*)

*b. **Federal Write-In Absentee Ballot.***

UOCAVA voters who request an absentee ballot but do not receive the absentee ballot within sufficient time to return the voted ballot to the Circuit Clerk's Office may use the Federal Write-in Absentee Ballot (FWAB) in all elections. If a FWAB is received by the Circuit Clerk's Office yet sufficient time remains within which to provide an absentee ballot to the UOCAVA voter, then the FWAB is treated as a request for an absentee ballot and the Circuit Clerk's Office must provide an absentee ballot to the UOCAVA voter by the method chosen by the voter in block 5 of the FWAB. (*Miss. Code Ann. § 23-15-692*)

*c. **Ranked Choice Absentee Voting***

When a federal election may be followed by a run-off election, the Circuit Clerk must provide to UOCAVA voters a ranked choice runoff absentee ballot simultaneous with the transmittal of the primary or special election ballot. The runoff election ranked choice ballot allows the UOCAVA voter to rank candidates in order of the voter's preference.

To indicate the order of preference for each candidate for each office, the voter marks the corresponding oval beside the candidate's name under the appropriate number, indicating the number of the voter's preference for each candidate. The voter shall mark the oval under "1" next to the name of the candidate who is the voter's first choice, the oval under "2" for the voter's second choice, and so forth. If a voter marks the same numbered oval for more than one (1) candidate, his or her vote for that particular race may not be counted. The voter also is not required to indicate his or her preference for more than one (1) candidate.

In the event a runoff election is conducted, the UOCAVA voter's runoff election ballot is counted in accordance with the order in which the voter has ranked the candidates. The candidate ranked "1" by the voter will be counted if that candidate is included in the runoff election. If the candidate ranked "1" by the voter is not included in the runoff election, the

candidate ranked "2" by the voter will be counted if that candidate is included in the runoff election, and so forth.

The runoff election ranked choice ballot is identical to the first election ballot except it must be printed on paper of a different tint or color, if transmitting by mail. If transmitting the absentee ballots electronically or by email, the runoff ranked choice ballot must be in a .pdf fillable format to enable UOCAVA voters to mark the ballot electronically. All runoff election ranked choice ballots must be styled with a header to distinguish its use for the runoff election only. Additional instructions must be provided to the UOCAVA voter with the transmittal of the primary or special election absentee ballot and runoff absentee ballot to explain the ranked choice voting process.

No additional ballot is sent to the UOCAVA voter for the runoff election. It is the UOCAVA voter's choice as to when he/she votes and returns his/her voted runoff election absentee ballot; however, runoff absentee ballots must be received by the Circuit Clerk of the voter's county of residence by 7:00 p.m. on the date of the election in order to be counted.

d. Receipt of UOCAVA Absentee Ballots by E-Mail or Fax

Upon the electronic or fax receipt of a UOCAVA absentee ballot, the Circuit Clerk shall first print the ballot (if returned by e-mail) and then place the ballot into an absentee ballot envelope designated for UOCAVA voters, writing on the envelope the ballot was received pursuant to Section 23-15-699, Miss. Code Ann., and no signature nor acknowledgement of the voter's signature is required. The envelope containing the UOCAVA absentee ballot is then placed into the sealed ballot box retained in the Circuit Clerk's office for the receipt of all absentee ballots. Such ballot box remains sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the election, or the time at which the absentee ballots are separated by precinct ballot boxes and distributed to the individual polling places for the election.

Upon the electronic or fax receipt of a UOCAVA absentee ballot for a potential runoff election, the Circuit Clerk shall first print the ballot (if returned by e-mail) and then place the ballot into an absentee ballot envelope designated for UOCAVA voters, writing on the envelope the ballot was received pursuant to Section 23-15-699, Miss. Code Ann., and no signature nor acknowledgement of the voter's signature is required. The envelope containing the UOCAVA runoff absentee ballot is then placed into the sealed ballot box retained in the Circuit Clerk's office for the receipt of runoff absentee ballots. Such ballot box remains sealed and secured in the office of the Circuit Clerk (or such other designated location) until the day before the runoff election, or the time at which the absentee ballots are separated by precinct ballot boxes and distributed to the individual polling places for the runoff election.

e. Receipt of Absentee Ballots by Mail

Upon the receipt by mail of any absentee ballot, the Circuit Clerk shall place the envelope containing the absentee ballot into a sealed ballot box designated for absentee ballots. Such ballot box shall remain sealed and secured in the office of the Circuit Clerk (or such other

designated location) until the day before the election, or the time at which the absentee ballots are separated by precinct ballot boxes and distributed to the individual polling places for the election.

H. When Absentee Ballots May Be Cast

1. *First Primary Election*

A. Voting Absentee in the Circuit Clerk's office – The first day for voting primary election absentee ballots in the Circuit Clerk's office is forty-five (45) calendar day before the date of the election. The deadline for casting such ballots is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on Tuesday. If the voter appears before the Circuit Clerk and the ballot is not yet available, the voter may complete an absentee ballot application and the Circuit Clerk is required to mail an absentee ballot to the voter once ballots are available. (*Miss. Code Ann. § 23-15-715(a)*)

B. Voting Absentee by Mail – Absentee ballots voted by mail must be available forty-five (45) days prior to the election. The deadline for receipt of absentee ballots mailed to the Circuit Clerk's office is 5:00 p.m. on the day immediately preceding the election. This is not a post-mark deadline but an actual "receipt" deadline. (*Miss. Code Ann. § 23-15-721*)

C. Voting Absentee Pursuant to UOCAVA – Absentee ballots cast by UOCAVA voters must be transmitted to the UOCAVA voter at least forty-five (45) days prior to the date of the election, if a request has been made prior to that time. Absentee ballots must be transmitted to UOCAVA voters within twenty-four (24) hours of the Circuit Clerk's receipt of a request (FPCA) for the same. The deadline for receipt of absentee ballots returned to the Circuit Clerk's office by UOCAVA voters is 7:00 p.m. on the day of the election. (*Miss. Code Ann. § 23-15-699*)

2. *Second Primary (Runoff) Election*

A. Voting Absentee in the Circuit Clerk's Office – Second primary (runoff) absentee ballots voted in the Circuit Clerk's Office should be available as soon as possible after the first primary election. The deadline for casting such ballots is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on Tuesday. (*Miss. Code Ann. § 23-15-715(a)*)

B. Voting Absentee by Mail – Absentee ballots voted by mail must be available for the second primary as soon as possible following the first primary election. The deadline for receipt of absentee ballots mailed to the Circuit Clerk is 5:00 p.m. on the day immediately preceding the election. This is not a post-mark deadline but an actual "receipt" deadline. (*Miss. Code Ann. § 23-15-719*)

C. Voting Absentee Pursuant to UOCAVA – In the event a runoff election is possible,

the Circuit Clerk must transmit simultaneously the first primary and second primary (runoff) election absentee ballots to UOCAVA voters at least forty-five (45) days prior to the date of the first election, if a request has been made prior to that time. After the 45-period of time prior to the election, all UOCAVA absentee ballots for the first and second (runoff) primary elections must be transmitted to UOCAVA voters within twenty-four (24) hours of the Circuit Clerk's receipt of the request (FPCA). The deadline for receipt of second primary (runoff) absentee ballots returned to the Circuit Clerk's office by UOCAVA voters is 7:00 p.m. on the day of the second primary (runoff) election. (*Miss. Code Ann. § 23-15-699*)

3. *General Election*

A. Voting Absentee in the Circuit Clerk's Office – The first day for voting general election absentee ballots in the Circuit Clerk's office is forty-five (45) days before the date of the general election. The deadline for casting such ballots is 12:00 p.m. (noon) on the Saturday immediately preceding elections held on Tuesday. If the voter appears before the Circuit Clerk and the ballot is not yet available, the voter may complete an absentee ballot application and the Circuit Clerk is required to mail the absentee ballot to the voter once the ballots are available. (*Miss. Code Ann. § 23-15-715 (a)*)

B. Voting Absentee by Mail – Absentee ballots voted by mail must be available forty-five (45) days prior to the date of the election. The deadline for receipt of absentee ballots mailed to the Circuit Clerk's office is 5:00 p.m. on the day immediately preceding the election. This is not a post-mark deadline but an actual "receipt" deadline. (*Miss. Code Ann. § 23-15-715 (b)*)

A. Presidential Only Ballots – Absentee ballot received by mail by the Circuit Clerk's Office after 5:00 p.m. on the day immediately preceding the election but on or before 7:00 p.m. the day of the election, shall be counted, but only for the office of President of the United States. (*Miss. Code Ann. § 23-15-731*).

B. Voting Absentee Pursuant to UOCAVA – Absentee ballots cast by UOCAVA voters must be transmitted to UOCAVA voters at least forty-five (45) days prior to the date of the election. The deadline for receipt of absentee ballots returned to the Circuit Clerk's office by UOCAVA voters is 7:00 p.m. on the day of the election.

In the event a runoff election is possible, the Circuit Clerk must transmit simultaneous absentee ballots for both the general election and potential runoff election at least forty-five (45) days prior to the date of the first election, if a request has been made prior to that time. After the 45-period of time prior to the election, all absentee ballots requests received thereafter from UOCAVA voters for the general and runoff elections must be transmitted within twenty-four (24) hours of the Circuit Clerk's receipt of a request (FPCA). The deadline for receipt of runoff absentee ballots returned to the Circuit Clerk by UOCAVA voters is 7:00 p.m. on the day of

the runoff election. (*Miss. Code Ann. § 23-15-699*)

I. Untimely Receipt of Absentee Ballots

Upon receipt by email, fax or mail of any absentee ballot after the applicable deadline, the Circuit Clerk shall write the day and hour of receipt of the ballot on its envelope. For those absentee ballots returned by e-mail or fax by UOCAVA voters, the Circuit Clerk shall first print the ballot (if returned by e-mail) and then place the ballot into an absentee ballot envelope designated for UOCAVA voters, writing the day and hour of the late receipt of the ballot on the envelope. All absentee ballots received by the Circuit Clerk's Office after the applicable deadline(s) shall be kept safely and unopened for at least 22-months, as required by statute. (*Miss. Code Ann. § 23-15-647*)

J. Hand Delivery of Absentee Ballots Prohibited

It is illegal to hand deliver absentee ballots in Mississippi. Absentee ballots are either voted in-person in the Circuit Clerk's Office or received and returned by mail to the Circuit Clerk's Office.

VII. POLL MANAGERS

The terms "poll manager" and "poll worker" often are used interchangeably as there is no legal distinction between a poll manager and a poll worker.

A. Who Appoints Poll Managers?

The County Party Executive Committees in Primary Elections and the County Election Commissions in General and Special Elections appoint Poll Managers, assign each manager to a precinct, and designate one of the Managers to be the Bailiff and one of the Managers to be the Receiving and Returning Manager. There is no statutory prohibition against a Poll Manager serving in both the Democratic Primary Election and the Republican Primary Election if the Poll Manager is independently appointed to act as a Poll Manager in each primary election and both primary elections are taking place in the same polling place on the same date. (*Miss. Code Ann. §§ 23-15-231; 23-15-251; Attorney General's Opinion: Martin, May 29, 1992*)

In all Mississippi elections, the Poll Managers designate from amongst themselves on the morning of the election who shall serve as the Initialing Manager and the Alternate Initialing Manager. The Manager designated as the Receiving and Returning Manager *cannot* serve as the Initialing Manager or the Alternate Initialing Manager. However, the Bailiff *may* act as the Initialing Manager or the Alternate Initialing Manager. (*Miss. Code Ann. § 23-15-541*)

B. Number of Poll Managers

The chart below provides a breakdown of the maximum number of poll managers who may be appointed based upon 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 or more	3	6	9

(*Miss. Code Ann. §§ 23-15-231, 23-15-235*)

A minimum of three (3) poll managers per polling place must be appointed by the election officials responsible for the conduct of the election. Additional Poll Managers may be appointed as set out in the chart above, in the discretion of the election officials charged with the conduct of the election. The absolute maximum number of poll managers who may serve in any one polling place is nine (9). (*Miss. Code Ann. § 23-15-235*)

The number of poll managers appointed by each respective county executive committee in Primary Elections is the same number as election commissioners may appoint pursuant to *Miss. Code Ann. §§ 23-15-231 and 23-15-235*. *(Miss. Code Ann. § 23-15-265)* The absolute maximum number of poll managers who may serve in any one polling place for each Primary Election is also nine (9); however, keep in mind, Republican and Democratic Primary Elections are conducted simultaneously, sharing polling places. Thus, each county executive committee for each party primary may appoint up to a maximum of nine (9) poll workers, if the number of registered voters of the particular precinct is sufficient to authorize the additional appointment. (*AG Op., Hon. Sara Carlson Dionne, Feb. 22, 2019)*

C. <u>Qualifications of Poll Managers</u>

A Poll Manager must be a registered voter of the county in which he/she is appointed to serve. Poll Managers should be registered voters of the precinct in which they work, if possible. (*Miss. Code Ann. § 23-15-23*1)

Election Commissions and Executive Committees, collectively as groups, are prohibited by law from hiring any person who is related within the first degree (spouse, child or parent) to any individual commissioner or member of the executive committee to work as a poll manager in any county polling place during an election. For example, the husband of an Election Commissioner cannot be hired to work in any precinct in the county during a November General Election. Or, the mother of a member of the Calhoun County Republican Executive Committee cannot be hired to work in any precinct in Calhoun County during the Republican Primary Election.

In addition, a relative of any candidate whose name is on the ballot may not work as a poll worker since such a situation may lead to suspicion among the public about the impartiality of the election process, which should be avoided pursuant to *Miss. Code Ann. 25-4-101*. Lastly, there is an inherent conflict of interest for any election official (poll manager, Election Commissioner, County Party Executive Committee member, Circuit Clerk) to campaign for any candidate whose name is on the ballot in an election in which he/she will

work. (*Mississippi Ethics Commission: Advisory Opinion No. 07-062-E; AG Op: Miller, June 17, 2010*)

D. **When to Make Appointments of Poll Managers**

For General and Special Elections, Poll Managers must be appointed far enough in advance of the election so training may be completed 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*)

E. **Party Affiliation of Poll Managers**

The poll managers who are appointed to serve in a General or Special Election cannot all be of the same political party if suitable persons of different political party affiliations can be found. (*Miss. Code Ann. § 23-15-231*)

F. **Compensation of Poll Managers**

Poll Managers are paid a minimum of seventy-five dollars ($75) to serve in an election. The County Board of Supervisors may, in their discretion, approve additional compensation in any amount not to exceed an additional fifty dollars ($50) per election. The Poll Managers who are designated as Receiving and Returning Managers are entitled to an additional twenty dollars ($20.00) per election, i.e., ten dollars ($10) for taking the ballot boxes to the polling place and ten dollars ($10) for returning the ballot boxes to Election Central after the election. If Receiving and Returning Manager uses a privately owned motor vehicle, he/she is entitled to receive the federal mileage rate for each mile actually and necessarily traveled in excess of ten (10) miles. (*Miss. Code Ann. §§ 23-15-227; 23-15-229*)

G. **Training Poll Managers**

The officials charged with conducting the election (the County Party Executive Committee in primary elections and the County Election Commissions in special and general elections), in conjunction with the Circuit Clerk, are responsible for training the Poll Managers as to their respective duties in the proper administration of the election and the operation of the polling place, no less than five (5) calendar days prior to an election. The Board of Supervisors, in their discretion, may authorize Poll Managers who attend training to be compensated 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(3))*

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

Alternate Poll Managers must be appointed pursuant to *Miss. Code Ann. §23-15-239* and trained to be able to take the place of another who becomes unable to serve on Election Day

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

H. Duties and Responsibilities of Poll Managers

All Poll Managers must ensure an election is conducted fairly and in accordance with the applicable law. They must resolve challenges to voters' qualifications and determine whether to accept or reject absentee ballots. (*Miss. Code Ann. § 23-15-233)*

1. The Bailiff

The Bailiff has a number of specific statutory duties and responsibilities which must be carried out to ensure a lawful, peaceful, and orderly election. These duties include the following:

a) Open the polls promptly at 7:00 a.m.

b) Keep order.

c) Verify the photo on the presented photo ID fairly depicts the voter, but only if one poll manager already has determined the photo on the presented ID does not fairly depict the voter,

d) Verify the voter's name on the presented photo identification is substantially similar to the voter's name as it appears on the pollbook, but only if one poll manager already has determined the name on the presented identification is not substantially similar to the name as it appears on the pollbook,

e) Line up voters waiting to vote. If someone is waiting to vote, the voter may occupy a voting booth for five (5) minutes. If no one is waiting to vote, the voter may remain in the voting booth no longer than ten (10) minutes. (*Miss. Code Ann. § 23-15-435*)

f) Prevent campaigning, electioneering and the distribution of campaign materials within one hundred fifty (150) feet of any entrance to the polling place, except, when such may take place on private property located within 150 feet of the entrance to the polling place;

g) Keep the entrance to the polling place clear from any and all interference and prevent loitering within thirty (30) feet of each entrance to the polling place.

h) Stand at the end of the line of voters at 7:00 p.m. and announce the close of polls, allowing those voters already in line at 7:00 p.m. to vote;

i) Check written credentials of poll watchers (Miss. Code Ann. § 23-15-245) and monitor poll watchers by using the guidelines set forth below and available on line at https://www.sos.ms.gov/Elections-Voting/Pages/Publications.aspx.

2. The Initialing (and Alternative Initialing) Manager

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

a) Write his/her initials, in red ink, on the back of the official blank paper ballot so the initials may be seen after the ballot has been marked and folded by the voter. Official blank paper ballots should not be initialed before issued to a voter.

b) Give (or issue) the initialed blank paper ballot to the voter.

c) After the voter has marked his/her ballot, a Poll Manager shall verify the Initialing Manager's initials are on the back of the ballot before it is placed into the ballot box or precinct scanner. (*Miss. Code Ann. § 23-15-541*)

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

3. The Receiving and Returning Manager

The one (1) Poll Manager per polling place designated by the election officials as the Receiving and Returning Manager, must perform the following tasks:

a) On the day before or on the morning of the election, obtain from the officials in charge of the election the box(es) for his/her polling place containing the ballots and all other necessary materials, including the pollbooks, blank tally sheets, blank forms to be used in making returns, cards of instruction, stationery, and other supplies. (*Miss. Code Ann. § 23-15-251*)

b) Sign the *Receiving and Returning Manager Receipt Form* (or such other similar form) attesting to the materials received in the ballot and supply boxes for the designated precinct. (*Miss. Code Ann. §§ 23-15-335, 23-15-591*)

c) Ensure the ballot box and its contents have not been tampered with prior to the opening of the polls by verifying the original seal number.

d) Deliver the ballot box and supply box to the designated polling place no later than 6:00 a.m. on Election Day. (*Miss. Code Ann. § 23-15-251*)

e) Return the ballot box and supply box, with all required contents, including, but not limited to, voted and blank paper ballots, to Election Central immediately following the closing of the polling place. (*Miss. Code Ann. § 23-15-531.10*)

VIII. <u>POLL WATCHERS</u>

1. Each candidate on the ballot has the right to have one (1) credentialed poll watcher present at the polling place.

2. In general elections only, each political party has the right to have two (2) credentialed poll watchers present at the polling place, if the political party has a candidate on the ballot.

3. Poll watchers are not permitted in the polling place to observe elections conducted on local referenda, such as the issuance of school bonds or on constitutional initiative measures.

4. Poll watchers are not allowed to campaign or attempt to influence or persuade voters.

5. A candidate or his/her poll watcher shall be provided a suitable location from which he/she may be able to see and hear the conduct of the election. Thus, each polling place should be arranged in such a way so as to afford poll watchers a place to sit where they may comfortably see and hear the election process, but not so close as to interfere in the election process, compromise a voter's privacy or intimidate a voter.

6. Poll watchers may be present at the public counting of the ballots, including the processing of absentee ballots and affidavit ballots.

7. Poll watchers may:

    - Bring copies of redacted pollbooks or voter rolls they have purchased or otherwise obtained,

    - Bring paper, notebooks or such other materials to keep notes,

    - Challenge the qualifications of any person offering to vote, including absentee voters. A challenge must be considered and acted upon by the poll managers at the time the challenge is made.

8. Poll watchers may NOT:

    - Move about the polling place communicating, interacting, speaking or greeting voters,

    - Influence, attempt to influence or harass voters,

    - Physically touch or handle any ballot, absentee ballot envelope, absentee ballot application or affidavit ballot envelope,

    - View or photograph the pollbooks while at the polling place,

    - Photograph the receipt books while at the polling place,

- Provide assistance to any voter,
- Interrupt the election process, or
- Distribute or display campaign material within one hundred fifty (150) feet of any entrance to the polling place.

IX. VOTERS' RIGHTS

All voters have the right to:

- Ask questions.
- Request assistance in the marking of his/her ballot, prior to voting but ONLY if the voter has affirmatively stated to poll managers he/she is visually impaired, physically disabled or unable to read or write.
- Review a sample ballot posted at the polling place prior to voting and take personal information into the voting booth.
- Mark a ballot in private, free from intimidation or interference.
- Choose not to cast a vote in any particular race.
- Cast a ballot if in line to vote at 7:00 p.m.
- Have his/her ballot counted if it is cast legally.
- Vote by an affidavit ballot if:
  - The voter's name is not in the pollbook,
  - The voter has moved to a different residence address within the same county but did not timely update his/her registration information and is not required to vote in a polling place associated with his/her current residence address,
  - The voter is unable to present an acceptable form of photo ID,
  - The picture of the voter's presented photo ID does not fairly depict the voter, or
  - The name on the voter's presented photo ID is not substantially similar to the voter's name as it appears in the pollbook.

X. THE VOTING PROCESS

A. By Paper Ballot with or without Precinct Scanners

1. A Poll Manager checks for the voter's name in the pollbooks. If you are unable to locate the voter's name in the pollbook, ask if the voter has had a name change or address change:

   a) Check under maiden name or married name(s);
   b) Check for hyphenated names;
   c) Check for a misspelling or unusual spelling of the voter's name;
   d) Check to see if the voter was listed under his/her first name instead of his/her last name; or
   e) Find out when and where the voter registered to vote.

2. Verify the voter is in the correct precinct. Poll managers should make every effort to ensure the voter is in the correct precinct, including calling the office of the Circuit Clerk or the Election Commission to verify the voter's correct polling place associated with the voter's current residence/home address.

3. Ask voter to present an acceptable form of photo ID. (***See***, VOTER PHOTO IDENTIFICATION REQUIREMENTS at page 32).

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 pollbook.

6. Write "VOTED" in the pollbook beside the voter's name and in the column with the election date in the header. (*Miss. Code Ann. § 23-15-545*)

7. The voter signs his/her name in the receipt book.

8. The Initialing (or Alternate Initializing) Manager writes his/her initials in red ink on the back of the official blank paper ballot where the initials may be seen after the ballot has been marked and folded by the voter; the ballot is then issued to the voter.

9. The voter goes immediately into one of the voting booths and marks his/her ballot;

10. With ink or indelible pencil, the voter must fill in the oval opposite the name of the candidate of his/her choice for each office on the ballot.

11. Before leaving the voting compartment, the voter must fold his/her ballot without displaying the markings but so 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.

12. A voter may not occupy a voting compartment already occupied by another voter. A voter may not occupy a voting compartment longer than five (5) minutes if other voters are waiting in line, or longer than ten (10) minutes if no other voters are waiting. (*Miss. Code Ann. § 23-15-551*).
13. The voter casts his/her ballot by returning it to a Poll Manager.

14. The Poll Manager verifies the ballot bears the genuine initials of the Initialing (or Alternate Initialing) Manager and returns the voted ballot to the voter who then deposits the ballot into the ballot box or inserts the voted ballot into a precinct scanner.

B. <u>By Direct Recording Equipment (DRE) – TSX Voting Machines</u>

1. A Poll Manager checks if the voter's name appears in the pollbooks. If the voter's name is unable to be located in the pollbook, ask if the voter has had a name change or address change:

   a) Check under maiden name or married names(s);
   b) Check for hyphenated names;
   c) Check for a misspelling or unusual spelling of the voter's name;
   d) Check to see if the voter was listed under his/her first name instead of his/her last name; 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 Circuit Clerk or the Election Commission to verify the voter's correct polling place associated with the voter's current residence/home address.

3. Ask voter to present an acceptable form of photo ID.

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 pollbook.

6. Write "VOTED" in the pollbook beside the voter's name and in the column with the election date in the header. (*Miss. Code Ann. § 23-15-545*)

7. The voter signs his/her name in the receipt book.

8. The voter is issued/given a Voter Access Card. The voter casts his/her ballot on the voting machine; and, after casting his/her ballot, the voter returns the Voter Access Card to a Poll Manager. (*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 TSX voting 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 TSX voting machine, two (2) Poll Managers shall give him/her further instruction on the use of the voting machine. After giving such instruction, the Poll Managers assisting the voter must leave before the voter casts his/her vote. The voter must be able to cast his/her vote in secret. After casting his/her ballot, the voter leaves the polling place. (*Miss. Code Ann. §§ 23-15-551; 23-15-437*)

11. Ballot Cancellation. If a voter leaves the voting booth without having pressed the appropriate location on the screen of the TSX voting machine 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.*

XI. MISSISSIPPI VOTER PHOTO IDENTIFICATION

All voters must present an acceptable form of photo identification before casting his/ her ballot in person at the polls on an election day or in the Circuit Clerk's Office during absentee voting.

Acceptable Photo Identification means a current and valid:

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

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

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

Voters who cannot present an acceptable form of photo ID at the precinct are entitled to vote by an affidavit ballot. No voter is ever refused or denied the right to vote.

A. Exemptions to the Photo ID Requirement

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

B. Processing Voters on Election Day with Photo ID

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

Upon presentment of a voter's photo ID, a poll manager must verify:

1. The presented identification is an acceptable form of photo ID as defined above.

   a) If the identification presented by the voter is NOT an acceptable photo ID, the voter is entitled to vote by an affidavit ballot.

2. The photo on the presented identification fairly depicts the voter.

   a) If the poll manager determines the photo on the presented ID does NOT fairly depict the voter, the poll manager must confer with a second poll manager.

   b) If the second poll manager determines the photo on the presented ID fairly depicts the voter, the voter shall cast his/her ballot on the voting machine.

c) If the second poll manager determines the photo on the presented ID does NOT fairly depict the voter, the voter is entitled to vote by an affidavit ballot.

3. The name on the presented photo identification is substantially similar to the voter's name as it appears on the pollbook.

   a) If the poll manager determines the name on the presented photo ID is NOT substantially similar to the voter's name as it appears on the pollbook, the poll manager must confer with a second poll manager.

   b) If the second poll manager determines the name on the presented photo ID is substantially similar to the voter's name as it appears on the pollbook, the voter shall cast his/her ballot on the voting machine.

   c) If the second poll manager determines the voter's name on the presented photo ID is NOT substantially similar, the voter is entitled to vote by an affidavit ballot.

An affidavit ballot cast by a voter based in any way upon photo ID CANNOT be rejected for this reason if the voter presents an acceptable form of photo ID, having a picture which fairly depicts the voter and a name which is substantially similar to the voter's name as it appeared in the pollbook in the Circuit Clerk's Office in the voter's county of residence within ***five (5) business days*** after Election Day.

Conversely, an affidavit ballot cast by a voter based in any way upon photo ID MUST be rejected for this reason if the voter does not present an acceptable form of photo ID, having a picture which fairly depicts the voter and a name which is substantially similar to the voter's name as it appeared in the pollbook in the Circuit Clerk's Office in the voter's county of residence within ***five (5) business days*** after Election Day.

C. <u>Substantially Similar Defined</u>

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

1. The voter's name on the presented photo ID is slightly different from the voter's name as it appears on the pollbook.

2. The voter's name on the presented photo ID (or on the pollbook) is a customary derivation or abbreviation of the formal name, such as Bill, Will or Billy for William, Rick, Rich or Dick for Richard, or Meg for Margaret.

3. The voter's name on the presented photo ID includes an initial or middle name which does not appear on the pollbook, or vice versa.

4. A first name, middle name, maiden name or initial of the voter appears in a different order on the presented photo ID than on the pollbook, or vice versa.

5. If the voter's middle or last name on the presented photo ID is different than his/her middle or last name on the pollbook because of marriage or divorce, the name is substantially similar if:

    - A part of the name, address OR date of birth on the presented photo ID matches a part of the voter's name, address OR date of birth on the pollbook, and

    - The photograph on the presented photo ID fairly depicts the voter.

If the poll manager(s) verify the voter presented an acceptable photo ID which fairly depicts the voter, having a name which is substantially similar to the voter's name as it appears on the pollbook, then the voter casts his/her ballot on the voting machine.

If, however, the poll manager(s) determine:

1) the voter did not present an acceptable photo ID, or

2) the picture on the presented photo ID did not fairly depict the voter, or

3) the name on the presented photo ID was not substantially similar to the voter's name as it appears on the pollbook,

then the voter must cast an affidavit ballot. These affidavit voters have five (5) business days after Election Day to present an acceptable photo ID which fairly depicts the voter having a name which is substantially similar to the voter's name as it appears on the pollbook.

XII. VOTER ASSISTANCE

Any voter, who ***affirmatively states*** to the poll manager(s) he/she is ***blind, disabled or unable to read or write***, may receive assistance in marking his/her ballot in the voting booth, or on the TSX voting machine, from any person of the voter's own choosing (*Miss. Code Ann. § 23-15-549*). ***These are the only reasons.***

1. How Does a Voter Get Assistance in the Voting Booth?

To receive assistance, the voter must tell a poll manager he/she needs help marking his/her ballot and state one of the reasons listed above. The voter chooses who provides assistance to him/her in marking his or her ballot.

2. Who Can Assist a Voter in the Voting Booth?

Any person of the voter's own choosing may assist him/her in marking the ballot EXCEPT:

- A candidate whose name is on the ballot,
- The spouse, parent, sibling or child of a candidate whose name is on the ballot,
- A poll watcher who is observing in the polling place on Election Day,

- The voter's employer or a representative of the voter's employer, or
- An officer or agent of the voter's union.

A candidate whose name is on the ballot, or the spouse, parent, sibling or child of a candidate whose name is on the ballot, MAY provide assistance to a voter to whom he/she is related within the first degree. A parent, child or sibling is a relative within the first degree.

Any person providing assistance must not persuade or influence the voter. (*Miss. Code Ann. § 23-15-549*)

XIII. PAPER BALLOT TYPES

A. Affidavit Ballots

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 pollbook for any reason and those who have moved to a different residence address within the same county but did not timely update their registration information must cast an affidavit ballot.

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. (*Miss. Code Ann. § 23-15-573*)

The affidavit ballot envelope must be completed by the voter and must include: the voter's name, residence and mailing addresses, both current and previous, date of birth, last four of his/her social security number or MS driver's license number, telephone number, and voter's signature. A Poll Manager must also sign the affidavit ballot envelope. The failure of the voter or the Poll Manager to sign the affidavit envelope will result in 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 instruction on how to ascertain whether his/her vote was counted, and if not, why by contacting the election officials charged with conducting the election or the Circuit Clerk's Office. (***See***, *Appendix A*)

The election officials, the Party Executive Committee for primary elections and the Election Commission for general and special elections, examine the records when canvassing the returns of the Election and allow affidavit ballots to be counted or not counted, as each appears to be legal. 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. (*Miss. Code Ann. § 23-15-573*)

Voters casting an affidavit ballot because they were unable to present an acceptable form of photo ID are provided five (5) business days from the date of the Election within which to return to the Circuit Clerk's Office to present an acceptable form of photo ID, obtain the free Mississippi Voter ID card or sign an Affidavit of Religious Objection. The affidavit ballot of those voters who fail to do so must be rejected by the election officials; the affidavit ballot of those voters who do return to the Circuit Clerk's Office within five (5) business days of the Election may not have their affidavit ballot rejected on the basis of photo ID.

B. <u>Curbside Ballots</u>

A physically disabled voter who drives, or is driven, to the polling place but is unable to enter the polling place may vote curbside on Election Day.

If the poll managers, in exercising their sound discretion, determine a physically disabled voter has arrived at the polling place in a motor vehicle to vote, two (2) or more poll managers take the pollbook, the receipt book, and a paper ballot or voting device to the motor vehicle. After determining the curbside person is a qualified voter as provided by law, the poll managers shall ask the voter to present his/her acceptable photo ID. After determining the presented photo ID is acceptable, contains a picture which fairly depicts the voter and a name which is substantially similar to the voter's name as it appears on the pollbook, the poll managers shall allow the curbside voter to cast his/her ballot in secret.

To ensure the voter's privacy in casting his/her ballot, other passengers in the motor vehicle, excluding the curbside voter and any other disabled person in the vehicle, must exit the motor vehicle until the curbside voter has completed casting his/her ballot.

If the curbside voter is provided a paper ballot, the initialing manager (or alternate initialing manager) initials the ballot as provided by law, and after marking the ballot, the voter either folds the ballot or places the same in a privacy sleeve. The initialing manager (or alternate initialing manager) verifies the initials on the marked ballot are genuine and, if the initials are genuine, the poll managers write "VOTED" by the voter's name in the pollbook. The voter signs his/her name in receipt book for non-affidavit voters. The initialing manager (or alternate initialing) managers immediately returns to the polling place and deposit the voted ballot in the sealed ballot box. ***A curbside voter is not an affidavit voter. A curbside ballot is not placed into an affidavit ballot envelope but is deposited directly into the sealed ballot box.***

If, while a voter is voting by curbside, there are less than three (3) poll managers inside the polling place conducting the election, all voting inside the polling place stops until the poll managers conducting the curbside voting return to the polling place. At least three (3) poll managers must be present inside the polling place to conduct the election or each party primary election at all times, and until a minimum of three (3) managers are present. The remaining poll manager(s) ensure the security of the ballot box, the voting devices, ballots and election materials. (*Miss. Code Ann. § 23-15-541*)

C. Challenged Ballots

If a voter's qualifications to cast a ballot are challenged, the poll managers must immediately CONSIDER AND ACT upon the challenge. In making a decision upon a challenge, the poll managers must consider the statements of the person making the challenge AND of the person challenged as well as any documentation or other available information, time-permitting.

1. Who may challenge a voter's qualifications to cast a ballot?

- A candidate;
- A candidate's representative/credentialed poll watcher;
- A political party's credentialed poll watcher (not applicable for party primaries);
- Any qualified voter from that precinct; or
- Any poll manager in the polling place.

2. *What are the reasons for a challenge?*

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

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

3. *When a voter's qualifications to cast a ballot is challenged.*

- 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. The voter is provided with an official paper ballot or in counties using the TSX voting machine, a Voter Access Card.

- If the poll managers unanimously determine the challenge is VALID or WELL TAKEN, a paper ballot is issued to and voted by the voter. The ballot is immediately REJECTED in the following manner:

    a) Write "Rejected" on the back of the ballot;

b) Write the name of the voter on the back of the ballot,

c) The rejected ballot is deposited in the sealed ballot box.

d) At the close of the polls, when the ballot box is opened, all rejected ballots are placed in a separate strong envelope marked for rejected ballots; then,

e) The envelope is sealed and deposited into the sealed ballot box.

- If the poll managers cannot make a unanimous decision, a paper ballot is issued to and voted by the voter.

a) Challenged" is marked on the back of the ballot with the reason the challenge of the voter was made,

b) The name of the voter is written on the back of the ballot, and

c) The challenged ballot is deposited in the sealed ballot box.

d) At the close of the polls, when the ballot box is opened, the challenged ballots are separately counted, tallied and totaled, with a separate return made of the challenged ballots.

e) All challenged ballots are placed in a separate strong envelope marked for challenged ballots, then

f) The envelope is sealed and deposited into a sealed ballot box. (*Miss. Code Ann. § 23-15-579*)

D. <u>Emergency Ballots</u>

Paper scannable or non-scannable ballots may be used as emergency ballots but only in the event of the voting machine becomes inoperable, such as during a power outage. If such an event should occur, the poll manager should immediately contact the county election officials charged with the conduct of the election. Voting continues without delay and voters are processed as paper ballot voters as discussed previously herein. (*Miss. Code Ann. § 23-15-531.12*)

An emergency ballot is not an affidavit ballot and is not placed into an affidavit ballot envelope, but is directly deposited into the sealed ballot box. All emergency ballots are counted at Election Central. These ballots are not entered into the TSX voting machines at the polling place.

E. <u>Spoiled Ballots</u>

A voter who mistakenly marks a paper ballot is entitled to receive a total of three (3) ballots. If a ballot is spoiled, write "Spoiled" across the face of the ballot and place it in the spoiled ballot envelope. During precinct closing, count the total number of spoiled ballots in the spoiled ballot envelope and write the total number on the front of the envelope. The spoiled ballot envelope is placed in the ballot box at the end of the day.

XIV. GENERAL PROHIBITIONS AT THE POLLS

A. 150-Foot Rule

It is unlawful for any candidate for elective office, or any representative of a candidate, to post or distribute cards, posters, or other campaign literature within one hundred fifty (150) feet of any entrance to a building in which an election is being conducted.

It is also unlawful for any person to collect signatures on initiative petitions proposing a constitutional amendment within one hundred fifty (150) feet of any entrance to a polling place. This is different from those who are collecting signatures on a local referenda, such as a light wine and beer election, who are prohibited from collecting those signatures within thirty (30) feet of any entrance to a polling place. (*Miss. Code Ann. § 23-17-57(4)*).

B. Private Property

If a polling place is within one hundred fifty (150) feet of private property, the owner of the private property may post or distribute or permit the posting and distribution of campaign literature on his/her property.

C. Thirty-Foot Rule

No loitering is allowed within thirty (30) feet of the polling place. The Bailiff is to keep the area clear of all persons except election officials, credentialed poll watchers and voters. After casting his/her vote, a voter should leave, making room for other voters.

D. Disturbances

If anyone becomes unruly or abusive, the Bailiff should ask him/her to leave. If he/she will not leave, call a local law enforcement officer. All poll managers and persons in the voting place are to aid in keeping the peace. If law enforcement officers must handle the situation, they must leave the premises upon completion.

E. Wearing Campaign Paraphernalia

Wearing T-shirts, buttons, stickers, etc., bearing a candidate's name or likeness within one hundred fifty (150) feet of any entrance to a polling place constitutes campaigning and is prohibited by Mississippi law. Recent U. S. Supreme Court decisions have not rendered

Mississippi's law unconstitutional but have instead upheld Mississippi's prohibition given its limited application to only campaign material related to a candidate on the ballot. Such paraphernalia must be covered or removed before a voter comes within one hundred fifty (150) feet of any entrance to a polling place. (*Miss. Code Ann. § 23-15-895*)

F. 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.

G. 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 convicted shall be guilty of a misdemeanor and be imprisoned in the county jail not more than six (6) months, or be fined more than Five Hundred Dollars ($500.00), or both. (*Miss. Code Ann. § 97-13-35*)

H. Other Prohibitions

It is unlawful for a candidate, or his/her authorized representative, to appear at any polling place armed or uniformed or displaying any badge or credentials except as may be issued by the managers of the precinct. (*Miss. Code Ann. § 23-15-895*)

XV. COUNTING THE VOTES

A. Processing Absentee Ballots

At the close of the polls, the Poll Managers 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 has a corresponding absentee ballot application.

2. Ensuring the absentee ballot application contains the original seal of the Circuit Clerk's Office.

    - EXCEPTION: Military and overseas voters (UOCAVA) may use the Federal Post Card Application (FPCA) to request an absentee ballot. The FPCA is available on-line and is therefore NOT issued by the Circuit Clerk's Office. Therefore, a FPCA filed by a UOCAVA voter will NOT have the original seal or any seal whatsoever of the Circuit Clerk's Office. A UOCAVA absentee ballot

must not be rejected for this reason.

3. Ensuring the absentee ballot application contains the original initials of the Circuit Clerk or deputy clerk.

    - EXCEPTION: A FPCA filed by a UOCAVA voter will NOT have the original initials of the Circuit Clerk or a deputy clerk for the reasons as stated above. A UOCAVA absentee ballot must not be rejected for this reason.

4. Ensuring the absentee ballot application is signed by the voter.

    - EXCEPTION: A FPCA may be electronically signed by a UOCAVA voter, meaning the voter's name may be typewritten, instead of actually signed. A UOCAVA absentee ballot must not be rejected for this reason.

5. Ensuring the absentee ballot application is signed by either the Circuit Clerk or deputy clerk, or by someone authorized to administer oaths, such as a notary public, who is acknowledging the voter' signature; unless, the voter cast an absentee ballot because he/she is temporarily or permanently disabled, then only the signature of a witness is required on the application.

    - EXCEPTION: A FPCA may be electronically signed by a UOCAVA voter, meaning the voter's name may be typewritten, instead of actually signed. A UOCAVA absentee ballot must not be rejected for this reason.

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.

8. Ensuring the absentee ballot envelope is signed across the flap by the Circuit 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 as absentee ballot because he/she is temporarily or permanently disabled, then only the signature of a witness is required across the flap of the envelope.

If items 1 through 8 above are present and 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 by checking the poll book, the envelope is marked "ACCEPTED."

If any one of the items listed in 1 through 8 above is absent, or if the voter is not a registered voter of the precinct, meaning his/her name is not in the pollbook, or if the voter did appear in person and cast a ballot in the precinct on Election Day, meaning VOTED is written in the pollbook next to the voter's name, then the envelope is marked "REJECTED."

If a central scanner at Election Central 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 before counting any paper ballots. (*Miss. Code Ann. § 23-15-639*)

If a central scanner at Election Central 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 in charge 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*)

B. <u>Counting Paper Ballots</u>

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 may not be counted as the absence of initials renders the 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 collectively are required to count paper ballots.

During the counting of the ballots, all the 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. No persons, except sworn election officials, may touch any ballot or election material.

Candidates, or their duly authorized representatives, have the right to reasonably view ballots as they are taken from the box and counted. (*Miss. Code Ann. § 23-15-581*)

C. <u>Using Precinct Scanners</u>

When the polls have been closed and all accepted absentee ballots having counted by the

OMR equipment, all voted ballots must be sealed in the ballot box. The Receiving and Returning Manager delivers the sealed ballot box to election central. The Poll Managers 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*)

D. 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 observation of the public. No persons, however, except the county election officials, may touch any ballot or other election material removed from the ballot boxes. 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*)

E. 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 a training session for up to two (2) hours. The training session shall be specific to the duties of the Resolution Board with regard to the election. An odd number of not less than three (3) members shall be appointed. Judges of the Resolution Board cannot include Election Commissioners; candidates and parents, siblings or children of candidates; members of the Party Executive Committee, in a Primary Election; and members of the Party Executive Committee in a General Election unless all political parties who have a candidate on the ballot have a member appointed.

All ballots rejected by the OMR 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 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.

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 marking 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 equipment.

All ballots rejected by the OMR tabulating equipment which contain overvotes are reviewed by the Resolution Board. Ballots upon which an overvote appears and voter's intent cannot be determined by the Resolution Board, may not be rejected in their entirety. 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; or, at the direction of the officials in charge of the election, overvoted ballots may be counted manually.

The returns printed by the OMR tabulating equipment, to which have been added the manually-tallied ballots, shall be duly certified by the election officials 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*)

F. <u>Counting Votes and Determining Results with DRE Voting Equipment</u>

In elections in which DRE voting equipment is used, the paper ballots (excluding affidavit ballots and absentee ballot if a central scanner is being used at election central) 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 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 the memory card transport bag which is sealed and initialed by the Poll Manager so it cannot be opened without breaking the seal. The memory card transport bag shall be placed in the ballot box for transport, with all other election material. The Receiving and Returning Manager returns the sealed ballot box to Election Central. (*Miss. Code Ann. § 23-15-531.10*)

G. Proclamation of Results and Sealing of the Ballot Box

When the votes have been completely and correctly counted and tallied by the Poll Managers, they publicly proclaim the results of the election at their box. The Poll Managers certify in duplicate a statement of the results, signed by the Poll Managers. One of the certificates is enclosed in the ballot box, and the other is 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 Poll Managers 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 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 books 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 books. When all the materials have been placed in the ballot box, it is sealed by the Poll Managers of the precinct. (*Miss. Code Ann. § 23-15-591*)

XVI. CANVASSING AND CERTIFYING RETURNS

A. Primary Elections

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

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

The County Party Executive Committee shall meet no later than one (1) week from the day of the primary election to receive and canvass the returns, which includes accepting and rejecting affidavit ballots. After all affidavit ballots are processed, the Executive Committee will declare the results, and announce the names of those candidates to be submitted to the second primary and the names of the nominees for county and county district offices within ten (10) calendar days of the Primary Election. A duplicate of all tabulations by precincts as certified by the Poll Managers shall be filed with the Circuit Clerk, who shall preserve those materials in his/her office. Signed recapitulation reports and certification are delivered to the Secretary of State, State Party Executive Committee, Circuit Clerk, and County Election Commissioners. (*Miss. Code Ann. §§ 23-15-597; 23-15-599*)

The Executive Committee should proceed expeditiously but deliberately and carefully with its certification, because the Executive Committee does not have the authority to reassemble and alter or amend the certification of the results of the election. Any error which may be made in the original canvass of the returns only may be corrected by a court of competent jurisdiction. (*AG Op., Lawrence Mann, December 6, 1988*)

B. General and Special Elections

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

If it appears any two (2) or more of the candidates receiving the highest number of votes have received an equal number of votes, the election shall be decided by the toss of a coin or by lot fairly and publicly drawn.

Within ten (10) days after any election, the Election Commission shall certify to the Secretary of State the names of the persons elected by the Official Recapitulation which contains a certification signed and dated by a majority of the Election Commission. The Recapitulation may be sent via email or fax.

The Election Commission should proceed expeditiously but deliberately and carefully with its certification, because the Commission does not have the authority to reassemble and alter or amend the certification of the results of the election. Any error which may be made in the canvass of the returns only may be corrected by a court of competent jurisdiction. (*AG Op., Mann, December 6, 1988*)

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

C. Irregularities in a Ballot Box

When a ballot box is opened and examined by the election officials, and it is found

there have been a material failures to such an extent as it is impossible to determine the will of the voters, 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 the purpose of electing or defeating a certain candidate(s) by manipulating the election or the returns thereof at that box. In such event, the election officials shall conduct a hearing and make a determination about the box as may appear lawfully just, including, without limitation, holding a new election in that precinct. (*Miss. Code Ann. § 23-15-593*)

XVII. CONTESTING AN ELECTION

A. Ballot Box Examination

When the returns for a box, the contents of the ballot box, and the conduct of the election have been canvassed and reviewed by the Executive Committee, in the case of primary elections, or by the Election Commission, in the case of general and special elections, all the contents required to be placed and sealed in the ballot box by the Managers shall be put back in the box by the Executive Committee or the Election Commission. The ballot box shall be immediately resealed and delivered to the Circuit Clerk who shall keep the ballot box and secure it against any tampering. The contents of the sealed ballot box shall include: one certificate showing the results of the box, all voted ballots, all spoiled ballots, and all unused ballots. Also included in the box shall be a duplicate receipt showing the number of blank ballots received, the tally list, the receipt booklet containing the signed names of the voters who voted, all absentee voter applications, absentee envelopes, absentee ballots, and list of absentee voters. After the officials in charge of the election process affidavit ballots, the affidavit ballots and envelopes shall also be returned to the sealed ballot box as well. (Attorney General's Opinion: Nicholson, October 23, 1997)

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 of full examination of the ballot box(es) and their contents. Three (3) days' advanced written notice of the candidate's request to the Circuit Clerk to examine the ballot box must be provided to each opposing candidate by delivering a copy personally to each candidate, or by performing two (2) of the following:

a. By leaving a copy at each candidates' usual place of residence with a family member, who shall be no less than sixteen (16) years of age and, who resides in the candidate's residence;
b. By email or other electronic means, with receipt deemed upon transmission; or
c. By mailing a copy of the notice by registered or certified mail that is addressed to each opposing candidate at that candidate's residence with receipt deemed mailing.

If service cannot be made to any opposing candidate, then notice may be posted on the door of each candidate's usual place of abode. Proof of service of notice upon any opposing candidate shall be made to the Circuit Clerk within three (3) days before a full examination of the ballot box may be conducted. (*Miss. Code Ann. § 23-15-911*)

The Circuit Clerk, or a deputy, will oversee the ballot box examination. It is the Circuit Clerk's responsibility to ensure the contents of the box are not damaged, altered, or in any way tampered. The Clerk should also ensure the contents of the box are preserved, and no contents are taken from the room where the examination occurs. The Attorney General's Office has opined "ballots should not be copied" on a copy machine or photographed by camera or cell phone during the ballot box examination. (*AG Op., 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 which gives the candidate who requests a ballot box examination to have multiple examinations. Once the candidate finishes the ballot box examination, all material shall be returned to the ballot box, and the box shall be resealed. (*AG Op., Neal, September 26, 2003*)

If any contest or complaint before a court shall arise over the box, it shall be kept intact and sealed until the court hearing, and another ballot box, if necessary, shall be furnished for the precinct involved. (*Miss. Code Ann. § 23-15-911*)

B. <u>Filing Complaint or Contest</u>

1. Primary Election

If a person wants to contest the election of another person as the nominee of the party for any county or county district office, within twenty (20) calendar days after the primary election, the person may file a petition with the Secretary or any other member of the Executive Committee. The petition shall set forth the grounds upon which the primary election is contested. (*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 primary 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 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 petition for judicial review must be filed within ten (10) days after any contest or complaint has been filed with an Executive Committee. 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 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 asked for should be granted. (*Miss. Code Ann. § 23-15-927*)

The person filing the complaint and the petition must give a cost bond in the amount of three hundred dollars ($300), with two or more sufficient sureties promising to pay all costs if the petition is dismissed. The Judge may require an additional bond at any stage of the proceedings. As soon as the complaint, the petition, and the bond are filed, the Circuit Court must immediately notify the Chief Justice of the Supreme Court personally or by registered letter, telegraph, or telephone. The Chief Justice will then designate to hear the contest a Circuit Judge or retired judge on senior status of a district which does not include the county in which the irregularities are alleged to have occurred. (Miss. Code Ann. §§ 23-15-927; 23-15-929).

2. *General and Special Elections*

A person desiring to contest the election of another person to any county or county district office may, within twenty (20) calendar days after the election, file a petition in the office of the Clerk of the Circuit Court of the county. The petition must set forth the grounds upon which the election is contested. 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 chancellor of a district which does not include the county in which the irregularities are alleged to have occurred to hear and determine the contest.

The Circuit Clerk shall issue a summons to the party whose election is contested, returnable to the next term of the court. The summons shall be served as in other cases. At the next term, the Court shall cause an issue to be made up and tried by jury, and the verdict of the jury shall find the person having the greatest number of legal votes at the election. If the jury shall find against the person elected, the Circuit Clerk shall issue a certificate to that effect.

The person in whose favor the jury finds shall be commissioned by the Governor and shall qualify and enter upon the duties of his/her office. Each party shall be allowed ten (10) preemptory challenges, and new trials shall be granted and costs awarded as in other cases. (*Miss Code Ann. § 23-15-951*)

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