

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

April 26, 2019

Linda Hartfield  
Lamar County Election Commission  
Post Office Box 369  
Purvis, Mississippi 39475-0369

Re: E-mails in lieu of signed documents

Dear Ms. Hartfield:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply.

### Issues Presented

In your request, you provide:

We have recently received several requests from registered voters in our area to accept e-mailed statements instead of signed documents regarding changes in voter status such as removal from voter rolls, etc. The Lamar County Election Commission respectfully requests your opinion as to the validity of using these e-mails in lieu of signed documents to affect changes in the voter rolls that require signatures.

### Preface

We preface our response to your inquiry by stating that we find no statutory requirement that a voter's request to change his or her voter status contain a signature.

### Response

We will address three (3) specific instances that involve changes to a voter's status: 1) removal of a voter's name from the voter rolls at the request of the voter; 2) notification from a voter that he or she has moved out of the county; and 3) notification from a voter that he or she has moved to another precinct within the county.

While we find no requirement that a voter's request to have his or her name removed from the voter rolls be in writing, if an e-mail from a voter requests to have his or her name removed from the voter rolls, we are of the opinion that it is sufficient for the election commission to purge that voter's name from the voter rolls upon verification that the e-mail is from the voter in question.

If an e-mail is sent as notification that the voter has moved out of the county, we are of the opinion that the election commission may consider it a written request in accordance with the National Voter Registration Act of 1993 (NVRA) as required by Section 23-15-153 of the Mississippi Code upon verification that the e-mail is from the voter in question.

If an e-mail is sent as notification that a voter has moved within the county, we are of the opinion that the election commission may consider it a written request as required by Section 23-15-13 to move the voter's name on the voter rolls to the precinct of his or her new residence upon verification that the e-mail is from the voter in question.

Verification that an e-mail is from the voter in question may be made by telephone or a face-to-face conversation with the voter or other reliable method. Any such verification should be documented and preserved as a record of the election commission.

## OFFICIAL OPINION

Analysis and Law

Section 1-3-61 of the Mississippi Code provides:

The term "written," when used in any statute, may include, but is not limited to, printing, engraving, and lithographing. In all cases where the signature of any person is required by law, it shall always be the proper handwriting of such person, or, in case he be unable to write, his proper mark, unless a different form of legal signature is specified in another statute."

That statute was amended in 2012 by adding the phrase "but is not limited to." This makes the statute much less restrictive as to what may be considered "written." An e-mail requesting a change in voter status is a written, as opposed to a verbal, request.

Section 23-15-153 provides, in part:

(T)he election commissioners shall meet at the office of the registrar or the office of the election commissioners to carefully revise the county voter roll as electronically maintained by the Statewide Elections Management System **and remove from the roll the names of all voters who have requested to be purged from the voter roll**, died, received an adjudication of non compos mentis, been convicted of a disenfranchising crime, or otherwise become disqualified as electors for any cause, and shall register the names of all persons who have duly applied to be registered but have been illegally denied registration.

\* \* \*

Except for the names of those voters who are duly qualified to vote in the election, no name shall be permitted to remain in the Statewide Elections Management System; **however, no name shall be purged from the Statewide Elections Management System based on a change in the residence of an elector except in accordance with procedures provided for by the National Voter Registration Act of 1993.**

(Emphasis added).

Therefore, by state law, the purging of a voter's name from the registration records must be done in accordance with the National Voter Registration Act of 1993 (NVRA).

The NVRA in 52 U.S.C.A. Section 20507 provides, in part:

(a) In general

In the administration of voter registration for elections for Federal office, each State shall--

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(3) provide that the name of a registrant may not be removed from the official list of eligible voters except--

(A) at the request of the registrant;

(b) Confirmation of voter registration

Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office--

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 *et seq.*); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual--

(A) has not either notified the applicable registrar (in person or in writing) or responded during the period described in subparagraph (B) to the notice sent by the applicable registrar; and then

(B) has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.

Subsection (d) referred to above provides:

**(d) Removal of names from voting rolls**

(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant--

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

In the instance where a voter wishes to have his or her name removed from the voter rolls, the NVRA has only one simple requirement that must be met in order to purge a voter's name from the voter rolls, *i.e.*, the request of the voter.

The Department of Justice's website contains a section on frequently asked questions on the NVRA.

Question 31 is: What is "removal at the request of the registrant." The Justice Department's response is:

A "removal at the request of the registrant" under the NVRA involves **first-hand information** from a registrant that can originate in at least three ways: 1) a registrant requesting to remove his or her name from the voting registration list, .....

(Emphasis added).

It is apparent that a legitimate verified e-mail from a registrant constitutes first-hand information regarding his or her voting status. Therefore, once the election commission has verified that the e-mail is from the voter in question, the change requested may be effectuated.

In the instance where a verified e-mail provides information that the voter has moved out of the county in accordance with 52 U.S.C.A. Section 20507 (b) and (d), the voter's name may be removed from the voter rolls. *MS AG Op., Glaskox* (October 11, 2013).

In the instance where a verified e-mail provides information that the voter has moved to a new precinct within the county, the election commission may consider it a written request as required by Section 23-15-13 which provides:

(1) An elector who moves from one (1) ward or voting precinct to another ward within the same municipality or voting precinct within the same county shall not be disqualified to vote, but he or she shall be entitled to have his or her registration transferred to his or her new ward or voting precinct upon making written request therefor at any time up to thirty (30) days before the election at which he or she offers to vote, and if the removal occurs within thirty (30) days of such election he or she shall be entitled to vote in his or her new ward or voting precinct by affidavit ballot as provided in Section 23-15-573. If the thirtieth day to transfer the elector's registration before an election falls on a Sunday or legal holiday, the transfer of the elector's registration submitted on the business day immediately following the Sunday or legal holiday shall be accepted and entered into the Statewide Elections Management System for the purpose of enabling voters to vote in the next election.

(2) If an elector requests a change in his or her address under Section 23-15-49 and the address is located in a precinct in the county or municipality that differs from the precinct as reflected in the then current registration records, the request shall be treated in the same manner as a written request to transfer the elector's registration under subsection (1) of this section.

The above referenced Section 23-15-49 was enacted in 2016 and "establish(ed) a secure internet website to permit registered voters to change their name, address or other information set forth in the elector's existing voter registration record." As of the date this opinion is being issued, a voter who is already a registered Mississippi voter and has a current and valid Mississippi driver's license or photo identification card issued by the Mississippi Department of Public Safety can update his or her name and address information on the Secretary of State's website. This website also currently provides a printable form to cancel voter registration in Mississippi, which must be printed, signed and mailed (or delivered) to the appropriate circuit clerk. This provides another way to make changes to a voter's status but may not be available to or practical for many voters.

### **Conclusion**

The Mississippi Legislature has mandated that the removal of a voter's name from the registration records be done in accordance with the NVRA.

When a voter wishes to have his or her name removed from the voter rolls, the NVRA only requires that the voter request such removal. While there is no requirement that this be in writing, a verified e-mail is a valid request. When a voter provides written information by an e-mail that has been verified that he or she has moved out of the county, the election commission may remove that individual's name from the voter rolls. When a voter provides information by a verified e-mail that he or she has moved within the county, the election commission may use that information to make the necessary change on the voter rolls to ensure that the voter is voting in the proper precinct.

There are no requirements that the requests discussed above be in the form of a **signed** written statement. Therefore, we are of the opinion that a verified e-mail is a legitimate method to provide first-hand information regarding the voting status of a voter.

To say that a verified e-mail does not constitute written notification that a voter has moved out of the county would be to require election commissions to go through the cumbersome statutory "confirmation" process set out in the NVRA. Generally, this entails sending a confirmation card to the address of record of the voter; and if the voter does not respond and the card comes back undeliverable, the election commission must put the voter's name on an inactive list and wait until two federal general elections have occurred before removing the voter's name from the voter rolls. See 52 U.S.C.A. Section 20507 (d)(1)(B)(ii).

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Phil Carter  
Special Assistant Attorney General