

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

June 21, 2019

The Honorable Danny Glaskox
Chairman, Jackson County Election Commission
4111 Amonett Street
Pascagoula, Mississippi 39567

Re: Impartiality of election commissioners

Dear Mr. Glaskox:

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

Background

You state that many election commissioners are "liking" candidates on Facebook and that some are making comments about candidates. You further state that your understanding is that election commissioners must remove themselves from any involvement in elections.

Question

Since WE as election commissioners are required to be impartial and fair in our official capacity, is it proper or legal for election commissioners to basically endorse a candidate by "liking" that candidate and commenting on a candidate's Facebook page?

Response

While there is no specific statutory prohibition against "liking" or commenting on a candidate's Facebook page, there is an admonition from the Mississippi State Supreme Court that election commissioners must remain neutral and impartial. "Liking" or commenting on a candidate's Facebook page by an election commissioner that indicates a preference for a particular candidate over other candidates is not neutral and impartial and should be avoided to protect the integrity of the election process.

Analysis

In *Meeks v. Tallahatchie County*, 513 So.2d 563 (Miss. 1987), the Court cited Section 23-15-217 of the Mississippi Code and said:

Perhaps more so than is the case with any other public official, the integrity of the office of Elections Commissioner must be totally beyond compromise or even perception of the possibility of compromise. The legislature has enacted that elections commissioners shall totally remove themselves from any taint or hint or suspicion of partnership. They must be aloof from partisan politics as much as judges, if not more so. For what is at stake is public confidence in our system of self government. By law, once Eddie Meeks or anyone else assumes the office of Elections Commissioner, he becomes obligated to stay out of any other electoral endeavor for the term of his office, period. If this seems harsh, it is certainly less so than the adverse impact upon the public interest if our people come to doubt the integrity of the system.

Meeks dealt with a commissioner who was seeking another elective office during his four-year term as election commissioner. However, we are of the opinion that the admonition that commissioners must be "totally beyond compromise or even perception of the possibility of compromise" is applicable to election commissioners as they perform their official duties in the conduct of elections.

We note that at the time the Court decided *Meeks*, Section 23-15-217 of the Mississippi Code provided, in part:

A commissioner of election of any county shall not be a candidate for any office at any election for which he may have been elected or with reference to which he has acted as such; except that he may be a candidate for the office of county elections commissioner.

That statute has since been amended. It currently provides, in part:

An election commissioner of any county may be a candidate for any other office at any election held or to be held during the four-year term for which he or she has been elected to the office of election commissioner; provided that he or she has resigned from the office of election commissioner before he or she files to qualify for the office that he or she desires to seek. The clerk for the board of supervisors must have actually received the resignation for it to be deemed submitted.

The danger of election commissioners showing preference of one candidate over another is, as indicated by the Court in *Meeks*, that the public could come to doubt the integrity of the electoral system.

A further danger is that if the results of an election are contested as provided by law and a candidate's Facebook page is presented as documentary evidence that he or she was supported by an election commissioner who was involved in the certification of the results of the election, it could have an impact on the final determination of the court as to the validity of the election.

Conclusion

Election commissioners are unique public officials in that they are charged with the responsibility to ensure that our elections are conducted fairly and impartially. Any acts by individual commissioners that could create a perception among voters that a particular candidate was favored or opposed by the public body that certifies the official results of an election are contrary to the high standards that commissioners are charged to uphold.

Election commissioners must refrain from any acts that could create even the perception that they support or oppose a particular candidate seeking elective office. As stated by the Court in *Meeks*, "if this seems harsh, it is certainly less so than the adverse impact upon the public interest if our people come to doubt the integrity of the system."

OFFICIAL OPINION

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Phil Carter
Special Assistant Attorney General