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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
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July 8, 2024
OPINION 24-0019

Ms. Amanda Raynes
DeSoto Parish Registrar of Voters
104 Crosby Street
Mansfield, La 71052

23 ELECTIONS

La. R.S. 18:1306
La. R.S. 18:18

La. R.S. 18:1317
La. R.S. 36:742

The registrar's current procedure to cure deficiencies in absentee by mail and early voting ballots is lawful.

Dear Ms. Raynes:

You requested an opinion from this office as to whether your current procedure to cure deficiencies in absentee by mail and early voting ballots is lawful. For the reasons that follow, we find that your current procedure to cure deficiencies in absentee ballots is proper as it follows the current rules promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

According to your request, the Registrar of Voters for Desoto Parish and its employees review absentee ballot envelope flaps for deficiencies pursuant to La. R.S. 18:1306. If the registrar identifies a deficiency, the registrar provides notice to the absentee voter, giving the voter an opportunity to cure deficiencies found on the voter's absentee ballot envelope flap. The registrar does not allow the ballots to leave the registrar's office once received per La. R.S. 1312. When the voter appears in person to cure the deficient ballot flap and the voter does not bring a witness with them to cure their deficient ballot, it is common practice for staff of the Registrar to witness the affidavit.

The Secretary of State adopted Administrative Rules to facilitate cure policies pursuant to La. R.S. 18:1317. The cure process is detailed in three Administrative Rules:

§301. Absentee by Mail Ballot Deficiencies that May Be Cured

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. missing voter signature;
2. missing witness signature; and incomplete affidavit information, including but not limited to missing election date and voter information.

This review shall be conducted immediately upon receipt of the absentee by mail ballot.

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above-identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as "deficient with opportunity to cure."

C. The registrar shall immediately mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency. If there is a telephone number or email address available in the voter's registration record, the registrar shall also attempt to contact the voter by telephone or email.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Effective February 1, 2022, there will be a space on the Secretary of State website area to Check Absentee Ballots indicating that the voter has been notified of an opportunity to cure a deficiency.

F. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

§305. Curing Absentee by Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

The voter can cure any deficiency in the ballot when appearing personally in the registrars office except for a missing witness signature. Ordinarily, persons may sign as witness only on a single absentee ballot, if not an immediate family member.¹ The evident purpose of this rule is to prevent potential "ballot harvesting."

The process to cure a deficiency on the ballot flap is done under the supervision of the registrar, which eliminates the risk of ballot harvesting. Thus, the statutory prohibition on any person, except the immediate family member of the voter, witnessing more than one certificate of a voter is not applicable to the process to cure a ballot deficiency.² The statutory restriction found in La. R.S. 18:1306(E)(2)(a) applies only to witnessing the initial absentee ballot, while the rules promulgated by the Secretary of State under the authority of La RS 18:1317 prescribe a process to cure a deficient ballot once in the registrars custody. Thus, the cure process allows the registrar or registrar employee to sign as witness on absentee ballots during the cure process even if more than one ballot is witnessed by registrar or employee.

Accordingly, it is the opinion of this Office that the registrar's current procedure to cure deficiencies in absentee ballots is proper as it follows the current rules promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742. We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY:



TERREL T. KENT
ASSISTANT ATTORNEY GENERAL

LM:TTK

¹ La. R.S. 18:1306(E)(2)(a).

² La. R.S. 18:1306(E)(2)(a).