

June 1, 2007

R. Allen Young, Esquire
Town Attorney, Town of Mount Pleasant
Post Office Box 745
Mount Pleasant, South Carolina 29465

Dear Mr. Young:

We understand you wish to request an opinion on behalf of Harry M. Hallman, Mayor of the Town of Mount Pleasant (the "Town"), concerning the eligibility of Town employees to serve as poll workers for municipal elections. In your letter, you state:

Please know that in the past our Mount Pleasant Election Commission has experienced a shortage of citizens/volunteers to act as poll workers at our Municipal elections. As such, Town employees have volunteered/been drafted to so act. These employees received compensation as poll workers, in addition to an administrative day off with pay from the Town.

Thus, you ask this Office "whether these municipal employees can legally act as poll workers in our municipal elections"? Further, you add that "[c]ouncilmembers (elected officials) are responsible for all municipal employees and, in fact, approve all budgets, with the salaries of all employees therein. As such, can Mount Pleasant employees be poll workers in elections involving current Councilmembers and future Councilmembers?"

Law/Analysis

We presume by use of the term "poll workers" you are referring to poll managers appointed by the municipal election commission as set forth in section 5-15-100 of the South Carolina Code (2004). Neither section 5-15-100, nor any other provision contained in chapter 15 of title 5 governing the conduct of municipal elections contains a provision specifying the qualifications of a poll manager. However, given that the provisions of title 7 are applicable to municipal elections, we look to the provisions contained in that title for guidance on who may act as a poll manager. See S.C. Code Ann. § 5-15-10 (2004) ("Municipal primary, general and special elections shall be conducted pursuant to Title 7, mutatis mutandi, except as otherwise provided for specifically in Chapters 1 through 17."). Section 7-13-120 of the South Carolina Code (1976) prohibits candidates

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and their relatives from serving as poll managers or clerks of election “at a polling place where such candidate’s name appears on the ballot.” However, in our review of the provisions contained in title 7, we did not discover a similar provision prohibiting employees of a municipality from serving as managers or clerks of election.

Furthermore, in an opinion of this Office issued in 1971, we considered whether state or county employees may serve as poll managers and clerks. Op. S.C. Atty. Gen., January 11, 1971. In that opinion, we found “no South Carolina law which would make a county or state employee ineligible to work at the polls as a manager or a clerk in a general election.” Id. While this opinion did not address municipal employees, based on our research finding no State law prohibiting their service as poll managers or clerks, we believe the same to be true for municipal employees.

Thus, unless the Town of Mount Pleasant has an ordinance, or possibly a personnel policy preventing its employees from serving as poll workers or clerks, we are of the opinion that State law does not prohibit such service.

Very truly yours,

Henry McMaster
Attorney General

By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General