

2009-014

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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November 7, 2008

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Honorable Huey Hoss Mack
Sheriff of Baldwin County
310 Hand Avenue
Bay Minette, Alabama 36507

Elections – Counties – Canvassing
Boards

The canvassing boards must meet beginning at noon on November 14, 2008, to canvass the results of the 2008 General Election. Anyone who chooses to attend must be allowed to be present. Starting the canvassing at any time other than November 14, 2008, at noon will constitute a violation of the law punishable as a class C misdemeanor.

Dear Sheriff Mack:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

Is there a mandatory date and time when the county canvassing boards must meet to canvass election returns, and if so, what is that date and time?

Assuming there is a mandatory date and time, what are the consequences if a county canvassing board meets at some other date and/or time?

FACTS AND ANALYSIS

Section 17-12-15 of the Code of Alabama states as follows:

On the second Friday next after the election, at the hour of 12:00 noon, the sheriff, in person or by deputy, and the judge of probate and the clerk of the circuit court shall assemble at the courthouse; and if there is no such judge or clerk, or if either of them fails to attend, or if either of them is interested by reason of having been a candidate at such election, his or her place must be supplied by a respectable elector of the county, appointed by the board hereinbefore provided for the appointing of the inspectors in the various voting places for the election, at the time of appointing the election inspectors, and if the appointing board fails to provide for such member or members, or if any member or members as herein provided should fail to attend at the time and place herein mentioned, the sheriff shall supply such deficiency by a respectable elector of the county; and if all such officers are of the same political party, then the sheriff must summon three reputable electors of the county, who are members of the opposite political party who are qualified electors, to attend at such time and place; and, in the presence of such other persons as choose to attend, the board shall make a correct statement from the returns of the votes from the several voting places of the county of the whole number of votes given therein for each officer, and the person to whom such votes were given.

ALA. CODE § 17-12-15 (2006) (emphasis added).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). Section 17-12-15 of the

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Code clearly requires the canvassing boards to meet at the county courthouse to begin the process of canvassing the election at noon on the second Friday following the election.

In answer to your second question, Alabama law provides that "[a]ny election official who willfully and knowingly neglects, fails, or refuses to perform any of the duties prescribed in this title, shall be guilty, upon conviction, of a Class C misdemeanor." ALA. CODE § 17-17-3 (2006).

With respect to the 2008 General Election, the canvassing boards must begin the process of canvassing the election on Friday, November 14, 2008, at noon in the presence of those who may choose to attend. ALA. CODE § 17-12-15 (2006). Starting the canvassing at any time other than November 14, 2008, at noon will constitute a violation of the law.

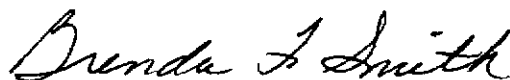
CONCLUSION

The canvassing boards must meet at the county courthouse beginning at noon on November 14, 2008, to canvass the results of the 2008 General Election. Anyone who chooses to attend must be allowed to be present. Starting the canvassing at any time other than November 14, 2008, at noon will constitute a violation of the law punishable as a class C misdemeanor.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Pete Smyczek of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/PJS
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