



ALAN WILSON
ATTORNEY GENERAL

September 14, 2021

The Honorable Lee Hewitt, Member
South Carolina House of Representatives
Post Office Box 928
Murrells Inlet, South Carolina 29576

Dear Representative Hewitt:

We received your opinion request concerning recent actions by the Georgetown County Board of Elections and Voter Registration in regard to the process of requesting absentee ballots. Specifically, you state: "It appears that volunteers and paid campaign workers are reported to be delivering unsigned written requests for absentee ballot applications by voters to the county election office, which is accepting them. It is my understanding that this may be occurring on a large scale." First, you inquire, "Are unsigned written requests for absentee ballot applications delivered in person to county election offices by persons other than the voter or their immediate family lawful applications or requests?" Next, you ask, "If these written requests are signed, but delivered in person to county election offices by persons other than the voter or their immediate family, would they be lawful nevertheless." Lastly, you ask, "Must persons delivering unsigned or signed written requests for absentee ballot applications in person to the county election office, other than the voter or their immediate family, meet the requirements under 7-15-330 as 'authorized representatives' and be required to execute the required 'signed oath' form?"

Law/Analysis

A. Unsigned written requests for absentee ballots

You ask whether an unsigned written request for an absentee ballot application by a person other than the voter or an immediate family member may be accepted. In your letter, you refer to section 7-15-330 of the South Carolina Code (Supp. 2020), which governs applications for absentee ballots. This provision states that in order to vote by absentee ballot,

a qualified elector or a member of his immediate family must request an application to vote by absentee ballot in person, by telephone, or by mail from the county board of voter registration and elections, or at an extension office of the board of voter registration and elections as established by the county governing body, for the county of the voter's residence. A person requesting an application for a qualified elector as the qualified elector's authorized representative must request an application to vote by absentee ballot in person

or by mail only and must himself be a registered voter and must sign an oath to the effect that he fits the statutory definition of a representative. This signed oath must be kept on file with the board of voter registration and elections until the end of the calendar year or until all contests concerning a particular election have been finally determined, whichever is later. A candidate or a member of a candidate's paid campaign staff, including volunteers reimbursed for time expended on campaign activity, is not allowed to request applications for absentee voting for any person designated in this section unless the person is a member of the immediate family. A request for an application to vote by absentee ballot may be made anytime during the calendar year in which the election in which the qualified elector desires to be permitted to vote by absentee ballot is being held

S.C. Code Ann. § 7-15-330.

According to section 7-15-330, only the voter, a member of his or her immediate family, or an authorized representative may request an application to vote by absentee ballot. This statute specifically prohibits candidates, candidates' staff, and paid volunteers from requesting absentee ballot applications unless they are an immediate family member. If the request is made by the voter or family member, it does not appear that any signature is required to obtain an application. However, if an authorized representative requests the absentee ballot, he or she must sign an oath representing he or she meets the qualifications of an authorized representative. Therefore, the only signature required to receive an absentee ballot application is in regard to a request by an authorized representative.

You mention the county election office is receiving written requests delivered in person by persons who are not the voter or an immediate family member. The only other person authorized to request an absentee ballot on behalf of a voter is an authorized representative, which is defined in section 7-15-310(7) of the South Carolina Code (2019). An authorized representative can only request an absentee ballot application on behalf of a voter by mail or in person, so it seems odd that an authorized representative would deliver a written request in person when they could mail the request for the application or just apply in person.

It is important to note a request for an application for an absentee ballot is just the first step in the process. Once the request for the application has been made, the voter receives the application for the absentee ballot, which is governed under section 7-15-340 of the South Carolina Code (2019). This application must contain certain information, including the voter's signature. If the application is not signed, it may be rejected by the local elections office who would then not issue an absentee ballot to the voter.

B. Signed request delivered in person by persons other than the voter or their immediate family

Next, you question whether someone who is not a member of the voter's immediate family can deliver a signed request for an absentee ballot application to a county election office. As we noted above, in addition to the voter or a member of his or her immediate family, a voter's authorized representative may request an absentee ballot on behalf of the voter. An authorized representative is defined as

a registered elector who, with the voter's permission, acts on behalf of a voter unable to go to the polls because of illness or disability resulting in his confinement in a hospital, sanatorium, nursing home, or place of residence, or a voter unable because of a physical handicap to go to his polling place or because of a handicap is unable to vote at his polling place due to existing architectural barriers that deny him physical access to the polling place, voting booth, or voting apparatus or machinery. Under no circumstance shall a candidate or a member of a candidate's paid campaign staff or volunteers reimbursed for the time they expend on campaign activity be considered an "authorized representative" of an elector desiring to vote by absentee ballot.

S.C. Code Ann. § 7-15-310(7). The authorized representative may make the request for the application in person or by mail, but must sign an oath stating he or she is an authorized representative. Persons not meeting the qualifications of an authorized representative or an immediate family member are not authorized to request an application for an absentee ballot on behalf of a voter.

C. In person requests by someone other than the voter or a member of the voter's immediate family

Lastly, you ask whether a person delivering an unsigned or signed written request for an absentee ballot application must be an authorized representative under section 7-15-330 and would that person be required to execute the signed oath form, of which you provided us with a copy. As explained above, an authorized representative who meets the statutory definition under section 7-15-310(7) and who signs an oath representing he or she meets this statutory definition, may request an absentee ballot application on behalf of a voter. In reviewing the form you provided, the requirements of an authorized representative per the form mirror those contained in section 7-15-310(7). The form also includes the following oath:

I swear, or affirm that I meet the above stated legal definition of an "authorized representative." I am not a candidate, or a member of a candidate's paid campaign staff, or a volunteer reimbursed for time expended on campaign activity for an office which this election is being held.

We believe this oath complies with the signed oath required of authorized representatives pursuant to section 7-15-330.

The Honorable Lee Hewitt
Page 4
September 14, 2021

Conclusion

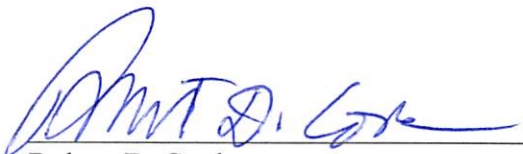
Section 7-15-330 of the South Carolina Code sets forth the process by which an application for an absentee ballot may be requested. This provision limits persons who may request an application to the voter, a member of the voter's immediate family, or their authorized representative, which is defined in section 7-15-310(7). Section 7-15-330 also prohibits candidates and members of a candidate's staff, including paid volunteers, from requesting an absentee ballot application on behalf of a voter unless the voter is an immediate family member. In our review, we did not find a signature requirement in order to request an absentee ballot application other than the requirement that an authorized representative must sign an oath declaring he or she meets the statutory definition of representative. The form you provided us appears to conform to the oath requirement for authorized representatives as required by section 7-15-330.

Sincerely,

A handwritten signature in blue ink that reads "Cydney Milling". The signature is fluid and cursive, with the first name "Cydney" and last name "Milling" clearly distinguishable.

Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink that reads "Robert D. Cook". The signature is written in a cursive style, with the first name "Robert" and last name "Cook" being prominent.

Robert D. Cook
Solicitor General