



JON HUSTED
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Advisory 2011-04

April 1, 2011

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Judge Carr Notice

SUMMARY

The purpose of this advisory is to ensure that county boards of elections post the correct notice as required by Judge Carr in *Sandusky County Democratic Party v. Blackwell* Case No. 3:04CV7582. The notice previously provided to you since 2008 is not correct.

INSTRUCTION

On October 26, 2004, in *Sandusky County Democratic Party v. Blackwell*, U.S. District Court Judge James G. Carr ordered the Secretary of State to require county boards of elections to post copies of the notice attached to his order at the public entrances to each polling place and at each precinct station in the county. (Order containing the notice is attached). Judge Carr further ordered that the notices must be conspicuously posted and readily visible to persons entering the polling place and approaching the precinct station, and that no other notices or other material may cover or otherwise obscure the notices.

It has come to my attention that in September 2008 the Secretary of State's Office revised the language of the required Judge Carr Notice and distributed that revised notice through the Secretary of State's Website and the Poll Workers Manual.

The language as drafted by Judge Carr in October 2004 reads:

Your vote, including a vote cast by provisional ballot, will count ONLY if you are voting in the precinct in which you reside. If you do not know whether your correct precinct is located at this polling place, please ask a poll worker now for assistance.

The language as released in September 2008 by former Secretary of State Brunner's Office reads:

Your vote, including a vote cast by provisional ballot, will count ONLY if you are voting in the precinct or polling place assigned to the address at which you reside. If you do not know whether you are at the correct precinct or polling place, please ask a poll worker for assistance now.

(Changes made by former Secretary of State's Office are underlined.)

Accordingly, please discard any previously issued and printed "Judge Carr Notices" since 2008 that you may have and replace them with the version that is attached to this directive, which conforms exactly to Judge Carr's Order. A revised version of page 71 from the recently issued Ohio Secretary of State Poll Worker Training Manual is attached as well.

If you have any questions or need additional information, please contact your county's assigned elections counsel at (614) 466-2585.

Sincerely,



Jon Husted

- **All other materials, postings, or instructions required to comply with state or federal laws-see below**

Materials for Required Postings

- **Special Voting Instructions Poster** – instructions on how to vote, including how to cast a regular ballot and a provisional ballot, and stating the date of the election, and stating the hours during which the polling place will be open
- **Sample ballot for each precinct** – the sample ballot must be printed on colored paper, and “Sample Ballot” must be plainly printed in boldfaced type on the face of each ballot
- **Full text of any condensed ballot language for a question or issue** – including:
 - State issues
 - Local questions or issues
- **Voting Rights Information Poster** – Instructions required by state and federal law on voters’ rights, explanation of prohibited acts of fraud, intimidation and misrepresentation, and instructions on how to contact the appropriate officials if any voting rights violations or prohibited acts are alleged to have occurred
- **Judge Carr Polling Place Notice** – informs a voter that his or her vote, including a vote cast by a provisional ballot, will count **ONLY** if they are voting in the precinct assigned to the address at which they reside
- **Form 10-V Notice** – a notice regarding voting more than once at same election
- **Precinct Voter Registration List for Posting** – a list of registered voters generated by the board of elections that must be posted in a polling location no later than 6:30 a.m., and marked by poll workers and posted at 11:00 a.m. and 4:00 p.m. to indicate those names of those registered voters who have voted

Forms

- **Form 10-T** – Affirmation of Voter Who Cannot Provide Identification (for voter who has no ID or social security number)
- **Form 10-U** – Affidavit-Oath-Examination of Person Challenged (for voter who is challenged at polling location)(R.C. 3505.20)
- **Form 10-W** – Statement of Person Challenged as to Party Affiliation (primary election only) or **Form 10-X** Statements of Person Challenged as to Party Affiliation (primary election only) as *directed by your County BOE*
- **Form 12-B** – Identification Envelope - Provisional Ballot Affirmation (provisional voter document/envelope)
- **Form 228** – Declaration of Elector Unable to Mark Ballot
- **Form 400** – Chain of Custody Log – form used to track the custody and location of voting equipment, including electronic Signature Poll Books, supplies and/or ballots
- **Form 450** – Election Day Precinct Incident Log (as prescribed in Directive 2008-88)
- **Form 475** – Voting Unit Event Log (as prescribed in Directive 2008-30)
- **SOS Form SEC 4010** – Voter Registration Form

Additional Items

- **Poll Worker Manual**
- **Poll Worker Quick Reference Guide** from Secretary of State
- **Instructions for 17 Year-old Voters – For Primary Election only**
- **Voting Equipment Instructions** or Equipment Quick Reference Guide providing instructions on how to use voting equipment
- **Other board provided instructions or guides**
- **Contingency Plans/Emergency Contact List** for the board of elections
- **Provisional Ballot Notice (Form 12-H)**, which includes a hotline number to be given to each voter that votes a provisional ballot

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

The Sandusky County
Democratic Party, et al.,

Case No. 3:04CV7582

Plaintiff

v.

ORDER

J. Kenneth Blackwell,

Defendant

In light of the decision by the United States Circuit Court of Appeals for the Sixth Circuit in *Sandusky County Democratic Party v. Blackwell* Nos. 04-4265, -4266 (Oct. 23, 2004), affirming in part and reversing in part this Court's order of October 14, 2004 (Doc. 26), it is hereby

ORDERED THAT the defendant J. Kenneth Blackwell be, and he hereby is ordered to transmit forthwith, and in any event, not later than 3:00 p.m., Tuesday, October 26, 2004, to all of Ohio's County Boards of Election the Directive and Notice attached hereto; said transmission to be electronically and by facsimile.

So ordered.

s/James G. Carr
James G. Carr
United States District Judge

To: County Election Boards
From: J. Kenneth Blackwell
Secretary of State
Re.: Provisional Voting
Date October 26, 2004

You have previously received a copy of "Directive No. 2: Provisional Voting: Home Precinct Balloting Only," which instructs you on the procedures to be followed when a voter is entitled to cast a provisional ballot.

Pursuant to the October 23, 2004, decision of the United States Court of Appeals for the Sixth Circuit, in *Sandusky County Democratic Party v. Blackwell* Nos. 04-4265, -4266 (Oct. 23, 2004), you are to implement that directive.

The purpose of this memorandum is to instruct you that you must also **post copies of the attached Notice** at all the public entrances to each polling place and, as well, at **each** precinct station in your County.

You may make and use photocopies of the attached Notice when you post the Notice as directed herein.

The notices must be conspicuously posted and readily visibly to persons entering the polling place and approaching the precinct station. No other notices or other material may cover or otherwise obscure the notices posted in accordance with this directive.

NOTICE

Your vote, including a vote cast by provisional ballot, will count **ONLY if you are voting in the precinct in which you reside.**

If you do not know whether your correct precinct is located at this polling place, please ask a poll worker now for assistance.