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DIRECTIVE 2005-33

December 1, 2005

TO: BOARDS OF ELECTIONS
Members, Directors & Deputy Directors

RE: SmokeFree Ohio Initiative Petition Proposing a Statute

An initiative petition proposing an addition to the Ohio Revised Code was filed by SmokeFreeOhio in my office on November 17, 2005. Enclosed for certification by your office are the part-petitions that were circulated in your county.

You must examine each part-petition in accordance with the enclosed instructions. **Please read those instructions carefully *before* you start your examination and have each examiner do the same.**

In addition to checking the signatures, you also must verify the validity of each part-petition. Check each part-petition to determine that the circulator's statement (i.e., the statement of solicitor on the last page of the part-petition) has been properly completed, because a part-petition is invalid if the circulator's statement is not properly completed. Do not invalidate a part-petition because the issuance statement, the circulator compensation statement, or the employer identification statement is blank, incomplete, or improperly filled out, or because the circulator is not an elector or resident.

Pursuant to R.C. 3519.06(E), a part-petition for a state issue is invalid if the board finds that one person has affixed more than one signature to the part-petition. Therefore, with respect to state issue petitions, a board is not required to investigate the circumstances to determine whether the circulator knowingly or unknowingly allowed a person to affix more than one signature.

As soon as your certification of these part-petitions is complete, return the completed form and all valid and invalid part-petitions to our office. These must be returned by a trackable method, such as certified mail, UPS or FedEx, or in person.

Before returning the original part-petitions to this office, you should make copies of them, in the event that a protest is filed in your county.

You must review and return these part-petitions to this office, together with your certification, no later than December 22, 2005. My office as required by Article II §1b of the Ohio Constitution is required to transmit the statute proposed by the petition to the General Assembly by the first day of session, which is January 3, 2006.

Important - Since no person may sign a petition more than once, it is imperative that boards maintain the names of those persons who signed the original part-petitions in order to properly verify the signatures on the supplemental part-petitions.

If you have any question concerning the handling of part-petitions or procedures to be followed, please contact the Elections Division at (614) 466-2585.

Sincerely,

A handwritten signature in cursive script that reads "J. Kenneth Blackwell". The signature is written in dark ink and is positioned below the word "Sincerely,".

J. Kenneth Blackwell

Attachments

**Ohio Secretary of State's
Instructions to County Boards of Elections re:
Examination of State Initiative Petitions**

(Ohio Constitution Art. II, sections 1-1g; R.C. Chapter 3519.;
R.C. 3501.011, 3501.38, and 3501.381)

CIRCULATORS

♦ **Qualifications**

The circulator of a state initiative petition need not be an Ohio elector, and need not even be an Ohio resident. Only one person may circulate a part-petition.

♦ **Circulator Statement (“Statement of Solicitor”)**

Each part-petition must contain a properly completed circulator’s statement (which is contained on the last page of the part-petition, and identified as the “statement of the solicitor”) that:

1. includes the number of signatures witnessed by that circulator,
2. is signed by that circulator, and
3. contains the circulator’s address.

When the number of signatures on a part-petition appears to differ from the number reported in the circulator’s statement, the board must examine that part-petition to determine the nature of the inconsistency. If the number of signatures reported in the circulator’s statement is:

- **equal to or greater than** the total number of signatures on the part-petition, do not reject the part-petition because of the inconsistent signature numbers.

Example: The circulator’s statement indicates that the circulator witnessed 22 signatures, but there are only 20 signatures on the petition.

- **less than** the total number of signatures submitted on the part-petition, reject the *entire* part-petition.

Example: The circulator’s statement indicates 20 signatures witnessed, but there are 22 signatures on the petition, none of which were crossed out prior to the petition being filed.

SIGNERS

♦ **Qualifications**

Each person who signs a petition must be:

1. A qualified elector of Ohio, and
2. Registered to vote at the address provided on the petition as of the date the petition is *examined* by the board. (R.C. 3519.10 and R.C. 3519.15)

◆ Signatures

1. Marking Valid Signatures:

- a. If a signature is **valid**, place a red check mark in the margin to the left of the signature on the petition paper.
- b. If a signature is **invalid**, indicate why it is invalid, using the appropriate code symbol contained in these instructions (see below).
- c. No one may sign a petition more than once. Place an identifying mark or insert a computer code on the elector's registration record to ensure that the elector's signature is not counted toward the same petition (such as a supplemental petition) more than once.

2. Each part-petition should contain signatures of electors of only one county. However, if any part-petition containing signatures from more than one county is filed, the Secretary of State determines the county from which the majority of signatures came, and only signatures from that county are to be counted; signatures from any other county are invalid. (R.C. 3519.10)

3. Signature Requirements:

- a. The signature must match the signature on file with the board of elections. A board should not invalidate a signature because an elector signed using a derivative of his/her first name, if the board can confirm the identity of the elector. For identification purposes, the elector may print his/her name on the petition *in addition to* signing in cursive his/her name to the petition. A printed signature alone, with no cursive signature, is allowed only if the elector's signature on file with the board is also printed. (R.C. 3501.011, 3501.38)
- b. The signature must be written in ink or indelible pencil. (R.C. 3519.05)
- c. The petition must contain the location of the elector's voting residence, which must:
 - Include the house number and street name or RFD, and the appropriate city, village, or township. A post office box does NOT qualify as an elector's residence address.
 - Match the elector's voting residence address on file with the board when the board examines the part-petition. If an elector's address given on the petition differs from that on file with the board, then the board must invalidate the signature. **(NOTE: Therefore, the boards must process all new, valid voter registrations and changes of address on existing registrations, before verifying the signatures on the part-petitions.)**

The petition should indicate the county in which the elector's address is located, but an elector's signature will not be invalidated if election officials can determine the proper county from other information provided on the petition paper. The elector's ward and precinct are **not** required.

- d. Each signature must be followed by the date it was affixed, but do **not** invalidate a signature solely because its date is out of sequence with other signatures.
- e. A signature is illegible only if *both* the signature and address are unreadable, such that it is impossible to check the signature against a voter registration record.
- f. ***No one may sign the name of any other person to a petition.***
 - In each case where a person signs a name other than his or her own to a petition, the board must invalidate the entire part-petition.

- A person having an elector's power of attorney **cannot** sign the elector's name to a petition.
- Non-signature information -- such as the elector's address, county or the date of signing -- may be added by a person other than the elector, if done with the elector's permission.

g. Ditto marks may be used to indicate duplicate information (e.g., date, address or county).

DO NOT INVALIDATE A PART-PETITION FOR ANY OF THE FOLLOWING REASONS:

1. Do not invalidate a part-petition solely for the reason that it contains no valid signatures; it is a valid part-petition, but it contains zero valid signatures.
2. Do not invalidate a part-petition if the information about "issuance" at the beginning of the petition that calls for the number of the petition, the name of the solicitor to whom it was issued, and the date of issuance is blank, incomplete, or otherwise improperly filled out.
3. Do not invalidate a part-petition if the circulator compensation statement (the statement that appears before the signers' signatures calling for how much the circulator receives or expects to receive and from whom) is blank, incomplete, or otherwise improperly filled out.
4. Do not invalidate a part-petition if the employer information statement (the statement that appears at the bottom of the last page, directly below the statement of solicitor) is blank or incomplete, does not match or correspond with the information provided by the circulator in the compensation statement, or is otherwise improperly filled out.

CERTIFICATION

After a board of elections has checked all the part-petitions it received, it must certify its findings to the Secretary of State using the enclosed certification form provided by the Elections Division. Return the completed form and the part-petitions only by a trackable method (e.g., UPS, Fed EX, etc.) or in person to: Ohio Secretary of State, Elections Division, 180 E. Broad St., 15th Floor, Columbus, OH 43215.

Once all part-petitions and reports have been returned by the boards, the Secretary of State will determine the validity and sufficiency of the initial filing and make the constitutional and statutory notification to the committee for the petitioners. If the Secretary of State determines that the originally-filed petition is insufficient, the committee will have 10 additional days after notification to file additional signatures.

♦ PROTESTS - R.C. 3519.16

1. Who may protest

Any of the following persons may protest a board's findings on the part-petitions:

- a. The circulator of any part-petition.
- b. The committee for the petitioners.
- c. Any elector.

2. Procedure if a protest is filed

A protest against the board's findings must be made in writing and filed with the board of elections. When such a protest has been filed, the board must, *within three days* after the protest has been filed, bring an action in the court of common pleas for the purpose of establishing the sufficiency or insufficiency of the signatures and the verification.

If a protest is filed, the board should contact the county prosecutor immediately; advise the prosecutor that time is of the essence. The findings of the court on a protest action should be certified, along with all petition papers, to the Elections Division as soon as possible after the protest has been finally determined. *Please notify the Elections Division immediately when a protest has been filed, fax a copy of the protest to the Division, and keep the Division informed of the progress of the court action.*

◆ INSTRUCTIONS & CODE SYMBOLS FOR VALIDATING SIGNATURES ON PETITIONS

Election officials must individually examine each signature.

- If a signature is **valid**, place a red check mark at the left margin beside it.
- If a signature is **invalid**, indicate at the left margin beside it why it is invalid by using the following initials or, if no set of initials fits, an explanatory notation:

CIR	Circulator signed the part-petition he or she was circulating. (This invalidates the circulator's signature as a signer, but not the entire part-petition.)
DUP	"Duplication." The person has signed more than one part of the same petition.
ILL	"Illegible;" applies only if both the signature and address are unreadable, so that it is impossible to check the signature against a voter registration record.
NA	"No Address." The signer must provide his/her complete address: house number and street name or RFD, and the appropriate city, village, or township. Failure to provide the name of the county of residence is not fatal <i>if</i> board officials can determine the county from the other information given. The ward and precinct information is not required.
ND	"No Date." The petition does not indicate the date on which the signature was affixed. (However, acceptable are: month-date-year, month-date, date of out sequence with other signers' dates, ditto marks.)
NG	"Not Genuine." The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, compared to the signature on file with the board of elections as of the date the board checks the petition.
NR	"Not Registered." The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the board examines the petition.
NRA	"Not Registered Address." The address provided on the petition paper is not the address on file with the board of elections as of the date the board examines the petition.

OC “Other County.” The signer is a resident of some other county. **Do not cross out signature or address; instead, place code at left margin.**

P “Pencil.” The signature was written using a pencil *other than* an indelible pencil.

After checking each petition paper:

- Place the number of VALID signatures on the RIGHT side of the FRONT page, below the Secretary of State's stamped petition number.
- Place the initials of the petition checker under the number of valid signatures.

When invalidating an entire part-petition:

- Indicate the reason for rejection on the front of the part-petition.
- Place the invalid part-petition(s) on the top of the part-petitions the board is returning.
- Do **not** invalidate a part-petition solely for the reason that it contains no valid signatures.

Finally, fill out the certification form and forward it, with the part-petitions, to the Secretary of State.