

Directive 2008-103

October 24, 2008

To: ALL COUNTY BOARDS OF ELECTIONS
MEMBERS, DIRECTORS, AND DEPUTY DIRECTORS

Re: Directive Issued Pursuant to Court Order

On October 24, 2008, the United States District Court for the Southern District of Ohio issued an order in the case *The Northeast Ohio Coalition for the Homeless v. Brunner*, Case No. C2-06-896. On October 27, 2008, the court issued a second order. Pursuant to these federal court orders, the boards of elections are hereby directed as follows:

October 24, 2008 Order:

The federal court adopted and annexed as a court order Directive 2008-101, Guidelines for Determining the Validity of Provisional Ballots. This means that **the instructions governing the processing and counting of provisional ballots as described in Directive 2008-101 now carry the weight of a federal court order.**

October 27, 2008, Order:

1. **Poll worker error.** The court observed that “failure of a poll worker to sign a provisional ballot, standing alone, does not constitute a valid reason to reject a provisional ballot.” The court further observed that “no provisional ballot cast by an eligible elector should be rejected because of a poll worker’s failure to comply with duties mandated by R.C. 3505.181, which governs the procedure for casting a provisional ballot.”

Therefore, pursuant to the court order, I hereby instruct the boards of elections **that provisional ballots may not be rejected for reasons that are attributable to poll worker error**, including a poll worker’s failure to sign a provisional ballot envelope or failure to comply with any duty mandated by R.C. 3505.181.

1. **Addresses for Persons Without Permanent Addresses.** The court observed that, pursuant to Advisory 2008-25 and R.C. 3503.02(I), if a person does not have a fixed place of habitation, the shelter or other place where the person intends to return shall be deemed his residence for purposes of voting. When voting provisionally such a person

may state his or her actual residence location even if the actual residence location is not a building.

Therefore, pursuant to the court order, I hereby instruct the boards of elections that **provisional ballots may not be rejected for failing to list a building address on the provisional ballot envelope if the voter resides at a location that does not have an address.**

Copies of the two federal court orders are attached to this directive.

If you have any questions about this directive or its implementation, please contact the elections attorney in this office assigned to assist your county board of elections.

Sincerely,

Jennifer Brunner