

DIRECTIVE 2008-37

March 4, 2008

To: Cuyahoga County Board of Elections

Re: Certain Precincts Remaining Open until 9:00 p.m. Pursuant to Federal Court Order and No Reporting of Results for the March 4 Primary Election until 9:00 p.m.

Cuyahoga County Precincts to Remain Open until 9:00 p.m.

Because of a lawsuit brought by the Obama for America presidential campaign committee, U.S. District Court Judge Solomon Oliver Jr., hearing the case on an expedited basis, has ordered that certain precincts in Cuyahoga County remain open until 9:00 p.m.

The Secretary of State will follow the Court Order until modified by this Court or an appellate court, and you are instructed to do so until further instruction from this office or your own legal counsel. Accordingly, pursuant to the Court Order and state and federal law, all voting from 7:30 p.m. to 9:00 p.m. must be under the following conditions:

- **March 4 Primary Only:** Cuyahoga County precincts identified in the court order are to remain open until **9:00 p.m.** to allow voting to continue past the closing of the polls for the primary election.
- **Provisional Voting Only:** In accordance with federal law, all votes cast between 7:30 p.m. and 9:00 p.m. in Cuyahoga County in the identified precincts **must** be by provisional ballot only. Please remember that pursuant to Secretary of State Directive 2007-06, no provisional voting may take place on a direct recording electronic (DRE) voting machine.
- **Separation of Provisional Ballots:** Provisional ballots voted from 7:30 p.m. to 9:00 p.m. must be maintained separately from other provisional ballots cast on Election Day. Under R.C. 3505.183(A), when the ballots are delivered to the board of elections office from the precincts, the board must separate provisional ballot envelopes from the rest of the ballots. Provisional ballots voted between 7:30 p.m. and 9:00 p.m. must be further separated from other provisional ballots. Teams of employees of the board consisting of one member of each major political party must place the two sets of sealed provisional ballot envelopes in a secure location within the board office. The sealed provisional ballot envelopes must remain separated and in that secure location until the validity of those ballots is determined. Please refer to R.C. 3505.183(B) and

Secretary of State Directive 2007-06 (Voter ID Requirements, Provisional Voting Requirements) for instructions on determining the validity of provisional ballots.

No Reporting of Results until 9 p.m.

Because certain precincts in Cuyahoga County will remain open until 9:00 p.m., no other results from the county may be publicly reported or disclosed until 9:00 p.m. on election night. You may not begin counting votes until all the polls close, and the results may not be reported until 9:00 p.m.

Additionally, R.C. 3505.30 requires boards of elections to remain in session until the results of the election are communicated to the Secretary of State. Log-ins to the Secretary of State's election night reporting system will not be permitted before 9:00 p.m.

Attached to this Directive is the Order issued by the United States District Court for the Northern District of Ohio.

If you have any questions concerning this Directive, please contact the Secretary of State's Election Division at (614) 466-2585.

Sincerely,

Jennifer Brunner