

DIRECTIVE 2008-50

July 8, 2008

To: All County Boards of Elections

Re: Standards for establishing an alternate polling location for in-person absentee voting

With the increasing numbers of absentee voters, especially the numbers of electors who appear in-person to vote absentee ballots (R.C. 3509.04 and 3509.05), many boards of elections have determined that their board offices are not adequate to meet the demands and comfort of these voters and board staff. Accordingly, this directive is issued pursuant to R.C. 3501.05(B) concerning the proper methods of conducting elections as they relate to in-person absentee voting as contemplated within Title 35 of the Ohio Revised Code.

R.C. 3501.11(Z) requires that, “On any day on which an elector may vote in person at the office of the board or at another site designated by the board, [it shall] consider the board or other designated site a polling place for that day. All requirements or prohibitions of law that apply to a polling place shall apply to the office of the board or other designated site on that day.” The law permits only one site to be established on any day on which an elector may vote in person at the board office, **and this site must meet all applicable requirements for polling places.**

R.C. 3501.29 (A) prescribes requirements for polling places:

The board shall utilize, in so far as practicable, rooms in public schools and other public buildings for polling places.

Public buildings are the preferred location for polling places, and a public building is further defined in the same statute as “any building or grounds supported by taxation under the laws of this state.” R.C. 3501.29(A) The use of private buildings is deemed by the statute to be of secondary suitability as polling places and the statute imposes reasonable rental, liability insurance, and other requirements in that circumstance:

When polling places are established in private buildings, the board may pay a reasonable rental therefor, and also the cost of liability insurance covering the premises when used for election purposes, or the board may purchase a single liability policy covering the board and the owners of the premises when used for election purposes. R.C. 3501.29(A)

All polling places, including an alternate site for in-person absentee voting established in a public building or private building, must meet certain minimum standards, unless compliance is exempted by the secretary of state (see R.C. 3501.29(B)(2)):

- (B)(1) Except as otherwise provided in this section, the board shall ensure all of the following:
- (a) That polling places are free of barriers that would impede ingress and egress of handicapped persons;
 - (b) That the minimum number of special parking locations, also known as handicapped parking spaces or disability parking spaces, for handicapped persons are designated at each polling place in accordance with 28 C.F.R. Part 36, Appendix A, and in compliance with division (E) of section 4511.69 of the Revised Code.
 - (c) That the entrances of polling places are level or are provided with a nonskid ramp of not over eight per cent gradient;
 - (d) That doors are a minimum of thirty-two inches wide.

If compliance with these above standards is exempted by the secretary of state, the law requires that voters with disabilities receive curbside assistance from a bipartisan team of poll workers, (which in the case of a board office alternate location, would be two board of elections employees, since the alternate location is one where an elector on any day may vote at a board office):

. . . the board of elections shall permit any handicapped elector who travels to that elector's polling place, but who is unable to enter the polling place, to vote, with the assistance of two polling place officials of major political parties, in the vehicle that conveyed that elector to the polling place, or to receive and cast that elector's ballot at the door of the polling place. R.C. 3501.29(C)

. . . "handicapped" means having lost the use of one or both legs, one or both arms, or any combination thereof, or being blind or so severely disabled as to be unable to move about without the aid of crutches or a wheelchair. R.C. 3501.29(F)

In interpreting the application of these sections to alternate locations for in-person absentee voting, boards of elections must meet the following standards if establishing an alternate location for voting by those electors who on any day may vote in person at the office of the board or at another site designated by the board:

1. Such polling places must meet the requirements set forth in R.C. 3501.29(B)(1), unless exempted by the secretary of state under R.C. 3501.29(B)(2).
2. Such polling places must be well lit, including the parking areas, for easy ingress and egress for all electors.
3. Such polling places must be easily accessible, preferably on a first floor level, to prevent hindrances or barriers to voting such as escalators or elevators that may be subject to breakage.
4. Such polling places must have adequate and preferably free parking for all electors.

5. Such polling places must be provided with adequate signage to indicate they are polling places, including the proper placement of flags as is required by R.C. 3501.30.
6. Such polling places must allow an elector to “retire to a voting compartment provided by the board and there mark the ballots.” R.C. 3509.05
7. Such polling places may not be used on Election Day for voting as a regular Election Day polling place or by electors who may vote in person at the office of the board on Election Day, to eliminate voter confusion and to minimize the use of provisional ballots.
8. Such polling places must be open to the public at least the same hours as the board of elections offices.

When establishing an alternate location for in-person absentee voting, boards of elections must advertise such alternate location at least 50 days prior to the election and must place adequate signage outside board of elections offices and within the offices. Boards must supply electors appearing at the board offices to vote prior to Election Day with printed information on the location of and directions to the alternate location for in-person absentee voting.

It is suggested that boards that wish to establish an alternate location for in-person absentee voting confer with their assigned elections attorney in the secretary of state’s office, and this will be necessary in the event a board seeks an exemption from compliance with R.C. 3501.29(B)(1) or the standards 1 through 8 as set forth above.

If you have any questions about this directive, you may contact the elections attorney assigned to your board.

Sincerely,

Jennifer Brunner