

DIRECTIVE 2008-67

August 15, 2008

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

RE: Procedures for Processing Absent Voter's Ballots Prior to Election Day

More Ohio voters are taking advantage of voting by mail or early voting in a board of elections office. As a result, several boards of elections have expressed the concern that, for elections with an exceptionally heavy turnout of voters, such as a presidential general election, boards may have difficulty meeting the statutory reporting deadline for the unofficial count if they are required to wait until Election Day to begin processing and scanning absent voter's ballots. In light of this, boards of elections are directed to follow the procedures below for processing absent voter's ballots.

Procedures for Early Processing of Absent Voter Ballots

Boards of elections may begin *processing* absent voter's ballots no sooner than ten days prior to Election Day. For the purposes of this directive, "processing" means the handling and examining of absent voter ballots, but **excludes tabulation** of them. "Processing" includes any of the following:

- Examining the sufficiency of absent voter's ballot identification envelope and, if determined to be sufficient, opening the absent voter's ballot envelope;
- Determining the validity of the absent voter's ballot (e.g., whether the stub is removed);
- Preparing the absent voter's ballot for scanning;
- Scanning of the absent voter's ballot ***but only if the voting system used by a county board of elections allows the absent voter's ballot to be fed through the ballot scanning device without tabulating or counting the votes on the ballots scanned***; and
- Identifying absent voter's ballots that cannot be "read" or are "rejected" by the ballot scanning device for purposes of determining if the ballot needs to be remade so that it can be read by the scanner.

If the voting system used by your board of elections allows you to feed the absent voter's ballot through the ballot scanning device without "tabulating" or "counting" the votes on the ballot, your board may begin to **scan** absent voter's ballots **no sooner than ten days** prior to Election Day.

If the voting system used by your board of elections does **not** allow you to feed the absent voter's

ballot through the ballot scanning device without “tabulating” or “counting” the ballot, your board shall not **scan** absent voter’s ballots prior to 12:01 a.m. on Election Day; however, your board may begin other processing of the ballots as described above.

No “counting” or “tabulating” of absent voter’s ballots on the central tabulation server shall occur until 7:30 p.m. on Election Day.

Remakes

No ballot for which voter intent is at issue may be remade unless and until the board of elections has, by majority vote in public session, confirmed or determined voter intent. Please see Directive 2007-31 or the most recent directive in effect for prescribed procedures for remaking an optical scan ballot.

Observers

Observers, as that term is defined in R.C. 3505.21, may observe the examination and opening of identification envelopes for absent voter’s ballots. If your board of elections decides to begin processing absent voter’s ballots prior to Election Day, you must notify all appointed observers of the time and place at which the board will process absent voter’s ballots prior to Election Day.

Under no circumstances may tabulation of any votes occur before 7:30 p.m. on Election Day. In the event of a court order extending polling hours in any precinct of the state, boards will receive instructions from the Secretary of State’s office regarding when results may be released. In this circumstance, boards will be permitted to begin tabulation, but prohibited from releasing results until all polls in the state have closed. Pursuant to R.C. 3509.06(E), no person, including election officials and observers, shall disclose any count or any portion of a count of absent voter’s ballots prior to the time of the closing of the polling places on Election Day, and no person shall recklessly disclose the count or any portion of the count of absent voter’s ballots in such a manner as to jeopardize the secrecy of any individual ballot. This must be strictly observed.

If you have any questions concerning the handling of absent voter’s ballots prior to Election Day or the procedures set forth in this directive, please contact the elections attorney assigned to your county at (614) 466-2585. Thank you for your efforts.

Sincerely,

Jennifer Brunner