

DIRECTIVE 2008-93 Issued Pursuant to Court Order

October 2, 2008

To: All County Boards of Elections

Re: Directive Issued Pursuant to Court Order

On September 5, 2008, the Secretary of State's office issued a Memorandum in response to numerous questions from Ohio's boards of elections regarding the sufficiency of absentee ballot applications with a check box directly adjacent to the statement that the applicant is a qualified elector. The Memorandum was intended to provide clarification of the statutory requirements for an absentee ballot application under R.C. 3509.03 and advised that if an application has on it a check box related directly to the statement that the applicant is a qualified elector or voter, the applicant must take the affirmative action of checking the box or in some way affirming that the applicant is a qualified elector.

On October 2, 2008, the Supreme Court of Ohio issued an opinion stating that R.C. 3509.03 does not expressly require that the statement be located a certain distance from the applicant's signature and that the statute does not strictly require that the box next to the qualified-electror statement be marked. Accordingly, the Supreme Court of Ohio has ordered that the Secretary of State issue a directive to the boards of elections requiring that they not reject any absentee ballot application because of an unmarked box next to a qualified-electror statement. The court's order is attached to this directive.

Therefore, the boards of elections are hereby directed to accept and process any absentee ballot application with an unchecked box next to the qualified-electror statement, as long as all of the other requirements of law are met. In addition, any previously received applications containing an unchecked box next to the qualified-electror statement must be processed unless the applicant submitted a new application that the board has already processed.

Sincerely,

Jennifer Brunner