

DIRECTIVE 2008-97 Issued Pursuant to Court Order

October 17, 2008

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

RE: Directive Issued Pursuant to Court Order—Observers During In-Person Absentee Voting

On October 16, 2008, the Supreme Court of Ohio issued a decision in the case *State ex rel. Stokes v. Brunner*. In compliance with that decision I direct the boards of elections as follows:

1. Boards must permit duly appointed observers in all active polling places.
2. Boards are instructed to allow observers in all in person absentee locations so long as the pertinent requirements of R.C. 3505.21 have been satisfied.

The Supreme Court at this time has not yet issued a written opinion providing additional guidance as to its interpretation of the requirements imposed by R.C. 3505.21. I therefore further instruct the boards as follows:

- Boards must follow the directions contained in Directive 2008-29, “Rights of and Limitations On Election Observers,” to the extent its provisions are not clearly inconsistent with items 1 and 2 as itemized above.
- “Appointing authorities,” as defined in Directive 2008-29, must file notices of appointment before observers may begin observing at a board of elections office or satellite location for absentee voting site (such notices of appointment must identify each individual appointed to serve as an observer for the political party or group of candidates and must be on the forms prescribed by the Secretary of State, as is set forth in Directive 2008-29).
- Each individual observer must have his or her own certificate of appointment.
- All board of elections observers must be qualified electors of the State of Ohio, pursuant to R.C. 3505.21.
- All observers appointed to boards of elections must present a certificate of appointment to the Director or Deputy Director of the appropriate board of elections before observing.
- R.C. 3505.21 provides that appointing authorities may appoint ONLY ONE PERSON to observe at a board of elections office.

- In situations where appointing authorities have provided a list of names to the board of elections, no observation may occur until a certificate of appointment for an individual, identifying that individual for the day specified, has been presented to the Director or Deputy Director and the individual.
- Only one individual per day per appointing authority (who has been appointed by that appointing authority) may observe at an in person absentee voting location.
- Each observer observing at a board of elections must be given a copy of Directive 2008-29, and must be instructed to follow the guidelines in that directive. Boards of elections must follow that directive, to the extent it applies, as well.
- Advisory 2008-03, entitled, “Polling Place Conduct; Media Access to Polling Locations; and Exit Polling Within 100 Feet of a Polling Place,” applies to in-person absentee voting locations to the same extent that it would on Election Day.

These latter instructions are subject to change if further clarification is provided in written opinions issued by the Supreme Court of Ohio after this date.

Sincerely,

Jennifer Brunner