

DIRECTIVE 2010-43

March 26, 2010

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Applications for absent voter's ballots

This Directive addresses certain absent voter's ballot applications that were sent to the boards of elections by electors using a form that was attached to a mailing paid for by the Ohio Republican Party.

Applications for Absent Voter's Ballots

The Ohio Republican Party recently paid for a mailing to some Ohio electors that included two parts on the form entitled "Vote-By-Mail Request Card." The form includes a statement of affiliation with the Republican Party and a specific request for a Republican Party ballot for the May 4, 2010 primary election. In addition, the form includes a check box with the following statement:

(Optional) By checking this box I am requesting an absentee ballot for the November 2, 2010 general election, in addition to the primary election request above.

This form complies with the requirements of R.C. 3509.03(A)-(I) to serve as an application for an absent voter's ballot for the Republican Party for the May 4, 2010 primary election.¹ **If the form is properly completed by a qualified elector, boards of elections must process the request for absent voter's ballot for the primary election.**

Unfortunately, R.C. 3509.03 does not permit an Ohio elector to request an absent voter's ballot for more than one election, except for UOCAVA voters using a federal post card application. R.C. 3511.02(B) allows U.S. armed forces members and their spouses and dependents who reside outside of Ohio to be with or near the armed service member to request an absentee ballot for more than one election by using a federal post card application. Consequently, unless an Ohio elector is an overseas voter under UOCAVA or an U.S. armed forces member or spouse or dependent of the U.S. armed forces member, the elector may request an absentee ballot for only a single election (not multiple elections).² Although legislation has been introduced in the Ohio General Assembly that proposes permitting all Ohio electors to request an absent voter's ballot for more than one election, no such change to Ohio law has been adopted or enacted. Consequently, the form that was included with the Ohio Republican Party's mailing is

¹ See Directive 2008-82, pages 2-3, for more information regarding requirements for applications for an absent voter's ballot.

² See Advisory 2008-29, pages 5 and 10, for more information regarding requests for an absent voter's ballot by UOCAVA overseas and armed forces voters using a federal post card application.

insufficient under current law to authorize the mailing of an absent voter's ballot for this year's 2010 general election.

Because the form may not be used to request an absent voter's ballot for both elections, boards of elections are hereby instructed to include a notice with each absent voter's ballot mailed in the 2010 primary election that advises the elector that an absent voter's ballot may only be requested for one election and that the elector must submit a separate application for the general election. This notice must be printed on colored paper to alert voters to this requirement in the law and must set forth the following language:

NOTICE – Under current Ohio law, an absent voter's ballot may be requested for only one election. If you wish to request an absent voter's ballot for the November 2, 2010 general election, the law requires you to submit to the board of elections a separate request for the 2010 general election. Please feel free to contact the _____ County Board of Elections by email at: _____ or by telephone at _____ if you have questions.

The board of elections shall add its county name and both an email address and telephone number to the notice.

If you have any questions or need additional information, please feel free to contact the elections attorney assigned to your county at (614) 466-2585.

Sincerely,

Jennifer Brunner