

DIRECTIVE 2010-78 (Reissue of SOS Directive 2008-104)

October 21, 2010

TO: COUNTY BOARDS OF ELECTIONS USING PREMIER ACCUVOTE-TSX DREs

RE: Guidelines for Identifying and Rectifying Sharing Violation Errors During Upload

This directive and its addenda provide extremely important information for boards of elections to identify and correct the occurrence of “sharing violations,” a type of computer error that may occur during the upload of votes using Premier AccuVote-TSX DRE voting machines. The Directive is a reissue of and supersedes Directive 2008-104.

Through extensive testing done in collaboration with Premier and local boards of elections, this office has proven that these sharing violations may occur at any time in any county using multiple AccuVote-TSX voting machines during an upload. More importantly, this office has proved that such sharing violations consistently result in the failure of vote data to properly upload from the affected memory card to the GEMS server. This results in the temporary failure of the affected board of elections to include those votes in its election totals.

After the completion of the testing referenced above, Premier issued a letter to this office identifying the cause and result of these sharing violations. That letter is attached to this directive as Addenda 3. In it, Premier admits that these sharing violations are caused by a logic error in the programming of the GEMS software itself. This inherent flaw in the design of the system means that there is no way to immediately prevent these sharing violations from occurring. This directive and your cooperation with its demands are therefore necessary to ensure that the reported election results are accurate. While some Ohio counties have not experienced sharing violations to date, we know that they do occur, and it is imperative that any county using a Premier system take every step possible to identify and correct sharing violations if and when they occur.

It is important to note that since the deployment of Premier AccuVote-TSX voting machines in Ohio, the boards of elections that have experienced such sharing violations have, in every instance, identified and corrected the discrepancy in the vote totals caused by such sharing violations. However, it is equally important to note that, until 2008, neither this office nor boards of elections understood that errors in the programming of the GEMS software used by Premier’s AccuVote-TSX voting system cause sharing violations, which, in turn, causes the GEMS server to drop vote data (votes) during the transfer from certain memory cards to the GEMS server during an upload. Rather, boards of elections have consistently attributed the data discrepancies caused by these sharing violations to human error, rather than a system malfunction. As noted, these sharing violations have been proved by this office to occur and admitted as occurring by Premier.

While Ohio’s bipartisan boards of elections have made an exceedingly thorough and conscientious effort to prevent these discrepancies from going uncorrected since first being made aware of their possibility in 2008, we must still recognize the problem for what it is and act accordingly. Boards of elections must continue to determine whether the cause of the data discrepancy is a consequence of human error or a system malfunction resulting from sharing

violations and take appropriate corrective action. Boards are also obligated to inform the secretary of state if and when sharing violations occur and to detail the circumstances of their occurrence. Boards are encouraged to work with their assigned legal counsel and IT regional liaison if and when this occurs.

Following the procedures in the addenda attached to this directive should make it significantly faster and easier for boards of elections to identify both whether such data discrepancies exist and whether such discrepancies were caused by a sharing violation. Thus, the correction of such data discrepancies prior to certification should also become significantly faster and easier. This directive **must** be followed when executing the procedures prescribed by the unofficial canvass.

If you have any questions about this directive or its implementation, please contact the Secretary of State IT Regional Liaison assigned to assist your county.

Thank you for your cooperation in this matter.

Sincerely,

Jennifer Brunner