

DIRECTIVE 2010-96 (Reissue of SOS Directive 2010-74)

December 29, 2010

To: All County Boards of Elections, Members, Directors, and Deputy Directors

Re: Guidelines for Determining the Validity of Provisional Ballots

This directive provides guidelines for Ohio's boards of elections in processing and counting provisional ballots. This includes guidelines on determining the validity of provisional ballots under Ohio law and, generally, the timeframes during which boards may process provisional ballots to determine their eligibility for counting. This directive is a reissue of Directive 2010-74 and complements, but does not supersede, Directive 2008-81, Guidelines for Provisional Voting. This directive also incorporates relevant rulings from the Ohio Supreme Court in *State ex rel. Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008-Ohio-6333, and the United States District Court for the Southern District of Ohio in *Northeast Ohio Coalition for the Homeless v. Brunner*, S.D. Ohio No. 2:06-cv-896.

I. DEFINITIONS

A. For purposes of this directive, “members of the board” means a majority vote of at least a quorum of the members of the board of elections taken at a public meeting,

B. For purposes of this directive, “processing” provisional ballots means:

- handling provisional ballots in provisional ballot envelopes (“envelopes”) as they are cast at a board of elections office or other designated site or as they are returned from precincts on election night;
- moving or storing provisional ballots at a board of elections office or other designated site;
- reviewing envelopes and affirmation statements to initially determine the presumptive eligibility of provisional ballots to be counted;
- sorting provisional ballots in their envelopes into categories of eligible, questionable, and ineligible, and if a board so states in its policy and procedures, into subcategories of ineligible;
- making of a recommendation by board of elections staff to the members of the board as to the eligibility and/or ineligibility of provisional ballots cast in the county for the election in question; and
- documenting the numbers of provisional ballots for each category of provisional ballots during the time and upon completion of all provisional ballots being processed.

C. For purposes of this directive, “counting” provisional ballots means:

- marking the envelope of provisional ballots that the members of the board have determined are not eligible to be counted;
- moving, and storing in their envelopes, provisional ballots that the members of the board have determined are not eligible to be counted;
- opening the envelopes of provisional ballots that the members of the board have determined are eligible to be counted;
- removing provisional ballots that the members of the board have determined are eligible to be counted from their envelopes and separating them from their envelopes so as to sever the voter’s identity from the ballot, thereby preserving the secrecy of the ballot;
- preparing provisional ballots to be counted for scanning by automatic tabulating equipment;
- scanning provisional ballots;
- tabulating votes cast by provisional ballots determined by the board to be eligible to be counted; and
- reporting numbers of provisional votes as part of the board’s official canvass of the election.

II. TIMEFRAME FOR PROCESSING PROVISIONAL BALLOTS

Generally speaking, and except as otherwise provided in R.C. 3501.183(E)(2) and in this directive, boards of elections may begin processing provisional ballots beginning the day after an election. Boards may continue to process provisional ballots during the ten (10) days after an election, and may continue to do so after the tenth day, if necessary, until all provisional ballots have been processed. All provisional ballot processing must be completed by the end of the official canvass, which must be completed not later than the twenty-first day after the election.

III. DELEGATION OF PROCESSING TO BOARD STAFF

Ultimately, the four members of boards of elections must determine the validity of all votes cast in an election and must certify the results of all elections. However, nothing in Ohio law requires that the members of the board must personally, physically complete all tasks associated with preparing for that certification. Thus, boards of elections may, under a policy adopted by the board, delegate the processing and some aspects of the counting of provisional ballots, as discussed throughout this directive, to board staff. Such processing must be done in bipartisan teams according to the instructions provided in this directive. To the extent consistent with Ohio law and this directive, boards may establish and follow additional policies and procedures for processing provisional ballots.

If a board delegates the processing of provisional ballots, it must first adopt a policy setting forth procedures for the processing of provisional ballots that includes the definitions listed in Section I, above. Under a board’s policy, board staff responsible for processing provisional ballots must make a recommendation to the board as to the eligibility of voted ballots to be counted each provisional ballot cast in the county, either on an individual basis, or as to groups or categories of similarly situated provisional ballots.

IV. BOARD DETERMINES VALIDITY OF PROVISIONAL BALLOTS

Ultimately, the members of the board (see Section I.A. above) of each board of elections must determine the eligibility or ineligibility of all provisional ballots cast within the county in accordance with Ohio law and this directive. Boards may not delegate this task.

Each board of elections must then cause the ballots to be counted by board staff, and must include the tabulation of that count in its official canvass of the election results and, to the extent required, its certification of the election results to the Secretary of State.

V. GENERAL REMINDERS ON PROCESSING PROVISIONAL BALLOTS IN ENVELOPES

It is imperative that boards of elections without fail apply R.C. 3505.183(D) which provides that no provisional ballots may be counted in a particular county until the board of elections for that county determines the eligibility of **ALL** provisional ballots cast in that county to be counted, pursuant to R.C. 3505.183 and this directive. This means that the board staff responsible for processing provisional ballots must completely process all provisional ballots and make a recommendation to the board that permits the board to vote on the eligibility of provisional ballots cast to be counted, before the board or board staff may begin the procedures for counting provisional ballots.

It is also imperative that boards remember that provisional ballots, like all other ballots or other sensitive election materials, must be handled by bipartisan teams and must be stored in a secure location. The Secretary of State's office has required boards of elections to implement a system of storage using double lock and key – one key held by Democrats and one key held by Republicans – and provisional ballots must be stored in that environment.

It is also imperative that board members and staff remain cognizant at all times of the importance of maintaining the secrecy of the votes cast by a provisional voter, and act accordingly when opening and removing provisional ballots from their envelopes.

VI. GROUNDS FOR COUNTING OR INVALIDATING PROVISIONAL BALLOTS

R.C. 3505.183 is the primary statutory lens through which boards of elections must view provisional ballots and affirmations in order to determine the eligibility of those provisional ballots to be counted. It sets forth the steps through which a board or its staff must go to determine the eligibility of a provisional ballot to be counted.

A. Step 1 – Additional Information Required from Voter in Some Cases

R.C. 3505.183(E)(2) provides that boards of elections may not examine the provisional ballot affirmation on the provisional ballot envelope when an election official has indicated the provisional voter must provide additional information to the board of elections in order to ensure that the provisional ballot will be counted. For the purposes of applying R.C. 3505.183, "election official" means board staff responsible for processing provisional ballots, and more specifically, a team of two employees or members of the board of elections or combination thereof with each member of the team being a member of the opposite party of the two major political parties. The determination of a presiding judge or poll worker is insufficient for the

purposes of determining whether a provisional voter must provide additional information to the board of elections in order to ensure that the provisional ballot will be counted. The reviewing of this statement by an election official must be the first step in determining a provisional ballot's eligibility to be counted. All statements of poll workers of the nature noted below must be verified by an "election official" as defined in this section:

i. No additional information required

If no such statement by a poll worker appears on the provisional ballot envelope then the board staff responsible for processing provisional ballots may proceed to Step 2.

ii. Additional information required

If such a statement by a poll worker appears on a provisional ballot envelope then the election official responsible for processing provisional ballots must independently make such a determination and segregate that ballot and store it, still in its envelope, in accordance with this directive until the provisional voter provides the required additional information.

a) Additional information required during 10 days after election

Pursuant to R.C. 3505.181(B)(8), there are only four categories of provisional voters who are required to provide additional information to the board of elections during the ten days after the day of an election in order for their ballots to be counted:

(1) An individual who has but is unable to provide to precinct election officials a proper form of identification,¹ and who has a Social Security number but is unable to provide the last four digits of that number to precinct election officials;

(2) An individual who is challenged at a polling place under R.C. 3505.20 and is determined to be ineligible to vote or whose eligibility to vote cannot be determined by election officials;

(3) An individual who does not have a proper form of identification, who does not have a Social Security number, and who declines to execute an affirmation (SOS Form 10-T); and

(4) An individual who has a proper form of identification, but declines to provide it to precinct election officials, and who has a Social Security number but declines to provide the last four digits of that number to precinct election officials.

¹ For purposes of this Directive, "proper form of identification" refers to the forms of identification required under R.C. 3505.18(A)(1). See Directive 2008-80 for additional information on proper forms of identification.

b) Contacting voters to provide additional information during ten days

If a board of elections or board staff determine during the 10-day period that a provisional voter falls into one of the four categories listed above, the board must attempt once to contact the voter by telephone, if a telephone number is available, to remind the voter:

- (1) that he or she is required to provide additional information to the board by the tenth day after the election for the provisional ballot to count; and
- (2) what additional information is required.

If a board of elections does not have a telephone number for a particular voter, it need not conduct an exhaustive search to attempt to locate a telephone number for that voter, but should document any efforts undertaken to contact the voter.

During the first five days after the day of an election a board of elections may provide notice that additional information is required and advise the voter what additional information is required by postcard or letter rather than by telephone.

c) Additional information required at post-election challenge hearing

If a voter's registration is challenged by another Ohio voter prior to the day of the election under R.C. 3503.24 and the board of elections considering the challenge postpones the hearing until after the day of the election, the voter must vote provisionally at that election and must provide additional information to the board at the hearing in order to ensure that his or her provisional ballot will count.

Upon receipt of the required additional information under this step of this directive, the board staff responsible for processing provisional ballots may proceed to Step 2.

iii. Failure to provide additional required information

A provisional ballot that is cast by any voter who is required to provide additional information to a board of elections cannot be counted unless and until that voter timely provides the required information. If the board of elections determines that the required information has not been provided, the provisional ballot is not permitted to be counted. See Step 5.

B. Step 2 – Preliminary Analysis on Provisional Ballot Eligibility

R.C. 3505.183(B)(1) provides that the first step in determining the eligibility of provisional ballots to be counted is to determine the following:

- a) Whether the person who cast the provisional ballot is registered to vote;

- b) Whether the person who cast the provisional ballot is eligible to vote in the particular election in question; and
- c) Whether the person who cast the provisional ballot completed the affirmation on the provisional ballot envelope.

i. Not Registered or Not Eligible

If the person who cast the provisional ballot is either **not registered to vote or is not eligible to vote in the particular election** in question (e.g., if the vote is cast in the wrong precinct²), then pursuant to R.C. 3505.183(B)(4)(a)(i) and (ii), **the board may not count that ballot.**

ii. Registered, Eligible, and Affirmation Completed

If the person **is** properly registered to vote and is eligible to vote in the particular election in question, **and** the person who cast the provisional ballot completed the affirmation statement on the envelope, then the board staff responsible for processing provisional ballots must proceed to examine the affirmation statement executed by the person who cast the provisional ballot. Pursuant to R.C. 3505.183(B)(1)(a), (b), and (c), that affirmation must contain at least the following three items of information:

- a) The name and signature of the person who cast the provisional ballot;³
- b) A statement that the person who cast the provisional ballot is a registered voter in the jurisdiction in which he or she cast the provisional ballot; and
- c) A statement that the person who cast the provisional ballot is eligible to vote in the particular election in which he or she cast the provisional ballot.⁴

iii. Registered, Eligible, but No Provisional Ballot Affirmation

If the person **is** properly registered to vote and is eligible to vote in the particular election in question, **but** he or she **did not** complete the affirmation statement on the envelope, the board staff responsible for processing provisional ballots must proceed to determine whether the voter, or an election official at the direction of the voter, recorded the

² However, pursuant to a federal court order in *Northeast Ohio Coalition for the Homeless v. Brunner*, S.D. Ohio No. 2:06-cv-896, a board of elections may not reject a provisional ballot cast by a voter who uses only the last four digits of his or her Social Security number as identification when the ballot is cast in the wrong precinct but at the correct multi-precinct polling location for reasons attributable to poll worker error. See Section VII, below.

³ In *State ex rel. Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008-Ohio-6333, the Ohio Supreme Court held that the affirmation statement must be completed with both the voter's name and signature *or*, if the voter declined to execute the affirmation, the voter's name must be recorded in the affirmation (either by the voter or the poll worker) along with a notation that the voter declined to execute the affirmation in order for a provisional ballot to be eligible to be counted.

⁴ Please note that the required statements that the person is a registered voter in the jurisdiction and is eligible to vote in the particular election at issue are pre-printed on the provisional ballot envelope (SOS Form 12-B). The person makes these statements by a completed affirmation.

voter's name in the affirmation and noted that the voter declined to complete the affirmation. If the voter's name is not so recorded or there is no notation that the voter declined to complete the affirmation, the ballot is not permitted to be counted. See Step 5.

C. Step 3 – Additional Analysis on Provisional Ballot Eligibility

- i. In addition to the information required in Step 1, above, and pursuant to R.C. 3505.183(B)(2), in determining the eligibility of any provisional ballot to be counted, the board staff responsible for processing provisional ballots must also examine any information provided by the person who cast the provisional ballot:
 - a) that appears in the affirmation on the provisional ballot envelope;
 - b) that was made to an election official at the time he or she cast the provisional ballot pursuant to R.C. 3505.182; or
 - c) that was made to the board of elections during the ten days after the day of the election.
- ii. Additional information often provided by provisional voters includes, but is not limited to, current and former addresses and date of birth. While this information, if provided, must be considered by boards of elections in determining the eligibility of provisional ballots for counting, nothing in Ohio law requires provisional voters to provide this information. Thus, the absence of such information on a provisional ballot affirmation is not sufficient, on its own, to disqualify a provisional ballot.
- iii. In determining the eligibility of a provisional ballot cast by a voter who uses only the last four digits of his or her Social Security number as identification, the board staff must attempt to determine whether a potentially disqualifying flaw in the ballot is attributable to poll worker error. An otherwise qualifying provisional ballot may not be rejected for reasons that are attributable to poll worker error.⁵ Please see Section VII, below, for more information.

D. Step 4 – Recommendation to Board on Provisional Ballot Eligibility

During this step, board staff responsible for processing provisional ballots must use the information discussed above, among other things, to determine their recommendations on the eligibility of particular provisional ballots to be counted.

- i. Ballots Eligible to be Counted

Where **ALL** of the following apply, board staff responsible for processing provisional ballots must recommend to the board that a provisional ballot shall count, and a board of elections shall count the provisional ballot:

⁵ Pursuant to *State ex rel. Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008-Ohio-6333, the failure or refusal of a voter to complete the affirmation of registration and eligibility, in and of itself, cannot be considered poll worker error absent additional evidence that the voter failed to complete the affirmation due to poll worker error.

- a) The individual named on the affirmation is properly registered to vote;
- b) The individual named on the affirmation is eligible to cast a ballot in the precinct and for the election in which the individual cast the provisional ballot;
- c) The individual provided all of the first three items listed below, or in the absence of the first three items, the fourth or the fifth item below:

- (1) His or her name and signature as the person who cast the provisional ballot;
- (2) A statement that he or she, as the person who cast the provisional ballot, is a registered voter in the jurisdiction in which he or she cast the provisional ballot; and
- (3) A statement that he or she, as the person who cast the provisional ballot, is eligible to vote in the particular election in which he or she cast the provisional ballot;

OR

- (4) His or her name recorded in a written affirmation statement entered either by the individual or at the individual's direction recorded by an election official, and a notation from the election official on the verification statement portion of SOS Form 12-B that the individual declined to sign the affirmation statement;

OR

- (5) A completed affirmation under R.C. 3505.18(A)(4) (SOS Form 10-T).

- d) If applicable, the individual has provided additional information as required by law to the board of elections during the ten days after the day of an election; and
- e) If applicable, the individual has been afforded a hearing conducted under R.C. 3503.24, which has resulted in the inclusion of the provisional voter's name in the official registration list.

ii. Ballots Not Eligible to be Counted

If **ANY** of the following apply, board staff responsible for processing provisional ballots shall recommend to the board that a provisional ballot **not** be counted, and a board of elections **shall neither open nor count** the provisional ballot:

- a) The individual named on the affirmation is not properly registered to vote;
- b) The individual named on the affirmation is not eligible to cast a ballot in the precinct or for the election in which the individual cast the provisional ballot;

c) The individual did NOT provide all of the first three items listed below, or in the absence of the first three items, the fourth or the fifth item below:

- (1) His or her name and signature as the person who cast the provisional ballot;
- (2) A statement that he or she, as the person who cast the provisional ballot, is a registered voter in the jurisdiction in which he or she cast the provisional ballot; and
- (3) A statement that he or she, as the person who cast the provisional ballot, is eligible to vote in the particular election in which he or she cast the provisional ballot;

OR

- (4) His or her name recorded in a written affirmation statement entered either by the individual or at the individual's direction recorded by an election official, and a notation from the election official on the verification statement portion of SOS Form 12-B that the individual declined to sign the affirmation statement;

OR

- (5) A completed affirmation under R.C. 3505.18(A)(4) (SOS Form 10-T).

d) The individual has already cast a ballot, including an absentee ballot, for the election in which he or she cast the provisional ballot **unless** the board determines that the signature on the outside of the absent voter's identification envelope does not match the signature of the elector on the elector's registration form (in which case the board should investigate the matter of the nonmatching signatures and verify that the signature provided on the provisional ballot affirmation matches the voter's signature in the board's records – see section VIII. of this Directive) *or* the board receives the elector's absent voter's ballot beyond the statutory deadline for the return of such ballots. If either of the latter two scenarios apply without exception, the board shall count the provisional ballot (if it complies with all the requirements in this directive) instead of the absent voter's ballot;

e) If applicable, the individual has not provided additional information as required by law to the board of elections during the ten days after the day of an election; and

f) If applicable, the individual has been afforded a hearing conducted under R.C. 3503.24, which has resulted in the exclusion of the provisional voter's name in the official registration list.

g) The individual failed to provide any of the following:

- (1) a current and valid photo identification issued by the state or federal government;
- (2) a military identification;

(3) an original or a copy of any of the following bearing the voter's name and current address as is required by Directive 2008-80 on the requirements for voter identification:

- (a) utility bill;
- (b) bank statement;
- (c) government check;
- (d) paycheck; or
- (e) other government document⁶;

OR

(4) the last four digits of the individual's Social Security number;

OR

(5) an affirmation under R.C. 3501.18(A)(4) (SOS Form 10-T), or one of the two affirmations already discussed in this directive, above.

E. Step 5 – Disqualification of Provisional Ballots and Retention

If a board of elections finally determines that a provisional ballot cannot be counted for any of the reasons identified in Ohio law or this directive, then the board, pursuant to R.C. 3505.183(C)(1), shall record:

- i. the name of the provisional voter who cast the ballot;
- ii. the identification number of the provisional ballot envelope, if applicable; the names of the election officials who determined the failure of the validity of that ballot;
- iii. the date and time that the determination was made; and
- iv. the reason that the ballot was not counted.

The board shall maintain this record for the duration of the retention period that applies to the provisional ballot itself.

Further, if a board of elections finally determines that a provisional ballot cannot be counted for any of the reasons identified in Ohio law or in this directive, that provisional ballot envelope may not be opened unless subsequently ordered by a court, and the board shall not count the votes contained on such provisional ballot. Rather, pursuant to R.C. 3505.183(C)(2), the board shall store that ballot, unopened, for the duration of the retention period applicable to that type of ballot, and shall then destroy that ballot in its envelope. Storage of such provisional ballots shall be made in accordance with the requirements for storage of provisional ballots, generally, as provided in this directive.

⁶ Ohio law provides that notices of election mailed by boards of elections pursuant to R.C. 3501.19, and voter registration notices mailed by boards of elections pursuant to R.C. 3503.19 are not valid "other government documents" for voter ID purposes.

VII. PROVISIONAL BALLOTS THAT MAY NOT BE REJECTED DUE TO POLL WORKER ERROR

As explained in Directive 2010-73 under the consent decree issued by the federal court in *Northeast Ohio Coalition for the Homeless v. Brunner*, S.D. Ohio No. 2:06-cv-896, (“*NEOCH*”) boards of elections **may not** reject a provisional ballot **cast by a voter who uses only the last four digits of his or her Social Security number as identification** for any of the following reasons:

- (1) The voter provided the last four digits of a Social Security number but did not provide a current driver’s license, state issued identification, or other document which serves as identification under Ohio law;
- (2) The voter did not provide a date of birth;
- (3) The voter did not provide an address that is tied to a house, apartment, or other dwelling provided that the voter indicated that he or she resides at a non-building location, including but not limited to a street corner, alley, or highway overpass located in the precinct in which the voter seeks to cast a ballot and that the non-building location qualifies as the individual’s voting residence under R.C. 3503.02;
- (4) The voter indicated that he or she is homeless;
- (5) The voter cast his or her provisional ballot in the wrong precinct, but in the correct polling place, for reasons attributable to poll worker error;
- (6) The voter did not complete or properly complete and/or sign the provisional ballot application for reasons attributable to poll worker error; or
- (7) The poll worker did not complete or properly complete and/or sign the provisional ballot application witness line and/or the provisional ballot affirmation form, except for reasons permitted by the governing statutes.

As explained in Directive 2010-73, poll worker error **will not be presumed and must be demonstrated through evidence.**

Examples of Evidence of Poll Worker Error

A. One example of the type of poll worker error contemplated under the *NEOCH* consent decree occurs when a voter fails to sign the provisional ballot affirmation statement portion of SOS Form 12-B, but the poll worker completes and signs the verification statement portion of SOS Form 12-B indicating that the voter **has** completed the affirmation and without indicating that the voter declined to complete the affirmation. If this occurs, the board of elections should, either in writing, with written response from the poll worker, or at a public meeting of the board, question the poll workers in that precinct to determine whether they followed the board’s instructions for completing the verification statement, both as to the specific ballot in question and in general on Election Day. Where a poll worker’s response indicates that he or she did not properly complete the verification statement, that response and the completed poll worker verification statement provide objective evidence that the poll worker did not ensure that the voter had completed the affirmation before the poll worker filled out the verification statement portion of SOS Form 12-B.⁷

⁷ See *Skaggs*, 120 Ohio St.3d 506, 2008-Ohio-6333, at ¶¶ 51-53, in which the Ohio Supreme Court stated that in the absence of evidence to the contrary, poll workers will be presumed to have properly performed their duties, but that the outcome may be different when evidence is presented that poll workers failed to perform their statutorily-required duties.

B. Another example of poll worker error is where the provisional ballot affirmation envelope (SOS Form 12-B) contains notations indicating that a poll worker directed the voter to the wrong precinct at a polling location containing multiple precincts. Because it is a poll worker's duty to ensure that the voter is directed to the correct precinct, these notations provide objective evidence that the poll worker did not properly or to the fullest extent required carry out his or her Election Day duties. Similarly, if a board of elections finds multiple provisional ballots voted in the correct polling location but wrong precinct, it should, either in writing, with written responses from the poll workers, or at a public meeting of the board, question the poll workers in that polling location to determine whether they followed the board's instructions for ensuring that voters were directed to the correct precinct.

C. Failure of a poll worker to complete and sign the "Election Official Verification Statement" portion of SOS Form 12-B is clear evidence of poll worker error because election officials are required by R.C. 3505.182 to complete this information.

VIII. ADDITIONAL REQUIREMENTS

R.C. 3505.183 does not expressly provide that a board of elections must attempt to match the signature of the person casting a provisional ballot to the signature on file for that voter, presumably because the statutory scheme contemplates at least one circumstance where a provisional voter does not have to provide a signature (*i.e.*, Step 4, Ballots eligible to be counted, Section VI.D.i.(c)(4), above). However, signature matching has long been a hallmark of election security, is explicitly provided for with respect to other types of ballots under Ohio law, and is a basis for election officials to challenge the right of a person to cast a ballot under Ohio law. As such, when a signature is provided by a provisional voter, boards of elections should, in verifying the identity of that provisional voter, attempt to match the signature with the signature on file for the voter in question.

Boards of election should bear in mind when comparing signatures, though, that signatures do tend to change over time, that there are people who do not sign their name identically every time they sign their name, and that, pursuant to R.C. 3501.05(AA), voters have the right to update their signatures with boards of elections using SOS Form 260.

The Supreme Court of Ohio provided, in *State ex rel. Myles v. Brunner*, 120 Ohio St.3d 328, 2008-Ohio-5097, that in the absence of evidence of fraud, unduly technical interpretations that impede the public policy favoring free, competitive elections must be avoided. Thus, boards of elections should apply the holding in the *Myles* case when matching signatures. Boards should ensure that their primary concern is achieving confidence in the identity of the voter casting the provisional ballot rather than ensuring that every loop and line in a signature precisely and exactly matches the signature on file for the voter. Boards would be well-advised to look to the movement of the signature when performing any signature comparisons.⁸

⁸ "The *principle of identification* is that two or more writings are the product of one writer, IF the similarities, taken in combination, are sufficiently individual and there are no fundamental differences. And a *fundamental difference* is a difference in some natural feature of the writing, indicative of the individual's writing habit that cannot be reasonably explained. A *signature comparison* is the identification of signatures and involves a combination of line quality and letter design. The line quality is the appearance of the written stroke, caused by basic movements and the manner of manipulating the writing instrument. It results from a combination of factors - skill of the writer, writing fluency, fluctuations in pen pressure and smoothness of movement."

<http://sites.google.com/site/advancedmagicrofforensicscience/lesson-4>

IX. OBSERVERS

R.C. 3505.183(D) provides that observers, as appointed pursuant to R.C. 3505.21, may be present at all times that the board is determining the eligibility of provisional ballots to be counted and counting those provisional ballots determined to be eligible.

That statute further provides that no person shall recklessly disclose the count or any portion of the count of provisional ballots in such a manner as to jeopardize the secrecy of any individual ballot. By its plain language, this prohibition applies both to election officials and observers, as well as others.

If you have any questions about this directive or its implementation please contact the elections attorney in this office assigned to assist your county board of elections.

Sincerely,

Jennifer Brunner