



Jon Husted Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

DIRECTIVE 2012-08

January 25, 2012

To: All County Boards of Elections

Re: Unofficial Canvass – March 6, 2012 Primary Elections

SUMMARY

This Directive outlines the procedures that county boards of elections are required to follow when reporting periodic results on election night and conducting the unofficial canvass of the March 6, 2012 primary election.

To assist boards of elections with any problems, questions, or concerns that may arise on Election Day, please be advised that the Secretary of State's Office will be staffed on Election Day from 6:00 a.m. until all boards have reported their unofficial results to our office.

I. ELECTION NIGHT REPORTING REQUIREMENTS

To provide the public, media, candidates, and political parties with aggregated statewide and district elections results and a single website from which to obtain running totals for county offices from multiple counties, all boards of elections must provide regular periodic election results for specified contests to the Secretary of State's office.¹ All boards will receive additional instructions for this process from Matt Masterson and Melanie Poole, which, when received, should be considered an attachment to this Directive.

II. UNOFFICIAL CANVASS

The unofficial canvass must be conducted on election night in accordance with the Ohio Revised Code.² The unofficial canvass of the March 6, 2012 primary election must be conducted in full view of the board members and any observer appointed under R.C. 3505.21.³

The unofficial canvass must include all ballots that the board of elections determined to be eligible to be counted on election night (i.e. regular ballots cast at polling locations on the primary voting system, back up paper ballots issued pursuant to Directive 2012-04, and valid absentee ballots received before the closing of the polls).

The unofficial canvass shall not include ballots that are ineligible, as defined by state law, to be counted on election night (i.e., provisional ballots, and absentee ballots that were timely mailed but which had not been received as of the closing of the polls).

¹ R.C. 3505.27(C).

² R.C. 3505.27 (counting regular ballots cast at polling locations), 3505.28 (ballots not counted), 3509.06 (counting absentee ballots), 3509.07 (absentee ballots not counted), and 3511.11- 3511.13 (uniformed service and overseas voter absentee ballots).

³ R.C. 3513.21 and R.C. 3505.27.

A. PROCESSING AND TABULATION INSTRUCTIONS FOR COUNTIES USING PRECINCT BASED OPTICAL SCAN VOTING SYSTEMS

Each board of elections must test its automatic tabulating equipment prior to the start of the count, and again at the conclusion of the count, to ensure that the central tabulation system accurately counted the votes cast for all offices and on all questions and issues.⁴ Directive 2008-90 (“Pre-Election Tests of Central Tabulation Systems”) provides detailed instructions for conducting the tests.

The board of elections must designate teams having an equal number of individuals from each major political party to inspect and/or tabulate the ballots as follows:

Optical Scan - Precinct Count (ballots tabulated in the precincts)

Verify that memory cards and a corresponding report of results from each precinct are received.

Tabulate votes cast that are stored on the memory cards.

Optical Scan - Central Count (ballots tabulated at the board of elections)

Beginning 10 days before Election Day, absentee ballots may be scanned, but must not be tabulated. Set the machine to reject any blank ballot or any ballot containing one or more overvotes.

Inspect every ballot that the tabulator rejects to determine the cause(s) of rejection, including the following:

- The ballot is folded, torn, or mutilated,
- The ballot contains misaligned timing marks,
- The voter consistently failed to follow marking instructions, and/or
- The ballot contains one or more overvotes.

R.C. 3506.21 provides standards and definitions to ensure uniform application for ballots that were rejected by the central count tabulator. The statute provides that any of the following marks, if made in a consistent manner throughout an optical scan ballot, must be counted as a valid vote:

- A candidate, question, or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been circled by the voter;
- An oval beside the candidate, question or issue choice that has been marked by the voter with an “x,” a check mark, or other recognizable mark;
- A candidate, question or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

⁴ R.C. 3506.14(B).

Remake any ballot where the marks noted above are made in a consistent manner so that the ballot may be processed by a tabulator. Please refer to Directive 2008-69 (“Remake of Optical Scan Ballots”) and the instructions in the previous section (above) for more information on the proper procedures to remake an optical scan ballot.

An overvote exists when the board determines the tabulator rejected the ballot because the voter marked the ballot more than the permissible number of times for a particular contest. No vote is tallied from that ballot for that contest. However, the board must examine the ballot to identify any other reason for tabulator rejection.

An overvote does not exist if it is determined that a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the blank space provided for write-in candidates. That ballot should be set aside and remade in accordance with the instructions in the “Tabulation Instructions for Ballots With Write-In Candidate Votes” section, below, of this directive.

If the tabulator rejects a ballot solely because the ballot contains one or more overvotes, the board does *not* remake that ballot. Instead, the board includes the ballot with the other ballots to be tabulated in the unofficial canvass so that all valid votes recorded on that ballot may be properly tabulated (see tabulation instructions, below).

Directive 2008-69 provides instructions on the proper procedure to remake optical scan ballots. Remade ballots must be marked with an identifying mark or code to allow for the remade ballot to be matched with the original ballot. Linking original and remade ballots will allow the ballots to be compared at a later time to ensure integrity and accuracy.

Any ballot (other than a provisional ballot) that was cast at the precinct, but was not fed into the precinct-based optical scanner, should be processed or scanned in the same manner as above, including inspecting and remaking a rejected ballot as prescribed above (e.g., depending upon the board’s local processes, examples of this could include a curbside ballot cast, or ballots placed into the emergency slot of the ballot box during rare instances that the precinct-based scanner was offline, etc.)

Set the tabulator to override overvoted races and issues, which will allow the tabulator to tabulate votes for races and issues that were otherwise properly marked.

Tabulate all eligible absentee ballots, including remade optical scan absentee ballots and ballots determined to have been rejected by the tabulator solely due to an overvote.

B. PROCESSING AND TABULATING INSTRUCTIONS FOR COUNTIES USING A COMBINATION OF DIRECT RECORDING ELECTRONIC MACHINES (DRE) AND CENTRAL COUNT OPTICAL SCAN UNITS

Direct Recording Electronic Machines (DRE) (ballots tabulated in the precincts)

Verify that cartridges, PCMCIA cards, or other removable memory devices, and a corresponding report, are received from each precinct.

Tabulate votes cast that are stored on cartridges, PCMCIA cards, or other removable memory devices.

Optical Scan– Central Count (ballots tabulated at the board of elections)

See instructions above for “Optical Scan – Central Count under Processing and Tabulation Instructions for Counties Using Precinct Based Optical Scan Voting Systems.”

C. TABULATION INSTRUCTIONS FOR BALLOTS WITH WRITE-IN CANDIDATES

Ballots containing potential write-in votes should be segregated for inspection. Inspection and tabulation of potential write-in votes should be made by designated team(s) consisting of an equal number of board employees from each major political party.

If the voter has written in an eligible write-in candidate’s first and last names, the board of elections must count this as a valid write-in vote. In this case, the board shall follow the manual hand count instructions explained in Directive 2008-34 (“Manual Hand Count Procedures”).

If the voter has written in *part of* an eligible write-in candidate’s name, the board of elections must count a vote in which a voter has written in only the first or last name of the candidate, if there is only one eligible write in candidate with that first or last name. However, if there are two or more write-in candidates with the same first or last name, the voter must provide sufficient information for election officials to determine the voter’s intent in order for the vote to be counted. In this case, the board shall follow the manual hand count instructions explained in Directive 2008-34.

A board may report as its unofficial canvass for write-in candidates the write-in vote totals reported by the voting system, which is a count of the number of times write-in votes for that contest were recorded, regardless of whether the vote was for an eligible write-in candidate. However, the unofficial canvass must include write-in votes for eligible write-in candidates when:

- the only candidates for a given contest are write-in candidates, and there are more write-in candidates than the number of candidates to be elected or nominated, or
- the number of times write-in votes for that contest were recorded, regardless of whether it was recorded for an eligible write-in candidates, is greater than or equal to the number of votes recorded for a candidate whose name is printed on the ballot, then.

Write-In Candidates on Optical Scan Ballots - General Guidelines

A voter’s selection of a candidate whose name is printed on the ballot *and* the selection of, and the writing in of, the name of a write-in candidate (other than an optical scan ballot that is to be centrally counted as discussed below), invalidates the voter’s vote in that race, as the voter has overvoted by marking more choices than permitted for a particular race.

Write-In Candidates on Optical Scan Ballots – Central Count Only

A voter casting an optical scan ballot that is centrally counted at the board of elections' office does not receive notification of, or a second chance either to correct the overvote or to override the rejection of the vote by a precinct-based optical scanner. Therefore, on an optical scan ballot that is centrally counted only, if a voter filled in the oval next to a candidate for an office and also cast a write-in vote for that same candidate for the same office by filling in the oval next to the space provided for a write-in candidate within that contest, such vote is not to be treated as an overvote. In this case, the ballot should be set aside and remade in accordance with the instructions in Directive 2008-69.

Write-In Candidates on Direct Recording Electronic Machines (DRE)

To tally the number of votes for eligible write-in candidates, the board of elections may use the summary reports produced by each individual DRE or group of DREs, additional reports created by the precinct election officials as may be required by the board of elections, or may upload to the central tabulation system the removable electronic storage media from the voting machines.

D. REPORTING RESULTS FOR MULTI-COUNTY DISTRICTS

If your county is not the most populous county of a multi-county district (for an office, question or issue), your office must report your county's results to the board of elections of the most populous county of the district before your board office closes. Your office may report the results by telephone, fax, or e-mail. It is imperative that your office make a final report to the board of elections of the most populous county of a district for which part of the district is in your county before you close your board office.

If your county is the most populous county of a multi-county district office, question or issue, your office must confirm that it has received the results for that district office, question or issue from the board of elections of each other county that is part of the district before you close your board office.

It is advisable for the most populous county to gather after hours contact information from the others in a multi-county district and pre-arrange the method of reporting. If the most populous county fails to contact the other counties before Election Day, the other counties in the multi-county district should take the initiative to contact the most populous county.

E. REQUIRED REPORTS FOR THE MARCH 6, 2012 PRIMARY ELECTION

In addition to the electronically reported results on election night, and in accordance with R.C. 3505.30, each board of elections shall submit certified unofficial results for the March 6, 2012 primary election, including supplemental information, by using the report forms accompanying this directive.

You must report final unofficial results through the electronic Election Night Reporting System and transmit the supplemental reports on election night before the board separates or adjourns upon completion of the board's election report or abstract. All other forms and

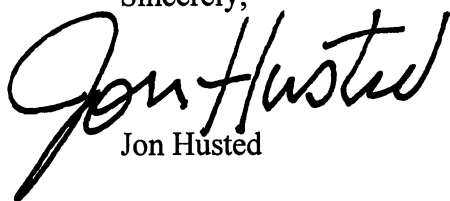
reports must be received no later than noon on Wednesday, March 7, 2012,⁵ though it is preferable to send these on election night before the board separates.

You may transmit your reports to the Elections Division to the attention of Kathy Malott by one of the following methods:

- Fax: 614-485-7590
- Email: kmalott@ohiosecretaryofstate.gov

If you have any questions regarding this directive, please contact the Secretary of State's elections attorney assigned to your county at 614-466-2585.

Sincerely,

A handwritten signature in black ink that reads "Jon Husted". The signature is written in a cursive style with a large, stylized "J" and "H".

Jon Husted

Attachments

⁵ R.C. 3505.30.