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DIRECTIVE 2012-49

October 4, 2012

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

Re: Unofficial Canvass – November 6, 2012 General Election

SUMMARY

This Directive outlines the procedures that county boards of elections must follow when reporting periodic results on election night and conducting the unofficial canvass of the November 6, 2012 General 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. As in the past, Boards will be provided with a special telephone number to contact the Secretary of State's Office.

All Boards must ensure that they are able to receive emails and other communications on Election Day (including after the polls close) sent from the Secretary of State's Office.

I. PERIODIC REPORTING REQUIREMENTS FOR ELECTION NIGHT

State law requires all boards of elections must provide regular periodic election results for specified contests to the Secretary of State's Office.¹

A. Reporting Absentee Ballot Results

You must upload vote totals for absentee ballots by 7:45 p.m. unless your voting system is technologically unable to do so. If necessary, you may upload partial absentee results (i.e. for GEMS users who were unable to scan all absentee ballots prior to starting the central tabulation of precinct cards). If you upload partial absentee results at 7:45 p.m., you must ensure that you do not double report the initial upload. Contact your voting system vendor if you need assistance.

Regardless of whether you combine your absentee results with your precinct results or if absentee is a standalone "precinct," when you upload your absentee results be sure to enter zero precincts reporting if the results do not include any results from Election Day precincts.

Remember, you may begin "processing," including "scanning," absentee ballots beginning 10 days before the election. See III.A.2. below.

¹ R.C. 3505.27(C).

B. Maximum Time Between Reports

Once your first Election Day precinct has reported, you must upload that precinct's election results. Do not wait until you have 10 precincts to report together.

During the 2011 general and 2012 primary elections, not reporting on regular intervals caused confusion. We also found that not having one assigned Secretary of State contact for each county resulted in multiple contacts by this office to the same county.

For the above reasons, after you have reported your first precinct, you must report on the following time-increment assigned to your county:

1. Counties Participating in Secretary of State ENR Pilot Project

At each quarter hour (e.g., 7:45 p.m., 8:00 p.m., 8:15 p.m., 8:30 p.m., 8:45 p.m., etc.), beginning with the quarter hour that follows the upload of your first precinct, and continuing until you have reported all precincts. If, as you approach full reporting, one or more precincts have not reported, and it has been more than 15 minutes since your last report, you must contact the assigned Secretary of State contact below. Contact information will be provided under separate cover prior to Election Day.

Counties participating in the Secretary of State's ENR Pilot Project and assigned to Matt Masterson are: Butler, Clark, Clermont, Cuyahoga, Delaware, Fairfield, Franklin, Greene, Hamilton, Lake, Licking, Lorain, Lucas, Mahoning, Medina, Montgomery, Portage, Stark, Summit, Trumbull, Warren, and Wood.

Note that this is the minimum time increment by which you must report if you have updated vote tallies. If you are able to report more frequently, you must still report on the quarter hour.

2. "Half Hour" Counties

At each half hour (e.g., 8:00 p.m., 8:30 p.m., 9:00 p.m., etc.), beginning with the half hour that follows the upload of your first precinct, and continuing until you have reported all precincts. If, as you approach full reporting, one or more precincts have not reported, and it has been more than 30 minutes since your last report, you must contact the assigned Secretary of State contact below. Contact information will be provided under separate cover prior to Election Day.

Note that this is the minimum time increment by which you must report if you have updated vote tallies. If you are able to report more frequently, you must still report on the half hour.

"Half Hour" counties assigned to Joy West are: Allen, Ashtabula, Athens, Belmont, Columbiana, Erie, Geauga, Hancock, Jefferson, Knox, Lawrence, Marion, Miami, Muskingum, Richland, Ross, Sandusky, Scioto, Tuscarawas, Washington, and Wayne.

3. "Hourly" Counties

At the top OR bottom of every hour (see below for assignment) and continuing until you have reported all precincts. If, as you approach full reporting, one or more

precincts have not reported, and it has been more than 60 minutes since your last report, you must notify the assigned Secretary of State contact below.

Note that this is the minimum time increment by which you must report if you have updated vote tallies. If you are able to report more frequently, you must still report on the hour.

“Top of the hour” counties (e.g., 8:00 p.m., 9:00 p.m., etc.) assigned to Laura Pietenpol are: Ashland, Auglaize, Brown, Champaign, Clinton, Crawford, Darke, Defiance, Fulton, Guernsey, Highland, Huron, Logan, Mercer, Morrow, Ottawa, Pickaway, Preble, Seneca, Shelby, Union, and Williams.

“Bottom of the hour” counties (e.g., 8:30 p.m., 9:30 p.m., etc.) assigned to Melanie Poole are: Adams, Carroll, Coshocton, Fayette, Gallia, Hardin, Harrison, Henry, Hocking, Holmes, Jackson, Madison, Meigs, Monroe, Morgan, Noble, Paulding, Perry, Pike, Putnam, Van Wert, Vinton, and Wyandot.

Contact information will be provided under separate cover prior to Election Day.

II. FINAL REPORTS

If you have 100% precincts reporting, do not delay entering final vote tallies into the ENR system. You do not have to wait until your designated reporting time (noted above) when reporting final results.

A. Supplemental Statistics

You must provide “supplemental statistics” when you report your last precinct or sometime shortly thereafter. Do not delay reporting vote totals only because the supplemental statistics are not yet available; upload the election results then return when the supplemental statistics are complete. You must provide the supplemental statistics before the Board and its employees disband following completion of the unofficial canvass. The supplemental statistics you are required to report are:

- Counted Ballots
 - Total number of regular ballots counted from Election Day precincts;
 - Total number of Non-UOCAVA absentee ballots counted; and
 - Total number of UOCAVA absentee ballots counted.
- Outstanding Ballots (ballots issued but not yet counted)
 - Total number of Non-UOCAVA absentee ballots issued, but unreturned;
 - Total number of UOCAVA absentee ballots issued, but unreturned
 - Total number of provisional ballots issued before Election Day at the board office; and
 - Total number of provisional ballots issued on Election Day at the polls or the board office.

B. Reporting Results for Overlapping Multi-County Districts

If your county is not the most populous county of an overlapping, 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 email. 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 – and receive confirmation of successful transmission from the most populous county – before the Board separates or adjourns upon completion of the board's election report or abstract.

If your county is the most populous county of an overlapping, 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 the Board separates or adjourns upon completion of the board's election report or abstract.

The board of elections in the most populous county must initiate contact with the other boards of elections in the overlapping, multi-county district and pre-arrange the method of reporting, the fax number or email address for reporting, and exchange after-hours office numbers to reach the other board(s) during tabulation and the cell phone number for the Director, Deputy Director, and Board Chairman. If the most populous county fails to initiate contact before Election Day, the other board(s) of elections in the overlapping, multi-county district must contact the most populous county for the information required above.

C. Final Report

Once you have completed your unofficial canvass, you must fax or email to the Secretary of State's Office a copy of the unofficial vote total report generated by your voting system. This report must be clearly labeled "<County>'s Unofficial Canvass" and it must contain only vote totals for your county.

If you are the most populous county of any district, you must generate a separate report from your voting system showing the combined vote totals for your county and the counties that report to you. This report must be clearly labeled "<County>'s Unofficial Canvass – Majority County."

These reports satisfy the requirement of R.C. 3505.30. You no longer have to enter candidate names and vote totals into forms to email or fax to the Secretary of State's Office.

You must report final unofficial results through the electronic ENR system and transmit the unofficial canvass reports described above before the Board separates or adjourns upon completion of the board's election report or abstract. You must 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

III. UNOFFICIAL CANVASS PROCESS & PROCEDURES

The unofficial canvass must be conducted on election night in accordance with the Ohio Revised Code.² The unofficial canvass of the November 6, 2012 General Election must be conducted in full view of the board members and any observer appointed under R.C. 3505.21.³ The counting of ballots for the unofficial canvass must be continuous.⁴

The unofficial canvass must include all ballots that the board of elections has determined to be eligible to be counted on election night (i.e., all regular ballots cast at polling locations using the county's primary voting system, any back up paper ballots issued pursuant to [Directive 2012-27](#), and all 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, absentee ballots rejected due to a statutory deficiency, and absentee ballots that were timely mailed but which had not been received as of the closing of the polls).⁵

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.⁶ [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:

1. 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.

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 manner described below for central count ballots, including inspecting and remaking a ballot as prescribed by [Directive 2012-22](#) (e.g., a curbside ballot, or ballots placed into the emergency slot of the ballot box during rare instances that the precinct-based scanner was offline, etc.).

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-.13 (uniformed service and overseas voter absentee ballots).

³ R.C. 3505.27.

⁴ R.C. 3505.27; R.C. 3505.30.

⁵ R.C. 3505.32; R.C. 3505.183(D); R.C. 3509.05(B)(1).

⁶ R.C. 3506.14(B).

2. 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.

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.

State law provides standards and definitions to ensure uniform application for ballots that were rejected by the central count tabulator such that any of the following marks, if made in a consistent manner throughout an optical scan ballot, must be counted as a valid vote:⁷

- 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; or
- A candidate, question or issue choice that has been marked with a writing instrument that cannot be recognized by automatic tabulating equipment.

Remake any ballot where the marks noted above are made in a consistent manner so that the ballot may be processed by a tabulator. Refer to [Directive 2012-22](#) (“Remaking 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 Candidates” section, below, of this Directive.

⁷ R.C. 3506.21.

B. Processing and Tabulating Instructions for Counties Using a Combination of Direct Recording Electronic Machines (DRE) and Central Count Optical Scan Units**1. 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.

2. 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.

1. Write-In Candidates on Optical Scan Ballots

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 contest, as the voter has overvoted by marking more choices than permitted for a particular contest. [See Directive 2012-22.](#)

2. 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.

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,



Jon Husted