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DIRECTIVE 2014-12

April 15, 2014

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

Re: Official Canvass for the May 6, 2014 Primary Election

SUMMARY

This Directive outlines the procedures that all county boards of elections must follow in conducting the official canvass of the May 6, 2014 Primary Election.

INSTRUCTIONS

I. TIMELINE FOR OFFICIAL CERTIFICATION

Boards of elections may begin the official canvass of the primary election no earlier than the 11th day after the election (Saturday, May 17, 2014), and must begin no later than the 15th day after the election (Wednesday, May 21, 2014). Each board of elections must complete its official canvass and certify no later than the 21st day after the election (Tuesday, May 27, 2014).¹

II. PERMISSIBLE PRE-CANVASS ACTIVITY

A. Provisional Ballot Review

The Board must verify the eligibility of persons who cast provisional ballots and the validity of the required provisional voter statements in preparation for the official canvass. Procedures for determining the validity of provisional ballots are provided in [Directive 2012-54](#). To aid in the efficiency of the official canvass, during the 10 days following the election, board personnel determining preliminary eligibility of provisional ballots may group provisional ballots by category to be later voted upon by the Board.

Reminders: Boards of elections must determine the eligibility of every provisional ballot cast in that county before the Board may open and canvass any provisional ballot.²

¹ R.C. 3513.22(A).

² R.C. 3505.183(D).

Further, observers may be present, as provided by law, while the Board determines the eligibility of provisional ballots.³

B. Document Review

Prior to May 17, 2014, a board of elections must examine its poll books, poll lists or signature poll books, and tally sheets, and compare the information contained in those documents to the summary statements prepared by the precinct election officials.⁴ The Board must note and reconcile any error, defect, or omission that it detects during its examination of those records.

III. INSTRUCTIONS FOR OFFICIAL CERTIFICATION

A. All Voting Systems

All valid ballots cast in the primary election – including eligible ballots cast at the polling places on Election Day, eligible provisional ballots, and eligible absentee ballots – must be included in the official canvass.

Each board of elections must test its automatic tabulating equipment before starting the count and after concluding the count, to verify the central tabulation system's accurate count of the votes cast for all offices and on all questions and issues.⁵ [Directive 2008-90](#) provides detailed instructions for conducting the tests.

Note: In no event shall a write-in candidate be nominated as a political party's candidate for any contest in which the only candidates are write-in candidates unless the total number of votes cast for the write-in candidate receiving the highest number of votes is equal to or greater than the number of petition signatures that would have been required for printing that write-in candidate's name on the primary ballot.⁶

B. Tabulation Instructions for Ballots Containing Votes NOT Included in the Unofficial Canvass

The board of elections first must tally all eligible ballots that were *not* included in its unofficial canvass.⁷ Those ballots include the following: provisional ballots; absentee ballots postmarked on or before May 5, 2014, that had not been received by the closing of the polls but were received by May 16, 2014; timely mailed in-country uniformed service, out-of-country uniformed service, or overseas citizen absentee ballots that had not been received as of the closing of the polls but were received not later than May 16, 2014; and challenged ballots the Board has determined are eligible.⁸

³ R.C. 3505.183(D); 3505.21.

⁴ R.C. 3505.32(D).

⁵ R.C. 3506.14(B).

⁶ R.C. 3513.23(B).

⁷ R.C. 3513.22; 3505.32(C).

⁸ R.C. 3513.21.

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 in accordance with the inspection and tabulation instructions for central count optical scan ballots provided in [Directive 2014-10](#) (Unofficial Canvass).

C. Tabulation of Results for the Official Certification

After tabulating all ballots that were *not* included in the unofficial canvass, the board of elections must continue the official canvass process as follows:

1. Optical Scan Ballots

The Board must:

- Upload the memory cards containing votes that were centrally counted during the unofficial canvass (a county using a GEMS server may “re-import” the data containing votes that were centrally counted during the unofficial canvass in lieu of using external media, if the system is capable of doing so, or by rescanning all of the ballots);
- Upload the precinct/polling place memory cards containing votes that were counted during the unofficial canvass, if applicable; and
- Verify the count matches the unofficial count.

If the count does not match the unofficial count, the Board must contact a Secretary of State’s Elections Administrator before continuing the canvass.

If the counts match, the Board must combine the results of the re-run memory card tabulation of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

2. Direct Recording Electronic Voting Machines (DREs)

The **Board** must:

- Upload the precinct cartridges, PCMCIA cards, and/or other removable memory devices containing votes that were counted during the unofficial canvass; and
- Verify the count matches the unofficial count.

If the count does not match the unofficial count, the Board must contact the Secretary of State’s Elections Administrator before continuing the canvass.

Note: The seal on the canister or the tape on the voter verified paper audit trail (VVPAT) shall not be broken to determine official results. If the seal must be broken for any auditing reason other than for recount purposes or a statewide post-election audit as prescribed by the Secretary of State, the Board must notify the Secretary of State’s Elections Division before proceeding.

If the counts match, the Board shall combine the re-run results of the unofficial canvass with the results of those ballots that had not been included in the unofficial canvass.

D. Tie Votes (Candidate Contest Only)

If, after canvassing all votes, more than the number of candidates to be elected to an office received the largest and an equal number of votes, the chairperson of the board of elections, in the presence of a majority of the board members at a properly noticed public meeting of the Board, shall break the tie by lot⁹ and declare the winner *before* the Board certifies the results of the election for that office and orders a recount.¹⁰ A majority of the board members must sign the declaration, which must be dated. The Board may not authorize the use of digital or stamped signatures for the official canvass. The Board must post a copy of the declaration in a conspicuous, accessible place in the board office for at least five days.¹¹

IV. FORMS FOR OFFICIAL CERTIFICATION

Templates for reporting results to the Secretary of State's Office and, in some instances, to other boards of elections or public agencies will be forwarded under separate cover.

Additionally, because state law requires the Secretary of State to publish a report on the number of absentee and provisional ballots cast and counted, each board of elections must provide supplemental data.¹² All certifications and reports must be signed by the appropriate board personnel before being submitted to the Secretary of State's Office, to another board of elections, or to another public entity.

A. Certification of Official Results to the Secretary of State¹³

1. After a Board has completed its official canvass, it must email the Secretary of State's Office and attach a copy of the official vote total report generated by the Board's voting system. This report must be clearly labeled "<County>'s Official Canvass" and it must contain only vote totals for that county.
2. A separate write-in tally must be provided that records the official canvass of the number of valid votes cast for write-in candidates for party nomination using a reporting form that will be provided under separate cover.
3. The board of elections for the most populous county of any jurisdiction must generate a separate report from its voting system, or create a report outside of its voting system, showing the combined official vote totals for its county and the overlapping counties that report to the Board of the most populous county. This report must be

⁹ R.C. 3513.22(C). Examples of methods used to break a tied candidate race "by lot" include, but are not limited to, the chairperson flipping a coin, drawing straws, picking a name written on paper out of a hat, or cutting cards.

¹⁰ By contrast, a Board does not break a tie in the case of a ballot issue that received an equal number of votes for and against the issue; that issue failed by operation of law, because it did not receive a majority of affirmative votes. A tie in an issue election results in the failure of the issue.

¹¹ R.C. 3513.22(C).

¹² R.C. 3501.05(Y).

¹³ R.C. 3505.30.

clearly labeled “<County>’s Official Canvass – Most Populous County.” The contest(s) for which a Board is the most populous county must be marked to clearly identify it as a contest containing vote totals from other counties.

B. Absentee and Provisional Ballot Supplemental Report

Each board of elections must provide supplemental data for absentee and provisional ballots. The reporting form will be sent under separate cover.

C. Electronic Precinct-Level Abstract

Each board of elections must submit an electronic precinct-level abstract of votes to the Secretary of State using the export tool provided by your voting system vendor for use with your central tabulating system. The file format has been provided to the vendors by the Secretary of State’s Office. If you have any questions regarding the electronic precinct-level abstract, contact Tom Sheridan at tsherida@ohiosecretaryofstate.gov.

V. TIMELINE FOR REPORTS

The Secretary of State’s Office must receive each board of elections’ properly completed and signed certification and report forms no later than Wednesday, May 28, 2014.

Submit completed forms to Kathy Malott via email to kmalott@ohiosecretaryofstate.gov.

Every board of elections must maintain at its office a copy of each of its completed certification and report forms.

VI. CERTIFICATES OF NOMINATION OR ELECTION

A board of elections shall issue certificates of nomination to each person who the Board had declared nominated at the May 6, 2014 Primary Election, except as follows:

- Board of elections in the most populous county of a multi-county district shall issue the certificates of nomination for that district; and
- The Secretary of State shall issue certificates of nomination for statewide offices and for the offices of representative to congress.¹⁴

Boards of elections shall issue and deliver a certificate of election to persons elected as a member of a party controlling committee.¹⁵ The board of elections in the most populous county of a multi-county district shall issue the certificates of election for members of the party controlling committee for that district.

Certificates of nomination or elections shall not be issued before the expiration of the time by which applications for recounts may be made. Boards of elections may not issue a

¹⁴ R.C. 3513.22(E).

¹⁵ R.C. 3513.24.

certificate of nomination or election in a contest for which a recount is requested, or conducted automatically, until after the recount is complete.

VII. RECOUNTS

Do not delay submitting the official certification forms due to a recount for any race or issue. Before scheduling and conducting a recount, please review the procedures set forth in state law.¹⁶

If a recount is to be conducted, please send notice of the recount to Melanie Poole via email to mpoole@ohiosecretaryofstate.gov. If the recount to be conducted is of a multi-county jurisdiction, the Secretary of State's Office will issue the notice of recount upon notification by the most populous county. If a recount should result in vote totals changing, the board of elections must submit a properly completed and signed amended certification.

VIII. VOTER HISTORY

All Boards must upload voter history for the May 6, 2014 Primary Election to the Statewide Voter Registration Database (SWVRD) no later than Friday, May 30, 2014, except that counties with more than 100,000 registered voters must contact Robin Fields to schedule their upload for Saturday, May 31, 2014 or Sunday, June 1, 2014. These are mandatory deadlines due to administrative necessity to accommodate the annual NCOA process prescribed by [Amended Substitute Senate Bill No. 200](#)¹⁷ and cannot be missed.

For purposes of assigning voter history, a voter record should be marked as having voted in the May 6, 2014 Primary Election, *only* if any of the following are true:

- The voter signed the signature poll book on Election Day; or
- The voter timely returned the voter's identification envelope (including UOCAVA and FWAB), regardless of whether the ballot is eligible to be counted; or
- The voter is an eligible elector of the state of Ohio and cast a provisional ballot, regardless of whether the ballot is eligible to be counted.

For purposes of re-calculating a voter's party in the county voter registration system, not later than June 20, 2014, each board of elections must program its county voter registration system to reflect party affiliation using the examples that follow:¹⁸

- Voted D in 2014 primary
Voted issues only (or non-partisan primary) in 2013 primary
Voted D or R in 2012 primary
Elector's affiliation is D

¹⁶ R.C. 3515.01 - .072.

¹⁷ R.C. 3503.21(D), as amended.

¹⁸ Please note that the use of specific political parties in these examples is for demonstration purposes only. Any major political party (Democratic and Republican) or recognized minor political party (Constitution, Green, Libertarian, Socialist) appearing in any of these examples can be interchanged with any other political party based on the ballot selected by the voter.

- Voted R in 2014 primary
Voted D or R in 2013 partisan primary
Elector's affiliation is R
- Voted D in 2014 primary
No primary held in 2013
Voted D or R in 2012 primary
Elector's affiliation is D
- Voted issues-only or did not vote in 2014 primary
Voted issues-only (or non-partisan primary) in 2013 primary
Voted D in 2012 primary
Elector's affiliation is D
- Voted issues-only or did not vote in 2014 primary
Voted R in 2013 partisan primary
Elector's affiliation is R
- Voted issues-only or did not vote in 2014 primary
No primary held in 2013
Voted D in 2012 primary
Elector's affiliation is D
- Voted issues-only or did not vote in 2014 primary
No primary held in 2013
Voted issues-only or did not vote in 2012 primary
Elector is unaffiliated
- Voted issues-only or did not vote in 2014 primary
Voted issues-only (or non-partisan primary) in 2013 primary
Voted issues-only or did not vote in 2012 primary
Elector is unaffiliated

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

Sincerely,



Jon Husted