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DIRECTIVE 2015-09

May 19, 2015

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

Re: 2015 General Voter Records Maintenance Program

SUMMARY

This Directive provides instructions to boards of election on how to conduct the general voter records maintenance program every year as required by state law.

BACKGROUND

The voter records maintenance program, generally, is a requirement of the National Voter Registration Act of 1993 (NVRA),¹ commonly referred to as the “motor voter law.” The purposes of the NVRA are to increase the number of voter registrations for eligible citizens, to enhance the participation of eligible citizens in the voter process, to protect the integrity of the electoral process, and to ensure that accurate and current voter registration rolls are maintained.²

State law requires local election officials to conduct the state’s general voter records maintenance program every year.³ County boards of elections also are required to conduct the supplemental process every year.⁴

There are two parts of the general voter records maintenance program of Ohio’s implementation of the NVRA:

1. **The National Change of Address Process (NCOA)**, which is triggered when a voter record appears in the United States Postal Service (USPS) NCOA database indicating that the voter associated with that record likely has moved since the records were last compared in 2014, and thus may need to update his or her voter registration to the current voting residence address. Under state law, the Secretary of State matches voter records in the Statewide Voter Registration Database (SWVRD) against the NCOA database to compile the data for the NCOA process.⁵

¹ 52 U.S.C.A. §20507.

² 52 U.S.C.A. §20507(b).

³ R.C.3503.21(D).

⁴ *Judicial Watch, Inc. & True the Vote v. Husted*, Case 2:12-cv-00792, Settlement Agreement.

⁵ R.C. 3503.21.

2. **The Supplemental Process**, which is triggered by a voter's inactivity during a fixed period of time, generally two years (with inactivity determined by the absence of a voter initiated activity such as voting or the filing of a voter registration form). This second component is designated the "supplemental process," because it seeks to identify electors whose lack of voter initiated activity indicates they may have moved, even though their names did not appear as a part of the NCOA process. Under state law, county boards of elections use data points (e.g., voting history) in their local County Voter Registration Database (CVRD) to compile the data for the supplemental process.

This uniform and nondiscriminatory program has been designed to help ensure that accurate and current voter registration rolls are maintained, that voters who likely have moved are proactively contacted and given the opportunity to update their voter registration with their proper county board of elections, and to accurately identify and cancel the voter registrations of individuals who are no longer qualified electors under the law after applicable notice.

As a result of the online change of address system implemented in 2012, electors receiving confirmation notices from the 2015 general voter records maintenance process who would otherwise return the confirmation notice by mail as a means of updating their address may instead use the online change of address tool to do so. This may result in postage savings for boards of elections using business reply mail permits and electors.

INSTRUCTIONS

In 2015, all boards of elections must mail confirmation notices ([SOS Form 10-S](#)) to electors identified through Ohio's general voter records maintenance program. **All confirmation notices ([SOS Form 10-S](#)) that are mailed pursuant to the 2015 general voter records maintenance program must be mailed between June 15, 2015 and June 29, 2015.** All boards of elections must use [SOS Form 10-S](#) and include a postage-paid return envelope with the notification form.⁶

Each Board must record in its voter registration system both the date on which a confirmation notice is mailed to an elector and the date on which the Board receives a completed confirmation return notice in response to that mailing. This record is critical for establishing the four-year anniversary date for each confirmation notice.

A. Compiling the Data for the 2015 General Voter Records Maintenance Program

All county boards of elections must complete their local data entry of all voter registration applications received through the end of May – including any information from provisional ballot envelopes cast at the May 5, 2015 primary/special election – before starting the NCOA process.

Boards of elections will access their 2015 NCOA data file the first week of June (exact day to be provided via email), using the steps provided by the Secretary of State's Office sent separately via email. If you have any questions, contact the Secretary of State's IT Helpdesk at (614) 466-2585.

⁶ R.C. 3503.21(D).

Boards of elections must complete the NCOA process first and then begin the supplemental process second. An elector to whom a board of elections already mailed a confirmation notice ([SOS Form 10-S](#)) due to the NCOA process should not be mailed a second notice as part of the supplemental process.

Boards of elections must generate the list of voters to receive a confirmation notice under the supplemental process using the following criteria: the voter (a) did not vote in an election during the period beginning with the 2013 primary/special election and with the 2015 primary/special election, and (b) did not engage in any other voter-initiated activity (e.g., filing a voter registration form) during that same time period.

B. Mailing the Confirmation Notice for the 2015 General Voter Records Maintenance Program

All electors identified as a part of the 2015 program must be sent a confirmation notice ([SOS Form 10-S](#)) between June 15, 2015 and June 29, 2015. The confirmation notice must be sent by forwardable mail.⁷ Boards of elections must make appropriate arrangements for the return of the completed confirmation notice by the elector to be postage pre-paid by the Board.⁸ The notice must be sent to the elector's current address as reported on the 2015 NCOA list (for the NCOA process) or the current address as recorded on the board of elections voter registration records (for the supplemental process).

It is possible that an elector who appears on the 2015 NCOA list may have also appeared on the 2014 or 2013 NCOA list or supplemental lists. Under the 2015 NCOA program, do not send a confirmation notice to an elector to whom the Board already has sent such a notice, *unless* the 2015 NCOA list provides an address for that elector that is *different* than the address to which the previous confirmation notice was sent in 2014 or 2013.

C. Responses to the Mailed 2015 General Voter Records Maintenance Program

Electors can complete and return the "Confirmation Return Notice" portion of the confirmation notice ([SOS Form 10-S](#)) in order to update the elector's voter registration information (e.g., residential address). An elector receiving the confirmation notice as a result of NCOA may choose to use the online change of address system to update his or her address instead of completing and returning the confirmation notice ([SOS Form 10-S](#)) by mail.

⁷ 52 U.S.C.A. §20507(d).

⁸ 52 U.S.C.A. §20507(d) and R.C. 3503.21(D).

1. Responding to the 2015 Confirmation Notice Using the Online Change of Address System

- a. Change of Address within the County:** If the elector uses the online change of address system and provides a new residential address within the county, the elector's registration record shall be updated by the board of elections with the new address and the date provided by the online change of address system as the date of response to the confirmation notice. The Board shall send the elector an acknowledgement notice ([SOS Form 10-J](#)) informing the elector of the registration update and the location of his or her new polling place. The Board should list this elector as "active" in its voter registration database.
- b. Change of Address to Another Ohio County:** If the elector uses the online change of address system and provides a new residential address in another Ohio county, the board of elections in the elector's new county shall accept the elector into its voter registration system using the date provided by the online change of address system as the elector's registration date in that county. The Board of the new county shall send the elector an acknowledgement notice ([SOS Form 10-J](#)) informing the elector of the registration update and the location of his or her new polling place and list this elector as "active" in its voter registration database. A duplicate record will be created in the statewide voter registration database between the elector's new and former counties that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

2. Responding to the 2015 Confirmation Notice Using the Postage-Paid Confirmation Return

- a. Change of Address within the County:** If the elector returns the confirmation return notice and provides a new residential address within the county, the elector's registration record shall be updated by the board of elections with the new address and the date the confirmation return notice was received by the Board. The Board shall send the elector an acknowledgement notice ([SOS Form 10-J](#)) informing the elector of the registration update and the location of his or her new polling place and list this elector as "active" in its voter registration database.
- b. Change of Address to Another Ohio County:** If the elector returns the confirmation return notice and provides a new residential address in a different Ohio county, the board of elections that mailed the confirmation notice to the elector shall cancel the elector's registration in that county and make a notation on the elector's registration record of the date the confirmation return notice was received by the Board and the date of cancellation.

The issuing Board shall keep a copy of the completed confirmation return notice from the elector and mail the original to the board of elections for the elector's new county, so that the new Board can enter the elector into its voter registration

database as an active voter. Completed confirmation return notices returned under this section must be forwarded to the appropriate board of elections at least every week.

When the issuing board of elections cancels the record in its voter registration database, and after the board of elections for the new county has entered the record into its county voter registration database, a duplicate record will be created in the statewide voter registration database that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

- c. **Confirmation of Current Address:** If the elector returns the confirmation return notice confirming that the elector still resides at the same address on file with the board of elections, the Board shall indicate on the elector's registration record the date the confirmation return notice was received by the Board and note that the address on file with the board of elections is correct. The Board should list this elector as "active" in its voter registration database.
- d. **Change of Address Outside the State of Ohio:** If the elector returns the confirmation return notice and provides a new permanent residential address outside the State of Ohio, the board of elections that mailed the confirmation notice to the elector shall cancel the elector's registration and make a notation on the elector's registration record of the date the confirmation return notice was received by the Board and the date of cancellation.
- e. **Confirmation Return Notice NOT Returned:** If the elector fails to return the confirmation return notice and otherwise fails to either 1) update his or her registration or 2) vote or engage in other voter activity, the elector shall continue to be listed as "inactive" in the county's voter registration database. Unless and until the elector's registration is cancelled as described in Section D, below, or as otherwise may be permitted by law, the elector shall maintain all the rights of an otherwise qualified elector, including the ability to cast a regular ballot at any election.

3. Handling "No Forwarding Address" Returns

Confirmation notices must be sent by forwardable mail. However, the USPS sometimes will return to the Board a confirmation notice that is non-deliverable, because the USPS does not have a forwarding address for the addressee (the elector). The Board shall record that fact (e.g., in the comments section of that elector's record) and keep the undeliverable confirmation notice for four years.

D. 2015 General Voter Records Maintenance Program is Prospective in Nature

If an elector contacted pursuant to the 2015 general voter records maintenance program:

- Responds to the 2015 confirmation notice;

- Updates his or her voter registration; or
- Votes or engages in voter activity, then

the elector's voter status shall be changed from 'active-confirmation' to 'active-active,' and the elector shall not be cancelled pursuant to this general voter records maintenance program.

All other electors contacted pursuant to the 2015 general voter records maintenance program shall be cancelled during 2019, by one of the following dates, whichever is later:

- Not later than one hundred twenty (120) days after the date of the second federal general election in which the elector fails to vote; or
- Not later than one hundred twenty (120) days after the expiration of the four-year period that begins on the date the confirmation notice is mailed pursuant to this Directive;⁹ but
- **No voter registration shall be cancelled as a result of the general voter records maintenance program during the 90 days immediately preceding any federal primary or general election.**¹⁰

E. Deadline for Completing the 2015 General Voter Records Maintenance Program

As was stated at the beginning of this Directive, the deadline for completing the 2015 general voter records maintenance program is June 29, 2015.

F. Boards to Send Receipt to Secretary of State when 2015 General Voter Records Maintenance Program Is Complete

Each Board must provide notice to the Secretary of State's Office that the 2015 general voter records maintenance program is complete. The 2015 Program Completion Form, which will be sent under separate cover, must be completed by the director and deputy director and returned to the Secretary of State's Elections Division by Thursday, July 2, 2015.

G. Postal Information

As a possible method to reduce mailing costs and save taxpayer funds, boards of elections are encouraged to consult with their local Postmaster or regional business mail analyst regarding the use of nonprofit permit postage rates for the mailing of outbound confirmation notices and business reply mail permits for the return of completed confirmation notices from electors. Because both have an application and permitting process, Boards are encouraged to evaluate these options as quickly as possible.

⁹ R.C. 3503.21(E).

¹⁰ 52 U.S.C.A. §20507(c)(2)(A).

For more information on qualifying for nonprofit mail rates, go to <https://www.usps.com/gov-services/election-mail.htm> and <http://pe.usps.com/text/dmm300/703.htm#1114977>.

You are strongly encouraged to contact your local Postmaster or the Business Mail Unit assigned to your region.

Please direct any questions concerning this Directive to the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Please direct questions about the 2015 NCOA data file or the download instructions to the Secretary of State's IT Help Desk at (614) 466-2585 or HELP@sos.state.oh.us.

Sincerely,

A handwritten signature in dark ink, reading "Jon Husted". The signature is stylized with a large, looping "J" and a cursive "Husted".

Jon Husted