



DIRECTIVE 2022-39

June 29, 2022

To: Hamilton County Board of Elections
Board Members, Directors, and Deputy Directors

Re: Court Order Impacting the August 2, 2022 Primary Election for Hamilton County Board of Elections

SUMMARY

On June 29, 2022, a judge in the Court of Common Pleas in Hamilton County, Ohio ruled¹ that the Hamilton County Board of Elections must accept and review one candidate's petitions even though that person filed after the February 2, 2022 filing date. The decision applies only to the one named candidate and impacts only the Hamilton County Board of Elections. Therefore, the Hamilton County Board of Elections must amend its ballots for the August 2, 2022 Primary Election for the office of State Representative to account for their determination on that candidate's declaration of candidacy and petition. This Directive supersedes any provision in a prior Directive that may conflict with this Directive.

INSTRUCTIONS

I. PETITION VERIFICATION AND CERTIFICATION

The Hamilton County Court of Common Pleas' order requires the Hamilton County Board of Elections to follow normal procedures for the verification of the validity of the plaintiff's declaration of candidacy and petition. Following verification of signatures on the declarations of candidacy and not later than **6:00 p.m. on Thursday, June 30, 2022**, the Hamilton County Board of Elections must hold a meeting to certify or reject the declaration of candidacy and petition for the August 2, 2022 Primary Election.

II. PROTESTS AND FINAL BALLOT PREPARATIONS

Protests filed against the candidate subject to the Hamilton County Court of Common Pleas' order must be filed no later than **12:00 p.m. on Friday, July 1, 2022**.² Protest hearings must be held and decided not later than **9:00 p.m. on Tuesday, July 5, 2022**.

¹ *State of Ohio ex rel. Giroux v. Hamilton County Board of Elections*, Case No. A2202161 (Hamilton Co. Jun. 29, 2022).

² R.C. 3513.05 states that protests must be filed by the 74th day prior to an election. However, because of the court ordered acceptance of this candidate's petitions and declarations, and possible placement on the ballot, this Office is ordering an amended and expedited timeline for protests as well.

Unfortunately, due to the timing of the Hamilton County Court of Common Pleas' decision, early in-person voting may continue while some ballot styles are changing. Boards must perform logic and accuracy testing for the new ballots in a way that does not interfere with early in-person voting.

III. SUPPLEMENTAL UOCAVA BALLOTS

The Hamilton County Court of Common Pleas' order comes after voting began for UOCAVA voters. Therefore, UOCAVA voters from Hamilton County with a ballot that is impacted by this litigation may need to receive a supplemental ballot. The Board must do all of the following for in-progress UOCAVA voting:

- (1) If the UOCAVA voter requests a ballot that is **not** impacted by the litigation, transmit the ballot to the voter as soon as possible.
- (2) Create a supplemental ballot that amends the contest impacted by the litigation. The supplemental ballot **must contain all eligible candidates** for that particular election, in addition to the other contests and questions and issues on the ballot for the August 2, 2022 Primary/Special Election. These supplemental ballots must be provided to voters as soon as they are prepared and ready.
- (3) Send the UOCAVA voter the supplemental ballot in the same way that was initially requested. For example, if the voter initially requested the ballot to be sent via email, the Board must email the supplemental ballot. Along with the ballot, the Board must include an explanation of the circumstances which lead to the supplemental ballot and that the voter may cast this supplemental ballot without fear of prosecution. A template for the notice to UOCAVA voters that must be included with the supplemental ballot accompanies this Directive. This template should be printed on county/board letterhead. If the UOCAVA voter did not receive an original ballot and will only receive a supplemental ballot, the template notice is not required.
- (4) Boards must segregate the ballots for any UOCAVA voters who received a ballot that was impacted by this litigation. The Board must not remake or scan any UOCAVA ballots until the 11th day after the election.³ These ballots must be kept separate in the event a voter returns their supplemental ballot prior to the deadline for returning a UOCAVA ballot.
- (5) As part of the Official Canvass remake process, if a UOCAVA voter returned a supplemental ballot, the voter's supplemental ballot should be used in place of the original ballot. If the voter did not return a supplemental ballot, the board of elections must ensure that the original ballot the voter returned counts if otherwise valid.

³ [R.C. 3511.11](#).

IV. BOARD WEBSITE AND FEDERAL WRITE-IN ABSENTEE VOTERS ("FWAB") NOTICE

The Hamilton County Board of Elections must prominently display notice on its website and specifically in their Voter Information Lookup that states, "On June 29, 2022, the Hamilton County Court of Common Pleas issued a court order which permitted an additional candidate to appear on the ballot for the August 2, 2022 Primary Election. Therefore, an additional candidate may be added to the ballot. Once candidate petition verification and certification is complete, the candidate list will be updated."

V. UPDATED ABSENTEE BALLOT SUBMISSION

The Hamilton County Board of Elections must send a copy of each updated absentee ballot style (including candidates and questions and issues) to the Secretary of State's Office by **Friday, July 8, 2022**. Absentee ballots must be uploaded to the SharePoint site.⁴

VI. EARLY IN-PERSON VOTING

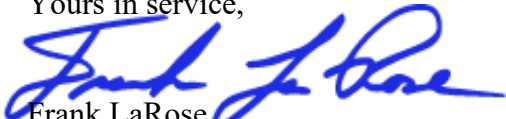
The Hamilton County Board of Elections must have ballots ready for early in-person absentee voting on **Wednesday, July 6, 2022**. If the Board does not have scannable ballots at the start of early in-person voting, the Board may need to print images of ballots, then remake and tabulate the ballots for the unofficial canvass.

VII. ABSENTEE BALLOT OUTSOURCING

If the Hamilton County Board of Elections is outsourcing the printing and mailing of absentee ballots, the Board must immediately contact its vendor and inform them that due to the Hamilton County Court of Common Pleas' order, the ballots must be updated. They must not send a ballot to a voter when the ballot is missing a candidate due to the Hamilton County Court of Common Pleas' order. The Board must work with their vendor to ensure that the vendor is able to provide ballots in a timely manner to all voters, despite the late hour of the Hamilton County Court of Common Pleas' order.

The Board must share this Directive with its legal counsel, the county prosecuting attorney, and its voter registration system and voting equipment vendors as soon as possible. If you have any questions regarding this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,


Frank LaRose
Ohio Secretary of State

⁴ The Court Order requires a compressed timeline of the process outlined [Chapter 5, Section 5.04](#) of the Election Official Manual.