



DIRECTIVE 2022-45

September 22, 2022

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

Re: Requirements for the Use of Secure Absentee Ballot Receptacles, the Use of Bipartisan Teams to Receive Absentee Ballots at a Board of Elections, the Sharing of Election Integrity Information at Polling Locations, the Reporting of Security Events, and the Use of Election Observers

SUMMARY

This Directive sets forth requirements and recommendations for:

- The use of a secure absentee ballot receptacle,¹ commonly known as a “drop box,” outside of a board of elections;
- The collection of returned absentee ballots outside of a board of elections by bipartisan elections officials;
- The legal role and responsibility of observers at a polling location or early voting location;
- The training of Precinct Election Officials (“PEOs”) on how to address voter questions or concerns on election security at a polling location; and
- The reporting of security incidents, otherwise known as security events.

INSTRUCTIONS

I. REQUIREMENTS FOR USING A SECURE ABSENTEE BALLOT RECEPTACLE (OR “DROP BOX”)

Recognizing that, for many years, some county boards of elections have stationed a secure absentee ballot drop box outside of the board of elections office, boards must inform voters of the appropriate requirements for the use of such a drop box.

Each board of elections must create and post a weather resistant notice at or on a drop box specifying the security protocols for its use and the appropriate Ohio Revised Code citations for returning an absentee ballot, including clear instructions on who is eligible to return such a ballot and the possible penalties for a violation.² The notice must be in place no later than the beginning of early, in-person voting.

¹ See generally Directives [2020-22](#) and [2021-10](#).

² [R.C. 3509.05\(A\)](#); [R.C. 3599.21](#).

To accommodate the differences in type and location of absentee ballot drop boxes, boards may use discretion in complying with this requirement. For example, the attached template notice can be used by the board to create a professionally produced waterproof sign. As an alternative, the board could print and laminate the attached template or even place it in a clear document protector with a strip of clear tape along the open edge to make it waterproof. If a board has questions about how to comply with this requirement or needs assistance, please contact our office. **Note:** A board of elections that already posts a substantially similar notice is not required to post a new sign based on the attached template.

II. EMPLOYING BIPARTISAN ELECTION OFFICIALS TO RECEIVE ABSENTEE BALLOTS OUTSIDE OF THE BOARDS OF ELECTIONS

Even though voter engagement and turnout can vary during the early voting period, boards should plan to accommodate high turnout circumstances that can result in traffic congestion and delays. This is especially problematic when voters must park and leave their vehicle to use a permanently installed absentee ballot drop box.

Boards are encouraged to consider, as a best practice, developing a streamlined, convenient ballot drop-off system during periods of high-volume turnout. For example, some boards have stationed trained, bipartisan teams of elections officials *outside of the office of the board of elections* to receive absentee ballots from voters in a drive-through format.³ Boards of elections may consider, by a majority vote, implementing this traffic mitigation plan using permanent or temporary board employees who have undergone a criminal background check (hereinafter, “board employees”) and received appropriate training. If the board members vote to utilize such a plan, the board must also determine and document how the following requirements will be met:

- (1) At least one Republican and one Democrat board employee must be paired together and trained to receive absentee ballots outside the board of elections;
- (2) The board must have enough additional staff at the board office to continue the successful operation of all other duties at the board of elections;
- (3) The board must provide the bipartisan team with an appropriate container into which the delivered absentee ballots will be received and maintain the secure and bipartisan chain of custody of the ballots until they are deposited and stored under dual lock with other voted ballots inside the board of elections;
- (4) The board must engage its law enforcement point of contact to develop a plan for appropriate traffic control while the drive-through system is being utilized;
- (5) The board must post appropriate signage outside the board of elections instructing voters on where to park or drive up to return absentee ballots;
- (6) The board must set a schedule of days and hours during which bipartisan teams of board employees will be stationed outside the office of a board of elections to receive absentee ballots and publicize that schedule on the board’s website

³ To be clear, “outside the office of the board of elections” means *immediately* outside the office of the board of elections, not remote locations miles from the office of the board. So, boards may station bipartisan teams of employees directly in front of the office of the board, behind the office of the board, right around the corner from the office of the board, or across the street from the office of the board, whichever of these options works best considering the vehicular traffic flow around the office of the board.

and social media. The staffed collection schedule may begin when early, in-person voting begins but must conclude at 7:30 p.m. on Election Day;⁴

- (7) The board must require the bipartisan team of board employees to remind any elector returning more than one ballot that only the elector or a “family member” of the elector may personally deliver an absentee ballot to the board of elections. “Family member” only includes a father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece;⁵ and
- (8) If there is a line, boards must mark or personally monitor⁶ the last voter in line at 7:30 p.m. on Election Day to allow those who are in line at 7:30 p.m. to drop off their ballot.

Additionally, boards should consider the following best practices when implementing a streamlined, bipartisan ballot drop-off plan:

- Use of directional signage and traffic cones for traffic management. Board may coordinate with their county engineer or local road department to borrow such assets;
- Providing board staff with inexpensive reflective vests for their safety and to designate them as official board staff;
- Providing a quantity of “I voted” stickers, poll worker recruiting fliers, and the attached election security sheet to provide to voters who utilize the drive-through ballot drop off; and
- Coordinating with local media to publicize designated dates and times for drive-through ballot drop off.

III. ELECTION INTEGRITY INFORMATION AT POLLING LOCATIONS, PEO TRAINING, AND REPORTING SECURITY EVENTS

Given the heightened public interest in the security and integrity of our elections, voters might naturally ask questions about those issues during the voting process. While extended conversations between PEOs and voters should be avoided so as not to delay the voting process, PEOs should be trained and prepared to respond to a voter with helpful information.

To assist in managing these circumstances, boards must print and distribute to each polling location the attached document titled “Ohio Elections are Secure.” This document can be produced in sufficient quantity, depending on anticipated demand, for PEOs to offer a voter who raises concerns. Boards may also consider providing the PEO recruitment flyer to a voter, inviting them to learn more about how the boards keep elections secure through poll worker recruitment and

⁴ If a court order is issued, extending voting hours on election day, the Secretary of State’s Office will provide additional guidance.

⁵ [R.C. 3509.05\(A\)](#).

⁶ The bipartisan team must mark or personally monitor the last voter in line at 7:30 p.m. on Election Day in a similar manner to how precinct election officials mark or personally monitor lines at a polling location.

training. Each board of elections must print the document attached to this Directive and provide no less than 20 copies to each polling location (or more, as needed). Boards also must instruct PEOs to provide the document to any voter with questions about election security and integrity in Ohio.

Additionally, boards should consider the inclusion of de-escalation training for PEOs. Voters are often passionate about the electoral process. It is not uncommon for voters to have strong opinions about their preferred candidates, and sometimes these emotions manifest themselves in a way that causes a voter to react emotionally or inappropriately at a polling location. For example, PEOs are required to notify voters of the prohibition against wearing certain campaign attire inside a polling location. This can elicit an emotional reaction from a voter. Approaching such interactions in a friendly and informative way can calm the situation instead of escalating it. Boards should consider training techniques such as role-playing to prepare PEOs for dealing with voters in a helpful, professional, and effective way that de-escalates potentially tense situations. Our office provides videos, lesson plans, and other materials to help boards deliver this training effectively.

As in the past, boards must immediately report security incidents, sometimes referred to as security events, to the Secretary of State's Office.⁷ Security events include, but are not limited to those examples in the Election Official Manual [Chapter 3](#), pages 70-71. Other types of security events include misinformation, disinformation, and mal-information; direct, indirect, or perceived threats of violence; harassment or intimidation of election officials, staff, precinct election officials, or voters; and threats to property utilized by the board of elections. If an election official feels an act of violence is imminent, call 9-1-1 immediately.

IV. OBSERVERS

A. GENERALLY

Transparency is an essential part of ensuring confidence in our electoral process and its outcomes. Candidates, campaigns, political parties, and individual electors have recently asked new questions about the role of observers at polling locations. This section is intended to provide a brief overview of Ohio election law on that topic.⁸

Generally, state law permits certain individuals to be observers during the election process.⁹ Only certain appointing authorities can appoint observers. All observers (except recount observers) must be qualified electors in the State of Ohio but do not have to be registered in a particular county.

⁷ See Directive 2019-07 (unredacted).

⁸ Potential observers may also review "[Being an Observer: Things to Know](#)" on the Secretary of State's website.

⁹ [R.C. 3505.21\(C\)](#).

B. TYPES OF OBSERVERS

Ohio law allows six types of recognized observers:¹⁰

- (1) Observers at an Early In-Person Absentee Voting Location;
- (2) Observers at Precincts on Election Day;
- (3) Observers at a Board of Elections Office prior to the Official Canvass;
- (4) Official Canvass Observers;
- (5) Recount Observers; and
- (6) Post-Election Audit Observers.

The following are prohibited from serving as observers: candidates, uniformed peace officers, uniformed state highway patrol troopers, uniformed members of a fire department, uniformed members of the armed services, uniformed members of the organized militia, any person wearing any other uniform, and any person carrying a firearm or other deadly weapon.¹¹

C. APPOINTING OBSERVERS

Election observers may be appointed by any county or state political party supporting a candidate at that election or by any group of five or more candidates. Additionally, a ballot issue committee that in good faith advocates for or opposes a ballot question or issue may file a petition with the county board of elections asking to be recognized as a committee entitled to appoint observers for the election.¹²

The authority appointing observers must first notify the board of elections in writing of the names and addresses of its observer appointees and the location(s) at which they will observe. Written amendments for a notification of appointment may be filed with the board of elections prior to 4:00 p.m. the day before the observer is appointed to observe. An amendment may substitute one observer for another at the location identified in the original filing but cannot add a location that was not identified in the original filing. An amendment also cannot add observers at a location or expand the number of observers at a location beyond what is permitted by law.

The authority appointing observers then issues a certificate of appointment to the observer, who will present that certificate to the appropriate election official at the time that the observer arrives at the location where they will observe. Each observer must take the following oath:¹³

You do solemnly swear that you will faithfully and impartially discharge the duties as an official observer, assigned by law; that you will not cause any delay to persons offering to vote; and/or that you will not disclose or communicate to any person how any elector has voted at such election.

A precinct election official administers this oath for observers who observe on Election Day, while an election official, director, or deputy director may administer the oath for other types of observers. If observers are observing over multiple days, they do not need to take this oath

¹⁰ See [Chapter 9](#) of the Election Official Manual for details regarding each type of observers and Forms 214 through 219 for petition forms, notices of appointments, certificates of appointments for each type.

¹¹ [R.C. 3505.21\(B\)](#).

¹² See Form 220, Petition to be Recognized as Committee to Appoint Observers to a Ballot Question or Issue.

¹³ [R.C. 3505.21\(F\)](#).

multiple times but must affirm to an election official each day that they understand that they are still under oath.

D. PERMISSIBLE AND PROHIBITED ACTIVITY

Observers are authorized to observe the election proceeding, and as such, may move freely about the polling location or any area where ballots are being cast,¹⁴ processed, counted, or recounted at a board of elections office, if they do not engage in any prohibited activity. Depending on the type of appointment, an observer may be allowed to observe at multiple locations, as the observer may spend parts of Election Day at several different locations or observe at different locations at different points in the election process. They may engage election officials in casual conversation during less busy times and gather information about the process. Observers can collect or transmit information from the registration lists posted throughout the day in each precinct, provided they are not engaging in harassment as defined in [R.C. 3501.90\(A\)](#).¹⁵

Observers are prohibited from using a mobile telephone, two-way radio, or any other wired, wireless, or satellite communication device to discuss the election or a perceived problem with the administration of the election inside a polling location. Observers may send and receive text messages, email communications, instant messages, and similar other non-verbal, electronic communications using a communications device or audio/video device, but the device must be on silent mode (although low volume vibration settings are permitted). Observers may not engage in an audible conversation inside the polling location using a communications device or audio/video device and may not otherwise use a communications device within a polling location in any manner that creates a disruption or disturbance, or in any manner that impedes, interferes with, or disrupts an election, or in any way intimidates a voter, or risks violating the secrecy of the ballot or voter privacy. They may not use their devices, including but not limited to cell phone cameras, to take photographs or videos, or to record or transcribe any conversations inside the polling location.

Observers are prohibited from interfering with election officials administering the election and are never permitted to handle any election materials. They are not authorized to enforce the law or advocate on behalf of voters. Observers may not hinder or delay an elector in reaching or leaving the polling location; may not impede, interfere with, or disrupt the election in some manner; may not engage in any kind of election campaigning; may not intimidate, harass, or attempt to influence voters or precinct election officials; and may not violate a voter's privacy or the secrecy of an individual's ballot.¹⁶

In certain circumstances, election officials have a responsibility to, and are authorized to, remove observers from their posts. Those circumstances include incidents where the observer's

¹⁴ A board may deny an observer access to other parts of its office.

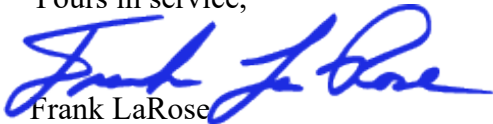
¹⁵ Harassment in violation of the election law includes conduct in or about a polling place or a place of registration or election where one obstructs access of an elector to a polling place; where one engages in an improper practice or attempt that would tend to obstruct, intimidate, or interfere with an elector in registering or voting at a place of registration or election; where one molests or otherwise engages in violence against observers in the performance of their duties at a place of registration or election; or where one participates in a riot, violence, tumult, or disorder in and about a place of registration or election. It also includes behavior that violates divisions (A)(1), (A)(2), (A)(3), (A)(5), or (B) of [R.C. 3501.35](#), "Loitering or Congregating Near Polling Places."

¹⁶ Unless specifically exempted by law, all observers are subject to the statutory prohibitions in Title 35 of the Revised Code.

behavior is inconsistent with Ohio law or with a Secretary of State Directive, or that interferes with, impedes, or disrupts an election. Only the voting location managers, directors, deputy directors, and appointing authorities have the authority to administratively remove observers from their posts, and law enforcement officials have the statutory duty to remove observers at the order of one of the above-listed election officials. If an observer is removed, the person removing the observer may request their certificate of appointment and return it to the board office with a notation that the observer was removed from the polling location.¹⁷

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

¹⁷ [R.C. 3501.33](#) and [3505.21](#).