

DIRECTIVE 2024-21

August 31, 2024

To: All County Boards of Elections

Board Members, Directors, and Deputy Directors

Re: Enforcement of Absent Voter's Ballot Provisions and Compliance with State and Federal Laws

SUMMARY

This directive sets forth procedures for enforcement of Ohio law regarding the return of an absent voter's ballot. I am acting under my statutory authority to compel the observance of election laws,¹ in this case Ohio's prohibition on "ballot harvesting," a process by which an individual attempts to collect and return absent voters' ballots of other persons without accountability. To ensure compliance with applicable state and federal laws, this directive provides that a designated assistant delivering a ballot for another must sign an attestation that they comply with applicable law.

BACKGROUND AND OVERVIEW

Among other requirements, Ohio law generally prohibits a person from returning the absent voter's ballot of another to the office of a board of elections, unless "[t]he person is a relative who is authorized to do so under division (C)(1) of section 3509.05 of the Revised Code," or "[t]he person is, and is acting as, an employee or contractor of the United States postal service or a private carrier."² There is an important exception for disabled voters, and the persons assisting them, under a recent federal court decision applying Section 208 of the Voting Rights Act.³ However, Ohio's prohibition on ballot harvesting is still required to be enforced with respect to voters who are not disabled.

It is important to ensure the integrity of each vote delivered on behalf of an absent voter. The security of the delivery of absentee ballots remains paramount, especially as it applies

¹ See R.C. 3501.05.

² R.C. 3599.21(A)(9).

³ See *League of Women Voters of Ohio, et al., v. Larose, et al.*, 1:23-cv-02414 (N.D. Ohio) (July 22, 2024).

to the use of unattended drop box receptacles. To ensure compliance with applicable state and federal laws, this directive provides that an assistant delivering a ballot for another must sign an attestation that they comply with applicable state and federal law. As a practical matter, this means that only a voter's personal ballot may be returned via drop box.

Drop boxes are monitored by video surveillance and typically unstaffed. Therefore, this directive also requires boards to post a notification on each drop box indicating that voter-assisted ballots must be returned inside the board office, where the voter assistant will be asked to complete the attestation form.

INSTRUCTIONS

Each board of elections must share this directive with its legal counsel, the county prosecuting attorney. We understand that UOCAVA ballots must be mailed and regular absentee voting begins in less than 40 days.

I. USE OF SECURE ABSENTEE BALLOT DROP BOX

A. Attestation of Assistant Delivering a Ballot to a Board of Elections

To ensure compliance with state and federal law, and to protect the security of absentee ballot delivery, the only individual who may use a drop box to return the ballot is the voter. All individuals who are delivering ballots for a family member or disabled voter may either mail the ballot to the county board of elections or return the ballot to a county board of elections official at the county board of elections office and complete an attestation at the board of elections.

Boards are required to provide the person assisting a voter with an attestation form which declares under penalty of election falsification:

- (1) That they are returning a ballot on behalf of a family member under R.C. 3509.05 (C)(1), and that they have been lawfully designated to assist another voter with the return of an absentee ballot;⁴ or

⁴ See R.C. 3599.21(A)(9).

- (2) If the person is assisting a disabled voter, that they are complying with Section 208 of the Voting Rights Act and that they are not the voter's employer or agent of that employer or officer or agent of the voter's union.⁵

The attached Form No. 12-P meets the requirements of this directive.

B. Drop Box Signage

Each board of elections must post a weather resistant notice at or on a drop box specifying the security protocols for its use, including clear instructions on who is eligible to return such a ballot under this directive, as well as instructions for someone other than the voter attempting to return a ballot. The Secretary of State has issued the attached Drop Box Protocol Sign Template (the "Template") meeting the requirements of this directive, and will be providing a laminated copy of the Template to each county's board of elections. The signage required by this directive supersedes prior signage requirements.

A board of elections may make its own sign, provided that it uses substantially the same language found in the Template. If a board chooses to make its own sign and needs assistance, please contact the appropriate regional liaison at the Secretary of State's office.

II. REFERRAL OF POTENTIAL BALLOT HARVESTING

Current security measures for drop boxes remain in place, including the 24/7 surveillance of drop boxes. Ongoing routine monitoring of drop boxes should continue, specifically monitoring for individuals who are dropping off more than one ballot. My office will vigorously investigate and refer for prosecution any individual engaged in ballot harvesting in violation of Ohio law. It is recommended that any allegation of ballot harvesting be reported to the Public Integrity Division – Election Integrity Unit of the Secretary of State at EIU@OhioSoS.gov.

If you have any questions regarding this directive, please contact the Secretary of State's Elections Counsel at 614-728-8789.

⁵ See 52 U.S.C. §10508.

Yours in service,

A handwritten signature in blue ink, reading "Frank LaRose". The signature is fluid and cursive, with the first name "Frank" and last name "LaRose" clearly distinguishable.

Frank LaRose
Ohio Secretary of State