



JENNIFER BRUNNER
OHIO SECRETARY OF STATE

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ADVISORY NO. 2007-04

June 1, 2007

To: All County Boards of Elections

Re: *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579 (6th Cir. 2006).

On September 6, 2006, the United States Court of Appeals for the Sixth Circuit held in *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579 (2006), that Ohio's requirements for political parties whose candidate for governor or nominees for presidential electors received less than five percent of the vote in the most recent regular state election to gain access to the ballot were unconstitutional. Specifically, the court found that the combination of the requirement in Article V, Section 7 of the Ohio Constitution that political parties nominate candidates by primary election and the requirement in R.C. 3517.01(A)(1) that a petition to form a political party must be filed at least one hundred and twenty days before the primary election placed an unconstitutional burden on the free speech and associational rights of political parties under the First Amendment to the United States Constitution.

Directive 2007-09, issued on May 21, 2007, is intended to provide an alternative means for political parties to form and to gain access to the Ohio ballot only until the Ohio General Assembly acts to address the Sixth Circuit's decision in *Libertarian Party*. Directive 2007-09 incorrectly stated that the Sixth Circuit had found the signature requirement of R.C. 3517.01(A)(1) was unconstitutional. The court did not address the constitutionality of the signature requirement of R.C. 3517.01(A)(1) in its ruling. Nevertheless, the incorrect statement regarding the *Libertarian Party* ruling does not impact the means of gaining political party status in Ohio or access to the Ohio ballot provided by Directive 2007-09.

We are revising Form No. 6-H (Petition To Form A Political Party) to incorporate the requirements of Directive 2007-09. The form will be completed in the near future and will be available on the Secretary of State's web site: www.sos.state.oh.us.

If you have any questions or need additional information regarding this Advisory or Directive 2007-09, then please contact the Elections Division legal staff assigned to your board at 614-466-2585 or by e-mail.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Brunner".

Jennifer Brunner
Ohio Secretary of State