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ADVISORY 2007-18

December 26, 2007

To: All County Board of Elections

Re: Reminder of 2008 Election Notices that Must be Mailed to Electors – R.C. 3501.19

As noted on the 2007 and 2008 Ohio Election Calendars, each board of elections must send notices to registered electors of the county 60 days before the March 4, 2008 primary election and the November 4, 2008 general election. This requirement is set forth in R.C. 3501.19.

Following are the deadlines by which a board must mail the required notices for these elections:

- March 4, 2008 primary election: *Notice mailing deadline: January 4, 2008*
- November 4, 2008 general election: *Notice mailing deadline: Sept. 5, 2008*

Requirements of the notices – R.C. 3501.19(B)

Pursuant to R.C. 3501.19(B), the notice must contain the day of the election and the location of the polling place for the precinct in which the elector is registered to vote. This notice must be sent by nonforwardable mail and must include the following statement, printed in bold type:

Voters must bring identification to the polls in order to verify identity. Identification may include a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than this reminder or a voter registration notification, that shows the voter's name and current address. Voters who do not provide one of these documents will still be able to vote by providing the last four digits of the voter's Social Security number and by casting a provisional ballot. Voters who do not have any of the above forms of identification, including a Social Security number, will still be able to vote by signing an affirmation swearing to the voter's identity under penalty of election falsification and by casting a provisional ballot.

The Secretary of State has prescribed Form 10-K for use by the boards as a template for these notices. Form 10-K may be accessed on the Secretary of State's BOE Extranet, at <http://server6.sos.state.oh.us/boe/electionsinformations/forms/10-K.pdf>.

Exceptions: Electors to whom notices need not be sent – R.C. 3501.19(D)

The statute provides that a board is *not* required to send a notice to anyone who registered to vote within 30 days prior to the applicable *notice mailing date*.

Additionally, a board is not required to send another notice to an elector to whom a notice was sent under R.C. 3501.19, if that notice was returned to the board as undeliverable, and the

elector has not voted or updated his or her voter registration since the prior notice was sent. The board's handling of returned notices is discussed further in the section immediately below.

Notices returned to the Board in 2006 or 2008 as undeliverable – R.C. 3501.19(C)

If a notice sent pursuant to R.C. 3501.19(A) is returned to the board as undeliverable, the board must do the following:

1. Mark the voter's name in the official registration list and in the pollbook to indicate "Notice returned to board of elections," and
2. Require a voter whose name has been so marked to provide identification at the first election at which the voter appears in order to vote.

A voter whose name has been so marked is permitted to cast *a regular ballot* upon producing a current and valid photo identification, a military identification that shows the voter's name and current address, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document, other than a notice of an election or a notice of voter registration mailed by a board of elections. Please see Directive 2007-06 for further information and clarification on permissible forms of identification for voting.

Alternatively, in accordance with both R.C. 3501.19(C) and R.C. 3505.18(A)(4), a voter whose name has been marked in the poll book or in a poll list for a returned notice must be permitted to cast *a provisional ballot* at the election if the voter complies with any of the following procedures:

1. Provides a photo identification that does not contain the voter's current address, or
2. Provides the last four digits of the voter's Social Security number, or
3. Is unable to provide any of the required forms of identification, or
4. Refuses to provide any of the required forms of identification, or
5. Executes an affirmation that indicates that the voter does not have any of the specified forms of identification and is unable provide the last four digits of a Social Security number.

Notice mailed under R.C. 3501.19 or 3503.19 is not a "government document" for voter identification purposes – R.C. 3501.19(E) and 3505.18(A)(1)

The law specifically provides that a voter cannot use, and election officials shall not accept, a notice that a board of elections mailed to the voter under either R.C. 3501.19(A) or 3503.19, as a government document for the purpose of providing identification under the various sections Title XXXV (35).

If you have additional questions or concerns about this advisory, please contact your assigned Elections Counsel at (614) 466-2585 or by e-mail.

Sincerely,



Jennifer Brunner