

ADVISORY 2008-11

July 23, 2008

To: All County Boards of Elections

Re: Ohio's "Five-minute Rule" when occupying a voting compartment

Under R.C. 3505.23, "No voter shall be allowed to occupy a voting compartment or use a voting machine more than five minutes when all the voting compartments or machines are in use and voters are waiting to occupy them." As has been past policy, the office of the Secretary of State advises that a strict enforcement of this provision would be impracticable and could result in voter disenfranchisement. Accordingly, boards of elections are advised of the need to instruct pollworkers to be "flexible" in applying this portion of the statute.

It is imperative that each elector be given a reasonable amount of time to mark and check his or her ballots. Due to the unprecedented increase in voter registration in recent months, Election Day voters may include a significant number of first-time voters who may not be familiar with voting procedures and equipment. Also, the number of ballot issues and questions may require additional time for a voter to review and vote the ballot.

If a voter seems to be taking an unusually long period of time while in the voting compartment, two precinct officials of different parties may inquire, in a polite and professional manner, if the voter requires assistance. As elections officials, it is our shared responsibility to ensure that no qualified elector is disenfranchised or placed under any undue pressure.

If you have any questions concerning this advisory, please contact your assigned elections attorney at 614-466-2585.

Sincerely,

Jennifer Brunner