

**ADVISORY 2008-14**

August 4, 2008

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Voter Registration Activities of Organizations in Ohio

Various individuals and organizations are conducting voter registration drives in Ohio to increase voter participation in the 2008 presidential election. This advisory addresses the requirements under Ohio and federal law for individuals and organizations conducting voter registration activities in Ohio.

**Qualifications to register to vote in Ohio (R.C. 2961.01; 3503.01; 3503.07)**

To register to vote in Ohio, a person must meet the following qualifications:

1. The person is a U.S. citizen;
2. The person is at least 18 years old or will be 18 years old on **or before** the date of the next general election (November 4, 2008);<sup>1</sup>
3. The person has been a resident of Ohio for at least 30 days immediately preceding the election at which the person offers to vote;
4. The person is a resident of the county and precinct in which the person offers to vote; and
5. The person is not disqualified from voting because of any of the following:
  - a. The person is currently incarcerated for a felony conviction under the laws of Ohio, another state or the U.S.; or
  - b. The person specifically has been declared incompetent to vote by a probate court; or
  - c. The person has been permanently disfranchised for violations of Ohio elections law.

**Rules for determining residence for the purpose of registering to vote in Ohio (R.C. 3503.02)**

R.C. 3503.02 provides the following rules for determining residence for a person who desires to register to vote in Ohio:

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<sup>1</sup> A person who will be 18 years old on or before the date of the general election in a year may vote in the primary election that year for candidates only. However, a person who is not yet 18 years old who votes in a primary election may not vote on issues at a primary election. R.C. 3503.011.

- Generally, a person's residence is the place where the person's habitation is fixed (i.e., where the person lives on a permanent basis) and the place where the person intends to return whenever the person is absent.
- Persons who do not have a fixed place of habitation, such as homeless persons, may use a shelter or other location where the person has been a regular inhabitant and intends to return as the person's residence for the purpose of registering to vote.
- Temporary absence from a person's residence, such as during a vacation or working outside Ohio on a temporary basis, does not result in a person losing his or her residence in Ohio for the purpose of registering to vote.
- Similarly, a person's temporary presence in Ohio, such as during a vacation or working in Ohio on a temporary basis, does not make the person eligible to register and to vote in Ohio.
- Continuous absence from Ohio for a period of four years or more will result in the person losing residence in Ohio for the purpose of registering to vote, unless the person's absence from Ohio is due to working for the U.S. government or for the State of Ohio.<sup>2</sup>

**Voter registration form availability and contents (R.C. 3503.08, 3503.14, 3503.28 & 42 U.S.C. 1973gg-3)**

The secretary of state prescribes the form to be used for registering to vote in Ohio. This form is available for download from the Secretary of State's Web site at:

[www.sos.state.oh.us/sos/upload/publications/election/VRform.pdf](http://www.sos.state.oh.us/sos/upload/publications/election/VRform.pdf). This form may also be used for name and address changes for persons who are already registered to vote in Ohio.

Individuals and entities registering voters in Ohio may obtain multiple copies of the secretary of state's prescribed voter registration form at the secretary of state's office and at the office of any Ohio county board of elections. Under R.C. 3503.28(B), any individual or organization requesting more than two voter registration forms at the same time must also be issued the Secretary of State's Voter Registration Instructions brochure. The brochure is also available for download from the secretary of state's Web site at:

[www.sos.state.oh.us/sos/upload/publications/election/VRinstructions.pdf](http://www.sos.state.oh.us/sos/upload/publications/election/VRinstructions.pdf).

It should be noted that boards of elections are not required to provide unlimited quantities of voter registration forms to individuals and organizations requesting multiple voter registration forms. Each Ohio county board of elections is permitted to adopt a written policy under R.C. 3503.08 determining a reasonable amount of voter registration forms to provide upon request, depending on the resources of the board.

The National Mail Voter Registration Form developed by the U.S. Election Assistance Commission ("EAC") may also be used to register to vote in Ohio and to change name or address for previously registered voters.

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<sup>2</sup> The right of U.S. citizens living outside the U.S. to register to vote in Ohio are not addressed by this Advisory. For more information, please see SOS Advisory 2006-07.

Some individuals or organizations that are registering people to vote in Ohio may have developed or may be using a voter registration form other than the forms prescribed by the Secretary of State and the Election Assistance Commission (EAC). A board of elections must accept a voter registration form that meets the requirements of Ohio and federal law and contains the necessary information for an individual to register to vote in Ohio.

Under Ohio law, a voter registration form must contain all of the following information in order to be valid:

1. The applicant's name;
2. The applicant's address;
3. The current date;
4. The applicant's date of birth;
5. **One or more** of the following forms of identification:
  - a. The applicant's driver's license number (NOTE - Ohio driver's licenses contain a license number on the left side of the license in the middle of the column under the heading "LICENSE NO." The license number starts with two letters and is followed by six numbers. For example "AA111111." The number printed above the picture on a driver's license is NOT the driver's license number.);
  - b. The last four digits of the applicant's Social Security number; or
  - c. A copy of a current and valid photo identification, a copy of a military identification,<sup>3</sup> or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the applicant's name and address; however, the government document cannot be a notice of registration or a notice of election mailed by a board of elections;
6. The **applicant's signature**.
7. In addition to Ohio's requirements for the applicant's personal information listed above, federal law requires that a voter registration form include all of the following information to be valid:
  - a. The eligibility requirements to register to vote;
  - b. An attestation that the applicant meets the eligibility requirements to register to vote (the applicant is a U.S. citizen, will be 18 years old on or before the date of the general election, and the applicant will have lived in Ohio for 30 days prior to the election); and
  - c. The signature of the applicant made under penalty of perjury (i.e., election falsification).

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<sup>3</sup> H.B. 562, effective September 23, 2008, removes the requirement that a military ID must contain an applicant's current address. In fact, it does not include any particularized requirements for a military ID. You are instructed that the military ID must enable the voter registrant to be reasonably identified using the ID.

**Applicants who are unable to sign the voter registration form (R.C. 2961.01(B), 3901.382, 3503.14(C))**

Any applicant who is unable to sign his or her own name shall make an "X," if possible, on the voter registration form. If an applicant who makes an "X" on the form received assistance from someone in completing the form, then the person who assisted the applicant in completing the form shall certify the form by placing his or her own signature on the form. If an applicant is unable to make an "X," then the applicant shall indicate in some manner that he or she desires to register to vote. Any person assisting the applicant in completing the form shall sign the form and attest that the applicant indicated that he or she desired to register to vote.

It is important to note that under R.C. 2961.01(B), persons convicted of any felony that has not been expunged or pardoned may **not** witness the signing of any voter registration application or assist an applicant in completing a voter registration application.

In addition to being assisted in registering to vote under R.C. 3503.14(C) as described above, persons with disabilities who are unable to sign their names and who are eligible to register to vote in Ohio may file a power of attorney with their county board of elections authorizing a legally competent Ohio resident who is at least 18 years old to sign the disabled person's name on a voter registration form as the disabled person's attorney in fact as specifically provided in R.C. 3501.382. The person with a disability may use secretary of state Form 10-F to designate an attorney in fact, and the form should be filed with the appropriate county board of elections prior to or simultaneously with the subject person's voter registration application.<sup>4</sup>

**Return of completed voter registration forms (R.C. 3503.19(A) & (B); 3599.11(B) & (C))**

An applicant may return his or her completed voter registration form in person or by mail to the Secretary of State, to a board of elections, to any state or local office of a designated agency, which is an office or agency in Ohio that provides public assistance or services to persons with disabilities, to a public high school or vocational school, to a public library, or to the office of a county treasurer.

An applicant may also return his or her completed voter registration form through another person or an organization. If another person or organization returns an applicant's completed voter registration form on behalf of an applicant, then the person or organization must return the voter registration form either in person or by mail to any board of elections or to the office of the secretary of state and must do so within 10 days of receiving it.

- **Voter registration forms returned by a person or an organization on behalf of an applicant must be returned within ten (10) days of the applicant completing the voter registration form.**

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<sup>4</sup> The power of attorney for disabled voters provided under R.C. 3501.182 is the **only** power of attorney that may be used to register to vote in Ohio. A general power of attorney is not legally sufficient to permit a person to register another person to vote in Ohio.

- **However if the voter registration form is completed less than 10 days before the registration deadline but earlier than 24 hours before the deadline, the person or organization returning the form must return it on or before the 30<sup>th</sup> day before the election (the voter registration deadline) and in this circumstance has less than 10 days to return it.**
- **If the form is received by the person or organization within 24 hours before the close of registration, the person or organization must return the form within 10 days of receiving it; however, all registration forms must be returned by the registration deadline for those applicants to be able vote at the next election. Otherwise, the person is registered for subsequent elections but not the next election.**
- **Therefore, persons or organizations receiving completed voter registration forms within 24 hours of the voter registration deadline for an upcoming election are strongly encouraged to return the form immediately so that the applicant may be registered to vote at the upcoming election.**

Failure of a person or an organization to return an applicant's completed voter registration form within the statutory time limit could result in criminal prosecution for election falsification of the person or organization returning the voter registration form on behalf of an applicant.

Returning voter registration forms **in person** for the next election (R.C. 3503.19(A))

Completed voter registration forms returned in person to the secretary of state, to a board of elections, to any state or local office of a designated agency, which is an office or agency in Ohio that provides public assistance or services to persons with disabilities, to a public high school or vocational school, to a public library, or to the office of a county treasurer must be received no later than thirty days before the election for the applicant to be eligible to vote at that election.

Returning voter registration forms **by mail** for the next election (R.C. 3503.19(A))

Completed voter registration forms returned by mail to the secretary of state or a board of elections must be postmarked no later than 30 days before the election for the applicant to be eligible to vote at that election. If a completed voter registration form is returned by mail to the secretary of state or a board of elections that does not contain a postmark or a legible postmark, the completed voter registration form must be received no later than 25 days before the election for the applicant to be eligible to vote at that election.

For the November 4, 2008 general election, the deadline for a voter registration form to be postmarked or received is Monday, October 6, 2008. An otherwise valid voter registration application received after the deadline to vote at the next election entitles the applicant to vote at all subsequent elections.

**Other provisions of Ohio law addressing requirements for individuals and organizations conducting voter registration drives**

Provisions of Ohio law enacted in 2006 required persons who receive compensation for registering voters to register with the secretary of state, participate in a training program, sign

an affirmation, return completed voter registration forms directly to the secretary of state or to a board of elections, and sign and complete information on a voter registration form. However, the U.S. District Court for the Northern District of Ohio enjoined the enforcement of these provisions of Ohio law on September 8, 2006. *See, Project Vote v. Blackwell* (2006), 455 F.Supp.2d 694. These provisions of Ohio law remain unenforceable. It is hoped they will be repealed to avoid confusion. In the meantime, the Ohio General Assembly has not enacted any new requirements for persons or organizations conducting voter registration drives.

If a board of elections has any questions about this advisory, please contact the elections attorney assigned to your county at 614-466-2585. Thank you for your cooperation.

Sincerely,

Jennifer Brunner