

**ADVISORY 2008-23**

September 5, 2008

To: ALL COUNTY BOARDS OF ELECTIONS

Re: Required Information for Accepting and Processing a Completed Voter Registration Application

This advisory informs Ohio boards of elections of the required information to process a completed and valid voter registration application, the reasons to reject a voter registration application, and steps boards may take if a voter registration application is incomplete or must be rejected.

**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);
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.

**Voter registration forms (R.C. 3503.14(A))**

Ohio residents who are eligible to register to vote in Ohio may register to vote using one of the following forms:

- 1) The voter registration form adopted by the Secretary of State;
- 2) The National Mail Voter Registration Form adopted by the U.S. Election Assistance Commission ("EAC"); or
- 3) The Federal Post Card Application for uniformed service members and U.S. citizens living outside the U.S.<sup>1</sup>

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<sup>1</sup> This advisory does not address the ability of uniformed service members and U.S. citizens living outside the U.S. to register to vote, and their right to request an absentee ballot under federal and state law. For more information consult the BOE Extranet for the most recent SOS Advisory regarding UOCAVA requirements.

Please be aware that individuals and organizations conducting voter registration activities in Ohio may be using voter registration forms other than the forms adopted by the Secretary of State and the EAC. Ohio boards of elections **must accept** any voter registration form that meets the requirements of Ohio and federal law, and that contains the required information for a person to register to vote in Ohio.

**Required information for voter registration forms in Ohio (R.C. 3503.08; 3503.14; 3503.28 & 42 U.S.C. 1973gg-3)**

A voter registration form must contain **all of the following information** to be valid under Ohio law:

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>2</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**.<sup>3</sup>

In addition to Ohio's requirements, a voter registration form must also include **all of the following information** to be valid under federal law:

1. A statement of the eligibility requirements to register to vote;
2. 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
3. The signature of the applicant is made under penalty of perjury (election falsification under Ohio law).

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<sup>2</sup> H.B. 562, effective September 23, 2008, removes the requirement that a military ID must contain an applicant's name and current address.

<sup>3</sup> Under R.C. 3503.14(C) & 3501.382, applicants who are disabled and who are unable to sign their name may sign with an "X," have someone attest that the applicant indicated a desire to register to vote, or file a power of attorney with the board of elections designating an attorney in fact to sign the applicant's name.

### **Reasons for rejecting a voter registration application**

Boards of elections generally should accept and process voter registration applications that are complete and that appear on the face of the document to be valid. However, boards of elections may not process a voter registration application or register a person to vote in Ohio if the application is incomplete or invalid. The primary reasons for a board of elections to reject a voter registration application as invalid are:

1. The **person attempting to register to vote** did not provide all of the information required by law to register to vote;
2. The **voter registration form** used by the person attempting to register to vote did not contain all of the information required by law; or
3. The information provided on the form by the person attempting to register to vote demonstrates that the person is **not eligible** to register to vote in Ohio.

### **Procedure for handling incomplete voter registration applications**

If a board of elections receives a voter registration application that is incomplete because it does not contain the required information (listed above) or it does not contain sufficient information to determine whether the applicant is eligible to register to vote in the county, the board may contact the applicant and request that the applicant submit a new voter registration application.

If the board adopts a policy to contact applicants who submit incomplete voter registration applications, then the policy should be written and must be applied fairly and uniformly to all voter registration applicants.

If the board decides to contact the applicant to inform the applicant that his or her voter registration application was incomplete and could not be processed, then the board may send a letter to the applicant at the address listed on the voter registration form or use the Secretary of State's Acknowledgement Form (Form 10-J). The board should explain the reason that the application was incomplete. The board may provide a **copy** of the voter registration application that was submitted by the applicant with the missing information highlighted. **However, the board may not return the original, incomplete voter registration application to the applicant because the original application is a public record and must be kept at the board of elections.**

The board should include a blank voter registration application for the applicant to complete and submit. The board policy may include instructions to board staff to fill in the voter registration application with the information that was previously submitted by the applicant, drawing attention to the space where the missing information needs to be provided and the signature space. The board should instruct the applicant to complete the missing information on the new voter registration application, sign the new voter registration application, and return the completed and signed new voter registration application to the board of elections. The board should not instruct the applicant merely to fill in the missing information on the photocopy of the original voter registration application because an original signature is required for the voter registration application to be valid.

**Procedure for handling voter registration applications that are invalid due to the use of a form that does not meet the requirements of Ohio and federal law**

If an applicant submits a voter registration application (whether complete or incomplete) that is invalid because the form does not meet the requirements of Ohio and federal law (listed above), the board may contact the applicant and request that the applicant submit a new voter registration application.

The board should adopt a written policy similar to the board's policy for incomplete voter registration applications that is applied fairly and uniformly to all applicants.

The board should send the applicant a letter explaining that the form was invalid and provide a new voter registration application for the applicant to complete, sign, and return to the board of elections. As with incomplete voter registration applications, the board's policy may instruct staff to transfer the information from the invalid voter registration application form to the new voter registration application. The board should instruct the applicant to sign the completed voter registration application and return it to the board.

A board may not return an original, invalid voter registration form to an applicant, because the original application is a public record and must be kept at the board of elections.

**Procedure for handling voter registration applications that are invalid because the applicant does not appear to be eligible to register to vote in Ohio**

If a board of elections receives a voter registration application for an applicant who appears from the information submitted to be ineligible to register to vote in Ohio, then the board should contact the applicant to explain that his or her voter registration application was rejected and the reason why the application was determined to be invalid.

An applicant must be eligible to register to vote in Ohio for the voter registration application to be processed. The qualifications to register to vote in Ohio are listed above. Examples of ineligible applicants include persons who will not be 18 years old on or before the date of the general election, persons who do not appear to be Ohio residents, and persons who are not U.S. citizens.

The board should adopt a written policy similar to the board's policy for incomplete voter registration applications that is applied fairly and uniformly to all applicants.

The board's policy may include sending the applicant a new voter registration application and providing the applicant with the opportunity to explain to the board why the applicant may be eligible to vote in Ohio. In some instances, the board of elections may choose to hold a hearing in the matter to provide the applicant with due process of law.

Again, a board may not return an original, invalid voter registration application to an applicant because the original application is a public record and must be kept at the board of elections.

**Duty to investigate suspicious voter registration applications**

A board of elections may receive a voter registration application that appears valid on the face of the application but other circumstances cause the board to question the validity of the application. For example, the board might receive several voter registration applications that appear to be filled out and signed in the same handwriting (without an attorney in fact being designated by a disabled voter under R.C. 3501.382). Additionally, a board of elections may receive a voter registration application that appears suspicious on the face of the application.

In these and similar instances, the board of elections has a duty to investigate irregularities and the qualifications of applicants under R.C. 3501.11 (J) & (Q). When a board of elections conducts an investigation, it should consult with the county prosecutor and the elections attorney assigned to your county.

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

Sincerely,

Jennifer Brunner