

Advisory 2008-27

September 30, 2008

To: All County Boards of Elections

Re: Revised Forms for Voter Challenges

The Secretary of State has revised Form No. 257 (“Challenge of Right to Vote and Correction of Registration List”) and Form No. 259 (“Challenge of Right of Person to Vote”). These forms were revised to ensure that the public is aware of the conclusions reached in Directive 2008-79 on administering voter challenges and Advisory 2008-25 on the voting rights of persons facing home foreclosure. The forms indicate: (1) the return of nonforwardable mail as “undeliverable” is not, by itself, or when taken together without other evidence, sufficient evidence for a challenge to result in canceling a voter’s registration; and (2) the appearance of an elector’s name or residence address in a foreclosure action is not, by itself, or when taken together without other evidence, sufficient evidence for a challenge to result in canceling a voter’s registration.

Ohio law requires that if an application to correct any precinct registration list or a challenge of an elector’s right to vote is made under R.C. 3503.24, “[t]he application or challenge, with the reasons for the application or challenge, shall be filed with the board on a form prescribed by the secretary of state and shall be signed under penalty of election falsification.” R.C. 3503.24(A).

Accordingly, all applications to correct any precinct registration list under R.C. 3503.24 shall be filed on Form No. 257. All challenges of an elector’s right to vote under R.C. 3503.24 shall be filed on Form No. 257 or Form No. 259.

If challenges filed under R.C. 3503.24 are not filed on a Secretary of State prescribed form and do not reference a code section for the challenge, then the board of elections may construe the challenge as a challenge made pursuant to R.C. 3505.19.

Challenges made pursuant to R.C. 3505.19 are not similarly required to be on a Secretary of State prescribed form. However, all of the requirements of R.C. 3505.19, as explained in Directive 2008-79, must be met for a board of elections to consider the underlying merits of the challenge. For the convenience of the public and the boards of elections, the Secretary of State has prescribed Form No. 259 that a person challenging another elector’s right to vote under R.C. 3505.19 may complete and file with the board of elections.

If you have any questions about this advisory, please contact the elections attorney assigned to your board of elections.

Sincerely,

Jennifer Brunner

Enclosures: Form 257, Form 259