



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

DIRECTIVE 2012-54

November 2, 2012

To: All County Boards of Elections
Members, Directors, and Deputy Directors

Re: Determining the Validity of Provisional Ballots and the Modified NEOCH Consent Decree

SUMMARY

The validity of certain provisional ballots has been the subject of ongoing litigation since 2006. Based on very recent court decisions, some provisional ballots cast at the wrong precinct but at either the correct polling place on Election Day or at the correct board of elections office¹ on or after the 28th day before the election must be remade (consistent with [Directive 2012-22](#)) and counted for those races in which the voter was eligible to cast a ballot.

Because of these eve-of-election court decisions, I am required to issue these instructions at this late hour. In order to avoid confusion, [Directives 2012-01](#) and [Directive 2012-44](#) are hereby rescinded.

Additionally, to avoid voter confusion and conflicts with recent court decisions, boards of elections must not post the “Judge Carr Notice.” As such, [Advisory 2011-04](#) is rescinded.

The Directive is issued to provide **uniformity** across Ohio’s 88 county boards of elections in reviewing provisional ballot affirmations on provisional ballot envelopes to determine the eligibility of the ballots to be counted by providing county boards of elections with a **mandatory** six-step procedure.

PROVISIONAL BALLOT AFFIRMATION ENVELOPES

All Boards must use [SOS Form 12-B](#), originally provided with [Directive 2012-01](#) and attached to this Directive, on provisional ballot affirmation envelopes for the November 2012 General Election.

All Boards must also provide precinct election officials [SOS Form 12-D](#), originally provided with [Directive 2012-44](#) and attached to this Directive, for the precinct election official to

¹ Throughout this Directive, when referring to the “board of elections office” this also includes another site designated by the board to hold in-person absentee voting. R.C. 3501.11(Z)

complete when a voter is in the wrong precinct of the correct multiple-precinct polling place and the voter insists on casting a provisional ballot in the wrong precinct.

GENERAL REMINDERS ON PROCESSING PROVISIONAL BALLOTS

- Boards of elections may begin examining provisional ballot envelopes the day after the election.²
- The board of elections must adopt a provisional ballot policy, under which it may designate bipartisan teams to examine and categorize provisional ballot envelopes; however, **only the board members themselves** can determine the validity of each provisional ballot.
- The board members themselves determine the validity of each provisional ballot by majority vote at a properly noticed public meeting.
- A board of elections must not start counting **ANY** provisional ballot until **AFTER** the board members themselves have determined the validity or invalidity of **ALL** provisional ballots cast in that county.³
- Boards must complete the examination and counting of provisional ballots no later than the twenty-first day after the election.⁴

DETERMINING THE VALIDITY OF PROVISIONAL BALLOTS

Step 1: Determine whether the affirmation statement on the provisional ballot envelope contains **both** the voter's printed name **and** either a valid signature or a note by the precinct election official on the signature line indicating that the voter declined to execute an affirmation.

- If the affirmation statement **contains both** the voter's printed name and either a valid signature or a note on the signature line that the voter declined to sign, **proceed to Step 2.**
- If the affirmation statement **does not contain both** the voter's printed name and either a valid signature or declination, then the Board must **reject the provisional ballot.**⁵

The presence of the voter's printed name and signature is a requirement of state law, affirmed by the Ohio Supreme Court in *Skaggs v Brunner*, and the Sixth Circuit Court of Appeals in *SEIU v. Husted*.

² R.C. 3505.183(E)(1)

³ R.C. 3505.183(D)

⁴ R.C. 3505.32(A)

⁵ R.C. 3505.183(B)(4)(a)(iii)

Step 2: Determine whether the provisional voter provided at least one of the following: the last four digits of the voter’s social security number, the voter’s driver’s license number, OR a notation that the voter provided another form of acceptable identification.

- If the voter provided one of the acceptable forms of identification **proceed to Step 3.**
- If the voter did not provide one of the acceptable forms of identification but completed a Form 10-T, **proceed to Step 3.**
- If the voter did not provide identification on the provisional ballot affirmation but returned to board of elections within ten days after the election⁶ and provided identification or signed the [SOS Form 10-T](#) **proceed to Step 3.**
- If the voter did not provide identification on the provisional ballot affirmation, did not complete [SOS Form 10-T](#) , and did not return to the Board within the ten days after the election to remedy the missing item, the Board must **reject the provisional ballot.**

Step 3: Determine whether the Board can verify the identity of the voter based on the voter’s printed name, signature, and identification information provided on the provisional ballot affirmation or provided by the voter within the ten day period.

- If the Board **can verify** the identity of the voter based upon the information provided on the provisional ballot affirmation and/or provided by the voter within ten days of the election, **proceed to Step 4.**
- If the Board **cannot verify** the identity of the voter based upon the information provided on the provisional ballot affirmation and/or the information provided by the voter within ten days of the election, the Board must **reject the provisional ballot.**⁷

Note that verification of identity includes *at least* one search of the county’s local voter registration database by entering as much or as little information as is available, and by using “wildcard” searches if available, *and* at least one

⁶ The **only four** reasons to require a provisional voter to provide additional information to the board of elections during the ten days after the day of an election are:

- The voter **possesses** a social security number or proper identification, but was **unable** to provide it to the precinct election official; R.C. 3505.181(A)(3)
- The voter **possesses** a social security number or proper identification, but **declined** to provide it to the precinct election official; R.C. 3505.181 (A)(13)
- The voter **does not possess** a social security number or proper identification, and refused to sign a SOS Form 10-T; R.C. 3505.181(A)(12)
- The voter was **challenged** at the polling place and his or her eligibility to vote could not be determined by the precinct election officials; R.C. 3505.181(A)(7)

⁷ R.C. 3505.183(B)(4)(b)(i); *State ex rel. Skaggs v. Brunner* (2008), 120 Ohio St. 3d 506.

search of all counties using the statewide voter registration database by entering as much or as little information as is available.

Unlike a voter registration card or absentee ballot application, **date of birth and address are not required** on a provisional ballot affirmation. Therefore, a provisional ballot affirmation that does not have the voter's date of birth and/or address is **valid** so long as the board can verify the voter's identity and registration status in the State of Ohio.

Step 4: Determine whether the voter is a registered voter anywhere in the State of Ohio at least 30 days before the election.

- If the voter was registered to vote anywhere in the State of Ohio at least 30 days before the election, **proceed to Step 5.**
- If the voter was not registered to vote anywhere in the State of Ohio at least 30 days before the election, then the Board must **reject the provisional ballot.**⁸

Step 5: Determine whether the voter is a resident of the county and precinct in which the voter offers to vote.⁹

- If the voter is a resident of the county and precinct in which the provisional ballot was cast, then the Board must **accept and count the provisional ballot;**
- If the voter moved and provided a new address *within the precinct* on the back of the provisional ballot envelope, then the voter is considered a resident of the new county and precinct and the Board must **accept and count the provisional ballot;**
- If the voter cast the provisional ballot in the wrong precinct, but in the correct polling place, including the board of elections office, and a precinct election official did not complete and attach [SOS Form 12-D](#) to the provisional ballot envelope, the Board **must remake and count the provisional ballot for only those contests for which the voter was otherwise eligible to vote.**
- If the voter cast the provisional ballot in the wrong precinct, but in the correct polling place, including the board of elections office, and a precinct election official did complete and attach [SOS Form 12-D](#), but the Board verified that the precinct to which the poll worker directed the voter was the incorrect precinct, the Board **must remake and count the provisional ballot for only those contests for which the voter was otherwise eligible to vote.**
- If the voter cast the provisional ballot in the wrong precinct, but correct polling place, including the board of elections office, and (1) a precinct election official completed

⁸ Ohio Constitution Article V, Section 1; R.C. 3505.183(B)(4)(a)(i); R.C. 3505.183(B)(4)(a)(iv); R.C. 3505.183(B)(4)(a)(vi)

⁹ R.C. 3503.01(A)

[SOS Form 12-D](#) and (2) the Board verified that the precinct to which the precinct election official directed the voter was the correct precinct, the Board must **reject the provisional ballot**.

- If the voter cast the provisional ballot in the wrong precinct and wrong polling place the Board must **reject the provisional ballot**.

Step 6: If you have completed Steps 1 through 5 and determined that the provisional ballot should be rejected, consider the following:

Under the consent decree issued by the federal court in *Northeast Ohio Coalition for the Homeless v. Brunner*, S.D. Ohio No. 2:06-cv-896, ("NEOCH"), boards of elections may not reject provisional ballots cast by voters who use only the last four digits of their Social Security number as identification for the following reason:

The poll worker did not complete or properly complete and/or sign the provisional ballot application witness line and/or the provisional ballot affirmation form, except for reasons permitted by the governing statutes.

As noted on [SOS Form 12-B](#), failure by the precinct election official to complete the "Precinct Election Official Info" section will not result in the provisional ballot being rejected.

CONSENT DECREE AS MODIFIED

Boards of elections are instructed to comply with the injunctive relief cited below as provided in the April 19, 2010 Consent Decree and modified by the Court on October 26, 2012 and November 2, 2012.

Additionally, each board of elections must post a notice that contains the text of the injunctive relief granted in a conspicuous place in every location in which provisional ballots are processed after an election. A copy of the notice to be posted is attached.

The injunctive relief in the Consent Decree as modified is as follows:

III. GENERAL INJUNCTIVE RELIEF.

4. The Court ADOPTS and annexes hereafter Directive 2008-80 as an Order of this Court.
5. Defendant Secretary of State, her agents, employees and representatives will instruct Ohio's county Boards of Elections to adhere to the following rules regarding the casting and counting of provisional ballots for persons without identification other than a social security number:
 - a. Boards of Elections must count the provisional ballot cast by a voter using only the last four digits of his or her social security number as identification if all of the following conditions are met:

- i. The individual who cast the provisional ballot is registered to vote;
 - ii. The individual is eligible to cast a ballot in the precinct and for the election in which the individual cast the provisional ballot;
 - iii. The provisional ballot affirmation includes a statement that the individual is registered to vote in the precinct in which the provisional ballot was cast and a statement that the individual is eligible to vote in the election in which the provisional ballot was cast;
 - iv. The individual's name and signature appear in the correct place on the provisional ballot affirmation form, unless the voter declined to execute the affirmation and the poll workers complied with their statutory duties under R.C. 3505.182 and R.C. 3505.181(B)(6) when a voter declines to execute the affirmation;
 - v. The signature of the voter substantially conforms to the signature contained in the Board of Election's records for that voter;
 - vi. The provisional ballot affirmation includes the last four digits of that voter's social security number, which is not found to be invalid;
 - vii. The individual's right to vote was not successfully challenged;
 - viii. The individual did not already cast a ballot for the election in which the individual cast the provisional ballot; and
 - ix. Pursuant to R.C. 3505.183(B)(2), the Board of Elections determines that, in addition to the information included on the affirmation, there is no additional information for determining ballot validity provided by the provisional voter or to the Board of Elections during the ten days after the day of the election that casts doubt on the validity of the ballot or the individual's eligibility to vote.
- b. Boards of Elections may not reject a provisional ballot cast by a voter, who uses only the last four digits of his or her social security number as identification, for any of the following reasons:
- i. The voter provided the last four digits of a Social Security Number but did not provide a current driver's license, state issued identification, or other document which serves as identification under Ohio law;
 - ii. The voter did not provide a date of birth;
 - iii. The voter did not provide an address that is tied to a house, apartment or other dwelling provided that the voter indicated that he or she resides at a non-building location, including but not limited to a street corner, alley or highway overpass located in the precinct in which the

- voter seeks to cast a ballot and that the non-building location qualifies as the individual's voting residence under R.C. 3503.02;
- iv. The voter indicated that he or she is homeless;
 - v. In light of the injunction issued in *SEIU Local 1 v. Husted*, Section III (5) (b) (v) of the April 19, 2010 Consent Decree has been removed for the purposes of the November 6, 2012 election. County boards of election are ORDERED to comply with the Directives that govern the counting of provisional ballots cast in the correct polling location, but in the wrong precinct;
 - vi. The Court has removed this provision of the Consent Decree. *See NEOCH v. Husted First Order issued October 26, 2012*; or
 - vii. The poll worker did not complete or properly complete and/or sign the provisional ballot application witness line and/or the provisional ballot affirmation form, except for reasons permitted by the governing statutes.
- c. Boards of Elections must observe the following rules regarding the delegation of processing provisional ballots, and determining their validity, to board staff:
- i. Ultimately, the members of Boards of Elections must determine the validity of all votes cast in an election and must certify the results of all elections. However, nothing in Ohio law requires that the members of a Board of Elections must personally complete all tasks associated with preparing for that certification.
 - ii. Thus, Boards of Elections may, under a policy adopted by the Board, delegate the processing and some aspects of counting provisional ballots to board staff. Such processing must be done in bipartisan teams.
 - iii. If a Board of Elections delegates the processing of provisional ballots, it must first adopt a policy setting forth procedures for the processing of provisional ballots. Under that policy, board staff responsible for processing provisional ballots must make a recommendation to the Board as to the eligibility of each provisional ballot cast in the county, either on an individual basis, or as to groups or categories of similarly situated provisional ballots.
 - iv. Ultimately, the members of Board of Elections must determine the eligibility or ineligibility of all provisional ballots cast within the county in accordance with Ohio law. Boards may not delegate this task.

- v. Each Board of Elections must then cause the ballots to be counted by board staff, and must include the tabulation of that count in its official canvass of the election results and, to the extent required, its certification of the election results to the Secretary of State.

If you have any questions concerning the this Directive or the examination and evaluation of provisional ballots, please contact the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Sincerely,


Jon Husted

PROVISIONAL BALLOT AFFIRMATION

(R.C. 3503.16, 3505.181, .182, .183)

MANDATORY INFORMATION REQUIRED FOR YOUR BALLOT TO COUNT

STEP 1 - Clearly PRINT your full name: _____
First Name Middle Name/Initial Last Name Suffix

STEP 2 - Provide ONE of the following forms of identification:

The Secretary of State and the Board of Elections recommend that you write the last four digits of your Social Security number.

A. Write the last four digits of your Social Security number: ____ ____ ____ ____

-or-

B. Write your full eight-digit Ohio driver's license number, which begins with two alphabet letters followed by six numbers: ____ ____ ____ ____ ____ ____ ____ ____

-or-

C. If you did not write the last four digits of your Social Security number or your full Ohio driver's license number, you must show to your precinct election official one of the forms of identification listed below:

If you do not check one of the following boxes affirming the type of ID you showed to the precinct election official or do not complete Form 10-T (only if you are eligible to do so), the board of elections will conclude that you did NOT show ID to your precinct election official and you must show ID at the board of elections during the 10 days after the election for your vote to be eligible to be counted.

- your military identification card, or
- a current (within 12 months) utility bill, bank statement, government check, paycheck, or other government document (except a document from your county board of elections) containing your name and current address, or
- a form of photo identification (except U.S. Passport) that was issued by the United States government or the State of Ohio containing your name, current address (or former address if ID is a driver's license or state identification card), and an expiration date that has not passed, or
- complete Form 10-T only if you do not have a Social Security number AND do not have any of the forms of identification listed above.

NOTE: If you fail to provide identification at this time you must go to your county board of elections on or before the 10th day following this election to provide a qualifying form of identification in order for this ballot to count.

STEP 3 - Sign the following statement:

I solemnly swear or affirm that I am a registered voter in the precinct in which I am voting this provisional ballot and that I am eligible to vote in this election, for which I am casting this provisional ballot. I understand that if the information I provide on this provisional ballot affirmation is not fully complete and correct, and/or if the board of elections determines that I am not registered to vote, a resident of this precinct, or eligible to vote in this election, and/or if the board of elections determines that I have already voted in this election, this provisional ballot will not be counted. I further understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution. I hereby declare, under penalty of election falsification, that the above statements are true and correct to the best of my knowledge and belief.

VOTER'S SIGNATURE _____

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FIFTH DEGREE FELONY

PRECINCT ELECTION OFFICIAL INFO

Failure by the precinct election official to complete this section will not affect whether or not this provisional ballot is counted.

- This ballot is cast in precinct (list name or number of voter's precinct) _____
- The name or number of this location is _____
- Precinct election official's printed name _____ Date _____

Notification of Change of Address/ Change of Name for Provisional Ballot Voters

Failure to complete this form will not cause your provisional ballot to be rejected.

Provisional voters should complete this form in order to notify their county board of elections that they have changed their:

- residence, or
- name.

If you are completing this form notifying the board of elections that you changed your residence from one Ohio county to another Ohio county then your voter registration in your previous Ohio county will be cancelled and your voter registration will be activated in your new Ohio county.

If the board of elections determines that you were not previously registered to vote in the State of Ohio, by completing this form you are registering to vote in this county in the State of Ohio.

Important Reminders

- Please read instructions carefully.
- Use blue or black ink.
- When completing Boxes 1 through 13 below, print clearly so that your handwriting can be read by your board of elections.

Instructions

- **Boxes 1 and 2 are required by federal law.**
- **Boxes 3 through 9 are required by state law.**
- **Box 10 is required by federal law.** If you have a current and valid Ohio driver's license you must provide that number for Box 10. If you do not have an Ohio driver's license, you must provide the last four digits of your Social Security number. If you have neither, please write "None."
- If you were previously registered in the State of Ohio and have moved from one residence to another or from one county to another, please complete Box 12.
- If you were previously registered in the State of Ohio under a different name, please complete Box 13.
- **Your signature is required by state law.** In the area next to the arrow in Box 14, please write your cursive, hand-written signature or make your legal mark, taking care that it does not touch the surrounding lines or type so when it is digitally imaged by your county board of elections it can effectively be used to identify your signature.

**WHOEVER COMMITS ELECTION FALSIFICATION IS
GUILTY OF A FIFTH DEGREE FELONY.**

1. Are you a U.S. citizen? Yes No
2. Will you be at least 18 years of age on or before the next general election? Yes No
If you answered NO to either of the questions, do not complete this form.

3. Last Name		First Name		Middle Name or Initial		Jr., II, etc.	
4. House Number and Street (Enter new address if changed)				Apt. or Lot #		5. City or Post Office	
7. Additional Rural or Mailing Address (if necessary)						8. County where you live	
9. Birthdate (MO-DAY-YR) (required)		10. Ohio driver's license No. OR last 4 digits of Social Security No. (one form of ID required to be listed or provided)			11. Phone No. (voluntary)		
12. PREVIOUS ADDRESS IF UPDATING CURRENT REGISTRATION - Previous House Number and Street							
Previous City or Post Office			County			State	
13. CHANGE OF NAME ONLY Former Legal Name				Former Signature			

FOR BOARD USE ONLY SEC4010 (Rev. 10/11)
City, Village, Twp.
Ward
Precinct
School Dist.
Cong. Dist.
Senate Dist.
House Dist.

I declare under penalty of election falsification I am a citizen of the United States, will have lived in this state for 30 days immediately preceding the next election, and will be at least 18 years of age at the time of the general election.

14. Your Signature →

Date / /
MO DAY YR

PROVISIONAL VOTER PRECINCT VERIFICATION FORM

PROVISIONAL VOTER PRECINCT VERIFICATION FORM

Complete this form whenever a voter’s name does not appear in the signature poll book or poll list, the voter is in the wrong precinct of the correct multiple-precinct polling place and the voter insists on casting a provisional ballot in the wrong precinct.

Complete this form whenever a voter’s name does not appear in the signature poll book or poll list, the voter is in the wrong precinct of the correct multiple-precinct polling place and the voter insists on casting a provisional ballot in the wrong precinct.

STEP 1 Find the voter’s address in the Voting Location Guide.

STEP 1 Find the voter’s address in the Voting Location Guide.

STEP 2 Write the name or number of the voter’s correct precinct below:

STEP 2 Write the name or number of the voter’s correct precinct below:

STEP 3 Write the name and address of the voter’s correct polling place below, if different from where you are now:

STEP 3 Write the name and address of the voter’s correct polling place below, if different from where you are now:

STEP 4 Instruct the voter to go to his or her correct precinct to cast a provisional ballot.

STEP 4 Instruct the voter to go to his or her correct precinct to cast a provisional ballot.

STEP 5 Instruct the voter that casting the wrong-precinct provisional ballot in this precinct would result in all votes on the ballot being rejected.

STEP 5 Instruct the voter that casting the wrong-precinct provisional ballot in this precinct would result in all votes on the ballot being rejected.

I affirm under penalty of election falsification that I followed Steps 1 through 5 above but the voter refused to travel to the correct precinct and insists on voting a wrong-precinct provisional ballot in this precinct. I issued the provisional ballot contained in the envelope to which this verification is attached.

I affirm under penalty of election falsification that I followed Steps 1 through 5 above but the voter refused to travel to the correct precinct and insists on voting a wrong-precinct provisional ballot in this precinct. I issued the provisional ballot contained in the envelope to which this verification is attached.

Signature of Precinct Election Official

Signature of Precinct Election Official

Precinct Name/Number

Polling Place Name

Precinct Name/Number

Polling Place Name

Attach this form to the voter’s provisional ballot envelope.

Failure by the Precinct Election Official to properly complete or attach this form will not result in the rejection of the voter’s entire provisional ballot.

Attach this form to the voter’s provisional ballot envelope.

Failure by the Precinct Election Official to properly complete or attach this form will not result in the rejection of the voter’s entire provisional ballot.

Notice Issued Pursuant Court Order

III. GENERAL INJUNCTIVE RELIEF.

4. THE COURT ADOPTS AND ANNEXES HEREAFTER DIRECTIVE 2008-80 AS AN ORDER OF THIS COURT.

5. DEFENDANT SECRETARY OF STATE, HER AGENTS, EMPLOYEES AND REPRESENTATIVES WILL INSTRUCT OHIO'S COUNTY BOARDS OF ELECTIONS TO ADHERE TO THE FOLLOWING RULES REGARDING THE CASTING AND COUNTING OF PROVISIONAL BALLOTS FOR PERSONS WITHOUT IDENTIFICATION OTHER THAN A SOCIAL SECURITY NUMBER:

- a. BOARDS OF ELECTIONS MUST COUNT THE PROVISIONAL BALLOT CAST BY A VOTER USING ONLY THE LAST FOUR DIGITS OF HIS OR HER SOCIAL SECURITY NUMBER AS IDENTIFICATION IF ALL OF THE FOLLOWING CONDITIONS ARE MET:
 - i. THE INDIVIDUAL WHO CAST THE PROVISIONAL BALLOT IS REGISTERED TO VOTE;
 - ii. THE INDIVIDUAL IS ELIGIBLE TO CAST A BALLOT IN THE PRECINCT AND FOR THE ELECTION IN WHICH THE INDIVIDUAL CAST THE PROVISIONAL BALLOT;
 - iii. THE PROVISIONAL BALLOT AFFIRMATION INCLUDES A STATEMENT THAT THE INDIVIDUAL IS REGISTERED TO VOTE IN THE PRECINCT IN WHICH THE PROVISIONAL BALLOT WAS CAST AND A STATEMENT THAT THE INDIVIDUAL IS ELIGIBLE TO VOTE IN THE ELECTION IN WHICH THE PROVISIONAL BALLOT WAS CAST;
 - iv. THE INDIVIDUAL'S NAME AND SIGNATURE APPEAR IN THE CORRECT PLACE ON THE PROVISIONAL BALLOT AFFIRMATION FORM, UNLESS THE VOTER DECLINED TO EXECUTE THE AFFIRMATION AND THE POLL WORKERS COMPLIED WITH THEIR STATUTORY DUTIES UNDER R.C. 3505.182 AND R.C. 3505.181(B)(6) WHEN A VOTER DECLINES TO EXECUTE THE AFFIRMATION;
 - v. THE SIGNATURE OF THE VOTER SUBSTANTIALLY CONFORMS TO THE SIGNATURE CONTAINED IN THE BOARD OF ELECTION'S RECORDS FOR THAT VOTER;
 - vi. THE PROVISIONAL BALLOT AFFIRMATION INCLUDES THE LAST FOUR DIGITS OF THAT VOTER'S SOCIAL SECURITY NUMBER, WHICH IS NOT FOUND TO BE INVALID;
 - vii. THE INDIVIDUAL'S RIGHT TO VOTE WAS NOT SUCCESSFULLY CHALLENGED;
 - viii. THE INDIVIDUAL DID NOT ALREADY CAST A BALLOT FOR THE ELECTION IN WHICH THE INDIVIDUAL CAST THE PROVISIONAL BALLOT; AND
 - ix. PURSUANT TO R.C. 3505.183(B)(2), THE BOARD OF ELECTIONS DETERMINES THAT, IN ADDITION TO THE INFORMATION INCLUDED ON THE AFFIRMATION, THERE IS NO ADDITIONAL INFORMATION FOR DETERMINING BALLOT VALIDITY PROVIDED BY THE PROVISIONAL VOTER OR TO THE BOARD OF ELECTIONS DURING THE TEN DAYS AFTER THE DAY OF THE ELECTION THAT CASTS DOUBT ON THE VALIDITY OF THE BALLOT OR THE INDIVIDUAL'S ELIGIBILITY TO VOTE.
- b. BOARDS OF ELECTIONS MAY NOT REJECT A PROVISIONAL BALLOT CAST BY A VOTER, WHO USES ONLY THE LAST FOUR DIGITS OF HIS OR HER SOCIAL SECURITY NUMBER AS IDENTIFICATION, FOR ANY OF THE FOLLOWING REASONS:
 - i. THE VOTER PROVIDED THE LAST FOUR DIGITS OF A SOCIAL SECURITY NUMBER BUT DID NOT PROVIDE A CURRENT DRIVER'S LICENSE, STATE ISSUED IDENTIFICATION, OR OTHER DOCUMENT WHICH SERVES AS IDENTIFICATION UNDER OHIO LAW;
 - ii. THE VOTER DID NOT PROVIDE A DATE OF BIRTH;
 - iii. THE VOTER DID NOT PROVIDE AN ADDRESS THAT IS TIED TO A HOUSE, APARTMENT OR OTHER DWELLING PROVIDED THAT THE VOTER INDICATED THAT HE OR SHE RESIDES AT A NON-BUILDING LOCATION, INCLUDING BUT NOT LIMITED TO A STREET CORNER, ALLEY OR HIGHWAY OVERPASS LOCATED IN THE PRECINCT IN WHICH THE VOTER SEEKS TO CAST A BALLOT AND THAT THE NON-BUILDING LOCATION QUALIFIES AS THE INDIVIDUAL'S VOTING RESIDENCE UNDER R.C. 3503.02;
 - iv. THE VOTER INDICATED THAT HE OR SHE IS HOMELESS;
 - v. IN LIGHT OF THE INJUNCTION ISSUED IN SEIU LOCAL 1 V. HUSTED, SECTION III (5) (b) (v) OF THE APRIL 19, 2010 CONSENT DECREE HAS BEEN REMOVED FOR THE PURPOSES OF THE NOVEMBER 6, 2012 ELECTION. COUNTY BOARDS OF ELECTION ARE ORDERED TO COMPLY WITH THE DIRECTIVES THAT GOVERN THE COUNTING OF PROVISIONAL BALLOTS CAST IN THE CORRECT POLLING LOCATION, BUT IN THE WRONG PRECINCT;
 - vi. THE COURT HAS REMOVED THIS PROVISION OF THE CONSENT DECREE. *SEE NEOCH V. HUSTED FIRST ORDER ISSUED OCTOBER 26, 2012*; OR
 - vii. THE POLL WORKER DID NOT COMPLETE OR PROPERLY COMPLETE AND/OR SIGN THE PROVISIONAL BALLOT APPLICATION WITNESS LINE AND/OR THE PROVISIONAL BALLOT AFFIRMATION FORM, EXCEPT FOR REASONS PERMITTED BY THE GOVERNING STATUTES.
- c. BOARDS OF ELECTIONS MUST OBSERVE THE FOLLOWING RULES REGARDING THE DELEGATION OF PROCESSING PROVISIONAL BALLOTS, AND DETERMINING THEIR VALIDITY, TO BOARD STAFF:
 - i. ULTIMATELY, THE MEMBERS OF BOARDS OF ELECTIONS MUST DETERMINE THE VALIDITY OF ALL VOTES CAST IN AN ELECTION AND MUST CERTIFY THE RESULTS OF ALL ELECTIONS. HOWEVER, NOTHING IN OHIO LAW REQUIRES THAT THE MEMBERS OF A BOARD OF ELECTIONS MUST PERSONALLY COMPLETE ALL TASKS ASSOCIATED WITH PREPARING FOR THAT CERTIFICATION.
 - ii. THUS, BOARDS OF ELECTIONS MAY, UNDER A POLICY ADOPTED BY THE BOARD, DELEGATE THE PROCESSING AND SOME ASPECTS OF COUNTING PROVISIONAL BALLOTS TO BOARD STAFF. SUCH PROCESSING MUST BE DONE IN BIPARTISAN TEAMS.
 - iii. IF A BOARD OF ELECTIONS DELEGATES THE PROCESSING OF PROVISIONAL BALLOTS, IT MUST FIRST ADOPT A POLICY SETTING FORTH PROCEDURES FOR THE PROCESSING OF PROVISIONAL BALLOTS. UNDER THAT POLICY, BOARD STAFF RESPONSIBLE FOR PROCESSING PROVISIONAL BALLOTS MUST MAKE A RECOMMENDATION TO THE BOARD AS TO THE ELIGIBILITY OF EACH PROVISIONAL BALLOT CAST IN THE COUNTY, EITHER ON AN INDIVIDUAL BASIS, OR AS TO GROUPS OR CATEGORIES OF SIMILARLY SITUATED PROVISIONAL BALLOTS.
 - iv. ULTIMATELY, THE MEMBERS OF BOARD OF ELECTIONS MUST DETERMINE THE ELIGIBILITY OR INELIGIBILITY OF ALL PROVISIONAL BALLOTS CAST WITHIN THE COUNTY IN ACCORDANCE WITH OHIO LAW. BOARDS MAY NOT DELEGATE THIS TASK.
 - v. EACH BOARD OF ELECTIONS MUST THEN CAUSE THE BALLOTS TO BE COUNTED BY BOARD STAFF, AND MUST INCLUDE THE TABULATION OF THAT COUNT IN ITS OFFICIAL CANVASS OF THE ELECTION RESULTS AND, TO THE EXTENT REQUIRED, ITS CERTIFICATION OF THE ELECTION RESULTS TO THE SECRETARY OF STATE.