DIRECTIVE 2017-06
April 25, 2017

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

Re: Reasonable Accommodation for a Voter with a Disability Who is Unexpectedly Hospitalized in an Out-of-County Hospital After the Absentee Ballot Request Deadline

SUMMARY

A board of elections must contact the Secretary of State’s Office if it receives an absentee ballot request from a voter with a disability who was hospitalized unexpectedly in an out-of-county hospital in Ohio between 12:00 p.m. on the Saturday before Election Day and 3:00 p.m. on Election Day.

EXPLANATION

Ohio law allows a board of elections to issue an absentee ballot to a voter who is hospitalized due to an accident or unforeseeable medical emergency occurring after the deadline to request an absentee ballot by mail.1

During the time period between 12:00 p.m. on the Saturday before Election Day through 3:00 p.m. on Election Day, a qualified elector who is hospitalized, or whose minor child is hospitalized, due to an accident or unforeseeable medical emergency may apply for an absentee ballot. The voter may designate a family member to pick up the absentee ballot from the board office, may request that two election officials of opposite parties deliver the ballot to the voter at an in-county hospital, or may request that the board mail the ballot to the voter at the hospital.2

Occasionally, an unforeseeably hospitalized voter is also a voter with a disability. The Americans with Disabilities Act may require a board of elections to make a reasonable accommodation to assist an unforeseeably hospitalized voter who also is a voter with a disability when the accommodation in existing law does not offer realistic solution.3 For example, when the voter’s unforeseen hospitalization is in a hospital outside the voter’s county of residence and no request has been made for a family member to deliver the ballot, the law instructs boards of elections to mail the absentee ballot.4 However, the voter is not likely to receive a mailed absentee ballot quickly enough to allow its timely return, so offering a reasonable accommodation to a voter with a disability in this situation may be appropriate.

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1 R.C. 3509.08(B)(1). See also, Chapter 5 Absentee Voting, Ohio Election Official Manual.
2 R.C. 3509.08(B)(2). See also, Chapter 5 Absentee Voting, Ohio Election Official Manual.
3 28 C.F.R. 35.130(b)(7)-(8); 52 U.S.C. 20101.
4 R.C. 3509.08(B)(2). See also, Chapter 5 Absentee Voting, Ohio Election Official Manual.
INSTRUCTIONS

Therefore, a board of elections must contact the Secretary of State’s Office for instruction when it receives an absentee ballot request between 12:00 p.m. on the Saturday before Election Day and before 3:00 p.m. on Election Day from a qualified elector who:

- Has a disability;\(^5\)
- Reports a hospitalization of the voter, or of the voter’s minor child, due to an accident or unforeseeable medical emergency;
- Is located in a hospital outside of the voter’s county of registration, but within the State of Ohio; and
- Does not have a family member who can deliver the ballot.

Each board with a request must contact the Secretary of State’s elections counsel assigned to its county by phone to receive specific instructions.

Sincerely,

Jon Husted

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