



DIRECTIVE 2018-04

February 6, 2018

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

Re: 2018 General Voter Records Maintenance Program – **NCOA Process Only**

SUMMARY

This Directive provides instructions to boards of elections on how to conduct the National Change of Address (NCOA) component of the general voter records maintenance program in 2018, as required by federal and state law.

BACKGROUND

The voter records maintenance program, generally, is a requirement of the National Voter Registration Act of 1993 (NVRA),¹ commonly referred to as the “motor voter law.” State law requires local election officials to conduct the state’s NCOA portion of the general voter records maintenance program every year.²

Due to pending litigation,³ no elector’s voter registration can be cancelled as a result of being issued a confirmation notice pursuant to the supplemental process described in previous directives.

INSTRUCTIONS

All boards of elections must review the NCOA records provided by the Secretary of State and either **a)** change the voter’s address when it is in the voter’s same county then mail the in-county confirmation notice prescribed for this purpose (Secretary of State Form No. 10-S-2), or **b)** mail a confirmation notice (Secretary of State Form No. 10-S-1)⁴ to an elector who has filed a change of address indicating a move to a different county or state or left no forwarding address with USPS.

¹ 52 U.S.C.A. §20507.

² R.C. 3503.21(D).

³ *Ohio A. Philip Randolph Institute et al. v. Husted*, Case No. 2:16-cv-303.

⁴ Secretary of State Form No. 10-S-1 (issue date of January 2018) will be the same form of confirmation notice that boards of elections issue to any voter whenever that voter’s acknowledgement card it returned undeliverable. R.C. 3503.19. The relevant dates (i.e., voter registration deadline and the date of the election) will be updated by the Secretary of State prior to each primary and general election. Boards will continue to utilize Secretary of State Form No. 10-C and Secretary of State Form No. 10-D for BMV/SSA information mismatches.

Confirmation notices are always mailed to the address for the voter that appears on the 2018 NCOA list. However, to prevent confusion, regardless of the address to which the notice is mailed, the front, pre-printed side of Secretary of State Form No. 10-S-1 and Secretary of State Form No. 10-S-2 must include only the address at which the elector is registered to vote. That is the address the voter is being asked to confirm.

- For Secretary of State Form No. 10-S-1 (elector has filed a change of address indicating a move to a different county or state or left no forwarding address with USPS), the address at which the elector is registered to vote is the address that appears in your county’s voter registration system for the elector.
- For Secretary of State Form No. 10-S-2 (elector has filed a change of address indicating a move to a new address in the same county), the address at which the elector is registered to vote is the address that appears in the in-county NCOA file for that elector, since the board has updated the voter’s registration address to the new address in the same county.

A board can work with its printing vendor on solutions for inserting a mailing address on the back of the form (to show through a window on an envelope) or on a separate label or mailing envelope. Whether printing confirmation notices in house or with a vendor, each board of elections must create a proofing process and carefully review for accuracy both the underlying data (e.g., name, address, etc.) and its proper placement on the notice.

All notices that are mailed pursuant to the 2018 NCOA process (both *in-county* and *out-of-county*) must be mailed between February 20, 2018 and March 7, 2018. Automatic updates made pursuant to the in-county process must be complete *no later than* the date the corresponding confirmation notice is mailed.

All boards of elections must use the current versions (with the issue date of January 2018) of the Confirmation Notices (Secretary of State Form No. 10-S-1 and Secretary of State Form No. 10-S-2) and include a postage-paid return envelope with each notice.⁵

I. 2018 IN-COUNTY NCOA PROCESS

A. Compiling the Data for the 2018 In-County NCOA Process

Boards of elections will access their 2018 in-county NCOA data file beginning February 20, 2018 through the BOE Portal using steps provided by the Secretary of State’s Office and sent separately via email. If you have any questions, contact the Secretary of State’s IT Helpdesk at (614) 466-8467.

⁵ R.C. 3503.21(D).

B. Mailing the Confirmation Notice for the 2018 In-County NCOA Process

All electors identified as a part of the 2018 in-county NCOA process must be sent an in-county confirmation notice (Secretary of State Form No. 10-S-2) between February 20, 2018 and March 7, 2018.

- Prior to sending the confirmation notice, the board must first change the voter's address to the address reported on the 2018 NCOA list.⁶
- The in-county confirmation notice must be sent by forwardable mail⁷ to the voter's address reported on the 2018 in-county NCOA list.
- The board must record in its county voter registration system the date that it mailed the confirmation notice to the voter and, if the voter responds to the notice, the date on which the voter responded.

The in-county confirmation notice must contain the voting location assigned for that voter's address as reported on the in-county 2018 NCOA list and the identification requirements specified in state law.⁸

- The board of elections must make appropriate arrangements for the return of the completed confirmation notice portion by the elector to be postage pre-paid by the board.⁹
- The board must place or keep the elector in "active-active" status.

It is possible that an elector who appears on the 2018 NCOA list may have also appeared on the 2017, 2016, or 2015 NCOA list. Under the 2018 NCOA program, do not send a confirmation notice to an elector to whom the board already has sent such a notice, *unless* the 2018 NCOA list provides an address for that elector that is *different* than the address to which the previous confirmation notice was sent in 2017, 2016, or 2015.

C. Responses to the 2018 In-County NCOA Process

A voter who is responding to the in-county confirmation notice (Secretary of State Form No. 10-S-2) may do so for the purpose of informing the board of elections that the address provided by USPS is *not* the voter's proper address and to provide the correct address to the board of elections (online or via return of the notice).

⁶ 52 U.S.C.A §20507(c)(1) and (f).

⁷ If the in-county confirmation notice (Secretary of State Form No. 10-S-2), is returned as undeliverable (with or without a forwarding address), the board of elections must send a confirmation notice (Secretary of State Form No. 10-S-1) by forwardable mail to the address on file with the board of elections.

⁸ R.C. 3505.18.

⁹ 52 U.S.C.A. §20507(d) and R.C. 3503.21(D).

The notice also contains a mechanism (online or via return of the notice) by which the voter may “confirm” the address to which the voter’s registration has been changed is correct.

- 1. Change of Address within the County:** If the elector provides a new residential address within the county, the elector’s registration record shall be updated by the board of elections with the new address as of the date provided by the online change of address system or the date of receipt of the mailed-in notice from the elector. The board shall send the elector an acknowledgement notice (Secretary of State Form No. 10-J) informing the elector of the registration update and the location of his or her new polling place. The board must list or keep this elector as “active-active” in its voter registration database.
- 2. Change of Address to Another Ohio County:** If the elector provides a new residential address in another Ohio county,

- a. Online:** The board of elections in the elector’s new county shall accept the elector into its voter registration system using the date provided by the online change of address system as the elector’s registration date in that county.

The board of the new county shall send the elector an acknowledgement notice (Secretary of State Form No. 10-J) informing the elector of the registration update and the location of his or her new polling place and list this elector as “active-active” in its voter registration database.

A duplicate record will be created in the statewide voter registration database between the elector’s new and former counties that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

Note: The online change of address system does not permit the user to provide a new permanent residential address outside the State of Ohio.

- b. Return of Mail-in Notice:** If the elector returns the confirmation return notice and provides a new residential address in a different Ohio county, the board of elections that mailed the confirmation notice to the elector shall cancel the elector’s registration in that county and make a notation on the elector’s registration record of the date the confirmation return notice was received by the board and the date of cancellation.

The issuing board shall keep a copy of the completed confirmation return notice from the elector and mail the original to the board of elections for the elector’s new county, so that the new board can enter the elector into

its voter registration database as an active voter. Completed confirmation return notices returned under this section must be forwarded to the appropriate board of elections at least every week.

When the issuing board of elections cancels the record in its voter registration database, and after the board of elections for the new county has entered the record into its county voter registration database, a duplicate record will be created in the statewide voter registration database that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

- 3. Change of Address to Another State:** If an elector completes and returns the confirmation notice and provides a new residential address in a different state, the board of elections that mailed the confirmation notice to the elector shall mail Secretary of State Form No. 10-A to the elector, so the elector may cancel his or her voter registration in Ohio.
- 4. Confirmation of Current Address:** If the elector uses the online change of address system or returns the confirmation return notice by mail confirming that the elector resides at the same address on file with the board of elections, the board shall indicate on the elector's registration record the date that confirmation was received by the board and note that the address on file with the board of elections is correct. The board must list or keep this elector as "active-active" in its voter registration database.
- 5. Confirmation Notice NOT Returned:** If the elector fails to return the confirmation notice and otherwise fails to either 1) confirm his or her registration address *or* 2) vote or engage in other voter activity, **the elector shall continue to be listed as "active-active" in the county's voter registration database.**
- 6. Handling "No Forwarding Address" Returns**
In-county confirmation notices (Secretary of State Form No. 10-S-2) must be sent by forwardable mail. If the USPS returns to the board an in-county confirmation notice that is non-deliverable, the board must issue a confirmation notice (Secretary of State Form No. 10-S-1) to the voter by forwardable mail.

II. 2018 OUT-OF-COUNTY NCOA PROCESS

A. Compiling the Data for the 2018 Out-of-County NCOA Process

Boards of elections will access their 2018 out-of-county NCOA data file beginning February 20, 2018 through the BOE Portal using steps provided by the Secretary of State's Office and sent separately via email. If you have any questions, contact the Secretary of State's IT Helpdesk at (614) 466-8467.

B. Mailing the Confirmation Notice for the 2018 Out-of-County NCOA process

All electors identified as a part of the 2018 out-of-county NCOA process must be sent a confirmation notice (Secretary of State Form No. 10-S-1) between February 20, 2018 and March 7, 2018. The confirmation notice must be sent by forwardable mail.¹⁰ Boards of elections must make appropriate arrangements for the return of the completed confirmation notice by the elector to be postage pre-paid by the board.¹¹

It is possible that an elector who appears on the 2018 out-of-county NCOA list may have also appeared on the 2017, 2016, or 2015 NCOA list. Under the 2018 out-of-county NCOA program, do not send a confirmation notice to an elector to whom the board already has sent such a notice, *unless* the 2018 out of county NCOA list provides an address for that elector that is *different* than the address to which the previous confirmation notice was sent in 2017, 2016, or 2015.

C. Responses to the 2018 Out-of-County NCOA Process

Electors can complete and return the “Confirmation Notice” (Secretary of State Form No. 10-S-1) in order to update the elector’s voter registration information (e.g., residential address). An elector receiving the confirmation notice as a result of NCOA may choose to use the online change of address system to update his or her address instead of completing and returning the confirmation notice (Secretary of State Form No. 10-S-1) by mail.

1. **Change of Address to Another Ohio County:** If the elector provides a new residential address in another Ohio county,
 - a. **Online:** The board of elections in the elector’s new county shall accept the elector into its voter registration system using the date provided by the online change of address system as the elector’s registration date in that county.

The board of the new county shall send the elector an acknowledgement notice (Secretary of State Form No. 10-J) informing the elector of the registration update and the location of his or her new polling place and list this elector as “active-active” in its voter registration database.

A duplicate record will be created in the statewide voter registration database between the elector’s new and former counties that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

¹⁰ 52 U.S.C.A. §20507(c)(1) and (d).

¹¹ 52 U.S.C.A. §20507(d) and R.C. 3503.21(D).

Note: The online change of address system does not permit the user to provide a new permanent residential address outside the State of Ohio.

- b. Return of Confirmation Notice:** If the elector completes and returns the confirmation notice and provides a new residential address in a different Ohio county, the board of elections that mailed the confirmation notice to the elector shall cancel the elector's registration in that county and make a notation on the elector's registration record of the date the confirmation notice was received by the board and the date of cancellation.

The issuing board shall keep a copy of the completed confirmation notice from the elector and mail the original to the board of elections for the elector's new county, so that the new board can enter the elector into its voter registration database as an active voter. Completed confirmation notices returned under this section must be forwarded to the appropriate board of elections at least every week.

When the issuing board of elections cancels the record in its voter registration database, and after the board of elections for the new county has entered the record into its county voter registration database, a duplicate record will be created in the statewide voter registration database that must be promptly resolved following the normal business procedures established by the Secretary of State and the local boards of elections.

- 2. Change of Address to Another State:** If an elector completes and returns the confirmation notice and provides a new residential address in a different state, the board of elections that mailed the confirmation notice to the elector shall mail Secretary of State Form No. 10-A to the elector, so the elector may cancel his or her voter registration in Ohio.
- 3. Confirmation of Current Address:** If the elector uses the online system or returns the confirmation notice confirming that the elector still resides at the same address on file with the board of elections, the board shall indicate on the elector's registration record the date that notice was received by the board and note that the address on file with the board of elections is correct. The board should list this elector as "active-active" in its voter registration database.
- 4. Confirmation Notice NOT Returned:** If the elector fails to return the confirmation notice and otherwise fails to either 1) update his or her registration *or* 2) vote or engage in other voter activity, the elector shall continue to be listed as "active-confirmation" in the county's voter registration database. **Unless and until the elector's registration is cancelled as described below, or as otherwise may be permitted by law, the elector shall maintain all the rights of an otherwise qualified elector, subject to Ohio's laws governing provisional voting.**

5. Handling “No Forwarding Address” Returns

Confirmation notices must be sent by forwardable mail. However, the USPS sometimes will return to the board a confirmation notice that is non-deliverable, because the USPS does not have a forwarding address for the addressee (the elector). The board shall record that fact (e.g., in the comments section of that elector’s record) and keep the undeliverable confirmation notice for four years.

III. 2018 NCOA PROCESSES ARE PROSPECTIVE IN NATURE

If an elector contacted pursuant to the 2018 out-of-county NCOA process:

- Responds to the 2018 confirmation notice (either via mail or using the online change of address system); or
- Updates his or her voter registration; or
- Votes or engages in voter activity, then

the elector’s voter status shall be changed from ‘active-confirmation’ to ‘active-active,’ and the elector shall not be cancelled pursuant to this general voter records maintenance program.

All other electors contacted pursuant to the 2018 out-of-county NCOA process shall be cancelled during 2022, by one of the following dates, whichever is later:

- Not later than one hundred twenty (120) days after the date of the second federal general election in which the elector fails to vote; or
- Not later than one hundred twenty (120) days after the expiration of the four-year period that begins on the date the confirmation notice is mailed pursuant to this Directive,¹² but
- **No voter registration shall be cancelled as a result of the general voter records maintenance program during the 90 days immediately preceding any federal primary or general election.**¹³

IV. DEADLINE FOR COMPLETING THE 2018 NCOA PROCESSES

The deadline for completing the 2018 general records maintenance program is March 7, 2018.

¹² R.C. 3503.21(E).

¹³ 52 U.S.C.A. §20507(c)(2)(A).

V. BOARDS OF ELECTIONS TO ARCHIVE AND MAKE AVAILABLE FOR PUBLIC INSPECTION OR COPYING UNDER OHIO’S PUBLIC RECORDS LAWS RECORDS OF THE 2018 GENERAL VOTER RECORDS MAINTENANCE PROGRAM

The board of elections must maintain and make available for public inspection and copying at a reasonable cost all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of voter registration lists, including the names and addresses of all registered electors sent confirmation notices and whether or not the elector responded to the confirmation notice. The board must maintain all records described in this paragraph for a period of five years.¹⁴

Boards of elections must make the list (in electronic form) available to individuals requesting the data under Ohio’s public records laws and maintain the data for at least five years (through the end of 2023).

The board must record in its county voter registration system the date that it mailed a confirmation notice (either Secretary of State Form No. 10-S-1 or Secretary of State Form No. 10-S-2) to a voter and, if the voter responds to the notice, the date on which the voter responded. If your voter registration system does not record and retain this information, your board must keep a record of the returns (e.g., a spreadsheet).

VI. BOARDS TO SEND RECEIPT TO SECRETARY OF STATE WHEN 2018 NCOA PROCESSES ARE COMPLETE

Each board must provide notice to the Secretary of State’s Office that the 2018 NCOA processes are complete. The 2018 NCOA Processes Completion Form, which will be sent under separate cover, must be completed by the Director and Deputy Director and returned to the Secretary of State Elections Division no later than 4:00 p.m. on March 7, 2018.

VII. NO CANCELLATIONS PURSUANT TO THE SUPPLEMENTAL PROCESS

Due to pending litigation, boards of elections cannot cancel any elector’s voter registration in 2018 due to the elector’s failure to respond to a confirmation notice mailed to that elector pursuant to the supplemental process as described in previous directives.

VIII. POSTAL INFORMATION

As a possible method to reduce mailing costs and save taxpayer funds, boards of elections are encouraged to consult with their local Postmaster or regional business mail analyst regarding the use of nonprofit permit postage rates for the mailing of

¹⁴ 52 U.S.C.A. §20507(i); R.C. 3503.26(B); CBE-45A & CBE-46, Secretary of State Retention Schedule.

outbound confirmation notices and business reply mail permits for the return of completed confirmation notices from electors. Because both have an application and permitting process, boards are encouraged to evaluate these options as quickly as possible.

For more information on qualifying for nonprofit mail rates, go to <https://www.usps.com/gov-services/election-mail.htm> and <http://pe.usps.com/text/dmm300/703.htm#1114977>.

You are strongly encouraged to contact your local Postmaster or the Business Mail Unit assigned to your region.

Please direct any questions concerning this Directive to the Secretary of State's elections counsel assigned to your county at (614) 466-2585.

Please direct questions about the 2018 NCOA data files or the download instructions to the Secretary of State IT Help Desk at (614) 466-8467 or HELP@sos.state.oh.us.

Sincerely,



Jon Husted