



DIRECTIVE 2019-22

September 6, 2019

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

Re: Additional Guidance Regarding the Cancellation Procedures for Registrations Identified Pursuant to the 2015 National Change of Address (“NCOA”) and Supplemental Processes of the General Voter Records Maintenance Program and Data Collection and Reporting

BACKGROUND

After the United States Supreme Court upheld the use of the Supplemental Process in *Husted, Ohio Secretary of State v. A. Philip Randolph Institute, et al.*, former Secretary Husted issued [Directive 2018-39](#), which directed the boards of elections to continue with the cancellation of the registrations that received confirmation notices in 2013 or 2014 pursuant to the Supplemental Process portion of the General Voter Records Maintenance Program.

State and federal laws require Ohio to perform a General Voter Records Maintenance Program. At the same time, I am committed to continuing to partner with the boards of elections and a bipartisan group of members of the Ohio General Assembly to modernize voter registration and the General Voter Records Maintenance Program to ensure that every eligible Ohio elector who chooses to exercise their right to vote is able to do so.

[Directive 2015-09](#) instructed all boards to mail confirmation notices to electors identified pursuant to the 2015 Supplemental and NCOA Processes of the Ohio’s General Voter Records Maintenance Program. The boards were required to mail the confirmation notices between June 15, 2015 and June 29, 2015.¹

[Directive 2019-09](#) instructed the boards of elections to continue with the cancellation of the registrations for those electors who received a confirmation notice in 2015 pursuant to the Supplemental and NCOA Processes of the General Voter Records Maintenance Program and, for a period of four years after the confirmation notice was mailed, failed to respond to the confirmation notice, update their registration, update or confirm their address at the Ohio Bureau of Motor Vehicles (“BMV”), vote or engage in voter activity, or respond to the last chance notice sent pursuant to that Directive.

[Directive 2019-09](#) further instructed boards to upload voter history from the May 7, 2019 Special/Primary Election and then review the record of each elector in active-confirmation or confirmation status because of a confirmation notice sent as part of the 2015 Supplemental and NCOA Processes of the General Voter Records Maintenance Program.

¹ [Directive 2015-09](#).

Boards were advised that a registration shall be cancelled if the elector did not:

- Within the four-year period after the date the confirmation notice was mailed:
 - Respond to the confirmation notice (either via mail or using the online change of address system); or
 - Update their registration; or
 - Vote or engage in voter activity; or
- Appear on the county's Automatic Confirmation of Address Safeguard and Safeguard Lookback lists pursuant to [Directive 2018-21](#) and Directive [2018-21-02](#).

[Directive 2019-09](#) instructed boards of elections to send by forwardable mail a “last chance notice” ([Secretary of State Form 255-A-3](#)) to each elector who must be cancelled pursuant to the 2015 Supplemental and NCOA Processes. Each board was required to mail the last chance notices no later than Monday, July 29, 2019.

Boards were required to send ([Secretary of State Form 255-A-3](#)) to inform electors that their registration will be cancelled on Friday, September 6, 2019 and to explain the reason for the upcoming cancellation (i.e., failure to respond to a confirmation card and the date on which the confirmation card was mailed). Boards were instructed that if the elector replies to the notice updating or confirming the elector's address, the elector's registration shall not be cancelled.

[Directive 2019-09](#) required that boards keep certain records. The boards were required to record in their county's voter registration system:

The date that it mailed a “last chance notice” ([Secretary of State Form 255-A-3](#)) to an elector;

- If the elector responded to the notice, the date on which the elector responded; and
- If the elector did not respond to the notice, the date the elector's registration was cancelled.

The Directive required boards of elections to 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 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.²

In addition, [Directive 2019-09](#) required that the boards of elections provide the county ID number, state ID number, the first and last name, and the address of all registrations that were sent a last chance notice to the Secretary of State's Office. Secretary LaRose launched an unprecedented effort when he compiled a Registration Reset List to ensure that electors who want

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

to be registered to vote remain registered. This Registration Reset List was populated directly from the information the boards of the elections provided to the Secretary of State's Office, which included the names of those registrations that are subject to be cancelled in 2019 pursuant to the 2015 NCOA and Supplemental Processes.

The U.S. Supreme Court's *APRI* decision did not resolve one of APRI's claims, and the Secretary of State's Office and APRI reached an agreement to settle this remaining claim on August 28, 2019. A stipulation of dismissal was filed on Friday, August 30, 2019. A forthcoming Directive will explain the relevant portions of the settlement. However, please note that any registration that is cancelled pursuant to the 2015 Supplemental Process may be included within the "APRI Exception" and is eligible to cast a provisional ballot.

The "APRI Exception" provides that a provisional ballot cast during the in-person absentee voting period or on Election Day by a person who is not registered to vote in the State of Ohio may be counted if all of the following apply: (1) the individual's voter registration was cancelled 2011, 2013, 2015, or 2019 (confirmation card mailed in 2007, 2009, 2011, 2013, 2014, and 2015) pursuant to the Supplemental Process; (2) the individual's provisional ballot affirmation reflects an address within that precinct and the person was previously registered to vote within the same county prior to cancellation; (3) the board of elections does not have information that the voter was deceased, incarcerated on a felony conviction, or adjudicated as incompetent under Ohio law by a county probate court after the individual's registration record was cancelled; and (4) the individual's provisional ballot affirmation form and the ballot otherwise comply with all applicable laws and directives.

Through an auditing process pertaining to reimbursing counties for costs incurred with sending the last chance notices, the Secretary of State's Office discovered a discrepancy in a county list and Secretary LaRose immediately ordered an in-depth review. That in-depth review uncovered additional errors in other counties, including a voter registration vendor's error in writing a script that collects the relevant voter registration information to identify those registrations that should be cancelled. Errors in how the voter registration vendor's transactions had been coded were also identified. The Secretary of State's Office worked with the vendor and relevant counties to identify impacted registrations and to ensure that those registrations will not be cancelled.

The county boards of elections must ensure that they are maintaining accurate voter registration information and records and that only those voter registrations that were identified through the NCOA and Supplemental Processes pursuant to [Directive 2015-09](#) and [Directive 2019-09](#) and have not replied to the last chance notice updating or confirming the elector's address are cancelled on September 6, 2019.

INSTRUCTIONS

The Secretary of State's Office provided separate instruction to those counties that are holding a municipal election on September 10, 2019. No registration identified pursuant to the 2015 NCOA and Supplemental Processes will be cancelled in those municipalities prior to September 10, 2019.

Each board of elections is required to review the list of those registrations identified pursuant to the 2015 NCOA and Supplemental Processes to ensure that the list contains only those registrations that within the four-year period after the date the confirmation notice was mailed failed to:

- Respond to the confirmation notice (either via mail or using the online change of address system); or
- Update their registration; or
- Vote or engage in voter activity; or
- Appear on the county's Automatic Confirmation of Address Safeguard and Safeguard Lookback lists pursuant to [Directive 2018-21](#) and [Directive 2018-21-02](#); and
- Respond to a last chance notice.

The boards of elections must process any outstanding voter registration forms, records received through the online voter registration system, and responses to last chance notices received on or before September 6, 2019 prior to performing the cancellation. Additionally, consistent with the past practice of this office, the registration associated with any response to a last chance notice received after September 6, 2019 but prior to October 7, 2019 must be restored.

The boards of elections are prohibited from cancelling any registration that appears on the board's 2015 NCOA and Supplemental Processes list that appeared on the Secretary of State's Statewide Voter Registration Database ("SWVRD") in "active" status. A list containing those known registrations identified as being in "active" status on the SWVRD is attached.

The boards of elections are prohibited from cancelling any registration that is impacted by the voter registration vendor's errors.

The boards of elections are prohibited from cancelling any registration that was not placed in confirmation status in the county voter registration database in 2015 pursuant to the NCOA and Supplemental Processes. Impacted counties will receive a spreadsheet with additional information compiled from the vendor attached with this Directive.

The boards of elections are prohibited from cancelling any registration pursuant to the 2015 NCOA and Supplemental Processes if a board of elections is missing voter history in their county voter registration database from any election between May 7, 2013 through May 7, 2019.

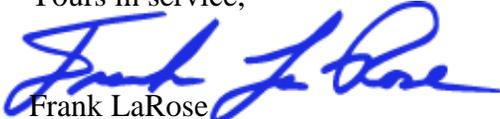
Finally, pursuant to the NCOA in-county procedure, which was adopted in 2016, any registration that received a Secretary of State Form 10-S in 2015 and moved within the same county must not be cancelled pursuant 2015 NCOA and Supplemental Processes. The boards of elections shall send any impacted registration a ([Secretary of State Form 10-S-2](#)) at the registration's address as it appears on 2015 NCOA in-county list that is attached to this Directive.³

Additionally, each board must provide the Secretary of State's Office with **one** spreadsheet containing the county name or number, county ID number, state ID number, whether or not the registration was placed in confirmation status because of the NCOA or Supplemental Process, the last voted date, the first and last name, the address (number and street name), the city, the state, and the zip code of each registration the board identified and subsequently cancelled pursuant to the NCOA and Supplemental Processes. Each board must follow the SharePoint instructions provided with this Directive and upload this information via SharePoint by **Friday, September 13, 2019**.

The boards 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 purposes of ensuring the accuracy and currency of 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.

If you have any questions regarding this Directive, please contact the Secretary of State's Office at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

³ See [Directive 2019-03](#) pages 2-4 for further instructions.